



Law Commission of Canada

Performance Report

For the period ending
March 31, 1999

Canada

Improved Reporting to Parliament Pilot Document

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

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Foreword

On April 24, 1997, the House of Commons passed a motion dividing on a pilot basis what was known as the annual *Part III of the Estimates* document for each department or agency into two documents, a *Report on Plans and Priorities* and a *Departmental Performance Report*.

This initiative is intended to fulfil the government's commitments to improve the expenditure management information provided to Parliament. This involves sharpening the focus on results, increasing the transparency of information and modernizing its preparation.

This year, the Fall Performance Package is comprised of 82 Departmental Performance Reports and the government's report *Managing for Results - Volumes 1 and 2*.

This *Departmental Performance Report*, covering the period ending March 31, 1999, provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the department's pilot *Report on Plans and Priorities* for 1998-99. The key result commitments for all departments and agencies are also included in Volume 2 of *Managing for Results*.

Results-based management emphasizes specifying expected program results, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and reporting on achievements in a balanced manner. Accounting and managing for results involve sustained work across government.

The government continues to refine and develop both managing for and reporting of results. The refinement comes from acquired experience as users make their information needs more precisely known. The performance reports and their use will continue to be monitored to make sure that they respond to Parliament's ongoing and evolving needs.

This report is accessible electronically from the Treasury Board Secretariat Internet site:
<http://www.tbs-sct.gc.ca/tb/key.html>

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March 31, 1999

Anne McLellan
Minister of Justice

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Chart of Key Results Commitments

Law Commission of Canada

<i>to provide Canadians with :</i>	<i>as demonstrated by:</i>	<i>and reported in:</i>
Relevant and timely research on issues of law and justice	<ol style="list-style-type: none"> 1. A strategic agenda reflective of social trends and priorities 2. A multidisciplinary research program that is focused and realistic 3. Productive research partnerships and intergovernmental cooperation 	Departmental Performance Report, Section III, page 7
An open forum about law and how it operates in Canadian society	<ol style="list-style-type: none"> 4. Sponsorship of meetings, focus groups and conferences 5. Continuing consultation with all Canadians on research programs and recommendations 	Departmental Performance Report, Section III, page 7
Quality recommendations on improvement, modernization and reform of the law	<ol style="list-style-type: none"> 6. Development of new concepts of law and new approaches to law 7. Proposals to improve efficiency and accessibility of the legal system 8. Recommendations to eliminate obsolescence and anomalies in the law 	Departmental Performance Report, Section III, page 7



Section I President's Message

Today, many Canadians worry that the law is not adequately protecting the values that matter to them. Frequently, those who are most in need of law's help find that it offers little solace. Parliament and legislatures sometimes appear distant and unresponsive. Court processes can be costly, delayed and formalistic. Legal services are beyond the means of many. We are committed to addressing these concerns. This past year, we have sought to encourage the interest and involvement of citizens in law reform by giving voice to their passion for justice. Through our research, we have deepened our understanding of how the quest for justice can be translated into new approaches to, and new concepts of, law.

Because we believe that renewal of the law is the affair of everyone, we have tried to keep attuned to how Canadians live justice in their daily activities. Deep social and economic changes put to the test the way the law frames many interpersonal relationships — in the family, in the workplace, in the community.

We have tried to cast our research projects as a search for underlying policies that should inform the law. Our objectives are to centre discussions of law reform on substantive issues and to offer proposals that respond directly to policy concerns. Our task is to arrive at a richer understanding of when and why we should choose criminal law, public health, economic efficiency or social healing approaches to addressing the challenges of modern society. Our aim is to discover what types of rules, institutions and procedures would best recognise the capacity of all citizens to act justly towards each other, and would best enable them to do so.

We have learned much this year about how important the idea of justice is to many Canadians. We sense that our ambition to pursue it by seeking new approaches and new concepts of law has struck a responsive chord. We believe that meaningful law reform begins and ends with a commitment to achieving a just law.

