

**Nova Scotia Barristers' Society**

**Employment Equity Questionnaire Report**

February 2002



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## Introduction

When the Marshall Inquiry issued its report in 1989, the Nova Scotia Government and the Nova Scotia Barristers' Society (Society) were faced with undeniable evidence that racism existed in the legal system and that members of the Indigenous Black and Mi'kmaq communities were seriously under-represented in the legal community. Since then steps have been taken to address this issue and have resulted in an increase in legal graduates from these communities. However, there has been a concern that the increase in the number of graduates has not resulted in an increase in the number of Indigenous Black and Mi'kmaq lawyers employed in the private practice of law.

In February 1999, the Nova Scotia Government established the Employment Equity Guidelines Committee (EEGC), to address the under-representation of Indigenous Black and Mi'kmaq lawyers in Nova Scotia law firms. The EEGC published its report, *Fostering Employment Equity and Diversity in the Nova Scotia Legal Profession*, in August of 2000. This Report recommended that the Nova Scotia Government adopt a policy that would ensure that law firms and lawyers that do business for the Government implement employment equity.

This report was not unanimous. Concerns by the government representatives were expressed about recommendations regarding the instituting of numerical hiring targets for law firms and with the definition adopted for the term 'indigenous Black'.

The Society also disagreed with some of the recommendations of the EEGC. The Society's response to the EEGC's report, *Workplace Equity & Private Law Firms*, reiterated its commitment to addressing the issue of diversity in the legal profession. The Society agreed with many of the principles in the EEGC's report including:

- the priority of greater diversity in the legal profession;
- public and private legal workplaces should welcome diversity and hire and promote based on ability;
- employment equity requires more than good intentions; and
- employment equity requires special measures by public and private legal workplaces which should include the accommodation of differences.

The Society also recognized the importance of collecting statistical information as an essential step to establishing and implementing an effective employment equity strategy. In its report the Society proposed to "compile data and analyze information working cooperatively with government and others to ensure that accurate statistics, supported by relevant factual information are available."

The Government's response to the EEGC Report was to establish the Employment Equity Steering Committee which includes the Deputy Minister of Justice, the Dean of the Dalhousie Law School, the Executive Director of the Society and the Directors of the Indigenous Blacks and Mi'kmaq

Programme. As well, the Government adopted the *Policy on Employment Equity for Crown Law Agents* (Policy) (Appendix A). In January of 2001, the Government put forward a plan to create employment equity in law firms and address the historical under-representation of Black and Mi'kmaq lawyers in Nova Scotia. The Policy defines employment equity as follows:

“as a broad based principle, [which] ensures the fair representation and full participation in the workplace of women, Aboriginal Peoples, members of visible minority groups, and persons with disabilities (the “designated groups”). Employment equity is achieved by employment policies and practices that prevent and correct disadvantages in employment for these groups through special measures, reasonable accommodation of differences, and programs to remove barriers to equitable employment opportunities.”

## **Policy**

Under the Policy, law firms in Nova Scotia are considered Crown Law Agents (CLA) if they perform legal work where the fees are \$5000 per matter or \$5000 per year, whichever is lesser. CLAs must:

- sign the Commitment for CLAs;
- display the signed Commitment in a prominent place in the law firm;
- communicate their commitment to employment equity to current and prospective staff; and
- comply with the Nova Scotia Human Rights Act.

Law firms of 1 to 11 lawyers are also required to report by June 31, on the representation of designated group members, including Indigenous Black and Mi'kmaq, within the law firm.

Law firms of 12 or more lawyers are also required to:

- designate a senior partner of the firm (the firm's Coordinator) who will be responsible for ensuring the firm's compliance;
- collect and record information on the representation and employment status of designated group members, including Indigenous Black and Mi'kmaq, within the firm, by occupation and level in terms of hiring, promotion and termination in relation to all other lawyers and employees, and to collect and record information on measures taken by the firm to achieve employment equity goals; and
- report such information not less often than annually as well as upon request by the Department.

Since the establishment of this Policy, the Employment Equity Steering Committee has been actively working to construct a questionnaire (Questionnaire) which would collect data on the representation and employment status of designated group members, including Indigenous Black and Mi'kmaq, within the firm (see appendix B). The Society agreed to collect this information by sending out the Questionnaire to all CLAs and provide a written report of the findings to the Department of Justice.

The Department of Justice provided the Society a list of CLAs, which is updated when new lawyers or law firms are added. In June, all CLAs were sent a copy of the Questionnaire and informed that the completion of the form was mandatory under the Policy.

When recruiting articled clerks in the Spring of 2001 many of the CLAs did not know they would be asked to provide information on the number of applicants received from and the number of interviews given to designated group members. Therefore, many of the firms did not have complete information. Both the Department and the Society understood this would be the case and the CLAs were asked to provide as much of the information as possible.

From the very beginning of this process the Society and the Department have made it clear to those involved that this must be considered a work in progress which would evolve as all parties gained more experience. Now that the CLAs understand what information they are required to obtain, they are expected to implement acceptable procedures to collect information on the designated groups and provide complete data for the Questionnaire next year.

The Department is primarily interested in the statistics for firms doing business for the Government to ensure compliance with their policy. The Society however, realized that it would be beneficial to record the diversity that exists in all Nova Scotia firms. As such, law firms which are not Crown Law Agents (NCLA) were asked to complete the questionnaire on a voluntary basis. A NCLA list was compiled of law firms with two or more lawyers. Sole practitioners and in house council were not included in the list. In June the Questionnaire was mailed to some of the firms on the NCLA list. They were asked to complete the questionnaire and return it by mail. In August, the remaining firms on the NCLA list were contacted and the Questionnaire was administered by phone.

This report will first provide results for questionnaires filled out by both CLAs and NCLAs. The findings for only the CLAs will then be provided. The report will then provide the findings for the NCLAs.

In order to compliment the information being gathered from the law firms and to provide a more complete picture of the legal workforce, the Department and the Society have also been working with DLS on a questionnaire in order to compile information on the students from the designated groups attending and graduating from the Law School (Appendix C). In addition, the Society's Bar Admissions Course Department has compiled information on the demographic make up of students who have completed the Bar Admissions Course and those who wrote the Bar Exams in 2000-2001 (Appendix D).

## Statistics and Employment Equity

### Internal Data

The Society acknowledged in its response to the EEGC Report, that data collection is a fundamental aspect of implementing an effective employment equity plan. The Employment Equity Manual, Carswell states that data collection is required:

- to identify where action is required, by showing where designated group members are under-represented compared to external workforce data;
- to set goals to end the under-representation, and to improve the distribution of designated group members within a workforce, over time; and
- to monitor how well an organization is reaching the goal of a representative workforce.<sup>1</sup>

This year's reporting is an attempt to provide a 'snapshot' of the makeup of law firms' workforce. Such snapshot data is used to compare the present firm's workforce make-up with external workforce information in order to identify the over or under representation of designated group members.

Normally, the data would also be used as a baseline in a year to year review to determine if any progress has been made increasing the under-representation of designated group members. However, as has been indicated earlier, much of the work done this year has been a work in progress. Law firms did not have the information to complete the questionnaires. In addition, there has been some confusion over the requirements under the Questionnaire and some of the law firms did not know how to track the information requested. The Society has been working with the law firms in order to improve their knowledge of what is required of them and how the information can be collected. Therefore, the use of this year's data as a baseline is not recommended.

This does not mean that the information collected is not useful. The statistics gathered are useful in providing an understanding of the make-up of law firms. As well, this experience has provided guidance on how to improve the process for next year in order to ensure that next year's data represents the most accurate baseline of the data.

Of course, employment equity goes beyond just the collection and analysis of data. It includes the setting of goals and action plans and long term monitoring. The Society is committed to working with the CLAs and with other law firms to help them recognize the advantages of employment equity and understand how to the implement action plans.

Education is another important step in the employment equity process. The Society has been developing a curriculum on issues related to the Policy, the Questionnaire and employment equity in general. These will be offered to both CLAs and NCLAs.

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<sup>1</sup> The Employment Equity Manual. Toronto, Carswell, 2001, p. 7-1

## **Employment Equity Questionnaire – CLAs and NCLAs**

A total of 107 completed Questionnaires were received from both CLAs and NCLAs. The Questionnaire requested information on the four designated groups — Women, Visible Minorities, Aboriginal and Person with Disabilities. The Questionnaire separates out Blacks and Indigenous Blacks from the Visible Minorities category and Mi’kmaq from the Aboriginal category.

