

Aboriginal Employment Strategy

Manitoba Department of Justice

- Final Discussion Paper -

Prepared for the

Aboriginal Justice Implementation Committee

By

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Confidential

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APPENDIX A

PROPOSED WORK PLAN

1. Cabinet approval
 - Achieve consensus on main principles and recommended initiatives;
 - Allocate required resources from provincial treasury;
 - Initiate external audit of CSC on-the-job training and all other career development/advancement programs;
 - Develop formal interdepartmental commitment to Aboriginal career centre model including a formal commitment from the Civil Service Commission on the issue of Aboriginal employment issues;
 - Mandate relevant deputy ministers to act on strategy implementation;
 - Establish a Joint-Party Committee on the issue of Aboriginal employment in the Province of Manitoba;
 - Initiate management-union working agreement process.
2. Justice Minister to establish strategic and formal departmental commitment to hiring, retaining, and promoting Aboriginal people within targeted occupational areas
3. Justice Minister to charge the department's Deputy Minister with the overall executive and administrative responsibility to implement departmental strategy
 - Performance review incentives (positive/negative).
4. Deputy Minister to establish an interim Implementation Committee (IC) to oversee implementation of all departmental-specific recommendations
 - IC to report directly to the Deputy Minister (monthly) and as required.
5. IC to initiate/complete measures within six months of its formation
 - Initiate re-orientation of department's human resources systems;
 - Initiate collaborative and comprehensive step-by-step review process;
 - Develop formal employment opportunities program;
 - Initiate AMDP review;
 - Initiate Aboriginal career centre model design;
 - Establish a permanent departmental Aboriginal Recruitment, Retention, and Advancement Advisory Committee (ARRAAC);
 - Establish departmental employment equity committee (government pilot).
6. IC to initiate/complete subsequent measures between month six and twelve
 - Complete re-orientation of department's human resources systems
 - Development of a communications and marketing strategy

APPENDIX B

STRATEGY IMPLEMENTATION REVIEW PROCESS

Anokiiwin Employment Solutions recommends formal annual reviews of the proposed five-year Aboriginal employment development strategy with the results presented annually to the provincial Cabinet. Review matters will include:

- Results of the Emerging Employment Opportunities Program (EEOP);
- Recommendations of the Joint Party Committee (JPC) on Aboriginal employment;
- Results of the comprehensive review;
- Results of the separately reviewed Aboriginal career counseling and employee support mechanism.

In addition, the overall performance of the Department will be separately reviewed and presented to Cabinet. Using a functional process-oriented approach, the departmental evaluation criteria should be comprised of at least 15 benchmarks (process-oriented, qualitative, and quantitative).

Departmental Evaluation Criteria

Process-oriented Criteria (6 benchmarks)

- Measure overall organizational commitment
 - Level of funding allocation and commitment;
 - Existence of written policies, principles, programs, and practices;
 - Action on the issue of workplace inclusiveness, diversity, and equity;
 - Formal goals/objectives (recruitment, retention, and advancement targets);
 - Existence of accountability control mechanisms.
- Existence of capable employee tracking systems (including rejected applicants)
- Degree of linkages with vital Aboriginal organizations and/or communities
- Degree of outreach capacity (resources invested)
- Existence and status of AHRO(s)

- Referral process for rejected applicants including provisions for career advice and career pathing (intent on encouraging applicant to reapply).

Qualitative Criteria (2 benchmarks)

- Results from the administration of formal exit surveys
- Results from the administration of formal ongoing surveys with existing employees

Quantitative Numerical Criteria (7 benchmarks)

- Retention rates (by classification and occupation)
- Occupational turnover rates (broken down by classification and occupation)
- General Aboriginal employment representation (by classification and occupation)
- Aboriginal promotion statistics (by classification and occupation) including the number of promotional opportunities and actual promotions within the Department
- Employment representation as a percentage of new hires (by classification and occupation)
- Total number of Aboriginal applicants (by classification and occupation)
- Total number of Aboriginal candidates interviewed (by classification and occupation)

APPENDIX C

Departmental Employment Profile (1998/1999)