Roderick A. Macdonald

Section II Overview

Mandate

The mandate of the Law Commission of Canada is derived from the *Law Commission of Canada Act* which came into force in late April 1997. The Commission is directed under Section 3 of the Act to focus on four research orientations:

New Concepts of Law: The Commission is to work toward the development of new concepts of law and new approaches to law.

Efficiency and Accessibility: The Commission is to consider measures to make the legal system more efficient, economical and accessible.

Stimulating Critical Debate: The Commission is charged with stimulating critical debate about law and how it operates in Canadian society. It is encouraged to forge productive networks with academic and other communities to ensure cooperation and coordination in law reform initiatives.

Eliminating Obsolescence and Anomalies: The Commission is to work toward the elimination of obsolescence and anomalies in the current law.

Mission

The Mission of the Law Commission of Canada is to engage Canadians in the renewal of the law to ensure that it is relevant, responsive, effective, equally accessible to all, and just.



Objectives

The Law Commission of Canada studies and keeps under systematic review, in a manner that reflects the concepts and institutions of the common law and civil law systems, the law of Canada and its effects. Its ultimate objective is to provide independent advice on improvements, modernization and reform to ensure a just legal system that meets the changing needs of Canadian society and of individuals in that society.

Strategic Priorities

Drawing on ideas suggested by a broad spectrum of groups and individuals, the Law Commission has identified four strategic themes that will frame its work over the next three to five years:

Personal Relationships: The Commission will look closely at how the legal system deals with relationships of dependence and interdependence.

Social Relationships: The Commission will undertake research on how the legal system recognises diverse social relationships in a changing socio-demographic context.

Governance Relationships: The Commission will study public decision making and governmental institutions and make proposals that further enhance openness and accountability.

Economic Relationships: The Commission will explore how best to structure law to enhance the country's economic strength while protecting fundamental social values.

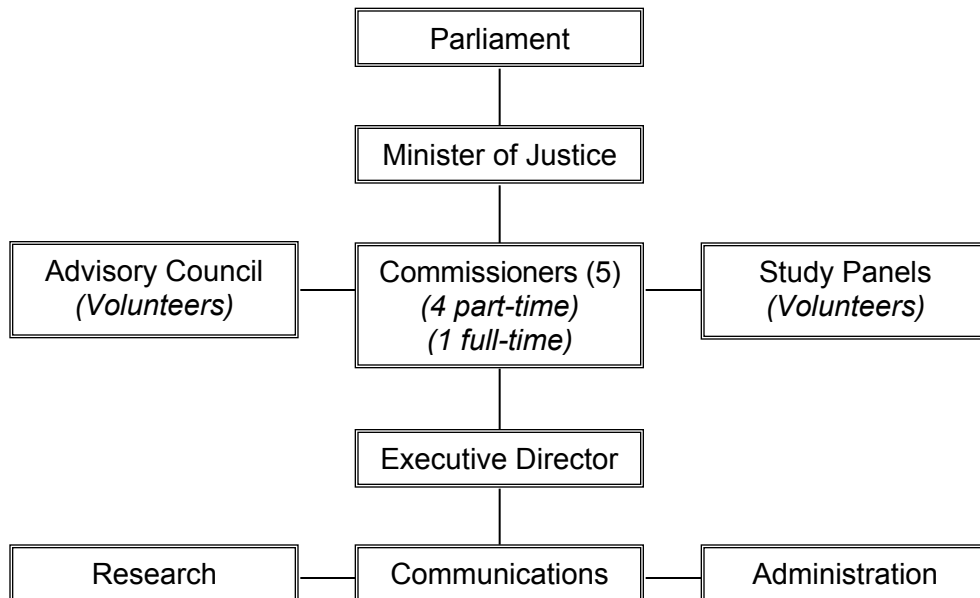
Organisation

The Law Commission is a departmental corporation, accountable to Parliament through the Minister of Justice. The Governor in Council appoints the President and four part-time Commissioners on the recommendation of the Minister of Justice for terms not exceeding five years. The Commission is supported by a small Secretariat headed by an Executive Director.