Indigenous Black is defined as a graduate of Dalhousie Law School who participated in the IB&M Programme or a member of the Black community born, or primarily educated in Nova Scotia. Mi’kmaq is defined as a graduate of Dalhousie Law School who participated in the IB&M Programme or a person of Mi’kmaq heritage whether born in Nova Scotia or not.

### **Firm Profile**

The Firm Profile question examines the representation of members of designated groups within a law firm, including partners, associates and articled clerks. The information of the profile of the 107 law firms and lawyers who answered the Questionnaire is contained in Table 1.

Of the 416 partners the representation of designated groups at the Partner level is highest among Women at 66. Visible Minorities, Blacks and Persons with Disabilities make up less than one percent of the number of Partners. There are no Aboriginal, Indigenous Black and Mi’kmaq partners in the law firms which answered the Questionnaire.

The representation at the Associate level improves marginally. Of the 264 Associates, 108 are Women, 5 are Visible Minorities, 4 are Blacks, 2 are Aboriginal, 3 are Persons with Disabilities and 3 are Indigenous Blacks. There are no Mi’kmaq associates.

There are 29 lawyers in the Other Lawyers category. Twelve are Women, one is a Visible Minority and one is Black.

At the Articled Clerk level there is improvement for some of the designated groups. Of the 55 Articled Clerks, 21 are women, one is a Visible Minority, one is Black, one is an Aboriginal and four are Indigenous Black. No Persons with Disability and no Mi’kmaqs are represented in this category.

**Table 1 - Firm Profile**

|                   | Total Number | Women       | Visible Minorities (excluding Blacks & Aboriginals) | Blacks           | Aboriginal       | Persons with Disabilities | Indigenous Black | Mi'kmaq          |
|-------------------|--------------|-------------|---|------------------|------------------|---------------------------|------------------|------------------|
| Partners          | 416          | 66 (15.9%)  | 2 (less than 1%)                                    | 1 (less than 1%) | 0                | 4 (less than 1%)          | 0                | 0                |
| Associates        | 264          | 108 (40.9%) | 5 (1.9%)  | 4 (1.5%)         | 2 (less than 1%) | 3 (1.1%)                  | 3 (1.1%)         | 0                |
| Other Lawyers*    | 29           | 12 (41.4%)  | 1 (3.4%)  | 1 (3.4%)         | 0                | 0                         | 0                | 0                |
| Articled Clerks   | 55           | 21 (38.2%)  | 1 (1.8%)  | 1 (1.8%)         | 1 (1.8%)         | 0                         | 4 (7.3%)         | 0                |
| Legal Assistants‡ | 144          | 134 (93.1%) | 1 (less than 1%)                                    | 0                | 1 (less than 1%) | 1 (less than 1%)          | 0                | 1 (less than 1%) |
| Support Staff‡    | 660          | 607 (92%)   | 1 (less than 1%)                                    | 4 (less than 1%) | 2 (less than 1%) | 4 (less than 1%)          | 3 (less than 1%) | 2 (less than 1%) |

\* Includes those with a law degree who have been called to the Nova Scotia Bar, whether practicing or not, working with the firm in a position other than as a partner or associate.

‡ Firms of fewer than 12 lawyers did not need to provide this information. Firms of 12 or more included as a Legal Assistant, a person with a law degree who is not a member of the Nova Scotia Bar.

### **Student / Articled Clerk Recruitment**

The Student /Articled Clerk Recruitment question examines the recruitment process for summer student and articled clerk positions conducted by the 107 law firms / lawyers answering the Questionnaire. Since articling is the gateway to entering the legal profession, the numbers provide an indication of the involvement of members of the designated groups in the private practice of law. Increases at this level will hopefully indicate an increase in the associate and partner level.

Once again, it must be stated that many of the firms/lawyers did not know that they would be asked to provide information regarding student and articled clerk recruitment and, therefore, did not keep track of this data when they were conducting interviews. A few were able to provide all of the information and others could provide only some of the information. Much of the following information must be read with this in mind and this will explain the discrepancies in some of the numbers.



Of the 107 firms who responded, 17 recruited summer students for the summer of 2001 and hired articled clerks for the year 2002 during the period January 1 and June 30, 2001. For the 17 firms who participated in the recruitment process:

- 797 applications were received, 93 of which were identified to be from designated groups.
- 564 applicants were interviewed, 155 were identified to be from designated groups.
- 119 were given second interviews, 41 were from designated groups.

The 17 firms, hired 33 summer students (summer 2001) and 50 articled clerks were hired for the year 2002. The designated groups breakdown is contained in Table 2.

**Table 2 - Designated Group Breakdown for Summer Students/Articled Clerks**

|                                    | Women | Visible Minorities (excluding Blacks & Aboriginals) | Blacks | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|------------------------------------|-------|---|--------|------------|---------------------------|------------------|---------|
| Applicants                         | 164   | 3   | 7      | 1          | 4                         | 4                | 1       |
| Interviewed                        | 168   | 8   | 5      | 1          | 5                         | 3                | 0       |
| Offered Position - Student*        | 15    | 1   | 2      | 0          | 2                         | 0                | 0       |
| Offered Position - Articled Clerk* | 26    | 3   | 3      | 1          | 1                         | 2                | 0       |
| Accepted Position - Student        | 11    | 0   | 0      | 0          | 1                         | 0                | 0       |
| Accepted Position - Articled Clerk | 23    | 1   | 1      | 1          | 1                         | 1                | 0       |

\* It must be noted that the 'offered position' number both for the student and the articled clerk is the total number of offers from the 17 law firms and **not** the total students being offered a position. Since students apply to several law firms at once, they may receive numerous offers, only one of which they are capable of accepting — for example the number of three articled positions offered to three Blacks can be to three separate Black students or one Black student.

Of the 797 applicants, the firms identified the following breakdown:

- 164 Women;
- 3 Visible Minorities;
- 7 Blacks;

- 1 Aboriginal;
- 4 Persons with Disabilities;
- 4 Indigenous Black and
- 1 Mi'kmaq.

The figures indicate that of the 33 summer students:

- 15 positions were offered to Women, 11 of which were accepted;
- 1 was offered to a Visible Minority student but was not accepted;
- 2 positions were offered to Black students but none were accepted;
- 2 positions were offered to Persons with Disabilities, one of which was accepted.

There were no positions offered to Aboriginal, Indigenous Blacks and Mi'kmaq students.

Of the 50 articulated students hired by the firms for the year 2002:

- 26 positions were offered to Women and 23 of which were accepted;
- 3 were offered to Visible Minority students, one of which was accepted;
- 3 positions were offered to Blacks, one of which was accepted;
- 1 was offered to an Aboriginal and was accepted;
- 1 was offered to a Person with Disability and was accepted;
- 2 was offered to Indigenous Black, one of which was accepted.

There were no positions offered to Mi'kmaq students.

### **Associate Appointment**

The question about the appointment of associates is asked to examine the hiring of associates by law firms/ lawyers in the past year and how such hiring occurred — appointment of articulated clerks working within the law firm, from another law firm or lateral hire of an associate from another law firm. This information is important in tracking the changes in a law firm and the changes to the diversity of a law firm.

Among the 107 firms, 50 articulated clerks were completing their articles. Fifty associates were appointed or hired as of June 30, 2001. Of these, 26 were from the articulated clerks within the firm, 13 were from other firms and 11 were lateral hires. One Associate position was offered to an articulated clerk and it was declined.

A review of the data indicates that:

- of the 26 internal articulated clerks hired as an Associate, 10 were women, one was a Visible Minority and one was a Mi'kmaq;
- of the 11 external articulated clerks hired as an Associate, 9 were Women and none were from the other designated groups; and
- of the 11 lateral hires 8 were Women, 1 was a Black and 1 was an Aboriginal.

The designated group breakdowns can be found in Table 3.

**Table 3 Designated Group Breakdowns for Associate Appointment**

|   | Women | Visible Minorities<br>(excluding Blacks<br>& Aboriginals) | Blacks | Aboriginal | Persons<br>with<br>Disabilities | Indigenous<br>Black | Mi'kmaq |
|---|-------|---|--------|------------|---------------------------------|---------------------|---------|
| Firm Clerk -<br>hired as<br>Associate                   | 10    | 1   | 0      | 0          | 0                               | 0                   | 1       |
| Outside Clerk -<br>hired as<br>Associate                | 9     | 0   | 0      | 0          | 0                               | 0                   | 0       |
| Lateral hire of<br>Associate                            | 8     | 0   | 1      | 1          | 0                               | 0                   | 0       |
| Clerks offered<br>associate<br>position who<br>declined | 1     | 0   | 0      | 0          | 0                               | 0                   | 0       |

The promotion of associates within a law firm must be tracked in order to determine the progress of designated group members within the firm. The process to compile the statistical reports in this area is still being developed. It is hoped that during next year's reporting process this information will be available.