Position Category	FTE	Actual Spending on Salaries
Minister	1	26,100
Executive Support	8.6	480,900
Policy, Planning, and Special Projects	5	279,100
Financial & Administrative Services	17.84	766,600
Human Resource Services	13.5	623,600
Computer Services	11	603,200
Criminal Justice		
Administration	8	373,000
Prosecutions	106.5	6,352,800
Policing (RCMP –Manitoba’s 70% cost share)		52,363,000
Law Enforcement Administration	6	382,700
Public Safety	32	1,102,500
Aboriginal policing	2	108,300
Office of the Chief Medical Examiner	9	464,200
Civil Justice		
Executive Administration	2	136,100
Manitoba Human Rights Commission	22.5	980,200
Legislative Counsel	21	1,241,700
Family Law	11	596,900
Constitutional Law	10	641,600
Legal Aid Manitoba	126	6,127,700
Corrections		
Administration	12	577,400
Adult Corrections	653.14	33,295,500
Correctional Youth Centres	239.1	11,303,300
Community Corrections	173	8,023,300
Courts		
Court Services	62	2,631,400
Winnipeg Courts	219.08	7,871,700
Regional Courts	106.58	4,750,300
Judicial Services	118	8,767,000

Source: Annual Report 1998-1999, Manitoba Department of Justice

APPENDIX D

Quantitative Indicators; Province of Manitoba Employment Equity Program (April 1, 1999 - March 31, 2000)

Department	Total Employees	% Aboriginal
Northern Affairs	76	30.26
Natural Resources	2,039	14.42
Health	1,170	8.80
Justice	2,660	8.53
Family Services	1,762	8
Labour	261	5.36
Education and Training	924	5.3
Highways and Transportation	2,102	5.09
Consumer and Corporate Affairs	395	4.81
Energy and Mines	146	4.79
Civil Service Commission	85	4.71
Rural Development	288	4.51
Government Services	894	3.69
Housing	90	3.33
Culture, Heritage, & Citizenship	330	3.03
Executive Council	39	2.56
Legislation	133	2.26
Industry, Trade & Tourism	164	1.83
Environment	168	1.79
Finance	414	1.45
Agriculture	438	1.14
Status of Women	14	0
Urban Affairs	12	0
Seniors Directorate	11	0
Child and Youth Secretariat	4	0
Community Support Programs	2	0
Sport	1	0

Source: Province of Manitoba Employment Equity Program (April 1, 1999 to March 31, 2000)

APPENDIX E

Departmental Aboriginal Employment Statistics by Occupation (1995-2000)

COURTS	1995/1996	1996/1997	1997/1998	1998/1999	1999/00
Occupation	#	# (%)	# (%)	# (%)	# (%)
Clerk of Court 1	2	2 (18.18)	0	1 (6.25)	1 (5.26)
Clerk of Court 2	4	5 (7.94)	5 (8.77)	3 (4.76)	3 (4.35)
Clerk of Court 3	1	1 (3.45)	2 (6.45)	3 (10.71)	3 (9.38)
Clerk of Court 4	2	3 (4.17)	3 (4.05)	3 (4.17)	3 (4.55)
Clerk of Court 5	0	0	0	0	1 (11.11)
Court Communicator 1	1	2 (50)	1 (100)	0	3 (33.33)
Court Communicator 2	10	10 (100)	11 (91.67)	8 (88.89)	7 (87.5)
Court Reporter 3	0	0	0	0	0
Court Usher	0	0	0	0	0
Hearing Officer	0	0	0	0	NA
Registrar Court of Appeal	0	0	0	0	0
Deputy Clerk Court	0	0	0	0	0
Judge	NA	NA	NA	NA	1 (2.63)
Sheriff 1	0	0	0	0	0
Sheriff 2	0	0	0	0	0
Sheriff 3	NA	NA	0	0	0
Sheriff Officer 1	0	1 (3.7)	1 (4.76)	1 (3.57)	4 (6.15%)
Sheriff Officer 2	2	4 (11.11)	3 (8.33)	3 (9.09)	4 (9.3)
Sheriff Officer 3	1	2 (22.22)	3 (27.27)	3 (23.08)	4 (26.67)

PROSECUTIONS	1995/1996	1996/1997	1997/1998	1998/1999	1999/00
Occupation	#	# (%)	# (%)	# (%)	# (%)
Senior Legal Officer 1	0	0	0	0	0
Senior Legal Officer 2	0	0	0	0	0
Senior Legal Officer 3	0	0	0	0	0
Senior Legal Officer 4	NA	NA	NA	NA	0
Legal Counsel 1	0	0	0	0	2 (4.44)
Legal Counsel 2	0	0	0	0	0
Legal Counsel 3	0	0	0	0	0
Legal Counsel 4	0	0	0	0	0
Legal Counsel PIO	0	0	0	0	0
Prosecuting Attorney	0	1 (12.5)	0	0	NA

