

Family, Children and Youth Section Newsletter

# 1USt1C www.justice.gc.ca/en/ps/pad/news/index.html

Spring 2007

# **Update from the Family, Children and Youth Section**

# New look for Family Violence Initiative Web site

The Justice Family Violence Initiative (FVI) web site has a dynamic new look. It's now more visually interesting and easier to navigate. The Justice FVI supports the development and delivery of public legal education and information to the Canadian public on family violence.

The site provides information on family violence in Canada and how the Department of Justice addresses family violence issues. It's a useful resource on the ways in which the Canadian justice system prevents and responds to family violence. The site address is www.justice.gc.ca/en/ps/ fm/.

## New FVI Youth Web site

In addition to the new look for the FVI web site, the Department of Justice has launched a web site on family violence for youth as part of the Justice FVI. The intent of the site was to fill a gap in information available to young people in Canada about family violence. The site contains simple language and vivid graphics to appeal to a young audience.

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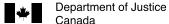
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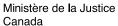
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The site contains information on:

- the types of abuse or violence that can occur in families:
- laws and other ways family violence is dealt with in Canada;
- how to seek help; and
- what young people can expect when they seek help.

The site is intended for youth who are experiencing family violence or know of someone who is. The site has age-appropriate material for two target groups: one for youth aged 10 to 12 and the other for youth aged 13 to 15. It may also be used for research purposes by youth and others (such as teachers, social workers, etc.). The site address is www.familyviolencehurts. gc.ca.

# New database helps parents find family justice services

"An Inventory of Government-based Family Justice Services" has been added to the Parenting after Divorce site and can be accessed at the following link: http://canada.justice.gc.ca/en/ps/pad/resources/fjis/ browse.asp

The Inventory is a user-friendly database that parents facing divorce or separation can search to find information on government-based family justice services in their province or territory and elsewhere in Canada. The Family, Children and Youth Section collaborated with representatives from each province and territory to compile the Inventory. It lists services such as mediation, parent education and family court services, gives a brief description of the service and provides the contact information.

Due to the online nature of this resource and the frequency with which information will be updated, the Inventory is available only on the Department of Justice web site and is not available in print format. Please note that listings of family justice services available in the province of Quebec are not yet available.

# **Support Enforcement Unit hosts** intern from Strasbourg, France

The Support Enforcement Policy and Implementation Unit of the Family, Children and Youth Section (FCY) had the pleasure of hosting an intern from Strasbourg, France. Emilie Bensmihen began her sixweek assignment at FCY in October 2006 as part of the Hull Strasbourg Bars exchange program. Emilie had just completed her law degree when she came to FCY and will be taking her Bar exams this year. Her objective in doing an internship in Canada was to acquire international experience in the practice of law and to benefit from an increased awareness of global issues. In addition to her work assignments at FCY, Emilie was kept busy meeting with representatives of the Quebec bar, local judiciary, attendance at civil court proceedings and the Supreme Court of Canada. Her time with FCY also offered members of the Department of Justice a unique opportunity for informal discussions that increased their awareness of legal processes in France.

# **FPT Inter-jurisdictional Support Sub-committee of the Coordinating** Committee of Senior Officials— **Family Justice**

The Federal-Provincial-Territorial Inter-jurisdictional Support Sub-committee (IS Sub-committee) met in Ottawa from December 4-7, 2006 to discuss the national and international reciprocal enforcement of family support obligations. This ninth annual meeting focussing on reciprocal support enforcement issues was planned and co-ordinated by the Family, Children and Youth Section. In addition to participating in national discussions, Canadian officials met with counterparts from the United States and the United Kingdom to advance cooperation and discuss uniform approaches to improving existing reciprocity arrangements. The meeting was devoted to national discussions as well as discussions on the

latest draft of, and negotiations on, the Convention on the International Recovery of Child Support and other Forms of Family Maintenance by the Hague Conference on Private International Law. Meetings with officials from the United Kingdom and the United States also took place and Provincial Territorial Maintenance Enforcement Programs Directors joined IS Sub-committee members for discussions on the proposed new Convention.

Since 1998 Canadian officials working on reciprocal support enforcement issues have met with representatives from the United States, Czech Republic, Slovak Republic, Ireland, Norway, Poland, Switzerland, United Kingdom, Australia, Hungary, Germany, Israel, Bermuda, Barbados, Costa Rica, and the European Commission.

# 5<sup>th</sup> World Congress on Family Law and Children's Rights to be held in **Halifax August 23-26, 2009**

Halifax, Nova Scotia has been chosen as the site of the 5th World Congress on Family Law and Children Rights, August 23-26, 2009. The theme for this Congress is The Child: Policy, Legislation and Legal Process Protecting Rights—How can the voice and rights of the child be given substance? Since 1993, a group of Australian judges and lawyers have organized a congress to discuss children's rights and family law issues every four years. Canadians have been active in the Congress since its inception and a number attended the last Congress in Cape Town, South Africa in 2005. A call for papers will be sent out this year.

# **Spousal Support Advisory Guidelines Project Update**

Project directors, Rollie Thompson and Carol Rogerson, spent much of the fall of 2006 meeting legal professionals across the country to obtain feedback on the Spousal Support Advisory Guidelines: A Draft

Proposal (released January 2005). Since September 2006, they have participated in feedback sessions in B.C., Sask., N.S., N.L., P.E.I., and a few cities in Ontario (Ottawa, Kingston, London). Sessions in other parts of Ontario and in the remaining provinces are scheduled for early 2007.