### **Employment Equity Policies**

The Questionnaire also compiled information on whether law firms/ lawyers had their own internal employment equity policies. Of the 107 law firms, 28 had an internal employment equity policy. The remaining stated they did not have a policy or did not answer the question.

### **Employment Equity Questionnaire – Crown Law Agents**

As was stated earlier, the completion of the Questionnaire is mandatory for all CLAs. In June of 2001, the Department provided a list of the law firms and lawyers who are complying with the policy. An update was provided in mid July. All lawyers and law firms on these lists were sent a Questionnaire.

Twenty-nine CLAs received and answered the Questionnaire.<sup>2</sup> Of the 29 CLAs, 9 were firms of 12 or more lawyers. The remainder were firms with 11 or less lawyers or sole solicitors.

**Firm Profile**

The information for firm profile is contained in Table 4. There are 265 lawyers at the Partner level for the 29 CLAs. Women are the most represented of all the designated groups at 36 lawyers. There are 4 Persons with Disabilities, one Visible Minority and one Black lawyer. Most telling is that there is no representation from the Aboriginal, Indigenous Black and Mi’kmaq groups at this level.

Again among the Associate level, the representation marginally improves. Of the 149 Associates, 36 are Women, 2 are Visible Minorities, 3 are Black, and 1 is a Person with a Disability. There are no Aboriginals or Mi’kmaqs at the Associate level.

At the Other Lawyer level, 12 are Women and one is a Visible Minority. There is no representation from the other designated groups.

For the 29 CLAs the numbers again marginally improve at the Articled Clerks level. Of the 42 Articled Clerks, 15 are Women, one is Black, one is Aboriginal and 4 are Indigenous Blacks. There is no representation from the Visible Minorities, Person with Disabilities and Mi’kmaq designated groups.

**Table 4 - CLA Firm Profile**

|                | Total Number | Women      | Visible Minorities (excluding Blacks & Aboriginals) | Blacks           | Aboriginal | Persons with Disabilities | Indigenous Black | Mi’kmaq |
|----------------|--------------|------------|---|------------------|------------|---------------------------|------------------|---------|
| Partners       | 265          | 36 (13.6%) | 1 (less than 1%)                                    | 1 (less than 1%) | 0          | 4 (1.5%)                  | 0                | 0       |
| Associates     | 149          | 63 (42.3%) | 2 (1.3%)  | 3 (2.0%)         | 0          | 1 (less than 1%)          | 2 (1.3%)         | 0       |
| Other Lawyers* | 24           | 12 (50%)   | 1 (4.2%)  | 0                | 0          | 0                         | 0                | 0       |

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<sup>2</sup> Since this date more lawyers and law firms have signed the Commitment to become CLAs. These CLAs were not required to complete the Questionnaire because they became CLAs after the June 30<sup>th</sup> deadline. They will be captured in the data gathering process for June 30<sup>th</sup> 2002.

|                    |     |                |                  |                  |                  |                  |                  |                  |
|--------------------|-----|----------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Articled Clerks    | 42  | 15<br>(35.7%)  | 0                | 1 (2.4%)         | 1 (2.4%)         | 0                | 4 (9.5%)         | 0                |
| Legal Assistants ‡ | 67  | 58<br>(86.6%)  | 1 (1.5%)         | 0                | 1 (1.5%)         | 0                | 0                | 1 (1.5%)         |
| Support Staff ‡    | 473 | 424<br>(89.6%) | 1 (less than 1%) | 3 (less than 1%) | 2 (less than 1%) | 4 (less than 1%) | 2 (less than 1%) | 2 (less than 1%) |

\* Includes those with a law degree who have been called to the Nova Scotia Bar, whether practicing or not, working with the firm in a position other than as a partner or associate.

‡ Firms of fewer than 12 lawyers did not need to provide this information. Firms of 12 or more included as a Legal Assistant, a person with a law degree who is not a member of the Nova Scotia Bar.

### Student / Articled Clerk Recruitment

Ten of the CLAs recruited summer students for the summer of 2001 and hired articled clerks for the year 2002 during the period January 1 and June 30, 2001. When interpreting this data it must be kept in mind that firms only provided the information if they had kept the relevant statistics.

Of the 10 firms who participated in the recruitment process:

- 723 applications were received, 88 of which were identified to be from designated groups;
- 539 applicants were interviewed, 153 were identified to be from designated groups; and
- 118 were given second interviews, 41 were from designated groups.

The 10 firms hired 31 summer students (summer 2001) and 45 articled clerks for the year 2002. The designated group breakdown is contained in Table 5.

**Table 5 - CLA Designated Group Breakdown for Summer Students/Articled Clerks**

|             | Women | Visible Minorities (excluding Blacks & Aboriginals) | Blacks | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|-------------|-------|---|--------|------------|---------------------------|------------------|---------|
| Applicants  | 154   | 3   | 6      | 1          | 4                         | 3                | 1       |
| Interviewed | 159   | 8   | 4      | 1          | 5                         | 2                | 0       |

|                                    |    |   |   |   |   |   |   |
|------------------------------------|----|---|---|---|---|---|---|
| Offered Position - Student*        | 15 | 1 | 2 | 0 | 2 | 0 | 0 |
| Offered Position - Articled Clerk  | 25 | 3 | 3 | 1 | 1 | 2 | 0 |
| Accepted Position - Student        | 11 | 0 | 0 | 0 | 1 | 0 | 0 |
| Accepted Position - Articled Clerk | 22 | 1 | 1 | 1 | 1 | 1 | 0 |

\* It must be noted that the offered position number both for the student and the articled clerk is the total of offers from the 10 law firms and not the total students being offered a position. Since students apply to several law firms at once, they may receive numerous offers, only one of which they are capable of accepting. The number of two articled positions offered to two Blacks can be to two separate students or one student.

Of the 723 applicants, the firms identified that 154 were Women, 3 were Visible Minorities, 6 were Blacks, 1 was Aboriginal, 4 were Persons with Disabilities, 3 were Indigenous Black and 1 was a Mi'kmaq.

The figures indicate that of the 31 summer students:

- 15 positions were offered to Women, 11 of which were accepted;
- 1 was offered to a Visible Minority student and was not accepted;
- 2 positions were offered to Black students and none were accepted;
- 2 positions were offered to Persons with Disabilities one of which was accepted.

There were no positions offered to Aboriginal, Indigenous Blacks and Mi'kmaq students.

Of the 45 articled students hired by the firms for the year 2002:

- 25 positions were offered to Women and 22 accepted;
- 3 were offered to Visible Minority students and one position was accepted;
- 3 positions were offered to Blacks and one was accepted;
- 1 was offered to an Aboriginal and one was accepted;
- 1 was offered to a Person with Disability and one was accepted; and
- 2 were offered to Indigenous Blacks and one was accepted.

No positions were offered to Mi'kmaq students.

## Associate Appointment

Among the 29 firms, 41 articulated clerks were completing their articles. Thirty-two associates were appointed or hired as of June 30, 2001. Of these, 24 were from the articulated clerks within the firms, 4 were from other firms and 4 were lateral hires. One position was offered to an articulated clerk and it was declined

Furthermore:

- of the 23 internal articulated clerks hired as an Associate, 9 were women and one was a Mi'kmaq.
- of the 4 external articulated clerks hired as an Associate, 3 were women and none were from the other designated groups.
- of the 4 lateral hires 4 were women, 1 was a Black and 1 was an Aboriginal.

The designated group breakdowns is contained in Table 6.