The Commission has appointed a voluntary Advisory Council of 22 individuals and experts. They reflect Canada's socio-economic and cultural diversity, and represent a broad range of disciplines. The Council provides input and advice on strategic direction, on the Commission's long-term research program, performance review and other relevant matters.

Study Panels are appointed as needed to provide advice on specific research projects. Each panel, headed by a Commissioner, will be comprised of volunteer experts from multiple disciplines and members of affected communities. To support the Study Panels, research contracts are given to recognised experts in the private sector and academia.

Organisation Chart





Section III Commission's Performance

The Law Commission of Canada (thousands of dollars)	
Planned Spending	2,940
Total Authorities	3,065
1998-99 Actuals	2,416

Strategic Agenda

Projects are now underway in connection with each of our four strategic themes. As background studies mature, we aim to produce papers that draw together more general ideas and highlight the interconnectedness of projects within each research programme. Ultimately, our goal is to publish a compendium of papers about how the law might better nurture just personal, social, economic and governance relationships.

Personal Relationships

The organizing idea for the Personal Relationships theme is to examine how the law imagines and regulates close relationships of dependence and interdependence. An initial project assesses whether current approaches to family relationships are adequate to the needs of an increasingly diverse society. We are also looking at the relationship between the elderly and those upon whom they depend with a view to evaluating how well the law succeeds in palliating power imbalances that can lead to abuse and exploitation. We are contemplating projects on legal relationships such as those between immigrant and sponsor, or professional and client. In each of these cases, the question is whether the law works to balance power in support of justice, or whether it provides and legitimates opportunities for exploitation. Among the lessons we hope to draw from these studies is a better understanding of how the law can be structured, both in its concepts and its rules, so as to pursue public policies aimed at justice in personal relationships.

Social Relationships

As a first step in developing the Social Relationships theme, we have chosen to look at the concept of restorative or transformative justice. What are the root ideas associated with the concept, and how do they compare to traditional legal notions of retributive and distributive justice? In the fall, we published a study paper and sponsored a roundtable to help us work through the potential of the concept as an approach to resolving conflicts where maintaining just

multi-party and inter-group relationships is of prime value. This spring, we sponsored an online discussion forum to advance our thinking prior to releasing a Discussion Paper for general circulation. The lessons we hope to draw from this project will allow us to consider whether we have over-relied on a form of dispute settlement, and a form of structuring rights that exacerbates rather than heals conflict in social relationships.

Economic Relationships

The Economic Relationships theme has given rise to three research projects. One evaluates the factors that would argue in favour of adopting alternative legal policies such as resisting social and economic changes, or compensating those who suffer, or even facilitating change through a regulatory framework that promotes market transactions. A general analysis of these choices is now in preparation. We are also sponsoring a project to look at whether it is desirable to create a uniform commercial law regime in Canada, by harmonizing federal and provincial law. A complementary objective has been to sponsor a background study of how criminal law creates economic opportunities for organized crime through ill-advised or unenforceable rules that no longer enjoy broad public support in practice. We hope these studies will assist us in understanding how the law should mediate between economic efficiency and social justice concerns, in reconciling the conflicting interests of complex modern societies.

Governance Relationships

The aim of the Governance Relationships theme is to examine ways to enhance the capacity of citizens to participate in the decision-making processes of public and private institutions. An initial research project inquires whether the concept of citizen agency can be useful in organizing our research under this theme. Broadly speaking, the animating concern is whether late 20th century law has lost its normative capacity and has become simply managerial direction through detailed bureaucratic commands. Another project investigates the processes by which we seek to ensure the ethical conduct of medical research, assessing the extent to which the multiple regulatory frameworks now in place in both public and private sectors work to provide a coherent (or incoherent) governance regime.

