



**DIVERSITY AND GENDER EQUALITY INITIATIVE
IN THE DEPARTMENT OF JUSTICE
Needs Analysis Final Report**

May 2002

**Evaluation Division
Policy Integration and Coordination Section**



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EXECUTIVE SUMMARY

The Final Report of the Needs Analysis conducted in January through March 2002 by the Evaluation Division, Department of Justice, highlights the results of a needs analysis of the Diversity and Gender Equality (DAGE) initiative, covering the fiscal years 2000/01 through 2001/02.

The objective of the needs analysis was to gain a better understanding of the initiative's continuing relevance, to measure its success to the extent possible, and to provide management with relevant information to support and inform planning decisions and alternatives for delivery of DAGE within the Department, with the emphasis on recommendations for the future integration of diversity and gender equality into the work of the Department.

The methodology consisted of:

1. A review and analysis of initiative information and administrative data;
2. 47 key informant interviews; with 8 current and former DAGE staff, 18 members of the DOJ Executive Council and senior managers, and 21 Gender Equality and Diversity Intermediaries (GEDI).

Background

The Diversity and Gender Equality (DAGE) Initiative was created in February 2000 by the Department of Justice when the Gender Equality Initiative was merged with Diversity Equality and Access to Justice Division to become the new DAGE Office. The goal was to fully integrate diversity analysis in all the Department's activities, with the objective that Departmental work should reflect the diversity of Canadian society as a whole.

As of 2001-2002, following an A-Base Adjustment exercise, an A-Base (\$1,246,971) provided \$447,374 in salaries and \$799,597 in O & M. This A-Base has been approved for subsequent years, with 12 FTE's (full time equivalents).

The entire complement of 12 FTE's has never been realized. At the time of this needs analysis, the Senior Advisor position is vacant, the remaining staff are comprised of one Senior Counsel, one Counsel (on maternity leave), one Senior Policy Analyst and the Project Coordinator. The Secretarial Assistant position is currently staffed with an agency person.

Continuing Relevance

By conducting social context analysis on the Department's policies, programs and corporate culture, DAGE contributes to a Department and a justice system that is relevant, responsive, accessible, and equitable, and is therefore of continuing relevance to the mandate of the Department of Justice. Most respondents believe however, that DAGE objectives have only partially been met.

When asked to state the consequences to the Department of Justice if DAGE analysis is not applied to legislation/policy of DOJ, responses indicated that DAGE is a primary element of risk management, and consequences included the risk of non-compliance with the *Charter*, challenges to the Criminal Code, failure to fulfill international commitments, violation of international agreements, non-equality of access to justice, political and legal costs to the Government, risk to Canada's status in human rights and attention to minority rights, and the risk of undermining Canadians confidence in the Justice System.

Initiative Promotion and Recruitment

Initiative promotion and recruitment of Gender Equality and Diversity Intermediaries (GEDI) was found to have waned over the last two years, partly as a result of the reduced numbers of staff in the DAGE Office. However, despite the staff shortage, the IDEAS screening tool was completed, preliminary discussions were held with several national women's groups, DAGE Office pioneered a new consultation model for the Aboriginal Women's Justice Consultations, and continued to provide advice to Litigation Committee, while maintaining interdepartmental and international contacts and preparing numerous briefings for the Minister.

Over the past two years, the Social Context training program was developed and training was given to almost 200 participants since November 1999 to December 2001, including 30 senior managers in the Department of Justice who participated in Gender Awareness training, and 45

members of the Executive Council who attended a very successful training session on Social Context Awareness in October 2001.

Gender Equality and Diversity Intermediaries (GEDI) believe that social context training should be mandatory for managers and team leaders, others suggested that it be implemented department wide, particularly for managers so that a climate of receptivity to equality analysis is created and can be encouraged and supported throughout the department.

Awareness

Awareness of the DAGE initiative could benefit from a more comprehensive communication strategy. Although many senior managers are very supportive of the initiative, not all see the need to continue promoting the initiative. The continuing misperception and confusion in some minds between “Diversity and Gender Equality” and “Employment Equity” is perhaps partly responsible for this belief that “it has all been done”; some may believe that the Department has achieved employment equity goals, or is on the way to doing so, with the requisite structure in place in Human Resources.

Accountability

Accountability through annual reviews and performance appraisals was suggested as one means to make managers more accountable for implementing DAGE in their areas of responsibility. There is a continuing need to make gender equality analysis part of the on-going work of each employee.

Recommendations to Incorporate DAGE into the work of the Department

Interview respondents suggested several ways to more fully integrate DAGE analysis into the work of the Department: As with the Executive Council and senior management respondents, GEDI and DAGE staff believe a departmental policy for DAGE, such as existed for Gender Equality, is a necessary first step in implementing diversity and gender equality across the department. The policy should be followed by a strong mission statement and strategic plan to better integrate the DAGE activities into all aspects of DOJ at an early stage. A communication strategy is needed to keep GEDI and staff up to date and to maintain initiative momentum.

The goal should be to create/empower a strong DAGE Office that could aim to be obsolete within five years or to phase out as the expertise spreads throughout the department.

Over the years gender and/or diversity analyses have been carried out by volunteers (previously Gender Equality Specialists and now GEDI; approximately 60 across the department) and by DAGE Office staff. Gender and /or DAGE analyses were conducted for such diverse topics as Aboriginal issues, Benefits (e.g. same sex benefits, income tax deductions for child care expenses, Canada pension plan discrimination on the basis of age for survivor benefits), Charter challenges, Criminal cases (e.g. involving issues of HIV, conditional sentences, prostitution, Aboriginal issues and disability under criminal law, sexual assault, and freedom of expression). Other analyses addressed discrimination on issues of race, sex, and disability. Family law issues, immigration, minority language rights, and youth issues were also addressed.

Nevertheless, a number of GEDI continue to feel unimportant and underutilized. The lack of recognition is reflected in the fact that job descriptions, work plans and performance appraisals are still silent on GEDI activities and accomplishments. More needs to be done to empower GEDI, raise their visibility and provide more recognition.

Training needs to be ongoing and more frequent for management and staff across the Department. With the necessary financial resources for DAGE and GEDI now in place; once the full staff compliment is attained, it should be possible to update the Guide; update and promote the Integrated Diversity and Equality Analysis Screen (IDEAS) a screening tool, and make these and other resources availability on an updated DAGE site on JUSnet.

There appears to be some confusion as to the role of DAGE Office staff in conducting DAGE analyses, and the role that GEDI play in conducting analyses. It is noteworthy though, that whoever is responsible for conducting analyses, an overwhelming majority (93%) of respondents agreed there is a need to regulate/formalize the requirement for DAGE analysis. Most respondents prefer the word “formalize” to mean a system or a structure, not a regulation. The IDEAS screening tool may be an adequate tool to meet this requirement. It needs to be promoted.

It was suggested that along with strong leadership in DAGE Office, support from management is required to move the initiative forward. Management needs also to be more accountable for DAGE; perhaps through the PREA process. Better integration into the DOJ reporting structure could be achieved for DAGE if, for example, the 23 direct reporting lines to the Deputy Minister are responsible to account for addressing the DAGE component in their area of responsibility.

Finally, it is worth noting that when people are asked to state what they believe to be included in the concepts of diversity and gender equality, employment equity is closely linked in the minds of many, suggesting that DAGE is not always clearly understood as a distinct and separate Department of Justice initiative with the primary focus to effect equality in law and equality in the application/effect of the law. Separate policies on DAGE and EE need to be communicated better.

1. INTRODUCTION

The Diversity and Gender Equality (DAGE) Initiative was created in February 2000 by the Department of Justice when the Gender Equality Initiative was merged with Diversity Equality and Access to Justice Division to become the new DAGE Office. The goal was to fully integrate diversity analysis in all the Department's activities, with the objective that Departmental work should reflect the diversity of Canadian society as a whole. This is the Final Report of the Needs Analysis conducted by the Evaluation Division, Department of Justice, in January through March, 2002. It highlights the results of a review of the DAGE initiative, covering the fiscal years 2000/01 through 2001/02, with the emphasis on recommendations for the future integration of diversity and gender equality into the work of the Department.

1.1 Objectives and Issues

The objective of the needs analysis is to gain a better understanding of the initiative's continuing relevance, its success, and to provide management with relevant information to support and inform planning decisions within the Department. The focus of the review is on the last two years of the DAGE Office and Initiative.

Thirteen issues were identified for the study, which may be grouped into three categories: relevance, success and alternatives. A fourth category addresses data collection strategies for ongoing evaluation.

Initiative Relevance. Relevance questions consider whether or not the DAGE initiative "makes sense" including the extent to which the initiative and its objectives are still relevant and whether or not there is a continuing need for an initiative of this nature. This issue further considers the DAGE initiative in context, i.e., how does DAGE fit with other government policy and program initiatives.

Success. Questions related to success consider the extent to which the initiative has achieved its objectives. Also under the issue of success are the effectiveness of promotion and any unintended impacts that have occurred as a result of the implementation of the initiative.

Alternatives. Questions related to alternatives concern the extent to which any changes could be made to the DAGE initiative and the DAGE Office to enable it to better meet objectives and to improve efficiency in the future. Appropriateness of funding levels and the responsiveness of the initiative to previous evaluations and reviews are also considerations.

Participation of DAGE in Future Evaluations. Additional issues were explored regarding what specific measures and data collection strategy could be used to enable ongoing evaluation.

1.2 Methodology

The methodological approach was designed to enable the evaluator to draw from multiple lines of evidence in an effort to provide comprehensive responses to each of the questions posed. The methodology for the review of the DAGE initiative consisted of:

1. A review and analysis of initiative information and administrative data;
2. 47 key informant interviews, with 8 current and former DAGE staff, 18 members of the DOJ Executive Council and senior managers, and 21 Gender Equality and Diversity Intermediaries (GEDI).

1.3 Organization of the Report

There are five additional chapters in this report. Chapter Two presents a description of the DAGE initiative. Chapter Three describes findings related to initiative relevance. Initiative success is examined in Chapter Four. Strengths and weaknesses of the initiative and alternatives are discussed in Chapter Five. Chapter six provides an overview of the range of evaluation questions and processes that can be utilized in future evaluation efforts. Conclusions and recommendations are presented in Chapter Seven. Appendix A provides a comprehensive list of DAGE activities for the two years of the review. Appendix B provides a listing of selected cases, by subject matter, that have undergone gender or diversity analysis. Appendix C is a report on the ADM Integration Focus Group consultation on DAGE, May 2002, which contributed to the decision on how best to reorganize DAGE in order to integrate diversity and gender equality into the work of the Department.

2. INITIATIVE DESCRIPTION

2.1 Overview

In February 2000, the Gender Equality Initiative was merged with the Diversity, Equality and Access to Justice Division to form the Diversity and Gender Equality Office (DAGE). The mandate of the new Office was to raise the profile of diversity issues in the Department of Justice, as the Gender Equality Initiative had done for gender issues, and to facilitate the integration of Diversity and Gender Equality Analysis in all the work of the department.

The two main objectives of DAGE Office are to implement the policy¹ and to provide advice. To implement the policy DAGE undertakes activities to raise awareness, communicate the strategy throughout the Department, provide training to GEDI and Department staff in Gender And Diversity Analysis and provide Social Context Training. DAGE Office undertakes special projects and engages in building networks. To provide advice, DAGE Office undertakes various special research projects, and with the assistance of the GEDI network, provides diversity analyses on policy and litigation across the Department. A member of DAGE Office also sits on the Litigation Committee of Justice, to provide advice and analysis, and legal opinion on legal risks associated with various options under review in the Department of Justice.

The budget and staff of DAGE Office, described below (2.2), varied considerably over the two years. This limited the activities that could be carried out and the impact that the initiative could deliver. Other resources are covered in detail in section 5.4.

The activities of the DAGE Office are described below (2.3), the impact of these are discussed in section 4. DAGE Office developed Work plans each year, but no annual reports were produced. The information on the activities delivered by the DAGE Office and the GEDI is taken from various files maintained by the DAGE Office.

¹ One of the findings of this needs analysis is that the existing departmental policy on gender equality needs to be updated to include diversity.

2.2 Delivery

Prior to the amalgamation, a Senior Counsel (LA-2B) headed Equality and Access to Justice Division, with three Counsel positions, three Program Manager positions, and two support staff (Administrative Assistant and Secretarial Assistant). Most employees in the Gender Equality Initiative were on secondment assignments, and did not occupy positions.

After the amalgamation, a Senior Advisor (SADAGE) (LA-3A) headed the DAGE Office, and reported directly to the Deputy Minister until November 2000, then reported to the ADM Integration. According to the latest available organization chart, there are three AS positions and a secretary, who provide administrative support to five lawyers and three program manager positions. People have also been hired under contract to coordinate conferences and prepare bulletins. Occasionally the Office has had a co-op student or summer student. The entire complement of 12 employees has never been realized. At the time of this needs analysis, the Senior Advisor position is vacant, the remaining staff are comprised of one Senior Counsel, one Counsel (on maternity leave), one Senior Policy Analyst and the Project Coordinator. The Secretarial Assistant position is currently staffed with an agency person.