**Table 6 - CLA Designated Group Breakdowns for Associate Appointment**

|   | Women | Visible Minorities<br>(excluding Blacks<br>& Aboriginals) | Blacks | Aboriginal | Persons<br>with<br>Disabilities | Indigenous<br>Black | Mi'kmaq |
|---|-------|---|--------|------------|---------------------------------|---------------------|---------|
| Firm Clerk -<br>hired as<br>Associate                   | 9     | 0   | 0      | 0          | 0                               | 0                   | 1       |
| Outside Clerk -<br>hired as<br>Associate                | 3     | 0   | 0      | 0          | 0                               | 0                   | 0       |
| Lateral hire of<br>Associate                            | 4     | 0   | 1      | 0          | 0                               | 0                   | 0       |
| Clerks offered<br>associate<br>position who<br>declined | 1     | 0   | 0      | 0          | 0                               | 0                   | 0       |

## **Employment Equity Policies**

Eighteen CLAs have an internal employment equity policy. The remaining 11 stated that they did not have a policy or did not answer the question.

## **Compliance**

Almost all of the CLA were in compliance with the requirements of the Policy. The Society followed up with CLAs to inform them of what was required under the Policy and gave them an opportunity to rectify any non-compliance. Unfortunately, some of the Crown Law Agents have not fulfilled the requirements and are, therefore, in violation of the Policy.

As of the writing of this report three law firms / lawyers are not in compliance with aspects of the Policy. Details of the non-compliance have been provided to the Department in separate correspondence and this is being addressed by the Department.

## **Employment Equity Questionnaire – Non Crown Law Agents**

As was stated at the beginning of the report, the Society decided to expand the administration of the Questionnaire to those Nova Scotia law firms (of two or more lawyers - sole practitioners and in house counsel were excluded) who were not CLAs. The Questionnaire was administered by two methods — mail and phone. All law firms were told that the participation was voluntary but were asked to complete the Questionnaire in order to assist the Society and the Government in having a more accurate picture of the profession and the diversity that exists in law firms.

In July of 2001, the Questionnaire was mailed to 25 law firms. Of these 25, 11 completed and returned the Questionnaire. In August, 82 law firms were informed by letter that someone from the Society would be contacting them to administer the Questionnaire. Of the 82 law firms, 67 firms completed the Questionnaire by phone. A total of 78 NCLAs completed the Questionnaire; of these only one law firm had 12 or more lawyers.

## **Firm Profile**

There is a total of 151 lawyers at the Partner level for the 82 NCLAs. Women are the most represented of all the designated groups at 30 lawyers. There is one Visible Minority at the Partner level. There is no representation from the other designated groups.

Once again, the representation marginally improves at the Associate level. Of the 117 Associates, 45



are Women, 3 are Visible Minorities, 1 is Black, 2 are Aboriginal, 2 are Persons with Disabilities. There are no Mi'kmaq at the Associate level.

At the Other Lawyers level there are 5 lawyers, one of which is Black. There is no representation from the other designated groups.

Of the 13 Articled Clerks, 6 are Women and one is a Visible Minority. There is no representation from the other designated groups.

**Table 7 - NCLA Firm Profile**

|                    | Total Number | Women       | Visible Minorities (excluding Blacks & Aboriginals) | Blacks           | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|--------------------|--------------|-------------|---|------------------|------------|---------------------------|------------------|---------|
| Partners           | 151          | 30 (19.9%)  | 1 (less than %)                                     | 0                | 0          | 0                         | 0                | 0       |
| Associates         | 117          | 45 (38.5%)  | 3 (2.6%)  | 1 (less than %)  | 2 (1.7%)   | 2 (1.7%)                  | 1 (less than %)  | 0       |
| Other Lawyers*     | 5            | 0           | 0   | 1 (20%)          | 0          | 0                         | 0                | 0       |
| Articled Clerks    | 13           | 6 (46.2%)   | 1 (7.7%)  | 0                | 0          | 0                         | 0                | 0       |
| Legal Assistants ‡ | 77           | 76 (98.7%)  | 0   | 0                | 0          | 1 (1.3%)                  | 0                | 0       |
| Support Staff‡     | 187          | 183 (97.8%) | 0   | 1 (less than 1%) | 0          | 0                         | 1 (less than 1%) | 0       |

\* Includes those with a law degree who have been called to the Nova Scotia Bar, whether practicing or not, working with the firm in a position other than as a partner or associate.

‡ Firms of fewer than 12 lawyers did not need to provide this information. Firms of 12 or more included as a Legal Assistant, a person with a law degree who is not a member of the Nova Scotia Bar.

### **Student / Articled Clerk Recruitment**

Seven of the CLAs recruited summer students for the summer of 2001 and hired articled clerks for the year 2002 during the period January 1 and June 30, 2001. When interpreting this data please

remember that firms only provided the information for which they had kept statistics.

For the 7 firms who participated in the recruitment process:

- 74 applications were received, 5 of which were identified to be from designated groups;
- 25 applicants were interviewed, 2 were identified to be from designated groups; and
- 1 was given a second interview, 0 were from designated groups.

The seven firms hired 2 summer students (summer 2001) and 5 articled clerks were hired for the year 2002. The designated group breakdown is contained in Table 8.

**Table 8 - NCLA Designated Group Breakdown for Summer Students/Articled Clerks**

|                                    | Women | Visible Minorities (excluding Blacks & Aboriginals) | Blacks | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|------------------------------------|-------|---|--------|------------|---------------------------|------------------|---------|
| Applicants                         | 10    | 0   | 1      | 0          | 0                         | 1                | 0       |
| Interviewed                        | 9     | 0   | 1      | 0          | 0                         | 1                | 0       |
| Offered Position - Student*        | 0     | 0   | 0      | 0          | 0                         | 0                | 0       |
| Offered Position - Articled Clerk  | 1     | 0   | 0      | 0          | 0                         | 0                | 0       |
| Accepted Position - Student        | 0     | 0   | 0      | 0          | 0                         | 0                | 0       |
| Accepted Position - Articled Clerk | 1     | 0   | 0      | 0          | 0                         | 0                | 0       |

\* It must be noted that the offered position number both for the student and the articled clerk is the total of offers from the 7 law firms and not the total students being offered a position. Since students apply to several law firms at once, they may receive numerous offers, only one of which they are capable of accepting.

Of the 74 applicants, the firms identified that 10 were women, 1 was Black and 1 was an Indigenous Black. There were no other designated group members identified.

The figures indicate that of the 2 summer students hired no positions were offered to the designated group members and, therefore, none were hired.

Of the 5 articulated students hired by the firms for the year 2002, one was offered to a woman and was accepted. No articulated clerk positions were offered to the other designated group members and, therefore, none were hired.

### **Associate Appointment**

Among the 78 NCLA firms, 9 articulated clerks were completing their articles. Eighteen associates had been appointed or hired as of June 30, 2001. Of these, 2 were hired from the articulated clerks within the firm, 9 were from other firms and 7 were lateral hires. One position was offered to an articulated clerk and it was declined

Furthermore:

- of the 2 internal articulated clerks hired as an Associate, 1 was a Women and one was a Visible Minority;
- of the 9 external articulated clerks hired as an Associate, 6 were Women and none were from the other designated groups; and
- of the 7 lateral hires 4 were Women, 1 was an Aboriginal.

The designated group breakdowns is contained in Table 9.

**Table 9 - NCLA Designated Group Breakdowns for Associate Appointment**

|   | Women | Visible Minorities<br>(excluding Blacks<br>& Aboriginals) | Blacks | Aboriginal | Persons<br>with<br>Disabilities | Indigenous<br>Black | Mi'kmaq |
|---|-------|---|--------|------------|---------------------------------|---------------------|---------|
| Firm Clerk -<br>hired as<br>Associate                   | 1     | 1   | 0      | 0          | 0                               | 0                   | 0       |
| Outside Clerk -<br>hired as<br>Associate                | 6     | 0   | 0      | 0          | 0                               | 0                   | 0       |
| Lateral hire of<br>Associate                            | 4     | 0   | 0      | 1          | 0                               | 0                   | 0       |
| Clerks offered<br>associate<br>position who<br>declined | 0     | 0   | 0      | 0          | 0                               | 0                   | 0       |

## Employment Equity Policies

Of the 78 NCLAs, 10 have an internal employment equity policy. The remaining either do not have an internal employment equity policy or did not answer the question.

## External Data

When analyzing the data from the Employment Equity Questionnaires, it is important to have information on the relevant external community which the employer (law firm / lawyers) can use. This data can be gained from the general workforce, Bar Admissions Course, Dalhousie Law School and, more particularly, the Indigenous Blacks and Mi'kmaq Programme.

### General Workforce

The information on the general workforce for the various designated groups can be drawn from various sources. Most of the statistics are based on dated information — 1991, 1994 and 1996 data. Unfortunately, the information from the 2000 Census will not be available until 2002.