LEGAL AID	1995/1996	1996/1997	1997/1998	1998/1999	1999/00
Occupation	#	# (%)	# (%)	# (%)	# (%)
Attorney 1	2	2 (6.06)	2 (6.06)	2 (5.71)	2 (5.56)
Attorney 2	0	0	0	0	0
Attorney 3	NA	NA	0	0	0

HUMAN RIGHTS	1995/1996	1996/1997	1997/1998	1998/1999	1999/00
Occupation	#	# (%)	# (%)	# (%)	# (%)
Human Rights Officer 1	0	0	0	1 (33.33)	0
Human Rights Officer 2	0	0	0	0	1 (11.1)

CORRECTIONS	1995/1996	1996/1997	1997/1998	1998/1999	1999/00
Occupation	#	# (%)	# (%)	# (%)	# (%)
Chaplain	0	0	0	0	0
Correctional Officer 1	52	68 (13.13)	65 (12.87)	58 (11.42)	55 (10.52)
Correctional Officer 2	1	3 (6.98)	5 (12.2)	4 (8)	4 (7.02)
Correctional Officer 3	2	2 (7.69)	2 (8.33)	4 (16.67)	5 (15.15)
Correctional Officer 4	2	2 (5.56)	2 (5.13)	2 (4.65)	3 (6.12)
Correctional Officer A	NA	NA	2 (4.88)	5 (10.87)	6 (11.76)
Correctional Service Officer 1	3	3 (27.27)	2 (22.22)	3 (27.27)	3 (21.43)
Correctional Service Officer 2	0	0	0	0	0
Chief Correctional Officer	0	0	0	0	0
Juvenile Counselor 1	33	29 (10.74)	21	19 (8.8)	21 (9.33)
Juvenile Counselor 2	0	0	1	1 (8.33)	1 (5)
Juvenile Counselor 3	0	0	0	0	2 (13.33)
Juvenile Counselor 4	1	1 (12.5)	0	0	0
Juvenile Counselor A	NA	NA	0	1 (5.88)	1 (4.76)
Program Coordinator	0	0	0	0	0
Correctional Trades Instructor 1	0	2 (10)	2 (9.52)	2 (9.52)	1 (4.55)
Correctional Trades Instructor 2	2	3 (27.27)	3 (25)	3 (27.27)	4 (30.77)
Correctional Trades Instructor 3	0	0	0	0	0
Supv. Institutional Programs	0	0	0	0	0
Supv. Inmate Training	0	0	0	0	0
Supv. Counseling Services	0	0	0	0	0

PUBLIC TRUSTEE	1995/1996	1996/1997	1997/1998	1998/1999	1999/00
Occupation	#	# (%)	# (%)	# (%)	# (%)
Estates Officer 1	0	0	0	0	0
Estates Officer 2	0	0	0	0	0
Estates Officer 3	0	0	0	0	0
Estates Officer 4	0	0	0	0	0

APPENDIX F

A Brief Historical Chronology of Employment Equity (United States and Canada)

1961

To understand how the government became involved in legislated fairness we must go back to the civil rights activities of the early sixties. On March 6, 1961, President John F. Kennedy signed Executive Order 10925, which established the President's Commission on Equal Employment Opportunity and a contract compliance requirement for businesses providing goods and services to the U.S. government.

This order stated, "the contractor will take affirmative action to ensure that applicants are employed, and employees are treated during their employment without regard to their race, creed, color, or national origin." It is important to recognize that the executive order did not call for preferential treatment for any group. It merely continued the traditional goals of nondiscrimination in hiring that had been pursued as far back as 1941 by President Roosevelt towards defense contractors.

1964

In 1964 the *Civil Rights Act* was passed by the U.S. Congress. Title VII of the act not only prohibits an employer from discriminating because of race, colour, religion, sex, or national origin," it also specifically states that the act is not designed to 'grant preferential treatment to any group.' This language was deliberated to ensure that the act could pass the Senate, which was influenced by several strong representatives from the South.