2.2.1 SADAGE

The Senior Advisor acts as an internal advocate for change in the approach of departmental staff to their daily work, that is, the incorporation of diversity and gender equality analysis as a matter of course in the daily work of all sectors. Typical duties of the Senior Advisor include improving awareness of DAGE issues within senior levels of the department, conducting diversity policy analysis for Operations, Policy and Civil/Corporate Sectors, providing expert advice and providing leadership and guidance to the GEDI network, increasing awareness internally by directing publication of quarterly Bulletins on gender and diversity issues, cases and events, providing input into DOJ internal communications such as InterPares, Justinfo, intranet and internet sites, and ensuring that training tools are developed and delivered to the appropriate groups. The SADAGE is also responsible for providing leadership on DAGE issues and participating on inter-departmental committees and FPT subcommittees.

Externally the SADAGE maintains ongoing communication with Non Governmental Organizations (NGO's), Human Rights agencies, and provincial governments, and consults with

gender and diversity interest groups outside government. Internationally the Senior Advisor is responsible for increasing awareness of DAGE and Canadian jurisprudence, making presentations to international visitors (e.g. Phillipines, Indonesia, Cambodia, China, Japan, Paraguay, South Africa), preparing materials for Canadian government presentations to international groups and occasionally being a delegate to other countries.

2.2.2 DAGE Counsel

In addition to conducting gender and diversity analyses on policy, litigation and program issues, and developing an active network of GEDIs within the Department, other typical duties of the Counsel are to provide substantive legal advice for Litigation Committee, and others that would benefit from DAGE input, to provide input regarding legal opinion on legal risks associated with various options for cases, and to provide advice and input on various departmental Memoranda to Cabinet (MC's). Counsel are active in presenting DAGE policy to various internal and external groups, including other federal departments, Aboriginal NGO's, Canadian Bar Association, and international groups including FAFIA and DFAIT. Counsel also conduct preparatory work and serve on committees for international meetings, conferences and protocol (e.g. IDC CEDAW optional protocol, Committee on Implementation of Vienna Declaration, Inter-American Commission of Women). They provide support to the SADAGE by preparing presentations, speeches, and ministerial briefing notes.

2.2.3 DAGE Policy Analysts and Project Coordinator

The Senior Policy Analysts conduct policy and program analysis for the department, serve on various departmental committees that would benefit from DAGE input, and prepare an annual multiculturalism report for Canadian Heritage. They serve on various departmental working groups, prepare briefing notes, speeches and comment on MCs. They also prepare the case law index, summarize existing cases and keep it up to date, and prepare input for the quarterly Bulletin.

In the last year, with the Project Coordinator, the Policy Analysts assisted in the development of a two-day training program in Social Context Analysis, led the working group to develop the course, selected speakers and prepared the curriculum material for the course. They then pre-tested and evaluated the course. Once refined, they were involved in organizing course delivery and evaluation. The course was presented to GEDI, Ontario Regional Office and members of the

Law Society of Upper Canada, in Toronto. A shorter version was presented to Justice senior management in October 2001 (Montebello, Quebec).

2.2.4 DAGE Budget

Prior to the amalgamation, in 1999-2000, the budget of the Gender Equality Initiative was \$500,000, which came from the DM's Reserve. The \$125,000 salary budget was supplemented by O&M funds to offset a salary deficit. Of \$375,000 O&M, \$250,000 came from the Risk Management and Workload Fund.

In 2000-2001 DAGE had a total A-Base amount of \$1,132,296, out of which \$607,826 was designated for salaries and \$524,470 for O&M.

By 2001-2002, following an A-Base Adjustment exercise, an A-Base (\$1,246,971) provided \$447,374 in salaries and \$799,597 in O & M. This A-Base has been approved for subsequent years, with 12 FTE's.

2.3 DAGE Activities

A review of the DAGE Office files revealed a variety of activities in support of the initiative over the past two years. These are summarized below, with highlights of the main activities. A more comprehensive coverage of activities is provided in Appendix A. Selected cases that have been the subject of Gender Equality or Diversity Analyses are listed in Appendix B, by subject matter.

In September 2000, the Office of Diversity and Gender Equality held its first meeting under its new combined mandate with Gender Equality and Diversity Intermediaries (GEDI's) in Ottawa. This GEDI network is comprised of Department of Justice staff committed to learning about diversity and gender equality issues and to acting as resource people to their colleagues. A few other GEDI are located in other departments (e.g. Immigration, Health, Status of Women). During the two-day meeting, the GEDI's attended presentations on disability, race, modernizing benefits and Aboriginal issues, and discussed the new DAGE mandate, as well as the application of diversity/social context analysis to Canadian law and its practical application to work within the Department. A diversity screening instrument was introduced to GEDI, called IDEAS (Integrated Diversity and Equality Analysis Screen).

In March 2000 DAGE participated as a member of the Canadian delegation to the 45th U.N. Session of the Commission on the Status of Women. DAGE was the lead negotiator in the thematic discussions on Gender and All Forms of Discrimination, which resulted in the adoption of agreed conclusions to be used at the World Conference Against Racism in the fall of 2001.

DAGE has collaborated at the federal-provincial and territorial levels to develop a social context analysis tool: the Integrated Diversity and Equality Analysis Screen (IDEAS). The Screen is for use in the assessment of the potential impact of Justice initiatives on Aboriginal people, persons with disabilities, youth and children, racial minorities, women and other designated groups in Canada.

Over the past two years DAGE worked to establish the necessary structures, processes and tools to institutionalize the practice of social context analysis within the Department. To this end, in December 2000, DAGE held a meeting with its National Advisory Committee of outside experts to discuss the development of a training/awareness program on social context analysis. Throughout the winter and spring of 2001, a sub-group of the National Advisory Committee along with members of the DAGE team developed the curriculum for this program.

A pilot program was delivered to members of the Department of Justice in June, and after further modifications, was delivered to Executive Council in the fall. In October 2001 the DOJ regional office in Toronto held a two-day diversity training workshop for 25 people, in conjunction with the Equity Initiatives Department of the Law Society of Upper Canada.

These and other events are communicated within Justice in the DAGE Bulletins. The Quarterly Bulletins, available in hardcopy and on the JUSnet, include updates on recent cases decided by the Supreme Court of Canada and other diversity items of interest to Department staff. DAGE Office also contributed to the Orientation Package developed for new Justice Employees, which is accessible through the Department of Justice Intranet Site. The Orientation document provides a link to the DAGE home page.

The Diversity and Gender Equality section along with three Aboriginal partners – the Métis National Council of Women, Pauktuutit, and the Native Women’s Association of Canada – were approved under the Voluntary Sector Initiative to hold an Aboriginal women’s consultation on justice-related issues. The consultation was held in Ottawa September 26 - 28, 2001.

3. INITIATIVE RELEVANCE

Social context refers to background factors, which may inform judicial decision-making. The legal system faces the ongoing challenge of interpreting and sometimes changing law in light of the principles outlined in the *Charter of Rights and Freedoms (Charter)*. Judges and lawyers, although legal experts, may not always be aware of the different perspectives of equality-seeking groups in Canadian society. Social context analysis helps Judges and lawyers identify and question the assumptions upon which they operate.²

3.1 Rationale

To reach a thorough substantive analysis of a case, a law or a program, it is necessary to take into account the equality principles embodied in the *Charter*. To do a thorough gender and diversity analysis it is necessary to have an understanding of the social context of the case law or program and its impact on diverse groups in Canadian society. Who are these diverse groups? Briefly, these groups include: women; youth and children; seniors; Aboriginal peoples; racial and ethno-cultural minorities; refugees; recent immigrants; persons with disabilities; persons with literacy problems; social assistance recipients and the poor; religious groups; gays; lesbians and bisexual persons; transgendered persons.³ In fact, all potentially disadvantaged groups are included.

A review of Canadian Centre for Justice Statistics Profile Series⁴ indicates that women and members of diversity groups face significant difficulties and barriers within the social context to which federal laws and policies apply. Some examples include:

- Slightly more than half of all people living in Canada are women or female children. Women constitute a particularly large segment of the senior population. In 2000, women

² Leadership in Diversity: Social Context Awareness Program, Department of Justice Canada.

³ These are the 13 sub-groups identified by DAGE and listed on the IDEAS checklist.

⁴ Canadian Centre for Justice Statistics Profile Series, June 2001.

made up 57% of all Canadians aged 65 and over. Issues of poverty particularly affect women, as discussed below.

- There has been a dramatic growth in the number of women who are lone parents (19% in 1996). In 1971 10% of families with children were headed by female lone parents, in 1996, 83% of all lone-parent families were headed by women.
- Women accounted for 46% of the employed workforce in 1999, up from 37% in 1976, however, the average earnings of employed women are still substantially lower than those of men. In 1998 employed women had an average income of \$20,800, while men had an average income of \$33,900.
- Persons with disabilities make up a substantial proportion of the Canadian population. In 1991 there were an estimated 4.2 million Canadians with disabilities, representing 16% of the total population. In all age groups the proportion of persons with disabilities with jobs is well below the figure for those without disabilities. The average income of persons with disabilities is below that of people without disabilities. Many persons with disabilities report experiencing discrimination in the workplace. In 1991 8% of all persons aged 15-64 with disabilities reported that they had been refused employment within the last five years.
- The Adult Literacy Survey conducted in 1994 indicated that 22% of the population aged 16 and over was able to perform only simple reading tasks such as locating one piece of information in a text. This group also had an unemployment rate of 26% compared to 10% among those at the second and third levels and just 4% among those at the highest literacy levels. Immigrants account for a relatively large share of the Canadian population with literacy problems; people born outside Canada are twice as likely as those born in Canada to have literacy problems.
- Problems with literacy and low levels of educational attainment are highly correlated. In 1996, 18% of all immigrants to Canada had less than Grade 9 education, compared with 12% of those born in Canada. At the same time, almost one in four Aboriginal people aged 15 and over had not attended high school.
- In 1998, one in six Canadians, 17% of the population, had incomes that fell below Statistics Canada's Low Income Cut-offs. The incidence of children living in low income families has increased since the 1980's, rising from 16% in 1980 to 19% in 1998. Women make up the majority of Canadians with low income. In 1998, 55% of all those with low incomes were female. In that year, 18% of all women had low incomes, compared with 15% of men. Among families, those headed by a female lone parent are especially likely to have low incomes. In 1998, 53% of all families headed by female lone parents had incomes that fell below the Low Income Cut-offs. In comparison, 23% of male lone-parent families, and just 11% of two-parent families with children, had low incomes that year. In 1998, 19% of

immigrants lived in a low-income situation, compared with 15% of their non-immigrant counterparts.

- Before 1961 just 3% of immigrants were from a visible minority group. Between 1981 and 1990, 65% of immigrants who arrived were members of a visible minority group. Between 1991 and 1996, 74% of immigrants were members of a visible minority group.

Clearly there is diversity among Canadians. Laws and policies may impact on different groups and individuals in very different ways. It is imperative that DOJ take into account the social context of Canada in order that our laws, policies and programs do not have adverse impacts on some citizens and in order to provide equal access to justice in Canada.

3.2 DAGE and the Broader Environment

3.2.1 DAGE and DOJ Mandate

The (mandate) mission statement of the Department of Justice is to support the Minister of Justice in working to ensure that Canada is a just and law-abiding society with an accessible, efficient and fair system of justice; to provide high-quality legal services and counsel to the government and to client departments and agencies; and to promote respect for rights and freedoms, the law and the Constitution.

How does DAGE contribute to the mandate of the Department of Justice? Social context can be defined as the social backdrop against which and out of which particular issues and particular litigants come before the court. It refers to background factors, which may inform judicial decision-making.⁵ In order to take into account the equality principles embodied in the *Charter*, it is necessary to understand the social context of the case law or program and its impact on diverse groups in Canadian society. By conducting social context analysis on the Department's policies, programs and corporate culture, DAGE helps ensure that the Department adheres to its mandate. DAGE therefore contributes to a Department and a justice system that is relevant, responsive, accessible, and equitable, and is therefore of continuing relevance to the mandate of the Department of Justice.

⁵ National Judicial Institute, "Statement of Needs and Objectives for Continuing Judicial Education on the Social Context of Judicial Decision-Making", p.1.

3.2.2 DAGE and the Canadian Judicial System

Other partners in the Canadian judicial system are concerned with the concept of social context in law and its application. The Canadian Judicial Council passed a unanimous resolution in March 1994 approving the concept of training programs on social context issues which includes gender and race (Aboriginals, persons from different racial and ethnic groups, and visible minorities), with the goal of providing fair, impartial and high quality adjudication.⁶ The National Judicial Institute, the body established to provide educational programs for Canadian judges, implements this objective. The Equity Initiatives Department, Law Society of Upper Canada, provides equity and diversity education and training programs within the Law Society of Upper Canada and externally to members of the legal profession and the public.