According to the Employment Equity Manual, Carswell, the workforce representation of the designated groups in Canada, based on 1991 data is as follows:

- S Women - 46 %
- S Visible Minorities - 9.1%
- S Aboriginal Peoples - 3%
- S Persons with Disabilities - 6.5% (p. 8-23)

According to Statistics Canada, in Nova Scotia

- S women make up 46.7% of the employment population (1996 data);
- S visible minorities make up 3.5% of the general population (The Daily, February 17, 1998 - 1996 figures); and
- S aboriginals make up 1.4% of the general population (The Daily January 13, 1998 - 1996 figures);<sup>3</sup>

The 1994-95 National Population Health Survey indicates that 27% of Nova Scotians have identified that they are restricted in some way because of long term physical or mental condition.<sup>4</sup>

The changes in the demographics of the general population are leading to even more changes in the

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<sup>3</sup> There are problems with these statistics. Statistics Canada has indicated that the incomplete enumeration of 77 Indian reserves and settlements across Canada in the 1996 Census may affect the counts in this category.

<sup>4</sup> Joan E. Cummings, Toolkit Resources Manuel Book 1, Halifax MSSW, Dalhousie University, October 2000, p. 12.

representation of the designated groups. It has been estimated that presently two-thirds of the workforce are designated group members and that 80% of people entering the workforce for the first time are designated group members.<sup>5</sup> The changes that have and will occur as ‘baby boomers’ retire will mean that where:

white able-bodied males constituted 80 per cent of net, new entrants to the labour force from the 1940's to the 1970's ... white able-bodied males would constitute less than 20 percent of net new entrants to Canadian labour force over the next decade .<sup>6</sup>

Bar Admissions Course Questionnaire

The Bar Admissions Course Department (BAC) of the Nova Scotia Barristers’ Society was asked to provide data on the designated group breakdown for those taking the Bar Exams and for those attending the Bar Course. BAC traditionally only identified students as male or female and they only began keeping track of the designated group breakdown in May of 2001. Therefore, the data provided is based on anecdotal information only. More than one person could be identified in more than category — i.e., woman and aboriginal.

The information on students taking the Bar Exams is contained in Table 10.

**Table 10 - Bar Exams**

|  | January 2000<br>Total # (Pass Rate ) | July 2000<br>Total # (Pass Rate ) |
|--|--------------------------------------|-----------------------------------|
| Students writing Bar Exams                           | 31 (74.2%)                           | 68 (86.3%)                        |
| Students writing for a second or subsequent time     | 9 (55.6%)                            | 5 (100%)                          |
| Visible Minority articulated clerks writing Bar Exam | 5 (80%)                              | 3 (66.7%)                         |
| Aboriginal articulated clerks writing Bar Exam       | 0 (n/a)                              | 1 (100%)                          |
| Women articulated clerks writing Bar Exam            | 9 (55.55%)                           | 32 (96.8%)                        |
| Disabled articulated clerks writing Bar Exam         | 0 (n/a)                              | 0 (n/a)                           |

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<sup>5</sup> Supra note 1 at p. 1-3

<sup>6</sup> Wilson, T.W., Diversity: The Demographics of the Work Force, Toronto, John Wiley & Sons, 1997. p. 5

The information on those taking the Bar Admissions Course from August 2000 to May 2000 is as follows:

|   |   |    |
|---|---|----|
| S | # enrolled in Bar Admission Course                          | 81 |
| S | # of articulated clerks Bar Admission Course                | 81 |
| S | # of Visible Minorities in Bar Admission Course             | 2  |
| S | # of Aboriginals in Bar Admission Course                    | 1  |
| S | # of Women in Bar Admission Course                          | 40 |
| S | # of Disabled People in Bar Admission Course                | 0  |
| S | # of transfers or re-qualifications in Bar Admission Course | 0  |

### Dalhousie Law School Questionnaire

The DLS was asked to provide information on the designated group breakdown of the first, second and third year student population as well as those graduating. This information is contained in Table 11.

**Table 11 - Breakdown of Students and Graduates**

|  | Black/Visible Minority | Indigenous Black | Aboriginal | Mi'kmaq | Students With Disabilities | Women |
|--|------------------------|------------------|------------|---------|----------------------------|-------|
| <b>First Year</b><br>ft - 156<br>pt - 0  | unknown                | 9                | 2          | 3       | unknown                    | 87    |
| <b>Second Year</b><br>ft - 143<br>pt - 5<br>did not complete<br>2 <sup>nd</sup> year - 2 | unknown                | 9                | 2          | 0       | unknown                    | 75    |
| <b>Third Year</b><br>ft - 141<br>pt - 9  | unknown                | 3                | 2          | 2       | unknown                    | 75    |
| <b>Graduates</b><br>total - 138  | unknown                | 2                | 2          | 2       | 1                          | 75    |

Information on students entering through the Indigenous Blacks and Mi'kmaq Programme was also collected. According to this information the Programme make-up is as follows:

|                                     |         |
|-------------------------------------|---------|
| # of students in the IB&M Programme | 27      |
| # of Indigenous Black students      | 22      |
| # of Non-Indigenous Black students  | unknown |

|   |    |
|---|----|
| # of Mi'kmaq students                       | 4  |
| # of Aboriginal students                    | 1  |
| # of students for whom there is information | 11 |
| # of Indigenous Black students              | 7  |
| # of Non-Indigenous Black students          | 0  |
| # of Mi'kmaq students                       | 3  |
| # of Aboriginal students                    | 1  |

The recruitment by private law firms of students entering through the Programme was also collected by the Programme. This information is contained in Tables 12 and 13.

**Table 12**  
**Recruiting from students in Programme by Nova Scotia Firms for Second Year Students**

|  | Total | Indigenous Black | Non-Indigenous Black | Mi'kmaq | Aboriginal |
|--|-------|------------------|----------------------|---------|------------|
| Applied for summer student/articled position(s)        | 4     | 4                | 0                    | 0       | 0          |
| Received offer for summer student/articled position(s) | 4     | 4                | 0                    | 0       | 0          |
| Accepted offer   | 4     | 4                | 0                    | 0       | 0          |

**Table 13**  
**Recruiting from students in Programme by Nova Scotia Firms for Third Year Students**

|                                    | Total | Indigenous Black | Non-Indigenous Black | Mi'kmaq | Aboriginal |
|------------------------------------|-------|------------------|----------------------|---------|------------|
| Applied for articled position(s)   | 5     | 3                | 0                    | 1       | 1          |
| Graduates 2001                     | 3     | 1                | 0                    | 1       | 1          |
| Received offer                     | 3     | 2                | 0                    | 0       | 1          |
| Accepted offer                     | 3     | 2                | 0                    | 0       | 1          |
| Average # of positions applied for | 3     | 1                | 0                    | 10      | 2          |

As well, the Programme also collected information on the alternate career plans of the students. Of the 11 students for whom there was data, 1 student was leaving the province and 2 students were not interested in articling.

## **Analysis**

As has been reiterated throughout this report, the information provided should be viewed only as a limited indication of the makeup of the workforce for the law firms and lawyers who answered the Questionnaire. This process was originally meant to provide a baseline for the analysis of future data gathering but because much of the data is based on incomplete information this process has been more of a learning experience. However, the statistics gathered do provide some useful information.

- Representatives of all of the designated groups, except for Mi'kmaq, are working in private law firms either at the level of Articled Clerk or Associate.
- The rate of participation of the designated groups lessens from the Articled Clerk level to the Partner level.
- At the Partner level, Women, Visible Minorities, Blacks and Persons with Disability are represented. There are no Aboriginal, Indigenous Black and Mi'kmaq partners.
- For the 50 (45 CLAs / 5 NCLAs) Articled Clerks hired for 2002:
  - 23 are women (22 CLA / 1 NCLA);
  - 1 is a Visible Minority (1 CLA / 0 NCLA);
  - 1 one is Black (1 CLA / 0 NCLA);
  - 1 one is an Aboriginal (1 CLA / 0 NCLA);
  - 1 is a Person with a Disability (1 CLA / 0 NCLA); and
  - no Mi'kmaq were hired by those answering the questionnaire.
- The majority of summer students and articled clerks were hired by CLAs. This is significant in showing the important role that CLAs play in providing law students the opportunity to fulfill the requirements necessary in order to be eligible to practice law.
- Of the 50 (32 CLAs / 18 NCLAs) Associates hired by those who answered the Questionnaire:
  - 27 were Women (16 CLAs / 11 NCLAs)
  - 1 was a Visible Minority (0 CLAs / 1 NCLAs)
  - 1 was Black (1 CLAs / 0 NCLAs)
  - 1 was Aboriginal (0 CLAs / 1 NCLAs)
  - 1 was Mi'kmaq (1 CLAs / 0 NCLAs)
  - No Associates were hired who were Disabled or Indigenous Black

Gaps do exist in the level of representation of the designated groups at various levels of the law firm.