One of the sponsors of the bill, Senator Joseph Clark, ensured Title VII was interpreted correctly when he stated emphatically during the Senate debate, 'is no requirement in Title VI that an employer maintain a racial balance in his work force. On the contrary, any deliberate attempt to maintain a racial balance, whatever such a balance may be, would involve a violation of Title VII, because maintaining such a balance would require an employer to hire or to refuse to hire on the basis of race.

California v Bakke. The university was forced to admit a white medical school applicant who claimed discrimination under Title VII of the Civil Rights Act of 1964 in the same legislation at the root of affirmative action. The court held that the university had set an "impermissible quota" by reserving 16 places for disadvantaged student. The tide against the numbers approach was clearly turning.

1980

In 1980 presidential candidate Ronald Reagan promised in the following statement to halt affirmative action: "we must not allow the noble concept of equal opportunity to be distorted into federal quotas which require race, ethnicity, or sex rather than ability and

qualifications to be the principal factor in hiring or education." Reagan also appointed Clarence Thomas, a vocal opponent of quotas, to chair the Equal Employment Opportunity Commission. Thomas began a concerted effort to reduce the reliance on numerical representation as the primary focus of affirmative action programs. His argument was that the reliance on quotas was a "weak and limited weapon" against inequity in the workplace. The numbers, in Thomas perspective, distorted the real issues surrounding discrimination. In his words, " this policy fails because it allows an employer to hide continuing discrimination behind good numbers."

This notion of the numbers being the wrong focus of legislated equity began the debated on the effectiveness of affirmative action that continues today. While it is clear that numerical representation is no longer considered an effective solution to inequity in the workplace, the debate has yet to identify an effective alternative.

1984

Canada's foray into legislated equity began in 1984 with the Royal Commission on Equality on Employment chaired by Judge Rosalie Abella. Unlike in the United States, the Canadian commission moved immediately to preferential attention for four groups: women, racial minorities, person with disabilities, and aboriginal people. According to the commission, individuals from these four groups experienced "restricted employment opportunities, limited access to decision-making and little recognition as contributing Canadians." The commission coined the phrase "employment equity," which was described s a strategy to obliterate the present and residual effect of discrimination facing the so-called four designated groups. The commission called on the Canadian government to introduce strong and specific employment equity legislation. Inherent in the commission recommendations was the assumption that numerical representation was the proper evaluation tool to determine when equity in the workplace was achieved.

1986

In 1986 the federal government introduced commision's first *Employment Equity Act*. The act incorporated many of the recommendations of the Abella commission, including the designation of our disadvantaged groups and the reliance on numerical representation as the primary means of evaluating progress. This new law applied to approximately 370 federally regulated employers and approximately 900 companies that provided goods and services to the federal government. It was estimated that the act would have an impact on a work force of more than 1.5 million employees.

The anti-quota debate in the United States was not entirely lost in the Canadian legislators. An attempt was made to distinguish U.S. style quotas from more reasonable Canadian-style goals and timetables. The difference, according to the government, was that quotas were rigid, externally imposed numbers while goals and timetable were flexible, internally generated legislated equity programs who cautioned about following the mode created in United States.

1991

In October 1991 the Special Committee on the review on the Federal *Employment Equity Act* was established. The mandate of this committee was to undertake a comprehensive review of the provisions and operations of the act and submit a report by May 1992. A further review was conducted by the Canadian Human Rights Commission and various other advocacy groups, including the Urban Alliance of Race Relations and even the Conference Board of Canada.

All reviews indicated the same thing, statistical improvement for employment representation for designed groups was extremely slow. In approximately five years, representation for women and racial minorities had increased by only 3 percent. The percentage of aboriginals and persons with disabilities employed represented less than 4 percent of the work force, far fewer than data would imply are available.

More importantly, the reviews highlighted the now-familial U.S. debate regarding the appropriateness of numerical representation as the primary determinant of success. Business spoke of the amount of time and money wasted in administering the system to tract the numbers instead of pursuing longer-term equity initiatives. The Conference Board reported that less than 10 percent of employment equity budgets was spent on actual equity programs. The vast majority of these equity budgets went into salaries and systems to collect the numerical data to complete the onerous government reports.