3.3 Continuing Need

Legal theorists ask, among other things, if Canadian law is meant to represent the shared values of a nation, for example through the *Charter of Rights and Freedoms*, or does law enforce only the values of a dominant community, thereby excluding the perspectives and needs of Aboriginal Peoples, visible minorities, persons with disabilities, and other marginalized groups?⁷ Closer to home, is the role of the Department of Justice to promote justice or the law? Believing that the Department has a duty to promote justice for all citizens, GEDI recommended at their annual meeting in October 2001, that social context training be mandatory, and be incorporated into all training and into all aspects of the Department.

⁶ Swinton, Katherine. "Report to the National Judicial Institute on Social Context Education for Judges", February 1996.

⁷ Jurisprudence for Judges: or Why Legal Theory Might Matter for Social Context Education, Richard F. Devlin, Dalhousie Law School, May 25, 2001, p.9-10.

4. INITIATIVE RESULTS

4.1 Initiative Promotion, GEDI Recruitment and Training

4.1.1 Initiative Promotion

Information on DAGE Office and the Policy of the Department of Justice on Diversity and Gender Analysis was last updated on the Department of Justice intranet site September 21, 2000. The latest Quarterly Bulletin listed on the internet is July 2000 – No. 8. Bulletins are released in hard copy every three months, with distribution to all employees of the Department of Justice, including employees in Regional Offices and DLSU's. The latest hard copy version was released in the Fall 2001, No. 9. The lack of staff in the DAGE Office makes it difficult to keep the internet site up to date.

Similarly, over the past two years recruitment of GEDI has waned, to the point where over the past two years recruitment was mainly carried out on an ad hoc and informal basis, mainly by the SADAGE. The list of GEDI members needs to be updated on a regular basis.

Under the Gender Equality Initiative (GEI) there were over 60 Gender Equality Specialists (GESs) from every regional office and in all sectors across the department. DAGE also has over 60 trained Gender Equality and Diversity Intermediaries (GEDI) who are available to provide gender and diversity analyses on policy, litigation and program issues across the Department of Justice. Most of the GEDI are previous GES's who had been trained in gender analysis, and through annual meetings upgraded their skills and increased their knowledge of gender and diversity issues. Participants at the 1999 annual meeting commented that training modules should be given more often and in shorter sessions.

All GEDI who attended the annual meeting in October 2001 received the Social Context Training that had been developed and tested over the previous year.

Reference material was prepared for the Social Context Awareness Program, providing eight articles by experts on issues of equality in Canada's justice system. Each GEDI who took the Social Context Training received a copy.

Annual GEDI meetings are held to share lessons learned, share experiences among GEDI, and to provide training for GEDI. Over the past two years these meetings took place September 13 – 14, 2000 and October 11 – 12, 2001.

DAGE Office seeks to build awareness of diversity implications in the daily work of the Department, to heighten sensitivity to social context issues and to provide a background in legal theory on diversity issues. DAGE Office established a special Curriculum Committee to develop a training program on Social Context (diversity, Aboriginal and gender) and in June 2001, it was pilot-tested with 29 GEDI. Of 29 participants, 23 completed evaluations of this training program (79%). Given their feedback, adjustments were made to the program and it was then ready to use at the annual meeting of the GEDI and the Ontario Regional Office CBA training session in October 2001. A shorter version was presented to members of Executive Council later that month.

Overall, training programs sponsored and developed by DAGE since November 1999 have involved 199 participants for a cost of \$129,774, including pre-testing of the new Social Context training package. The pre-testing was conducted in Brockville, with 45 participants housed for two days, at a cost of \$40,120. The ORO Diversity Training Committee conducted a jointly sponsored two-day training workshop on diversity at the Law Society of Upper Canada, October 22-23, 2001. The DAGE Office taped components of this event for use in future Social Context training.

In addition, in November 1999 approximately 30 senior managers (called the Executive Committee at that time) participated in gender awareness training at the Department of Justice. Legislative drafters received case training in October 1999 and May-June 2000, through the DAGE Office. Senior managers were given a gender awareness session in March 2000. In October 2001, as previously mentioned, members of the Executive Council attended a very successful training session on Social Context Awareness sponsored by DAGE Office.

Training Programs Sponsored and Developed by DAGE

Program	Dates	# Participants	Cost
Montebello Executive Council	October 26, 2001	45	\$ 18,391
GEDI Annual Meeting (Ottawa)	October 11-12, 2001	49	\$ 52,213
Brockville Pilot test of Social Context training	June 14-15, 2001	45	\$ 40,120
GEDI Annual Meeting (Ottawa)	September 13-14, 1999	45	\$ 12,300
Women's Consultations (Ottawa)	November 28, 1999	15	\$ 6,750

4.2 Training Programs/Objectives Achievement

4.2.1 Training Programs

DAGE Curriculum Committee conducted evaluations on the training programs. Participants completed evaluations immediately following the training, and provided insight into the perceived usefulness of the training. These findings were later used to make improvements to the training course. Participants responses are summarized below:

Immediate results of Programs (from Evaluation forms) Summarized:

Brockville – Pilot Program June 14-15, 2001

- √ Understanding of Social Context issues and the law
- √ Awareness of social context
- √ The program is the first step to integrating social context in daily work
- √ Work would be affected in a positive way

Ottawa- GEDI October 11-12, 2001

- √ Social Context Training should be made mandatory for all employees
- √ Program built awareness
- √ Social context analysis framework is a useful tool
- √ Department would benefit if implemented department wide
- √ GEDI's need a more structured means of communicating with each other
- √ GEDI need to meet more often

Montebello- Executive Council October 26, 2001

- √ More awareness of issues to be identified in analysis of problems
- √ Greater sensitivity to social context issues
- √ Greater appreciation of legal theory in diversity issues

Summarized points:

- Social Context Training is perceived as essential
- Awareness was increased
- Interaction with peers is valuable
- Social Context Analysis framework is useful

Several participants at the pilot test suggested that the presenter Professor Richard Devlin of Dalhousie Law School, should be invited to make a presentation on Legal Theory and Social Context Education to Senior management and members of Executive Council. This unit was evaluated as the most valuable component of the training program. When presented to Executive Council, they rated it excellent, commenting that it was thought provoking and given by an excellent presenter. GEDI also rated this module most highly, 30% gave it a 5 and 50% gave it a 4 on a five point scale. Professor Devlin was also highly rated by the course participants in the Ontario Region.

GEDI also believe that social context training should be mandatory for managers and team leaders, others suggested that it be implemented department wide, particularly for managers so that a climate of receptivity to equality analysis is created and can be encouraged and supported throughout the department.

The social context analysis framework was also highly rated by GEDI, who perceive it as a useful tool for getting their work done. However, interviews with Executive Council, senior management and GEDI during the course of this needs analysis also revealed that the participants think the binder is somewhat theoretical and academic. The methodology needs to be made practical and relevant to the Department of Justice.

4.2.2 Raising Awareness, Training GEDI, DAGE analyses, and Building Networks

Overall, most respondents perceive that DAGE objectives have only “partially” or “minimally” been met. Essentially most respondents consider these objectives as ongoing.

Table 1

For each of the above objectives/activities, how well would you say the Department has achieved its objectives or completed its activities?					
Raise awareness:	_6_Fully	25_Partially	14_Minimally	_1_Not at all as planned	___Don't know
Train GEDI:	_7_Fully	16_Partially	13_Minimally	_3_Not at all as planned	_7_Don't know
DAGE analyses:	_3_Fully	15_Partially	12_Minimally	_4_Not at all as planned	12_Don't know
Build networks:	_4_Fully	14_Partially	12_Minimally	_4_Not at all as planned	12_Don't know

It should be noted that a substantial number of respondents across the Department seemed to assume that all DOJ officers are responsible to conduct DAGE analyses in their work, with DAGE Office staff and the GEDI network as expert resource persons. On the other hand, responses also indicated that DAGE Office staff spend considerable time doing DAGE analyses, as do some of the GEDI. Whether this means duplication, multiple tasking, or a gradual transition towards spreading the responsibility for DAGE analyses across all sectors, is not clear. Whatever the reason for the apparent duplication/overlap, it would probably be beneficial to clearly allocate/recognize responsibilities for DAGE analyses, by including them in work plans and PREAs, and by spelling out and differentiating between the roles of the DAGE Office staff, the GEDI, and other DOJ officers, (while still leaving the flexibility of various options for DAGE analysis, including the option of a gradual transition to spreading the responsibility throughout the Department...if this is the goal, it should be stated).

The DAGE Office was involved in organizing the Aboriginal Women's Consultation , aimed at improving the policy making capacity of the Department of Justice. This was a Voluntary Sector Initiative project, and was therefore paid for by the VSI. The dividends to the Department of Justice have been that the consultation model will be of interest to Consultation Section, and the outcomes will be of interest to Strategic Planning and Aboriginal Affairs, particularly in the area of restorative justice. The consultation has resulted in relationship building among the three Aboriginal groups as well as with the Aboriginal Women's groups and federal government departments. The report on the consultations will be available by Summer 2002.

4.3 Unintended Impacts

Key informants were asked to identify any unintended impacts (positive or negative) as a result of the implementation of the DAGE Initiative. In interpreting the results, it is important to

remember that as with all interviews, respondents tend to be more vocal expressing negative ideas than in noting positive ones. However, for purposes of modifying a program or initiative, it is sometimes more important to hear what is not working or what could be improved, in order to make the appropriate changes.

4.3.1 Positive Impacts

Respondents believe that DAGE provides a forum to raise issues that would otherwise be lost. Within DOJ, DAGE Office created an increased sensitivity to DAGE issues; resulted in an increase in substantive work for DAGE Office; and generally created a greater awareness of DAGE issues.

They also said that having an active DAGE Office in Justice encouraged other Departments to have a stronger DAGE focus. DOJ is seen as a leader for having created a separate DAGE Office, and DOJ is also considered the leader on DAGE issues. Within the federal government, DAGE analysis is unique to DOJ, Canadian Heritage and Multiculturalism come to DOJ DAGE Office. Provincially there is no equivalent to DAGE.

DAGE is seen as contributing to the evolution of jurisprudence at the Supreme Court Level, as evidenced by legislation for same-sex couples. One respondent said that initially men could have felt excluded from the gender equality initiative but diversity includes everyone. The Gender Equality Initiative had improved the male/female interactions at the executive level. Other positive impacts were that Networks have been established; analysis tools were developed; and that individuals were empowered to expand and take on new responsibilities by becoming GEDI, and/or by engaging in DAGE analysis.

4.3.2 Negative Impacts

Under negative impacts respondents mentioned that there had been a backlash in employment equity. The DAGE Office was sometimes seen as a locale for satisfying employment equity targets. This resulted in several negative results. It blurred the distinction between Employment Equity and DAGE. It detracted from the true employment equity program in DOJ. At times it resulted in negative consequences for the staff that were hired. Finally it detracted from the substantive work of DAGE.

The current crisis in the DAGE Office, with the loss of so many employees, contributed to the recent decline in morale and the resulting loss of interest in DAGE. The DAGE initiative raised expectations, but change was insufficient and too slow, (perhaps due to lack of staff). Ultimately this led to discouragement and frustration among staff and GEDI. The lack of a clear mandate and lack of continuity in personnel and management contributed to the loss of morale and further loss of positive profile for DAGE initiative.

There is a perceived lack of Department commitment to DAGE, given the insufficient follow-up on DAGE analyses, and the lack of accountability among management in the Department. This has also been reflected in a dilution of focus and a lack of momentum for the initiative.

There is a huge extra, unrecognized workload on some GEDI. While at the same time, because of a lack of structure to incorporate DAGE analysis in the work of the Department, the focus on diversity impacts are not considered at all or are often only considered at the last minute and dumped on the DAGE Office to undertake on an urgent basis. (It was suggested several times that the Department needs a mechanism to incorporate DAGE analysis earlier in the work plan of any new legislation, litigation, policy or program (e.g. preferably as early as at the file allocation stage).

Some respondents commented that the existence of a separate DAGE Office deludes the Department into thinking that the diversity issue is dealt with. Lately the Office is ineffective due to lack of staff, and therefore DAGE activities often fall between the cracks even more. Several respondents from each of the interview groups suggested that, while recognizing that the DAGE Office is a necessary focal point to get the job done, and also to promote DAGE, eventually the Office should become obsolete.

It was pointed out that recently there has been a dilution of analytical clarity, caused by moving from the single concept of gender equality, to gender-based analysis, and more recently to social context analysis. Social context analysis is felt by some to be a less rigorous analytical tool.