The DLS has increased the number of Indigenous Black, Black, Mi'kmaq and Aboriginal law students with its Indigenous Blacks and Mi'kmaq Programme and many capable Indigenous Black, Black, Mi'kmaq, Aboriginal lawyers have graduated from the DLS. Most entered through the Programme, however some did not.

Women, Visible Minorities and People with Disabilities have also been graduates of the DLS. Certainly, Dalhousie is not the only Law School in Canada to graduate members of the designated groups. Yet, at present, the top large firms in N.S. do not contain a significant percentage of the designated groups at the Partner and Associates level. The present composition of law firms in Nova Scotia consists of:

- Partner level - 416 Partners (265 CLA / 151 NCLA):
  - 15.9% women ( 13.6% CLA / NCLAs 19.9%)
  - less than 1% Visible Minorities (less than 1%CLA and NCLA)
  - less than 1% Blacks (less than 1% CLA, 0% NCLA)
  - less than 1% Persons with Disabilities (1.5% CLA / 0% NCLA)
  - 0% Aboriginal, Indigenous Blacks and Mi'kmaqs
  
- Associate level - 264 Associates (149 CLA / 117 NCLA):
  - 40.9% women (42.3% CLA / 38.5% NCLA)
  - 1.9% Visible Minorities (1.3% CLA / 2.6% NCLA)
  - 1.5% Blacks (2% CLA / less than 1% NCLA)
  - less than 1% Aboriginals (0% CLA / 1.7% NCLA)
  - 1.1% Person with Disabilities (less than 1% CLA / 1.7% NCLA)
  - 1.1% Indigenous Blacks ( 1.3% CLA / less than 1% NCLA)
  - 0% Mi'kmaqs
  
- Articled Clerk level - 55 Articled Clerks (42 CLA / 13 NCLA):
  - 38.2% women (35.7% CLA / 46.2% NCLA)
  - 1.8% Visible Minorities (0% CLA / 7.7% NCLA)
  - 1.8% Blacks (2.4% CLA / 0% NCLA)
  - 1.8% Aboriginals (2.4% CLA / 0% NCLA)
  - 0% People with Disabilities
  - 7.3% Indigenous Blacks (9.5% CLA / 0% NCLA)
  - 0% Mi'kmaqs

**Table 14 - Firm Profile and Workforce Population**

|                             | Women | Visible Minorities (excluding Blacks & Aboriginals) | Blacks       | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|-----------------------------|-------|---|--------------|------------|---------------------------|------------------|---------|
| Partners                    | 13.6% | less than 1%  | less than 1% | 0          | 1.5%                      | 0                | 0       |
| Associates                  | 42.3% | 1.3%  | 2.0%         | 0          | less than 1%              | 1.3%             | 0       |
| Articled Clerks             | 35.7% | 0   | 2.4%         | 2.4%       | 0                         | 9.5%             | 0       |
| Workforce Population Canada | 46%   | 9.1% †  | †            | 3% ††      | 6.5%                      | †                | ††      |
| Workforce Population NS     | 46.7% | 3.5% †  | †            | 1.4% ††    | 27%                       | †                | ††      |

† The Visible Minorities figure includes Blacks and Indigenous Blacks

†† The Aboriginal figure includes Mi'kmaq

Where one compares this data to the representation of the designated groups in the general population, in the BAC and in the DLS (above) the conclusion is that there are gaps. This is not a surprise. Members of the designated groups have consistently stated that they are under-represented in the law firms. The Society and the Government acknowledge that there is a need to address this under-representation. The Policy and the data-gathering process is a first step. The next step is to identify the extent of the gaps and determine should be done to start closing those gaps.

Because of the incompleteness of the data, it is difficult to determine the extent of the gaps. Members of the designated groups are graduating from the DLS and applying to the law firms; law students from the designated groups are completing the BAC and the Bar Exam — in what quantity is unclear because of the incompleteness of the data. Next year's data will provide a clearer picture.

However, action does not have to wait for more accurate data. Law firms can increase their efforts in the area of hiring, retention and promotion of designated group members at all levels within a law firm -- from summer student to partner. The focus should not just be on 'numbers'. Steps which can be taken in order to successfully implement a diversity strategy that will increase the representation of designated groups include:

- realizing the business advantages of having a diverse workforce;
- reviewing the internal working of the firm to see what works and what does not work at attracting and retaining lawyers from the designated groups; and
- ensuring commitment at all levels of the firm for movement towards a diverse workforce.

The Department, through the Policy, has indicated that diversity is a priority. The Society is working with its members by providing guidance and education on the issue of employment equity and diversity, and will continue to do so.

There is indication from the data that members of some of the designated groups have and are deciding not to apply to Nova Scotia law firms. Instead, they are going to law firms outside of the province (Ontario and Alberta), they are continuing their legal education or they are working for community organizations etc. . As well, the provincial and federal Departments of Justice have employment equity plans and are actively recruiting members from the designated groups. The decision not to practice in the Nova Scotia private bar may be based on a desire to work outside the province, in the public field, in non-legal careers or they may be based on a belief that Nova Scotia law firms are not open to diversity — are not open to hiring them. We do not believe this to be the case and the response from the firms suggests the opposite. There is a commitment to this initiative and this is an issue which will require further study.

Although it is not clear at this time and further data needs to be collected, there is a concern that the members of the Indigenous Black and Mi'kmaq communities are not applying to law school in sufficient numbers to significantly close the representational gaps. All parties, the Department, the Society, the Law School and even the law firms have a role to play in reaching out to these communities and increasing the numbers from these communities who are, first of all, interested in going to law school, secondly, interested in participating in the private practice of law and finally interested in the private practice of law in Nova Scotia. This is something we will be focusing on in the upcoming year.

## **Conclusion**

Members of the designated groups have and are working in Nova Scotia law firms. They are however, under-represented at several levels. The numbers presented should not be seen as a condemnation of the law firms in Nova Scotia. They should instead be an indication of where we need to concentrate our efforts in order to increase the representation of the designated groups.

Law firms can review their recruitment, hiring, retention and promotion practices to see where improvements can be made. The Society will be working with its members in increasing the awareness of diversity in the legal profession and help to provide the tools to move forward in improving the representation of the designated groups at all levels of the law firm. The Dalhousie Law School, Society, Department and law firms have a role to play to improve the numbers of under-represented groups entering and completing law school.

The Society and the Government recognize the importance of diversity in the private practice of law. Nova Scotia is becoming more diverse and the legal workforce has been changing and will change even more. In order to stay competitive and have the ability to keep up with the changes (including becoming more competitive in recruiting the increased diverse law student population) law firms will have to evolve.

With the data gathered from the initial Questionnaire, the Government and the Society have begun to build a foundation upon which improvements can be made. The next step is to move forward with commitment and positive action at all levels in order to improve the representation of the designated groups.

## **APPENDIX A**

### **Province of Nova Scotia Policy on Employment Equity for Crown Law Agents**

#### **1. BACKGROUND**

Employment equity, as a broad principle, ensures the fair representation and full participation in the workplace of women, Aboriginal Peoples, members of visible minority groups, and persons with disabilities (the "designated groups"). Employment equity is achieved by employment policies and practices that prevent and correct disadvantages in employment for these groups through special measures, reasonable accommodation of differences, and programs to remove barriers to equitable employment opportunities.

In particular, the Province of Nova Scotia recognizes that Indigenous Black and Mi'kmaq lawyers, as defined in Section 6, have historically been under-represented in the legal profession in Nova Scotia.

Therefore, where it is appropriate to use a private law firm, the Province will:

1. Use law firms that are in compliance with this policy; and
2. Look for opportunities to direct work to Indigenous Black and Mi'kmaq lawyers.

This policy will be referred to as the Employment Equity Policy for Crown Law Agents.

#### **2. APPLICATION**

This policy applies to all Nova Scotia law firms performing legal work for the Province of Nova Scotia where the fees for the legal work are \$5000.00 per matter or \$5000.00 per year, whichever is lesser; the policy applies only to the Nova Scotia offices of inter-provincial law firms.