Even the most ardent activists for legislated equity began questioning the effectiveness of the numbers approach. Laurie of, the national coordinator of the Coalition of Provincial Organizations of the Handicapped, was severely critical of the federal act. In a review of the act, he is quoted as saying, " the act as it was passed was doomed to fail because it amounted to little more than merely mandatory reporting of data. In and of itself, data will do little to improve the status of disadvantaged sectors."

1992

Early in 1992 the Ontario provincial government began consultations on introducing mandatory employment equity legislation for the province of Ontario. Under consideration: how should numbers be set? Not under consideration: should numbers be used? Under consideration: which definitions should be used for designated groups? Not under consideration: should there be preferred status for groups?

A group by the name of the Business Consortium on employment Equity, representing a diverse group of employers with more the 56,000 employees, urged the government to move past the moral and social perspective on equity and pay heed to the economic and business vantage point. The consortium also warned the government to entrench the merit principle in the legislation and avoid the pitfalls of reverse discrimination and tokenism inherent in quotas-driven programs.

The group strongly advocated the use of other mechanisms besides numerical representation to determine progress. In a submission to the Office of the Employment

Equity Commissioner, the consortium stated, "We also note the need for qualitative measure to reflect cultural change within an organization which may also indicate the achievement of a more equitable workplace. This point reflects the concern that the achievement of equity be measured by qualitative as well as quantitative change within an organization. Qualitative change may be measured by using vehicles such as attitude surveys, focus groups or sample environmental scans of the organization."

A few months later the Ontario government introduced mandatory employment equity legislation for the province of Ontario. The preamble to the bill was mute on issues of merit, business realities, and qualitative measurement. Instead the focus was clearly on the under-representation of the same designated groups in "most areas of employment, especially in senior and management positions." The major purpose of the bill was to improve the numerical representation of selected groups in the work force.

1993

By this time in the United States the debate on affirmative action had reached a fever pitch. A national debate on hiring quotas was precipitated by a number of Supreme Court decisions against affirmative action programs, the Bush administration veto of a civil rights bill, and the resentments caused by group preferences.

The *Harvard Business Review* published a controversial paper entitled "The Forgotten White Male," featuring an academic study that showed that white males were becoming less attached and committed to the workplace as affirmative action programs took hold. The covers of national magazines, among them *Business Week*, screamed headlines such as "Does Affirmative Action Work?" and "Backlash-Debating Affirmative Action." These publications began to ask questions surrounding merit in hiring, race-based preferences, tokenism, white male backlash, and the age-old question of reliance on numerical representation.

In Canada, the federal government continued on its established path. The government of Ontario ran into unexpected resistance on its own employment equity initiatives. It ran an advertisement for a senior position in a ministry office that stated that consideration would be limited to candidates from the four designated groups. The conservative press in Ontario went wild. Headlines such as "White Males Need Not Apply" confirmed the worst fears of critics of legislated fairness. The ad was eventually withdrawn but the damage has been done.

1995

The debate on affirmative action in the United States continued, gaining steam every month. *Newsweek* ran provocative cover story entitled "Affirmative Action: When Preferences Work - And Don't!" Affirmative action was pronounced as the new wedge issue in American life destined to become a major campaign platform for the Republican right wing. The magazine conducted its own poll, which indicated that 75 percent of Americans think that qualified blacks should not receive preference over equally

qualified whites in getting into college or getting jobs. In California the Civil Rights Initiative was introduced, which would bar any form of affirmative action preference based on race, gender, ethnicity, and national origin for state hiring, contracting, or education.

Ontario found itself in the middle of a provincial election as the debate in the United States raged on. The employment equity law was barely a year old and the Employment Equity Commission was not even fully established. It was at this time that the Progressive Conservative Party gambled with an election ploy that could have backfired if not picked up by the electorate. The party vowed to kill the new employment equity law on the grounds that it was quota-driven, ignored the merit principle, and advocated preferential hiring. The genius of the Conservative ploy was that it capitalized on the anti-affirmative action sentiment dominating the airwaves controlled by U.S. media. It also exploited the confusion that existed between quotas and goals and timetables.

By election night on June 8, 1995, it was clear that the gamble had paid off. The Progressive Conservatives were swept into office with a huge majority and a mandate to pursue all promises. Within a month of its election, the new government announced it would make good on its promise to repeal legislated employment equity before the end of the year.

Source: http://www.diversityatwork.com/business_case.html

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