There is still some misunderstanding of the role of DAGE in the Department. It is sometimes seen as interfering and meddling and not “lawyering”. DAGE is relegated to a policy issue rather than a legal issue.

The dismantling of the FPT Working Group (that was also preparing a screening tool for DAGE) is perceived as a negative step. The requirement to do DAGE screening is perceived by some as an additional requirement that slows down the work schedule and is a drawback to getting the work done.

Apart from three or four very committed individuals, middle management, which includes senior litigators and senior policy analysts, has been left out of the DAGE initiative, which may account for their apparent/real lack of support for DAGE. They are less likely to be perceived as aware, involved, or trained. They are not involved in the GEDI network, and apart from a few exceptions, they have not been involved in this needs analysis.

Merging the GEI and Diversity Division tended to slow momentum achieved by GEI. The merger resulted in a loss of recognition and loss of clear focus that had been achieved by the Gender Equality Initiative. Comments were made that sometimes the DAGE initiative is easily dismissed because it is located in a separate office and not very visible. Also it is perceived as an outsider, second-guessing, rather than as an equal partner. One respondent suggested that DAGE could copy conflict resolution strategy to increase its profile. The DAGE initiative raised expectations beyond what was achievable. Some originally saw it as “the flavour of the month”. DAGE initiative is sometimes seen as excessive bureaucracy, political correctness, and a diversion of resources. Comments were made that having the DAGE office as a separate unit can potentially result in ghettoization and tokenism, and/or lead to trivialization, criticism and divisiveness of activities related to DAGE in DOJ.

Finally, it was mentioned that the Aboriginal group is not given a category of their own within the DAGE initiative, and this may have caused some backlash.

5. STRENGTHS AND WEAKNESSES AND ALTERNATIVES

5.1 Responsiveness to Previous Evaluations and Reviews

In April 1998, an Evaluation Committee was formed to evaluate the progress and impact of the Gender Equality Initiative. The evaluation⁸ covered the first two years of the Initiative, from April 1996 to April 1998. The major recommendations were:

- the Senior Advisor on Gender Equality remain a senior position with membership on the Executive Committee and a direct reporting relationship to the Deputy Minister;
- current levels of resources at least be maintained through a second phase to ensure ongoing senior level support in promoting awareness, communication, training, research, and implementation of the Policy;
- the Deputy Minister and Executive Committee maintain a high level of visibility on this issue through appropriate communication within the Department and with client Departments;
- the management role and responsibilities at the national and regional levels, in supporting work for this Initiative, be further defined to ensure adequate accountability for implementation of the Policy; and
- the role of the Gender Equality Specialists be reviewed after the gender equality analysis training program is well in place.

In finalizing the report, the Evaluation Committee on Gender Equality added some further recommendations to support and improve the work of the Gender Equality Initiative, including increasing resources to respond to areas of greatest demand; criminal law, human rights, employment insurance and Aboriginal issues.

⁸ Review of Gender Equality Initiative, Gender Equality Evaluation Committee, March 1999. Recommendations from the interim report were presented to Executive Committee and approved on October 16, 1998.

Shortly after the evaluation was conducted, the Senior Advisor of Gender Equality left the position. In February 2000 the Gender Equality Initiative was merged with the Diversity Division to become The Office of Diversity and Gender Equality (DAGE). The SADAGE previously was a member of Executive Committee. However, Executive Committee was re-structured in 2001, and the Senior Advisor, DAGE is not a member of the new Executive Council. Until November 2000, SADAGE reported directly to the Deputy Minister, this position currently reports to the ADM, Integration.

In 2001 financial resources were increased. The current A-base of \$1.2 million should be ample to sustain and improve the initiative, however the full staff complement of 12 FTE's has never been attained or maintained.

Although many senior managers are very supportive of the initiative, not all see the need to continue promoting the initiative. The continuing misperception and confusion in some minds between "Diversity and Gender Equality" and "Employment Equity" is perhaps partly responsible for the lack of support; some may believe that the Department has achieved employment equity goals, or is on the way to doing so, with the requisite structure in place in Human Resources..

The recommended gender sensitivity training for managers has been partially achieved with the Social Context Awareness training for Executive Council (Oct 2001) but now social context training needs to be expanded to middle managers and officer level positions.

Accountability through annual reviews and performance appraisals had been suggested in 1999 as one means to make managers more accountable for implementing GEI in their areas of responsibility, but this was not done with GEI and has yet to be implemented with DAGE. The 1999 evaluation also recommended that references to SAGE be clarified in relevant procedural guidelines and policy manuals. The recommendation is equally applicable to DAGE today.

The 1999 evaluation recommended making gender equality analysis part of the on-going work of each employee. This is a continuing requirement. Substantive knowledge of gender and diversity issues requires more than can be achieved by attending a two-day training session. Substantive knowledge of DAGE issues may need to be made a requirement for some positions, however methods for increasing the substantive knowledge of all current employees should also be explored. One suggestion was to conduct a brain-storming session with all the staff of each Division in order to identify how best to achieve this increased level of substantive knowledge in all positions, not to continue relying so heavily on the GEDI.

5.2 Strengths and Weaknesses

GEDI and staff were asked to say what they believed was working well with the DAGE Office. More than one third of the respondents thought not much was working well; 7 of 29 GEDI and staff respondents said nothing is working well; three said they don't know; one said there is a lack of staff, direction and leadership. Only one quarter of the respondents gave positive comments.

Respondents mentioned that DAGE contributes to raising awareness in DOJ headquarters; citing as examples, training sessions (including Conference in Montebello) and annual meetings of the GEDI network.

DAGE Office provides substantive expertise in particular areas (among DAGE Office and GEDI), this has been increasing as they provide more substantive analyses. The Office is usefulness to access DAGE expertise as well as useful to the GEDI network for networking.

DAGE is seen as building a critical mass of trained people, with technical supports such as a guide, a manual and case studies. Other respondents mentioned the benefits of the screening tool and other tools for DAGE work. Regional networks were mentioned, particularly the substantial group in Quebec.

It was pointed out that the former Gender Equality Specialists worked very well under the original Senior Advisor, Gender Equality. The DAGE Office worked well when it had more staff. Benefits of having a DAGE Office included increasing management support; and the historical presence of the GEDI network and Office were beneficial for focus and continuity. Network and teams could potentially work well, DAGE has a good mandate, good people, it just needs a revision of focus as well as support and resources, to succeed.

The respondents suggested ways to improve the success of DAGE:

- a mission statement should be developed, based on a departmental policy for DAGE,
- a clear revitalized focus;
- the requisite staff, focus and leadership to do the job right;
- more time for DAGE Analysts to focus on substantive issues;
- strong leadership and support from all levels of management,

- more connection with other departments and regions;
- more accessible DAGE Office and GEDI network;
- increase visibility of DAGE Office;
- increase DAGE support to GEDI.
- more time at annual GEDI meetings for Best-Practice discussions;
- modification and promotion of screening tool;
- more training for management, including all the regions and the three northern offices; the training should be more practical and applicable to real cases;
- the Guide needs to be updated; and should be coherent/coordinated with Government policy and the *Charter*;

5.3 Suggestions for Modifications/ Organizational Alternatives

Key informants were asked to forward ideas that they believed would improve the efficiency or effectiveness of the leadership, accountability, reporting relationships, training, resources and support for GEDI, as well as ideas on how to integrate DAGE into the work of the Department. According to key informants, improvements could be realized as follows:

Policy: the Department first needs a policy for diversity (as exists for gender), and DAGE needs a clear mandate and mission statement.

Leadership: appointment of a strong, credible, effective leader for DAGE Office; to recreate the energy and motivation that existed for the GES network. Create/empower a strong DAGE Office that could aim to be obsolete within five years or phase out as the expertise spreads throughout the department.

DAGE Office: reallocate DAGE resources to focus on files (substantive areas of expertise); designate/involve others to do capacity building; extra-departmental GEDI feel the need for an Individual or a focal point in DAGE Office to interact with, (e.g. currently no Gender and Disability expertise in DAGE Office).

With the necessary resources for DAGE and GEDI available; it should now be possible to update the Guide; update and promote the IDEAS screening tool, and make these and other resources available on JUSnet. Justice employees should also have a link to StatsCanada for statistical support required for DAGE analysis work.

Another suggestion that came up several times was to explore integrating the DAGE Office with another office in DOJ (such as Policy Integration and Coordination Section, Public Law Policy, Public Law Operations, Legal Operations, Civil Litigation, Regulatory Affairs), or consider dispersing DAGE experts to existing substantive areas (e.g. Aboriginal legal expertise to Native Law Section)

Management support: strengthen senior management support, (not necessarily reporting to Deputy Minister, as long as strong Champion/Leader at ADM level). Along with strong leadership and support from management; make management more accountable for DAGE; perhaps through PREA process. Better integration into DOJ reporting structure could be achieved (e.g. 23 direct reporting lines to Deputy Minister should include accountability for DAGE component);

Integration: enhance or establish effective organizational framework to make DAGE a mandatory component in new policy, program, litigation and legislation work (such as for *Charter*). Introduce mandatory screening (with a checklist) for DAGE analysis

It was suggested that DAGE involvement/representation on Committees (e.g. litigation committee, interdepartmental committee, etc.) needs to be increased. Also, DAGE should increase collaboration with designated experts in DOJ, with Research group, with Risk Management group, and with Professional Development group for DAGE training (see Training below); DAGE needs to promote and make available explicit expertise and share expertise and information through networking;

Another suggestion was to facilitate exchanges and/or secondments into and out of DAGE Office to better support and reinforce the GEDI network; experts are needed on DAGE staff and in the GEDI network;

Closer cooperation with Research, with Professional Development, and with each portfolio, was seen as important. It was suggested that file allocation be done in coordination with DAGE. It was considered important to include DAGE in the Policy Committee and Litigation Committee. The need for management support to ensure success of the DAGE initiative was mentioned on numerous occasions.

Training: One suggestion was to eliminate the training tasks from DAGE Office (by transfer and cooperation with Professional Development group), which would leave DAGE to focus more on analysis. The Professional Development Group could perform the training function. Another suggestion was for the DAGE Office staff to hire a designated trainer to provide courses for

DAGE. It was pointed out that this should include management workshops, and should include training in the regions.

There was a suggestion to include more role-playing in the training sessions. Generally; more DAGE training and/or workshops for all levels (including middle management) was seen as necessary.

GEDI: More GEDI are needed in particular areas, assign more GEDI in areas that are neglected or underrepresented. A suggestion was to recognize and reward formal DAGE responsibilities, specifically by including The GEDI functions in job descriptions, work plans, PREAS, and possibly by filling the GEDI role through a competitive process.

Other suggestions included:

- include DAGE in Pilot project in North;
- elicit collaboration with Status of Women, (Minister could talk to colleagues at Cabinet level, including Justice, Health and CIC);
- enhance promotion and/or marketing through DAGE JUSnet page and/or newsletter.

5.4 Resources

Respondents were asked if sufficient resources are in place to successfully carry out the DAGE initiative. (The budget resources are described in section 2.2).

Personnel

Are there enough GEDI? Of 21 respondents, five (24%) said yes, 12 (57%) said no, and four indicated they don't know. One who said no said that there would be enough GEDI if they could spend 50% of the time on DAGE work. Others said there are not enough GEDI in certain sectors, there are not enough GEDI for disability issues, and there is too much turnover in GEDI staff.

What staff is required for the DAGE Office? Everyone said there is not sufficient staff in the Office. One mentioned that there would be sufficient staff if the Office were fully staffed. (The full complement of staff has never been attained). One respondent suggested that six or seven staff are needed, one for each substantive area or portfolio. Another mentioned that the right

skill set of personnel, with appropriate seniority, is needed in the Office. Another commented that the Office needs to be rebuilt to recapture /reestablish the momentum that had been achieved by the GEI initiative.

A fully staffed DAGE Office and sufficient regional counterparts would provide the potential for exchanges and /or secondments within the Department, and with other Departments and/or regions.

Time

Are GEDI given enough time to do DAGE analyses? The expectation is that up to 25% of his or her time should be dedicated to DAGE analysis once someone signs on as a GEDI. This is not reflected in fact, as the following responses indicate: Five (24%) said yes, 11 (52%) said no, and 2 don't know if they are given enough time to do analysis work. Within DOJ GEDI indicate they spend between 0% and 20% of their time doing DAGE analyses. In other Departments the situation is quite different, with up to 100% of their time dedicated to DAGE activities.

Similarly, in terms of what time they are typically given, it varies, depending on location, from "nil", to "never enough" to "whatever time it takes". There is no consensus on the time required to do a "typical analysis". Answers varied from "don't know", to a range of "several days" to "several weeks" required to do an analysis.

Are DAGE Office staff given enough time to do their work? It would appear not, not surprising, as only four people remain on staff, only two of which do substantive DAGE work; the other two provide support and administration. The eight people interviewed included three previous DAGE Office staff, currently transferred or seconded elsewhere, one on maternity leave, and one part time DAGE Office employee working from a regional office. Six respondents said they were not given enough time to do their work.. One respondent was satisfied with the amount of time, and one said that sometimes there is enough time.