We have also co-sponsored research that explores how to increase the participation of Aboriginal youth in urban governance, and supported a study that investigates what governments may learn from the private and voluntary sectors about how to recognise and manage socio-cultural diversity in pan-Canadian institutions. The more general lesson is to ask how well law now serves to give people real choices about their lives, and the opportunity to



participate meaningfully in elaborating the regimes of governance by which these choices are framed.

Ministerial Reference

Much of our energy this past year was devoted to the Ministerial Reference on historical abuse of children that occurred in institutions. We were asked to examine various processes for handling these revelations and to assess the strengths and weaknesses of different approaches to providing redress. On the basis of discussions with officials, survivors and Aboriginal leaders, we launched eight studies to investigate current processes and understandings, the experiences in Canada and internationally, and the needs of Aboriginal and non-Aboriginal survivors of abuse.

To assist in our work, we appointed two study panels, one of which was specifically concerned with residential schools for Aboriginal children. A Discussion Paper released in December drew together the results of these research studies and set out various policy questions. The Discussion Paper was made available on audio tape and posted on our Web site. Its executive summary was translated into three Aboriginal languages and a Braille version was also produced. This Discussion Paper gave us an opportunity to organize and participate in several meetings, roundtables and colloquia to obtain feedback. We held special consultations with the Deaf community and set up two online discussion groups. A final report will be delivered to the minister in the fall of 1999, accompanied by a video summarizing some key findings and recommendations.

Other Projects and Activities

The core of our work this year has been the development of ideas, research and studies connected to the Reference and our strategic agenda. But we have not shied away from sponsoring other conferences and roundtables — on the delivery of legal services, workplace harassment, the follow-up to the Royal Commission on Aboriginal Peoples, and public inquiries — that are designed to draw out complementary themes about the relationship of law and justice.

Partnerships

Building partnerships with other agencies and organisations that are engaged in rethinking the law is another road we have taken to expand the reach of our consultations. Their contacts offer even wider networks for promoting creative law reform. Some of these are organisations with official mandates or commitments to improving the law. Others bring a scholarly and policy perspective to law reform. Still others are motivated by personal interest in a particular

aspect of our work. We see them all as our partners in engaging as many people as possible in critical debate about refashioning law.

We have joined forces with the Uniform Law Conference of Canada, to explore how federal commercial law can be more successfully harmonized with provincial law. We are co-publishing, with the Alberta Law Reform Institute, a collection of conference papers on new approaches to law reform, methods of sharing studies and data, and ways of engaging in cooperative legal research.

Presentations to annual meetings and conferences have given us insight into the concerns of the legal professions and allowed us to explain how our work can be enriched by their involvement. We have co-sponsored two conferences with the Canadian Bar Association, one of which was designed to follow up on the recommendations of the Royal Commission on Aboriginal Peoples. That conference was also supported by the Law Society of Upper Canada and the Indigenous Bar Association. Partnering with professional associations gives us a laboratory to test our recommendations against the practical hurdles for establishing an efficient, accessible and just system for delivering legal services.

Our participation in judicial education seminars and conferences involving members of tribunals permits us to share our research with those who must make sense of Canadian law within a rapidly changing social context.

The university sector is a constituency that is deeply committed to the ambitions and processes of law reform. Collaborative projects with faculties of law, criminology and public administration help us keep up-to-date with the best research on law and justice. We have profited from the multidisciplinary research potential of universities by awarding research contracts and by co-sponsoring colloquia and roundtables on family violence, the future of legal service delivery, workplace harassment and commissions of inquiry.

The policy research community has been another source of collaborative networking. We recently launched a research programme with the Social Sciences and Humanities Research Council of Canada to finance multi-disciplinary studies on a different one of our research themes over each of the next four years. We have also taken leadership in building an alliance with the Canadian Law and Society Association, the Canadian Association of Law Teachers, and the Council of Canadian Law Deans to sponsor an annual multidisciplinary research competition, organized around one of the new concepts of law that we identify each year.