#### **3. POLICY REQUIREMENTS**

It is recognized that the ability to implement an employment equity policy is greater in larger firms than in small firms. Therefore, the requirements imposed on Crown Law Agents under this policy differ according to the size of the firm.

##### **A. FIRMS OF 1 TO 11 LAWYERS**

Law firms of 1 to 11 lawyers are required as a condition of retainer by the Crown to:

- a. accept the Commitment for Crown Law Agents;
- b. display the signed Commitment in a prominent place in the law firm;
- c. communicate their commitment to employment equity to all current and prospective staff within the law firm;
- d. report by June 1, each year on the representation of designated group members, including Indigenous Black and Mi'kmaq, among lawyers within the firm;
- e. comply with the terms and conditions of the *Human Rights Act*.

## **B. FIRMS OF 12 OR MORE LAWYERS**

Law firms of 12 or more lawyers are required as a condition of retainer by the Crown to:

- a. accept the Commitment for Crown Law Agents;
- b. display the signed Commitment in a prominent place in the law firm;
- c. communicate their commitment to employment equity to all current and prospective staff within the law firm;
- d. designate a senior partner of the firm (the firm's Coordinator), preferably the firm's managing partner, who shall be responsible for ensuring the firm's compliance with this Policy;
- e. collect and record information on the representation and employment status of designated group members, including Indigenous Black and Mi'kmaq, within the firm, by occupation and level in terms of hiring, promotion and termination in relation to all other lawyers and employees, and to collect and record information on measures taken by the firm to achieve employment equity goals;
- f. report such information not less often than annually as well as upon request by the Department; and
- g. comply with the terms and conditions of the *Human Rights Act*.

## **4. COMPLIANCE**

### **All law Firms**

- a) The Province of Nova Scotia will only retain law firms that have filed a signed Commitment for Crown Law Agents with the Department.

## **5. REPORTING**

### **Firms of 1 to 11 Lawyers**

- a) The firm will report by June 1 each year on the representation of each of the designated group members, including Indigenous Black and Mi'kmaq, among lawyers within the firm.

### **Firms of 12 or More Lawyers**

- b) The law firm will report, in accordance with the following procedure:

**Annual Report** to be filed by June 1<sup>st</sup> . The Annual Report will describe the law firm's compliance with the Policy Requirements outlined under subsection 3B.

**Additional Reports** are to be filed as may be requested by the Department.

- c) If upon receipt of the reports as outlined in subsections 5(a) and (b), the Department determines that the law firm has not complied with the reporting requirements and no acceptable explanation is provided to the Department, the law firm will not be retained by the Crown until such time as the law firm demonstrates a commitment to this Policy.
- d) The Department will exercise its discretion to accept an explanation in subsection 5(c) only in the clearest of cases, where the law firm has satisfied the Department of its best efforts to comply.

## **6. DEFINITIONS**

1. “Department” means the Nova Scotia Department of Justice;
2. “designated groups” means women, Aboriginal Peoples, members of visible minority groups and persons with disabilities;
3. “employment equity” means achieving a fair and representative workplace through the elimination of employment barriers and the adoption of positive policies and practices designed to improve representation of women, Aboriginal Peoples, persons with disabilities and visible minorities;
4. “Indigenous Black and Mi'kmaq” means for the purposes of this policy,
  - a) a graduate of Dalhousie law School who participated in the Indigenous Blacks and Mi'kmaq Program,
  - b) a member of the Black community born or primarily educated in Nova Scotia, or
  - c) a person of Mi'kmaq heritage whether born in Nova Scotia or not.
5. “lawyer” means a graduate of a law school and, for the purposes of this policy, includes a person enrolled in a law school;
6. “reasonable accommodation” means taking reasonable steps to accommodate the special needs of members of the designated groups in the workplace (for example, improving accessibility to the workplace, religious observance, parental leave and alternative work arrangements). "Reasonable" imparts a duty to accommodate unless it would impose undue hardship on the employer.

## COMMITMENT FOR CROWN LAW AGENTS

This law firm, \_\_\_\_\_, is committed to achieving and maintaining a fair and representative workforce by:

- a. eliminating barriers to employment and success in employment of women, aboriginal peoples, members of visible minority groups and person with disabilities; and
- b. supporting and cooperating with program initiatives established by the legal profession, Dalhousie Law School and the Province of Nova Scotia to promote and foster employment equity.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Law Firm



## APPENDIX B

APRIL 2001

### NOVA SCOTIA BARRISTERS' SOCIETY EMPLOYMENT EQUITY IN THE LEGAL PROFESSION

ANNUAL REPORT  
Due July 31<sup>st</sup>, 2001

This report was developed jointly by the Nova Scotia Barristers' Society and the Department of Justice to assist law firms to report and comply with the Province of Nova Scotia's Policy on Employment for Crown Law Agents. It will also assist the Society in developing a profile of employment equity initiatives within the legal profession and maintaining accurate information about the results of these efforts.

The data produced from these reports will be shared with the Department of Justice as it maintains the Province's Policy. Completion of this form will satisfy compliance requirements for the provincial policy.

Questions regarding this form may be directed to Marie Paturel, Equity Officer, Nova Scotia Barristers' Society 902-422-1491, mpaturel@nsbs.org

For purposes of this report the following definitions apply:

*Indigenous Black* – a graduate of Dalhousie Law School who participated in the IB&M Programme or a member of the Black community born, or primarily educated in Nova Scotia.

*Mi'kmaq* – a graduate of Dalhousie Law School who participated in the IB&M Programme or a person of Mi'kmaq heritage whether born in Nova Scotia or not.

*Firm* – for a firm with more than one office, report on totals for offices in Nova Scotia only.

Law Firm \_\_\_\_\_

**STATISTICS FOR EMPLOYMENT EQUITY IN THE LEGAL PROFESSION**

**LAW FIRMS**

**1) FIRM PROFILE** – This will provide an overall profile of your firm as of June 30, 2001. A person may fall into more than one category.

|                    | Total Number | Women | Visible Minorities (excluding Blacks & Aboriginals) | Blacks | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|--------------------|--------------|-------|---|--------|------------|---------------------------|------------------|---------|
| Partners           |              |       |   |        |            |                           |                  |         |
| Associates         |              |       |   |        |            |                           |                  |         |
| Other Lawyers*     |              |       |   |        |            |                           |                  |         |
| Articled Clerks    |              |       |   |        |            |                           |                  |         |
| Legal Assistants** |              |       |   |        |            |                           |                  |         |
| Support Staff**    |              |       |   |        |            |                           |                  |         |

\* Includes those with a law degree who have been called to the Nova Scotia Bar, whether practising or not, working with your firm in a position other than as a partner or associate.

\*\*Firms of fewer than 12 lawyers need not provide this information. Firms of 12 or more will include as a Legal Assistant, a person with a law degree who is not a member of the Nova Scotia Bar.

**2a) GENERAL** – This area concerns the Province of Nova Scotia's Government Policy on Workplace Equity.

Does your firm have an Employment Equity Policy? Y/N

Nova Scotia Government Policy in Employment Equity

**S** Has your firm signed this policy? Y/N

**S** If yes, is this fact posted in your office? Y/N

**S** If yes, has this been communicated to all staff? Y/N

Explain How: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**(For firms of 12 or more lawyers)**

**S** Has your firm a designated firm co-ordinator? Y/N

Name: \_\_\_\_\_

**3a) STUDENT/ARTICLED CLERK RECRUITMENT** – This area asks for information about recruitment of summer students and articled clerks for positions in Nova Scotia during the period January 1 - June 30, 2001.

Did your firm engage in recruitment in the period January 1 - June 30, 2001? Y/N  
 If no, skip to question 4.