In terms of their own staff, many Executive and Senior Managers do not know how much time their staff spends on DAGE activities. Most would estimate that their staff spend sufficient or too little time on DAGE activities, but no one said their staff spend too much time on DAGE activities. Some respondents suggested actual numbers and dollars that should be allocated to regional offices to cover DAGE activities, e.g. two person years or the dollar equivalent of \$150,000 a year per region per year.

Training and Technical Resources

Training needs to be ongoing and more frequent for management and staff across the Department. DAGE training could be done in collaboration with the Professional Development Group, or DAGE Office staff could be hired/designated/trained to provide courses for DAGE (currently training tasks are not clearly assigned to staff with recognized training expertise, and training is often another extra task on already heavy workloads).

With the necessary financial resources for DAGE and GEDI now in place; once the full staff compliment is attained, it should be possible to update the Guide; update and promote the IDEAS screening tool, and make these and other resources availability on JUSnet. Justice employees should also have a link to StatsCanada for statistical support required for DAGE analysis work.

Management Support

On an ongoing basis, management could acknowledge the GEDI work load, give GEDI time for DAGE analysis, provide resources, provide commitment and support, and ensure continuity for the GEDI role when there are staff changes. One suggestion was that there should be a dedicated ½ FTE or more in each region, as needed, for DAGE

6. FUTURE EVALUATIONS

6.1 Ongoing Data Collection Strategy

The 1999 evaluation of GEI recommended clarification of quantitative and qualitative measures of success. An ongoing data collection strategy was recommended. To this end the SADAGE was working with the Evaluation Division in 2001 to develop performance measures. The DAGE Office staff attended training sessions on performance measurement and had developed work plans to reflect some measurable objectives. This work should continue once the focus and direction of DAGE is clarified, in order to ensure on-going assessment and appropriate modification of DAGE initiative.

The abandoned practice of providing annual reports to the Deputy Minister should be reinstated, with annual or semi-annual updates at Executive Council. Reporting to Executive Council will ensure that the initiative is kept in the forefront of the Department's commitments.

6.2 Information to be Collected

At the very minimum the DAGE Office should collect information on the number of analyses conducted by the GEDI and DAGE Office staff. Records need to be kept on the manner in which the analysis was or was not taken into account in the policy, litigation or legislation, as well as the reasons for why it was not used.

Training sessions, consultations and formal roundtables should be documented, with the number of attendees recorded. Each event should have an immediate evaluation by the attendees as to whether it fulfilled the purpose as envisioned. Informal records could be kept of brown bag lunch and learn sessions.

The data collection strategy will enable timely reporting, for annual reports and periodic evaluations.

Another evaluation should be conducted within two years to assess the revisions to the existing initiative and to ensure that the initiative is being implemented as planned.

7. SUMMARY OBSERVATIONS

Relevance; Policy and Mission Statement

With very few exceptions interview respondents saw the DAGE initiative as necessary and desirable for the Department. Several suggestions were made to better and more fully integrate DAGE analysis into the work of the Department: As with the Executive Council and senior management respondents, GEDI and DAGE staff believe a departmental policy for DAGE, such as existed for Gender Equality, is a necessary first step in implementing diversity and gender equality across the department. The Deputy Minister should issue a policy (as was done for the previous GEI initiative). Once there is a policy, the DAGE initiative should produce a strong mission statement that would help to raise the profile and focus the initiative. After that, the over-riding emphasis was on strategic planning to better integrate the DAGE activities into all aspects of DOJ at an early stage. Also a communication strategy was mentioned as necessary both to update GEDI and staff and to maintain the initiative momentum.

DAGE Office

It was recognized that the present Office is under-staffed. Appointment of a strong, credible, effective leader for DAGE Office was seen as paramount to recreate the energy and motivation that existed for the GES network. The goal should be to create/empower a strong DAGE Office that could aim to be obsolete within five years or to phase out as the expertise spreads throughout the department.

GEDI

Based on the responses of the Executive Council members and senior managers, it would seem that the GEDI are underutilized and undervalued. The role of GEDI is not fully understood. The reason why was not explored in this interview series. One might speculate that this is due to

poor marketing, however this is not clear. Given the respondents lack of understanding of the role of the GEDI, it was not possible for them to comment on how they may best be utilized. More needs to be done to empower GEDI, raise their visibility and provide more recognition.

A number of GEDI feel unimportant and underutilized, and perceive that they are expected to do things as volunteers “on their own time. The responses to the questionnaire suggest that a need still exists for gradual sensitization and that a change in corporate culture is still required. The lack of recognition is reflected in the fact that job descriptions, work plans and performance appraisals are still silent on GEDI activities and accomplishments. This extends to their invisibility in the departmental phone directory. Given the lack of understanding of the role of the GEDI in DOJ, there is considerable room for improvement in training, promotion, etc. More needs to be done to empower GEDI, raise their visibility and provide more recognition.

Training and Technical Resources

Training needs to be ongoing and more frequent for management and staff across the Department. DAGE training could be done in collaboration with the Professional Development Group, or DAGE Office staff could be hired/designated/trained to provide courses for DAGE (currently training tasks are not clearly assigned to staff with recognized training expertise, and training is often another extra task added to already heavy workloads).

With the necessary financial resources for DAGE and GEDI now in place; once the full staff compliment is attained, it should be possible to update the Guide; update and promote the IDEAS screening tool, and make these and other resources availability on JUSnet. Justice employees should also have a link to StatsCanada for statistical support required for DAGE analysis work.

Integrating DAGE into the work of the Department

There appears to be some confusion as to the role of DAGE Office staff in conducting DAGE analyses, and the role that GEDI play in conducting analyses. It would probably be beneficial to clearly allocate/recognize responsibilities for DAGE analyses, by including them in work plans and PREAs, and by spelling out and differentiating between the roles of the DAGE Office staff, the GEDI, and other DOJ officers, (while still leaving the flexibility of various options for

DAGE analysis, including the option of a gradual transition to spreading the responsibility throughout the Department if this is the goal, it should be stated).

An overwhelming majority (93%) of respondents agreed there is a need to regulate/formalize the requirement for DAGE analysis. Most respondents prefer the word “formalize” to mean a system or a structure, not a regulation. In response to the suggestion that a checklist similar to the one for the *Charter* could be used for DAGE analysis, most respondents agreed that a DAGE checklist would be useful and appropriate. A check-off to indicate that the policy or legislation has been given a DAGE screening is not considered sufficient. The IDEAS screening tool may be an adequate tool to meet this requirement. It needs to be promoted.

In the long run, a measure of success would be the DAGE Office becoming obsolete, (i.e. DAGE focus becoming fully integrated into the Department). This comment was made by a number of respondents in all three categories of questionnaires. Most of these also qualified this comment by suggesting that to achieve this goal, we first need a strong DAGE Office (or an Ombudsman) to promote and integrate DAGE across the Department. However, it was generally agreed that it would take a few more years to get to the point where the DAGE office could be considered redundant once the DAGE focus becomes fully integrated into all sectors of DOJ (policy and program development, legislation, litigation, advisory services, management practices).

Some sectors are further along in integrating DAGE than others (e.g. Policy). Management support was seen to be still lacking across the Department. It was suggested that along with strong leadership in DAGE Office, support from management is required to move the initiative forward. It is not necessary that the DAGE Office report directly to the Deputy Minister, as long as DAGE has a strong Champion/Leader at the ADM level.

Accountability

Management needs also to be more accountable for DAGE; perhaps through the PREA process. Better integration into the DOJ reporting structure could be achieved for DAGE if, for example, the 23 direct reporting lines to the Deputy Minister are responsible to account for addressing the DAGE component in their area of responsibility. DAGE could be strengthened and better integrated into the work of the Department by increasing DAGE involvement/representation on Committees (e.g. policy committee, litigation committee, interdepartmental committee, etc.).

Blurring of DAGE and Employment Equity

Finally, it is worth noting that when people are asked to state what they believe to be included in the concepts of diversity and gender equality, employment equity is closely linked in the minds of many, suggesting that DAGE is not always clearly understood as a distinct and separate Department of Justice initiative with the primary focus to effect equality in law and equality in the application/effect of the law. Separate policies on DAGE and EE need to be communicated better. Another option is to remove “management practices” from the current DAGE mandate statement. This may have the inadvertent effect of letting other issues such as overtime, work at home, etc. go un-assessed in terms of their potential for differential impact, that is, there is a risk that DAGE analysis of Departmental internal policies may be neglected.

APPENDIX A

COMPREHENSIVE COVERAGE OF ACTIVITIES

APPENDIX A

Summary of Activities 1999-2000

DAGE MANDATE

To assist all sectors of the Department of Justice in building a more fair, efficient and accessible justice system by integrating Diversity and Gender equality (DAGE) into the legal operations, programs and policy development and management practices of the Department.

1. To provide expertise and advice, and promote accountability for Diversity and Gender issues in the Operations, Policy and Corporate Management sectors
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LEGAL OPERATIONS

- Monitored a monthly litigation reports for Diversity and Gender concerns and participated in Litigation Committee meetings to raise Diversity and Gender concerns as appropriate, for example, re Latime, Sharpe and Lovelace;
- Provided input on Diversity and Gender equality concerns with respect to Terms and Conditions for Standing Agents for Legislative Services;
- Provided advice to specific cases such as Lesiuk (Edmonton) and Cunningham (race profiling) hours-based EI system discriminatory to single mothers;
- Input into Federal prosecutors Deskbook (Spousal Violence and Victims chapters);
- Chantale Lafrance c. Minister of Revenues Canada (maternity leave);
- R. v. Cunningham (race profiling);
- Provided GBA on *Land Management Act (Matrimonial - Property - Aboriginal Women)* in context of NWAC case and subsequent case out of Toronto office;
- Provided Gender Equality assessment of s. 25 of the Charter (regarding the Nisga's treaty) for Native Law Section and provided Gender analysis of Residential School MC;
- Prepared briefing note for Minister in collaboration with Aboriginal Justice Directorate on meeting with Sheila Genaille, President of the Métis National Council of Women.

POLICY

- Chaired internal committee to respond to CBA Report on Racism;
- Participated in Policy Committee;

- Prepared Minister's briefings on issues such as NAC Lobby; Beijing 5; meeting with Métis National Women's Council;
- Provided input the ADMs' Interdepartmental working Group on Diversity;
- Coordinated DOJ's Annual report to Canadian Heritage on the *Multiculturalism Act*
- Conducted Diversity and Gender analyses of funding proposals from the Programs Branch such as:
 - YWCA Week without Violence;
 - Muslim women in Canada Conference;
 - Confidentiality & Society: Psychotherapy, Ethics and the Law Conference;
 - Interaction 2000 Conference;
 - The Silence is Deep: Violence Against Métis Women;
 - Just Law: How the Legal System Allocates Justice;
 - Independent living Services of Thunder bay Ltd. Information project on CHRA;
 - PEI *Victims of Family Violence Act*, 3 year evaluation;
 - Association of Canadian Studies 125th Anniversary of the SCC Project.
- Provided advice on legislative changes to EIA regarding the deferral of the waiting period for parental benefit claims;
- Provided advice on criminal procedure reforms and reform of self-defence provisions of Criminal Code;
- Commented on NCPC's Policy Framework for Addressing Personal Security Issues Concerning Girls and Women;
- Presented strategy for women's consultation and Aboriginal women's consultation to Policy Committee ;
- Participated in interdepartmental committee on review of pay equity provisions in the Canadian Human Rights Act;
- Participated in departmental evaluation of the Law Commission report on Institutional Child Abuse;
- Prepares summaries for Strategic Planning of research on Women in the Banks, Perenbaun Report, etc.

CORPORATE MANAGEMENT

- Participated in Human Resource Committee, EE Steering Committee and SSAC;
- Participated as member of DOJ Committee for Human Rights Millenium web site and provided Gender Equality content;
- Presented GEI to Human Resource Committee and will present Diversity on June 29, 2000;
- Provided analysis of various departmental and governmental policies on remuneration such as performance pay, maternity benefits;

- Provided Gender Equality advice for preparation of Orientation materials.

2. To initiate and support special projects on Diversity and Gender Equality issues

- Chairs Senior DOJ Committee on CBA Report on Racial Discrimination in the Legal Profession;
- Conducts projects under development in cooperation with Aboriginal Affairs :
 - Restorative Justice : an assessment of Gender specific outcomes relating to Aboriginal women;
 - Impacts of matrimonial property on the aboriginal women;
 - Gender Impacts of métis (membership issues).
- Prepares annual consultation with Equality-seeking women's groups;
- Participated in inter and intra departmental preparatory meetings on the UN Crime Congress (Violence against women, Crime Prevention, Restorative Justice) and participated as member of the Canadian Delegation in Vienna;
- Produced paper on Gender Analysis of the *Employment Insurance Act* for Annual Tax Litigation Conference;
- Analysed of pay equity decision;
- Developing plan for Diversity Consultations, including a consultation with aboriginal women's groups.