Joint initiatives with research bodies whose interests overlap with our research themes enable us to take advantage of empirical studies and policy perspectives that have been in maturation for years. Such projects are under development with the Institute on Governance and the Canadian Policy Research Networks. Cooperation with public interest groups, such as the National Association of Friendship Centres and the Church Council on Justice and Corrections, also helps us frame our research and broaden the base of our consultations and feedback.

Section IV Consolidated Reporting

Y2K Readiness

All of the Commission's current information management systems are Y2K compliant. Consequently, no contingency measures are deemed necessary at this time.

Statutory Annual Reports

Law Commission of Canada, Annual Report, 1998-99

Law Commission of Canada, Annual Report, *Living Law*, 1997-98



Section V Financial Performance

Financial Performance Overview

The following financial tables depict the resources available to the Commission in 1998-99 and how these resources were used. The tables also provide comparative historical information for the last year only, as the Commission began its operations in July 1997.

As shown in Table 1, planned spending for 1998-99 at the beginning of the year was \$2.940 million. Additional spending of \$125 thousand was approved by Parliament, increasing available resources to \$3.065 million. This additional funding was provided mostly to fund the staff's collective agreements.

Of the \$3.065 million available, the Commission spent only \$2.416 million. This represents 79% of the total authority. Spending was less than expected mostly because of delays in some research projects.

Financial Summary Tables

The following tables are applicable to the Law Commission of Canada:

Financial Table 1 Summary of Voted Appropriations

Financial Table 2 Comparison of Total Planned Spending and Actual Spending

Financial Table 3 Historical Comparison of Total Planned to Actual Spending

Financial Table 1

Summary of Voted Appropriations

Financial Requirements by Authority (thousands of dollars)				
Vote	1998-99			
	Planned Spending	Total Authorities	Actual	
Law Commission of Canada				
35	Program expenditures	2,791	2,915	2,267
(S)	Contributions to employee benefit plan	149	149	149
Total for the Commission		2,940	3,065	2,416
<p>Total Authorities are Main Estimates plus Supplementary Estimates plus other authorities.</p> <p>The 1998-99 total authorities represent an increase of \$124,500 or 4% over the 1998-99 planned spending of \$2,940,000. This difference represents mainly the funding received for collective agreements and for the 1997-98 carry forward.</p> <p>The 1998-99 actual represents 79% of the total authorities. The difference of \$648,900 between the actual and total authorities represents mainly delays in some research projects.</p>				



Financial Table 2

Comparison of Total Planned Spending and Actual Spending

Departmental Planned versus Actual Spending (thousands of dollars)			
Law Commission of Canada	1998-99		
	Planned	Total Authorities	Actual
FTEs	8.0	8.0	7.3
Operating	2.9	3.0	2.4
Capital	—	—	—
Voted Grants and Contributions	—	—	—
Subtotal: Gross Voted Expenditures	2.9	3.0	2.4
Statutory Grants and Contributions	—	—	—
Total Gross Expenditures	2.9	3.0	2.4
Less:			
Respendable Revenues	—	—	—
Total Net Expenditures	2.9	3.0	2.4
Other Revenues and Expenditures			
Non-respendable Revenues	—	—	—
Cost of services provided by other departments	0.1	0.1	0.1
Net Cost of the Program	3.0	3.1	2.5
Total Authorities are Main Estimates plus Supplementary Estimates plus other authorities.			

Financial Table 3

Historical Comparison of Total Planned to Actual Spending

Historical Comparison of Departmental Planned versus Actual Spending (thousands of dollars)					
Business Lines	1996-97 Actual	1997-98 Actual	1998-99		
			Planned Spending	Total Authorities	Actual
Law Commission of Canada	—	1,201	2,940	3,065	2,416

Total Authorities are Main Estimates plus Supplementary Estimates and plus other authorities.



Section VI Other Information

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Law Commission of Canada Act (S.C., 1996, c.9)