**S** Review Nova Scotia Barristers' Society Interview Guidelines Y/N

**S** For 6 month period ending June 1/2001

**S** # of applications received for student/articling positions \_\_\_\_\_

**S** # of applicants interviewed \_\_\_\_\_

**S** # of applicants given second/supplementary interviews \_\_\_\_\_

**S** # of applicants from designated groups \_\_\_\_\_

**S** # of applicants from designated groups - interviewed \_\_\_\_\_

**S** # of applicants from designated groups - second interview \_\_\_\_\_

**S** # of summer students (2001) [ie., not graduating in 2001] \_\_\_\_\_

**S** # of articling clerks hired (2002) [2002 graduates] \_\_\_\_\_

**S** Other relevant information (eg., recruiting for non Nova Scotia office)

**3b) DESIGNATED GROUP BREAKDOWN FOR SUMMER STUDENTS/ARTICLED CLERKS**

|                                    | Women | Visible Minorities (excluding Blacks & Aboriginals) | Blacks | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|------------------------------------|-------|---|--------|------------|---------------------------|------------------|---------|
| Applicants                         |       |   |        |            |                           |                  |         |
| Interviewed                        |       |   |        |            |                           |                  |         |
| Offered Position - Student         |       |   |        |            |                           |                  |         |
| Offered Position - Articling Clerk |       |   |        |            |                           |                  |         |

|                                    |  |  |  |  |  |  |  |
|------------------------------------|--|--|--|--|--|--|--|
| Accepted Position - Student        |  |  |  |  |  |  |  |
| Accepted Position - Articled Clerk |  |  |  |  |  |  |  |

What means do you use to identify if applicant is in designated group? \_\_\_\_\_

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**4a) ASSOCIATE APPOINTMENT** – For articling clerks and other new associates up to and including June 2001 Call to the Bar.

- S # of articling clerks completing articles \_\_\_\_\_
- S # of associates appointed/hired \_\_\_\_\_
- S # from your clerks \_\_\_\_\_
- S # from other firm \_\_\_\_\_
- S # lateral hires \_\_\_\_\_
- S # of positions offered by firm but declined by clerk \_\_\_\_\_

**4b) DESIGNATED GROUP BREAKDOWN**

|  | Women | Visible Minorities (excluding Blacks & Aboriginals) | Blacks | Aboriginal | Persons with Disabilities | Indigenous Black | Mi'kmaq |
|--|-------|---|--------|------------|---------------------------|------------------|---------|
| Firm Clerk - hired as Associate                |       |   |        |            |                           |                  |         |
| Outside Clerk - hired as Associate             |       |   |        |            |                           |                  |         |
| Lateral hire of Associate                      |       |   |        |            |                           |                  |         |
| Clerks offered associate position who declined |       |   |        |            |                           |                  |         |

What means do you use to identify if applicant is in designated group? \_\_\_\_\_

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5) PROMOTION OF ASSOCIATES

*Statistical reports in this area to be developed.*

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_

Please Print

Date:

Signed: \_\_\_\_\_

**APPENDIX C**  
**STATISTICS FOR EMPLOYMENT EQUITY IN THE LEGAL PROFESSION**  
**DALHOUSIE LAW SCHOOL**

**For year ending June 2001**

**1) FIRST YEAR**

|          |  |       |
|----------|--|-------|
| <b>S</b> | # of full time students admitted to first year | _____ |
| <b>S</b> | # of part time students admitted to first year | _____ |
| <b>S</b> | # of Black/Visible Minority students           | _____ |
| <b>S</b> | # of Indigenous Black students                 | _____ |
| <b>S</b> | # of Aboriginal students                       | _____ |
| <b>S</b> | # of Mi'kmaq students                          | _____ |
| <b>S</b> | # of students with disabilities                | _____ |
| <b>S</b> | # of women                                     | _____ |

**2) SECOND YEAR**

|          |  |       |
|----------|--|-------|
| <b>S</b> | # of full time students in second year               | _____ |
| <b>S</b> | # of part time students in second year               | _____ |
| <b>S</b> | # of full time students did not complete second year | _____ |
| <b>S</b> | # of Black/Visible Minority students                 | _____ |
| <b>S</b> | # of Indigenous Black students                       | _____ |
| <b>S</b> | # of Aboriginal students                             | _____ |
| <b>S</b> | # of Mi'kmaq students                                | _____ |
| <b>S</b> | # of students with disabilities                      | _____ |
| <b>S</b> | # of women   | _____ |

**3) THIRD YEAR**

- S # of full time students in third year \_\_\_\_\_
- S # of part time students in third year \_\_\_\_\_
- S # of Black/Visible Minority students \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of students with disabilities \_\_\_\_\_
- S # of women \_\_\_\_\_
  
- S # of graduates – Spring 2001 \_\_\_\_\_
- S # of Black/Visible Minority graduates \_\_\_\_\_
- S # of Indigenous Black graduates \_\_\_\_\_
- S # of Aboriginal graduates \_\_\_\_\_
- S # of Mi'kmaq graduates \_\_\_\_\_
- S # of women graduates \_\_\_\_\_
- S # of graduates with disabilities \_\_\_\_\_

**4) IB & M PROGRAMME**

**i) Recruiting from students in Programme by Nova Scotia Firms**

- S # of students in the IB&M Programme \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_
- # of students for whom there is information \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_

Second Year

- S # applied for summer student/articling position(s) \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_
- S # received offer for summer student/articling position(s) \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_
- S # accepted offer \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_

Third Year

- S # applied for articling position(s) \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_
- S # of graduates – 2001 \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_
- S # received offer for articling position(s) \_\_\_\_\_
- S # of Indigenous Black students \_\_\_\_\_
- S # of Non-Indigenous Black students \_\_\_\_\_
- S # of Mi'kmaq students \_\_\_\_\_
- S # of Aboriginal students \_\_\_\_\_



|          |                                    |       |
|----------|------------------------------------|-------|
| <b>S</b> | # accepted offer                   | _____ |
| <b>S</b> | # of Indigenous Black students     | _____ |
| <b>S</b> | # of Non-Indigenous Black students | _____ |
| <b>S</b> | # of Mi'kmaq students              | _____ |
| <b>S</b> | # of Aboriginal students           | _____ |
| <b>S</b> | average # of positions applied for | _____ |
| <b>S</b> | # of Indigenous Black students     | _____ |
| <b>S</b> | # of Non-Indigenous Black students | _____ |
| <b>S</b> | # of Mi'kmaq students              | _____ |
| <b>S</b> | # of Aboriginal students           | _____ |

**ii) ALTERNATE CAREER PLANS**

|          |  |       |
|----------|--|-------|
| <b>S</b> | # of students in the IB&M Programme                            | _____ |
| <b>S</b> | # of students for whom there is information                    | _____ |
| <b>S</b> | # of students leaving the province                             | _____ |
| <b>S</b> | # of students who are not interested in articling              | _____ |
| <b>S</b> | For those not interested in articling (specific without names) |       |
| 1)       | _____  |       |
| 2)       | _____  |       |
| 3)       | _____  |       |
| 4)       | _____  |       |

**APPENDIX D**  
**STATISTICS FOR EMPLOYMENT EQUITY IN THE LEGAL PROFESSION**

**NOVA SCOTIA BARRISTERS' SOCIETY**

**Bar Exams**

|          |   |                     |
|----------|---|---------------------|
| <b>S</b> | # of students writing Bar Exams - January _____           | (Pass Rate = _____) |
|          | - July _____  | (Pass Rate = _____) |
| <b>S</b> | # of students writing for a second or subsequent time     |                     |
|          | - January _____   | (Pass Rate = _____) |
|          | - July _____  | (Pass Rate = _____) |
| <b>S</b> | # of Visible Minority articulated clerks writing Bar Exam |                     |
|          | - January _____   | (Pass Rate = _____) |
|          | - July _____  | (Pass Rate = _____) |
| <b>S</b> | # of Aboriginal articulated clerks writing Bar Exam       |                     |
|          | - January _____   | (Pass Rate = _____) |
|          | - July _____  | (Pass Rate = _____) |
| <b>S</b> | # of Women articulated clerks writing Bar Exam            |                     |
|          | - January _____   | (Pass Rate = _____) |
|          | - July _____  | (Pass Rate = _____) |
| <b>S</b> | # of Disabled articulated clerks writing Bar Exam         |                     |
|          | - January _____   | (Pass Rate = _____) |
|          | - July _____  | (Pass Rate = _____) |

What means is used to identify these students?

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**Bar Admission Course**

|          |   |       |
|----------|---|-------|
| <b>S</b> | # enrolled in Bar Admission Course                          | _____ |
| <b>S</b> | # of articulated clerks Bar Admission Course                | _____ |
| <b>S</b> | # of Visible Minorities in Bar Admission Course             | _____ |
| <b>S</b> | # of Aboriginals in Bar Admission Course                    | _____ |
| <b>S</b> | # of Women in Bar Admission Course                          | _____ |
| <b>S</b> | # of Disabled People in Bar Admission Course                | _____ |
| <b>S</b> | # of transfers or re-qualifications in Bar Admission Course | _____ |