3. To support Policy Development on Diversity and Gender Equality issues at the Federal/Provincial/Territorial, and Federal inter-departmental Levels

- Co-chaired FPT Working Group on Diversity, Equality and Justice;
- Provided substantive input and operational assistance to the FPT Diversity Working Group, Equality and Justice (e.g. IDEAS, Criminal justice reform package);
- Coordinated FPT Working Group comments on paper entitled " Child Victims and Criminal Justice System";
- Prepared briefings, etc... for meetings of CCSO, Deputy Ministers and Ministers of Justice;
- Participated in CASHRA Annual Conference;
- Develops relationships with key departments (DIAND and Canadian Heritage);
- Participated in Interdepartmental Committee on Gender - Based Analysis;
- Participated in Interdepartmental Committee on Beijing + 5;
- Participated in interdepartmental meetings on the Race Congress;
- Produced study on Canada's progress under the Plan of Action and CEDAW.

4. To provide tools, training and networks for Diversity and Gender Equality Analysis

TOOLS

- Provided input and direction and developments of Diversity tools for aboriginal;
- Commenced developing a DOJ Diversity Tool Kit (computerized screen);
- Commenced revisions of guides and training materials;
- Participated in Evaluating CCMD Diversity Training (Feb. 2000);
- Researched PSL Diversity Training.

TRAINING

- Offered Gender Awareness sessions to members of EXCOM (Nov. 1999);
- Offered Gender Awareness sessions to senior managers (March 2000);
- Organized Pay Equity Lessons Learned (March 2000);
- Conducted Gender and Diversity case training in Halifax (March 2000);
- Cooperated in case training for legislative drafters (Oct. 1999 and May-June 2000);

NETWORKS

- Support Gender Equality Specialist Networks across Justice with materials, cases advice and conference calls;
- Organized annual GES meeting (Sept.);
- Maintain ongoing communication (in addition to annual consultation under policy) with NGO's; Human Rights Agency; Provincial Government.

5. To facilitate and promote Diversity and Gender Equality through internal and external communication

WORKSHOPS

- Preparing lunch + learn series in cooperation with EE Committees;
- Organized presentations and workshops to raise awareness Gender and Diversity issues at all levels of the Department, for example:
 - Diane Rivington, Director, "*Women in Development*", Canadian Development Agency on "*Twenty years of Gender Equality Analysis at CIDA-Lessons Learned*";
 - Jennifer Espey, Ph.D., "*Practising Sustainable Diversity in the Public Service*";

- Ajit Mehat, Director General, Task Force on an Inclusive public on "*A public Sector Case for Diversity*";
- Liesl Gertholtz, Head of Legal, "*Gender Equality in South African*";
- Barbara Annis, Gender Equality Specialist, "*Gender Equality Awareness*".
- Preparing new series of special guests: lectures including The Honourable Catherine Fraser and The Honourable Louise Arbour.

NATIONAL MEETINGS

- DAGE has participated in a number of outside activities, with government and the private sector, in order to foster greater understanding of Gender Equality issues. Key meetings and conferences included :
 - LEAF's National Forum on Equality & NAWL's;
 - Colloque du Centre de recherche-action sur les relations raciales (CRARR) sur "*L'égalité raciale dans la profession juridique: Les pratiques promotteuses pour un nouveau siècle*";
 - Calgary Conference on on "*Global Perspectives on Personhood: Rights and Responsibilities*";
 - Race and Criminal Justice Seminar;
 - NAWL's biennial conference "*Equality: the Challenge of the New Millennium*";
 - Conference on National Policy Research;
 - Conference on "*Working together for Children*" (Child Victimization and Child Offending);
 - "*Building 2000 @ 2000 Agent on Change Shop*" organized by Task Force on Inclusive Public Service.

INTERNAL NATIONAL EXCHANGES

- DAGE has played an important role providing information to country delegations concerned with Gender Equality. We have participated in liaison with Canadian International Development Agency (CIDA) and other organizations in co-ordinating visits with the Phillipines, Indonesia, Cambodia, China, Japan, Paraguay, South Africa (Deputy Minister's office);
- Presented, on behalf of Minister to at Canada House London;
- Cooperated with Exchange program for a 2-week visit of representatives of the South African Gender Commission;

COMMUNICATIONS

- Create, publish and distribute quarterly Bulletin (former Gender Equality Bulletin);
- Contribute on-going updates in JustInfo;
- Create and maintain DAGE Web Site (Intranet);
- Published the guide: *Diversity and justice: Gender Perspectives* on the Public Service on internet;
- E-mail updates on cases studies and events to all GES.

INTERNATIONAL ACTIVITIES

- Presentation on Gender Equality Initiative at Canada House on Person's Day (England);
- Prepared documentation and Gender Equality analysis for the Francophonie forum (Luxembourg);
- Represented department of justice at ECE Regional Preparatory meeting on Beijing +5 (Geneva);
- Represented Department of justice on interdepartmental committee on Beijing +5 and participated in Preparatory Committee meetings and negotiations of Outcomes document for Beijing +5 (New York);
- Prepared speech Briefing notes on Violence Against Women and Women in the Criminal Justice System for UN Crime Congress (Vienna);
- Revised Gender paragraphs in Draft Vienna Declaration;
- Prepared briefing note for Minister for Meeting of Women Ministers of Justice (New York).

ADMINISTRATION

- Completed GEI staffing : 3 term to undetermined position;
- Conducted amalgamation study between GEI and DEAJ; amalgamated GEI and DEAJ staff into one team;
- Commenced project on evaluation criteria and provide feedback on progress re diversity and gender equality within the Department.

Summary of Activities 2000 - 2001

In February 2000, the Gender Equality Initiative was merged with the Diversity, Equality and Access to Justice Division to form the Diversity and Gender Equality Office (DAGE). The

mandate of the new unit was to raise the profile of diversity issues in the Department of Justice, as the Gender Equality Initiative had done for gender issues, and to facilitate the integration of Diversity and Gender Equality Analysis in all the work of the department.

In September 2000, the Office of Diversity and Gender Equality held its first meeting under its new combined mandate with Gender Equality and Diversity Intermediaries (GEDIs) in Ottawa. This network is comprised of Department of Justice staff who are committed to learning about diversity and gender equality issues and to acting as resource people to their colleagues. During the two-day meeting, the GEDIs attended presentations on disability, race, modernizing benefits and Aboriginal issues, and discussed the new DAGE mandate, the application of diversity/social context analysis to Canadian law and its practical application to work within the Department.

In March 2000 DAGE participated as a member of the Canadian delegation to the 45th U.N. Session of the Commission on the Status of Women. Norma Won of DAGE was the lead negotiator in the thematic discussions on Gender and All Forms of Discrimination which resulted in the adoption of agreed conclusions to be used at the World Conference Against Racism in the fall of 2001.

DAGE has collaborated at the federal-provincial and territorial levels to develop a social context analysis tool: the Integrated Diversity and Equality Analysis Screen (IDEAS). The Screen is for use in the assessment of the potential impact of justice initiatives on Aboriginal people, persons with disabilities, youth and children, racial minorities, women and other equality-seeking groups in Canada.

DAGE is currently establishing the necessary structures, processes and tools to institutionalize the practice of social context analysis within the Department. To this end, in December 2000, DAGE held a meeting with its National Advisory Committee of outside experts, to discuss the development of a training/awareness program on social context analysis. Throughout the winter and spring of 2001, a sub-group of the National Advisory Committee along with members of the DAGE team developed the curriculum for this program. A pilot program was delivered to members of the Department of Justice in June, and after further modifications, will be delivered to Executive Council in the fall.

The Diversity and Gender Equality section along with three Aboriginal partners – the Métis National Council of Women, Pauktuutit, and the Native Women's Association of Canada – have been approved under the Voluntary Sector Initiative to hold an Aboriginal women's consultation on justice-related issues. The consultation was held in Ottawa September 26 - 28, 2001.

APPENDIX B

SELECTED CASES

APPENDIX B
SELECTED CASES – CROSS REFERENCED

(Case are classified by subject matter and date – the oldest to the most recent)

I. Aboriginal Issues

1. *Native Women's Association of Canada v. Canada*, [1994] 3 S.C.R. 627.
 - *Charter* ss.2(b), 28, 15(1)
 - No Federal funding needs to be provided for NWAC
2. *R. v. W.B.T.*, [1997] S.J. No. 826 (C.A.).
 - Principles of sentencing discussed regarding aboriginals
3. *R. v. Williams*, [1999] 1 S.C.R. 1128.
 - Jurors can be questioned as to racial bias
4. *R. v. Gladue*, [1999] 1 S.C.R. 688.
 - Principle that racial background should be considered during sentencing
5. *R. v. Sundown*, [1999] 1 S.C.R. 393.
 - A hunting cabin is incident to First Nation's right to hunt
 - Treaty rights, s.88 *Indian Act*
6. *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 S.C.R. 203.
 - *Charter* s.15(1) - equality rights re voting rights
 - Legislation provides that only band members "ordinarily resident on the reserve" entitled to vote in band elections - violation of *Charter*
 - Apply *Law* test
7. *R. v. Wells*, [2000] 1 S.C.R. 207.
 - Sexual assault by aboriginal man
 - Application of conditional sentence
8. *Lovelace v. Ontario*, [2000] S.C.J. No. 36
 - s.15(1) & s.15(2) *Charter*

- Non-status Indians and Métis do not have a constitutional right to profits from a joint venture casino project with the Government of Ontario

II. Benefits

1. *Symes v. Canada*, [1993] 4 S.C.R. 695.
 - Income tax deductions for child care expenses
 - Deductions not deductible as a business expense
 - *Charter* s.15(1) - equality rights
2. *Thibaudeau v. Canada*, [1995] 2 S.C.R. 627.
 - *Charter* s.15(1) - equality rights
 - Applicants submitted that alimony payments used for the maintenance of children should be tax deductible
 - Court found tax provision not discriminatory and not deduction
3. *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497.
 - *Charter* s.15(1) - equality rights
 - Canada Pension Plan does not discriminate on the basis of age by gradually reducing survivor benefits to those under 45
4. *Collins v. Canada*, [2000] 2 F.C. 3 (T.D.).
 - *Charter* s.15(1) -equality rights
 - Access to old age security benefits
5. *Canada v. Corbett*, [2000] 2 F.C. 81 (C.A.).
 - Taxpayer purchased additional service to count as pensionable service
 - Opportunity provided as a recognition that women are out of the workforce
 - Held: such deductions are allowed

See also *Granovsky v. Canada (Minister of Employment and Immigration)*, (2000) 186 D.L.R. (4th) 1. [**V. Disability**]; *Miron v. Trudel*, [1995] 2 S.C.R. 418 [**II. Benefits**].

III. Charter Challenges (General)

1. *McKinney v. University of Guelph* (1990), 91 C.L.L.C. 16, 062 (S.C.C.).
 - *Charter* s.15(1) - equality rights - mandatory retirement and age discrimination

- University does not constitute government, thus its policy does not fall within *Charter*
2. *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519.
 - *Charter* s.7 & 12
 - Terminally ill patient seeking assistance to commit suicide
 - Criminal code prohibits aiding a person to commit suicide
 3. *Miron v. Trudel*, [1995] 2 S.C.R. 418.
 - *Charter* s.15(1) - equality rights
 - Auto insurance extending accident benefits to spouse
 - Restricted definition of spouse is unconstitutional - should include common law
 4. *Lavoie v. Canada (Public Service Commission)*, [2000] 1 F.C. 3 (C.A.).
 - Public service selection process - preference to Canadian citizens not considered discriminatory
 - *Charter* s.15(1) - equality rights
 5. *Blenco v. British Columbia (Human Rights Commission)* 2000 SCC 44.
 - The *Charter* applies to the actions of the BCHRC
 - Application of s.7 of the *Charter* – can extend beyond the scope of criminal law

See also *Lovelace v. Ontario*, [2000] S.C.J. No. 36 [**I. Aboriginal Issues**]; *Benner v. Canada (Secretary of State)*, [1997] 1 S.C.R. 358 [**VIII. Immigration**].

IV. Criminal

A. General

1. *R. v. Cuerrier*, [1998] 2 S.C.R. 371.
 - Aggravated assault due to non disclosure of HIV status - can constitute fraud
 - Accused had unprotected sexual relations knowing he was HIV positive
2. *R. v. Proulx*, [2000] 1 S.C.R. 61.
 - Test for imposing a conditional sentence outlined
3. *R. v. L.F.W.*, [2000] 1 S.C.R. 132.
 - Test for imposing a conditional sentence outlined
4. *Westendorp v. The Queen*, [1983] 1 S.C.R. 43.

- Constitutional validity of municipal bylaw relating to prostitution

5. *R v. Bates*, [2000] O.J. No. 2558 (C.A.)

- Principles of sentencing - denunciation and specific deterrence
- Sentence of accused is increased to reflect the harm imposed on the victim who was abused and stalked by the accused

See also *R. v. W.B.T.*, [1997] S.J. No. 826 (C.A.). [**I. Aboriginal Issues**], *Winko v. British Columbia (Forensic Psychiatric Institute)*, [1999] 2 S.C.R. 625. [**V. Disability**]

B. Charter - Search & Seizure

1. *Weatherall v. Canada (Attorney General)*, [1993] 2 S.C.R. 872.

- *Charter* ss.7 & 15
- Cross-gender touching during a frisk search permitted
- There is no reasonable expectation of privacy

2. *R. v. Monney*, [1999] 1 S.C.R. 652.

- *Charter* ss. 7 & 8
- Powers of custom officers deemed reasonable in this instance

C. Charter - Other

1. *R. v. Butler*, [1992] 1 S.C.R. 452.

- *Charter* s.2(b) - freedom of expression
- Materials not protected

2. *R. v. Seaboyer* [1991] 2 S.C.R. 577.

- *Charter* ss. 7, 11(d)
- The rape shield provisions violate the *Charter*

3. *Jane Doe v. Toronto (Metropolitan) Comm. of Police* [1998] O.J. No. 2681 (Gen. Div.).

- *Charter* ss.7 and 15(1)
- The police failed to protect the plaintiff because they did not warn her about the existence of a serial rapist in her neighborhood
- *Charter* rights violated

D. Sexual Assault

1. *R. v. Sansregret*, [1985] 1 S.C.R. 570.
 - Defence of mistake of fact not available in this rape case
 - Knowledge of the nature of consent presumed
2. *R. v. B. (C.R.)*, [1990] 1 S.C.R. 717.
 - Evidence of alleged prior acts of sexual abuse admissible
3. *R. v. McCraw*, [1991] 3 S.C.R. 72.
 - Threat of rape constitutes threat to cause serious bodily harm
4. *R. v. Isiah*, [1992] N.W.T.J. No. 226.
 - Defence of provocation
5. *R. v. M. (M.L.)*, [1994] 2 S.C.R. 3.
 - Sexual assault
 - Victim in this case was not required to offer some minimal word or gesture of objection. The lack of resistance did not equate with consent
6. *R. v. Daviault*, [1994] 3 S.C.R. 63.
 - *Charter* ss. 1, 7 11(d)
 - Accused, an alcoholic, sexually assaulted partially paralyzed woman in wheelchair
 - Defense of intoxication - mens rea discussed
7. *R. v. O'Connor*, [1995] 4 S.C.R. 411.
 - Production of medical/therapeutic records of complainant
 - Procedure to be followed where accused seeks production of records in hands of third parties
8. *R. v. Biddle*, [1995] 1 S.C.R. 761.
 - Crown use of stand-by power to tailor jury - unreasonable bias
 - Reply evidence of witness calling part of the accused's alibi into question
9. *(L.L.) v. B. (A.)*, [1995] 4 S.C.R. 536.
 - Appeal of an interlocutory ruling on sexual assault criminal proceeding
 - Production of medical/therapeutic records - follow *O'Connor*

10. *R. v. Carosella*, [1997] 1 S.C.R. 80.
 - *Charter* ss. 7, 24(1)
 - Breach of right to make full and answer and defence in sexual assault case as a result of non-disclosure of documents
 - See also *O'Connor*
11. *R. v. Chisholm*, (1997) 34 O.R. (3d) 113 (Ont. Ct. (Gen. Div.)).
 - Disclosure of crown's psychologist's notes of interviews with complainant revealing fact that she was seeing a therapist
 - Therapist's files ordered produced
12. *R. v. Cook*, [1997] 1 S.C.R. 1113.
 - Crown has discretion on which witnesses it may call to testify
13. *R. v. Bauder*, [1997] M.J. No. 270 (C.A.).
 - Sentencing in a sexual assault case
 - Accused allowed to serve sentence in the community
14. *R. v. Esau*, [1997] 2 S.C.R. 777.
 - Defence of mistaken but honest belief
 - The judge relied on this defence when relating jury charge even though the accused did not raise it - allowed
15. *Deitel v. College of Physicians and Surgeons of Ontario*, [1997] O.J. No. 1866 (Ont. Ct.(Gen. Div.)). Leave of Appeal refused.
 - Sexual misconduct by health professional
16. *R. v. Ewanchuk* (1998), 13 C.R. (5th) 324 (Alt. C.A.).
 - No jurisdiction to overturn trial judge's ruling on the facts
 - Accused acquitted based on implied consent
17. *R. v. Ewanchuk*, [1999] 1 S.C.R. 330.
 - No defence of implied consent in sexual assault cases
18. *R. v. Mills*, [1999] 3 S.C.R. 668.
 - Criminal code provisions disallowing the production of records in sexual offence proceedings upheld

19. *R. v. R.N.S.*, [2000] 1 S.C.R. 149

- Fitness of conditional sentencing in sexual assault case
- Accused entitled to benefit of conditional sentencing regime

20. *R. v. R.A.R.*, [2000] 1S.C.R. 163

- Accused in sexual assault case entitled to benefit of conditional sentencing regime

21. *R. v. Darrach*, 2000 SCC 46.

- Rape shield provisions do not infringe an accused's *Charter* rights
- S.267 of the *Criminal Code* upheld

See also *R. v. Wells*, [2000] 1 S.C.R. 207. [**I. Aboriginal Issues**], *R. v. G. (B.)*, [1999] 2 S.C.R. 475. [**V. Disability**]

E. Defences

1. *R. v. Bulmer*, [1987] 1 S.C.R. 782.

- Defence of honest but mistaken belief in consent - sexual assault
- There was air of reality to defence and judge did not err in putting the defence to the jury

2. *R. v. Lavallee*, [1990] 1 S.C.R. 852.

- Battered woman killed her spouse - self-defence
- Expert testimony was admissible

3. *R. v. Osolin*, [1993] 4 S.C.R. 595.

- Defence of honest but mistaken belief in consent - sexual assault and kidnapping
- *Charter* s.11(f)
- Cross-examination of complainant on her medical records

4. *R. v. Park*, [1995] 2 S.C.R. 836.

- Defence of honest but mistaken belief in consent - sexual assault
- Whether air of reality to defence at issues

5. *R. v. Malott*, [1998] 1 S.C.R. 123.

- Battered women syndrome - self-defence
- Charge to the jury at issue

6. *R. v. Stone*, [1999] 2 S.C.R. 290.

- Defence of automatism
- Stabbed wife 47 times

V. Disability

1. *Eldridge v. British Columbia (Attorney General)*, [1997] 3 S.C.R. 624.
 - Publicly funded Medicare system did not provide for sign language interpretation
 - *Charter* s.15(1) - equality rights were violated
2. *Winko v. British Columbia (Forensic Psychiatric Institute)*, [1999] 2 S.C.R. 625.
 - *Charter* ss.7 & 15(1)
 - Accused not criminally responsible on account of mental disorder provisions do not violate *Charter*
3. *R v. G. (B.)*, [1999] 2 S.C.R. 475.
 - Evidence - protected statements
 - Sexual assault
 - Incriminating statements made to psychiatrist are inadmissible
4. *British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, [1999] 3 S.C.R. 868.
 - Application of Meiorin Test
 - Discrimination based on disability under BC Human Rights Code
5. *Quebec (Commission des droits de la personne et des droits de la jeunesse v. Montreal (City))* (2000), 185 D.L.R. (4th) 385 (S.C.C.).
 - Is a physical anomaly not resulting in functional limitations be considered a handicap?
 - Disability - employment
6. *Granovsky v. Canada (Minister of Employment and Immigration)* (2000), 186 D.L.R. (4th) 1.
 - *Canada Pension Plan* did not discriminate against those with temporary disabilities
 - *Charter* s.15(1) - equality rights
7. *R v. Parker*, [2000] O.J. No. 2787 (C.A.).
 - *Charter* s.7 - accused grew and smoked marijuana for medicinal purposes
 - Court held that the prohibition on possession and cultivation for medicinal purpose to be unconstitutional

- Prohibition declared no force or effect and the declaration of invalidity was suspended for 1 year to allow Parliament to amend legislation.

See also *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519 [III. Charter Challenges (General)].

VI. Discrimination

A. Race

1. *R. v. S. (R.D.)*, [1997] 3 S.C.R. 484.
 - Judicial impartiality - reasonable apprehension of bias
 - Oral reasons making reference to police and racism in general context
 - No evidence of bias
2. *Chopra v. Canada (Commission Human Rights Commission)*, T.D. 3/96.
 - Discrimination on the basis of race, colour and or national or ethnic origin not found.
3. *National Capital Alliance on Race Relations v. Canada (Health and Welfare)*, [1997] C.H.R.D. No. 3 (T.D.).
 - Evidence of systemic discrimination found in hiring practices at Health Canada
 - Permanent remedial measures ordered
4. *Bader v. Canada (National Health and Welfare)*, [1998] C.H.R.D. No. 1 (T.D.)
 - Enforcement policies of the Health Protection Branch found to be racially motivated
5. *R v. Pangman*, [2000] M.J. No. 318 (Q.B.).
 - Charter ss. 2, 7,8, 9, 15
 - Defendant intended to put forth social science data as evidence of systemic racism in the criminal justice system
 - Court dismissed the challenge and deemed that evidence on policies, procedures and programs as irrelevant to charge at hand

B. Sex

1. *Brooks v. Canada Safeway Ltd.*, [1989] 1 S.C.R. 1219, 59 D.L.R. (4th) 321 (S.C.C.).
 - Sex discrimination based on pregnancy- employment law
 - Group insurance plan discriminated against pregnant employees and this constituted discrimination on the basis of sex

2. *Canadian Human Rights Commission v Human Rights Tribunal*, (1996) (Federal Court Trial Division (T-1802-96)).
 - Sex discrimination - employment law
 - Maternity leave at issues
3. *British Columbia (Public Service Employee Relations Commission) v. BSGSEU*, [1999] 3 S.C.R. 3.
 - Sex discrimination - employment criteria - firefighter
 - Court outlined new three-part test for determining whether a prima facie discriminatory standard of a bona fide occupational requirement
4. *Public Service Alliance of Canada v. Canada (Treasury Board)*, [1999] F.C.J. No. 1531 (T.D.)
 - Discrimination found on the basis of sex – equal pay for work of equal value
5. *Stadnyk v. Canada (Employment and Immigration Commission)*, [2000] F.C.J. No. 1225 (C.A.).
 - Judicial review of decision of Review Tribunal of Canadian Human Rights Commission
 - applicant alleged bias on the basis of sex in that she was subjected to differential treatment and harassment in the course of a job interview and had been refused employment on grounds of gender; *Charter s.7*
 - appeal dismissed

See also *Weatherall v. Canada (Attorney General)*, [1993] 2 S.C.R. 872. [**IV. Criminal B. Charter - Search & Seizure**]; *Benner v. Canada (Secretary of State)*, [1997] 1 S.C.R. 358 [**VIII. Immigration**]

VII. Family Law

1. *Falkiner v. Ontario* (1996), 94 O.A.C. 109 (Ont. Ct. (Div. Ct.)).
 - Charter ss.7 & 15(1)
 - Claimants lost their eligibility to receive benefits as sole support parents because they were living with someone of the opposite sex who was not the father of their child
2. *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420.
 - The proper assessment and duration of spousal support in cases of disability
3. *Dobson (Litigation Guardian of) v. Dobson*, [1999] 2 S.C.R. 753.

- The extent of a mother's liability to her child (in this case fetus) arising from her negligent act
4. *Francis (Litigation guardian of) v. Canada (Minister of Citizenship and Immigration)*, [1999] O.J. No. 3853(C.A.).
 - Family law - immigration law - *Charter* s.7
 - Alien mother and son ordered deported
 - Rights of Canadian born children

See also *Symes v. Canada*, [1993] 4 S.C.R. 695. **[II. Benefits]**, *Thibaudeau v. Canada*, [1995] 2 S.C.R 627. **[II. Benefits]**

VIII. Immigration

1. *Benner v. Canada (Secretary of State)*, [1997] 1 S.C.R. 358.
 - Legislation granting children born abroad of Canadian fathers citizenship but not for children born abroad of Canadian mothers deemed discriminatory and declared no force or effect.
 - *Charter* s.15(1)
2. *Vancouver Society of Immigrant and Visible Minority Women v. M.N.R.*, [1999] 1 S.C.R 10.
 - Does the society qualify for charitable status under the *Income Tax Act*? No.
 - Definition of charity - educational forums for immigrant women - what constitutes "public benefit"
3. *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.
 - Admission of woman with Canadian born children on the basis of humanitarian and compassionate grounds
 - Procedural fairness denied – application denied without hearing or formal reasons

See also *Lavoie v. Canada (Public Service Commission)*, A-317-95 (Fed. C.A.). **[III. Charter Challenges (General)]**, *R. v. Monney*, [1999] 1 S.C.R. 652. **[IV Criminal B. Charter - Search & Seizure]**; *R. v. Monney*, [1999] 1 S.C.R. 652 **[III. B. Charter - Search & Seizure]**

IX. Minority Language Rights

1. *R v. Beaulac*, [1999] 1 S.C.R 768.
 - Accused requested that his trial be conducted in the French - the request was denied

- The accused's linguistic rights were violated - new trial before and judge and jury who speak French
2. *Arsenault-Cameron v. Prince Edward Island*, [2000] S.C.C. 1.
 - Access to French language education was denied by the province
 - Requirements to provide French language met provincial legislation and regulations
 - *Charter* s.23
 3. *Devinat v. Canada (Immigration and Refugee Board)*, [2000] 2 F.C. 212 (C.A.).
 - Held: translation of board of decisions is available only on request

X. Same Sex

1. *Egan v. Canada*, [1995] 2 S.C.R. 513.
 - *Charter* s.15(1) - equality rights
 - Definition of "spouse" restricted to person of opposite sex in the context of providing old age security benefits
 - Discrimination against same sex couples
 - Definition of spouse held constitutional
2. *Vriend v. Alberta*, [1998] 1 S.C.R. 493.
 - *Charter* s.15(1) - equality rights
 - Sexual orientation not a ground in the provincial human rights legislation (Alberta)
 - The legislation was held to be unconstitutional
3. *M. v. H.*, [1999] 2 S.C.R. 3.
 - *Charter* s.15(1) - equality rights
 - S.29 Family Law Act (Ontario) held unconstitutional because of its restricted definition of spouse
 - Spouse to include members of the same sex
4. *Chamberlain v. Surrey School District No. 36*, [2000] B.C.J. No. 1875 (C.A.)
 - Issue concerned the use of three books depicting children with same-sex parents in kindergarten and grade one classes
 - Books are not allowed for use in curriculum but there is nothing preventing their existence in the library.

XI. Youth

1. *Chartier v. Chartier*, [1999] 1 S.C.R. 242.
 - When can an adult repudiate his/her role as a parent (not biological)?
 - The test for when a person, stands in place of a parent
2. *Jacobi v. Griffiths*, [1999] 2 S.C.R. 570.
 - 2-part test for imposing vicarious liability on a non-profit organizations
 - employee or organization sexually assaulted children
3. *Bazley v. Curry*, [1999] 2 S.C.R. 534.
 - Employee, a pedophile, abused children at a residential care facility
 - Should employer, non-profit organization, be held vicariously liable?
4. *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)*, [2000] O.J. No. 2535 (Sup. Ct. Jus.).
 - S. 43 of the Criminal Code which pertains to the use of force to correct children
 - *Charter* ss.7, 12, 15 not violated
 - S.43 is not unconstitutional because it does not infringe on the equality rights of children, it is not cruel and unusual punishment, and though s.43 does infringe s.7 *Charter* right to security of the person the infringement is in accordance with principles of fundamental justice.
5. *Winnipeg Child and Family Services v. K.L.W.* 2000 SCC 48.
 - The Child and Family Services Act is constitutional
 - Apprehension of a child without parental consent as a measure of last resort is possible if there is reasonable and probable grounds to believe that the child is at risk of serious harm.

APPENDIX C

SYNTHESIS AND KEY MESSAGES REPORT

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SYNTHESIS AND KEY MESSAGES REPORT

DIVERSITY AND GENDER EQUALITY INITIATIVE

Internal Consultation Meeting

Held on May 3, 2002

DAGE INITIATIVE –JUSTICE CANADA

Internal Consultation Meeting/Réunion de consultation interne

PURPOSE OF THE MEETING

On May 3, 2002, the ADM Integration brought together a group of DOJ officials familiar with the objectives, the history and the evolution of DAGE to consult them on how to structure the diversity and gender equality functions within the Department so as to ensure the effective and sustainable delivery of the DAGE objectives.

IN ATTENDANCE

Monique Collette, Zina Glinski, Elizabeth Sanderson, Virginia McRae, Ruth Naylor, Francine Charlebois, Joy Judd, Leslie Holland, Thea Herman, Heather MacKinnon, Phyllis Doherty and Liliane Dalton-Wagner.

For part of the meeting only: Françoise Girard, Yves Demontigny and Mario Dion.

TAKING STOCK OF PROGRESS MADE TO DATE

1. Participants agreed that much progress has been made in the last six years on implementing conceptually and practically the DAGE initiative within Justice Canada, but that *much* still needs to be accomplished. Participants noted that:
 - it was probably “really naïve” to think that in a 5-year period, gender equality and diversity would be in the forefront of all work done in the Department of Justice;
 - there is a significant gap between the current and desired state regarding implementation of DAGE in DOJ; “we are not there, not anywhere near where we should be”;

- there is yet no “instinctive reaction” in the department to look at issues through the social context lens, to perform the analysis required, to involve DAGE specialists to assist (early on) in the various departmental processes and functions, be they litigation, legal advice, drafting and others. The culture and mindset are “not there” yet;
 - the prompting and prodding role that the DAGE staff has played at various committees, such as at the Litigation Committee, has been extremely useful in bringing the issue to the forefront; unfortunately, however, the opportunity for this prodding too often comes when a case or issue is quite far along in the thinking and development process, (for example, after the factum has been prepared). As a result, these interventions can be disturbing for those who have invested themselves in a case or issue, and can be perceived as interference (the “you’re preventing me from doing my work” syndrome).
2. Participants recognized that having a more representative workforce (EE) will facilitate culture change and contribute directly to making progress on DAGE issues. However, while participants strongly agree the two initiatives are complementary and support each other, they also emphasized that having more women and minorities is not sufficient to ensure that (1) social context thinking is integrated in all the practices of law and policy in the department, and (2) that highly competent and timely social context analyses are performed. These are activities that require significant learned knowledge and skills as well as much vigilance on the part of all practitioners and managers.
 3. There is evidence that the cohort of young new recruits in the department (at least in one region represented at the meeting) is very diverse; its members are keen and committed to the principles of diversity and gender equality; although they “live this”, they recognize that they need training and support in order to learn how to do a DAGE analysis.
 4. Participants acknowledged that in order for change to occur, there must be commitment at the senior levels. They recognized that efforts have been made in the past to raise the awareness of the Executive Council and managers. Some participants observed that in areas of the department where there are committed and trained senior managers, there is more employee buy-in; as a result, social context analysis is more integrated in the regular work. Some participants have observed “huge differences” in trained managers.
 5. Participants recognized that the department is in a period of growth; indeed, there are many new employees, and efforts will have to be deployed at the entry level as well as at other levels in the organization.

6. Participants emphasized – in no uncertain terms – that senior managers must take responsibility and accountability for the integration of diversity and gender equality in the work of the department. They also recognized that most, if not all managers, would probably agree with the statement that they are accountable. The challenge is not in the intellectual exercise of accepting accountability; it is in managers seeing and comprehending at a much deeper level what it is they are *truly* responsible and accountable for, i.e., applying the principles related to social context analysis to the actual practice of law throughout the department. Accountability and deeper level comprehension must also be the province of senior practitioners, opinion leaders and middle managers who all yield tremendous influence on the legal work performed in the organization.
7. There is a large network of Gender Equality and Diversity Interveners (GEDI). This is not a homogenous group and their experience is quite different from one part of the department to the other. Some feel totally isolated, others have DAGE work as a core part of their jobs. During the interviews with the consultant, they expressed the need to be consulted more, to be connected; they expressed the need for more training, more recognition, and want their work on DAGE to be part of their job descriptions.

MEDIUM/LONG TERM “VISION” WITH REGARD TO DIVERSITY AND GENDER EQUALITY IN DOJ

Participants indicated that if DOJ were successful in implementing DAGE, we would observe that:

- DAGE analysis has become mainstream in the department; it is not seen as an oddity. This means that all issues on the DOJ plate are seen through the social context lens, and diversity and gender equality analysis are integrated in all the legal and other work the department .
- The ownership and accountability for the analysis is not with a special DAGE unit, but with all parts of the departments. All managers are responsible and accountable.
- Those specialized in social context analysis do not experience a feeling of isolation; their advice is sought as a matter of course, and if an analysis is required, their assistance, if necessary, is sought early in the process.
- In addition to managers being responsible and accountable, all employees know it is their job; they have the competency to recognize the signals, they know what questions to ask in

order to determine whether an analysis should be undertaken, they have the tools to do it (and specialists to advise them), and the competency to recognize if it's been well done.

- One of the visible signs of success is the absence of the “this is my file” and “yes but” syndromes, and an increased desire to consider different perspectives in a file.
- DOJ has one voice when approaching an issue from any of its functions, be it policy setting, advice giving, legislative drafting or litigation. Those advising clients present the social context lens as part and parcel of their advice; in turn, this influences the client's thinking and brings about deeper culture change.
- The composition of the DOJ workforce is representative.

THE CONDITIONS TO BE MET IN ORDER FOR THE DEPARTMENT TO ACHIEVE THE ABOVE VISION

- Attitude: All DOJ staff accept this as an integral part of their work; social context, diversity and gender equality are integrated into the way they think about the law and the work of the department.
- Requisite Capacity: Staff have acquired the competencies to recognize the issues, ask the right questions, perform the analysis. Training and coaching are used extensively to develop the skills. There are various fora of action learning.
- Legitimacy, Time and Authority: People have the time and authority to do DAGE-related work; they feel it is a legitimate activity, not an add-on to their regular work.
- Rewards, Incentives and Consequences: Raising social context issues is a valued activity; it is publicly rewarded. There are consequences to “missing” the issue in one's work.
- Leadership: Senior management are role models who constantly raise the diversity and gender equality implications and connections.
- Building on Success and Progress: People actually see results. There is a strong focus on implementation. People buy-in when they see concrete actions.
- Analytical Support: There is substantive analytical support to guide novices in doing the analysis, or to help where there are insufficient resources and insufficient trained people.

- Workforce composition: It is representative of the Canadian population.
- Recruitment and Staffing Initiatives: The department recruits, appoints, and promotes people who are committed to the principles of diversity and gender equality; it tests for openness to these principles in hiring and promotion interviews.
- Consultation and Research: The department supports its employees performing social context analyses with good consultation and research.

AN ORGANIZATIONAL MODEL THAT WOULD ALLOW THE DEPARTMENT TO MEET THESE CONDITIONS

Participants quickly converged toward a decentralized model characterized by:

- the presence of a core group of staff in each responsibility centre who are full time GEDIs and for whom DAGE would not be considered “added-on” responsibility;
- accountability for implementation rests squarely with the various program units, in particular with senior and middle managers as well as with senior practioners;
- the presence of a small central HQ unit lead by a champion who is a lawyer, knows the department, has significant influence and moral leadership, and can speak truth the power.

The central HQ unit would:

- be a centre of expertise and a centre of excellence,
- be responsible for the development of the policy and guide (which needs to include diversity);
- support and promote the integration of social context thinking and analysis in the mainstream work of the department;
- develop the training content (but not deliver training itself);
- coordinate and support and provide advice to the full time GEDIs; nurture, develop and provide leadership for the GEDI community;
- perform limited DAGE analyses (only during the transition phase)

Implementation and transition recommendations

- In the various responsibility centres, the transition to this model may require converting some positions to “in-house full-time GEDI”.
- To use resources wisely as well as to manage change effectively, start by implementing the model in places where success is more feasible, i.e., with units that are favourable and committed; others will follow if they see the model works well. Also, consider a pilot to see if the decentralized model works.
- Find a new term for “GEDI”.
- Appoint more senior people in the GEDI network.
- Consider the use of secondments and exchanges between GEDI and the DAGE core office.
- Ensure that the GEDI, particularly in small regional centres, are not ignored, and have the appropriate support and visibility.
Suggestion: The GEDI should report to the head of the unit, e.g., to the regional head.
- Ensure the full time core group in responsibility centres do not get everything “dumped” on them; ensure they do not do the work alone, have the necessary support and help with the work; ensure the work is integrated in everybody’s job.
- Continue to develop and deliver training.
- RE: consultation with NGOs outside government (such as NAC); this function should not be the responsibility of the small central unit but that of Policy. The DAGE central office could play a role as an advisor but not as the leader or organizer of the consultation.
- To make everybody accountable, make it part of the PREA process.
- To provide guide implementation, to keep the issue visible, and to support the work of the GEDIs, put in place:
 - (1) a senior advisory committee to advise the ADM Integration and
 - (2) advisory committees at the local level.
- To facilitate the analysis work, develop a tool such as the “Charter Check”.