Small group sessions were chosen as the best method to obtain feedback in order to discuss actual experiences with the Advisory Guidelines and the detail needed to make specific revisions. Areas being considered for revision are set out in *Issues for* Discussion: Revising the Spousal Support Advisory Guidelines. One consistent theme emerging from the feedback sessions is the usefulness of the Advisory Guidelines in advising clients and in settlement negotiations.

For those who have not attended a session and would like to provide comments and suggestions, please write to: Spousal Support Project, P.O. Box 2310, Station D, Ottawa, ON K1P 5W5.

The number of reported cases in which the Advisory Guidelines are considered continues to grow and is now close to 200. These cases have all been summarized and are continually being updated. The most recent update is: The Advisory Guidelines: Twenty Months Later, available on Professor Rogerson's web page at the University of Toronto web site provided at the end of this article.

The final proposal for the Advisory Guidelines is anticipated in the fall of 2007. In addition to the full version of the proposal, there will also be shorter document—less than 20 pages—which can serve as an "operating manual".

**Important note:** The intent for the Advisory Guidelines is that they continue to be used on an informal basis to assist spouses, lawyers, mediators and judges in determining the appropriate amount and duration for spousal support in Canada. The final proposal of the Spousal Support Advisory Guidelines will not be legislated.

All materials on the project are now available on the University of Toronto Law school web site: http://www.law.utoronto.ca/faculty/rogerson/ssag.html (English)

http://www.law.utoronto.ca/faculty/rogerson/ssag\_fr.html (French)

## **National Child Day**

To mark National Child Day, the Family, Children and Youth Section of the Department of Justice hosted activities for departmental staff and their children. National Child Day commemorates the United Nations' adoption of the Declaration of the Rights of the Child on November 20, 1959, and its adoption of the Convention on the Rights of the Child on November 20, 1989. This year's theme was "The right to be heard."

On Sunday, November 19, children of Justice employees in Ottawa gathered for a painting activity depicting "The kind of Canada we want to live in." The children were invited to communicate their pride in their country and their thoughts on the future.

Also in recognition of National Child Day, children and youth between the ages of 10 and 18 were invited to submit one paragraph on the topic, "What justice means to me." The winning entries appear below.

#### What Justice Means to Me by Marielle Butovsky (11½ years old)

I believe justice means that something is fair or equal between people. For example, if white people have the right to go to school, black people would have the same right. This is fair for everyone. It also means to me that if people want to express themselves they have the right to do so. That is what justice means to me.

#### by Simon DesOrmeaux (12 years old)

Justice to me means fighting evil, saving people and helping the world. Justice is also trying to understand the hows and whys of something. I am 12 years old and I am different, and since I'm different, children are often mean to me, and rather than getting angry (which I often used to do) I try to explain to them why I'm different and why I take medication. For me justice also means to live and let live.

#### by Stéphane DesOrmeaux (10 years old)

What if, instead of a serious essay, I wrote you a story? Well, I am writing you one.

Once upon a time there lived a dispenser of justice named Eric. Eric was a hero who was a lawyer, police officer and judge rolled into one. He even investigated crime scenes. He did everything, all alone and unfortunately he was always sad.

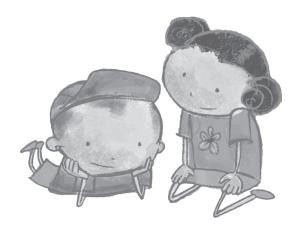
One day he had to ask for help and he turned to the only person who (he thought) could do everything alone like he could.

This helper was a woman, a woman named France. Eric decided that it was better to work with France than all alone.

Now they decided to work together. And they both realized that this was much less tiring.

Thus they decided to let other people work with them. Everyone had a role to play. This greatly simplified things and made everyone happy.

Justice was born.



# Provincial/Territorial Corner

# Alberta Maintenance Enforcement **Program (MEP) conducts Client Profile Survey**

In 2006, the Alberta MEP undertook a survey of its clients to obtain current information about its creditors and debtors. A survey questionnaire was developed and administered to clients through the web site and regular mail. Participation exceeded expectations with voluntary responses from 5,096 creditors and 2,169 debtors. Survey data, including 4,000 written comments, will be analyzed over the winter, and a summary of findings is expected in the spring of 2007. Alberta MEP anticipates that the information gathered will enable it to better meet the needs of its clients and improve collection activities.

## Recent changes at FRO increase fairness

On June 30, 2006, the second phase of Ontario's legislative amendments to the Family Responsibility and Support Arrears Enforcement Act, 1996, came into effect. These changes will help the Family Responsibility Office (FRO) to continue to improve services to clients and increase fairness for support payors and support recipients.

### The first change:

The FRO has the discretion to stop enforcing ongoing support when a support recipient does not respond to the FRO's request to confirm or deny that support has ended.

This change is intended to strike a better balance between the interests of support payors and support recipients and deal fairly with allegations that support has ended.

#### The second change:

The FRO has the discretion to enforce a lower amount of support if the support payor and support recipient agree that the number of children entitled to support under a Child Support Guidelines order has decreased.

It is important to understand that the FRO is not changing the support order, but providing a break from enforcement until the recipient and the payor can return to court to have their support order changed.

# Manitoba Child Support **Recalculation Service Update**

Manitoba's Child Support Recalculation Service (CSRS) office opened on July 4, 2005 and provides province-wide service to the public. The CSRS is a pilot project funded through Justice Canada's Childcentred Family Justice Fund and will operate until March 31, 2008.

Initially the CSRS was authorized to recalculate interim or final child support orders under Manitoba's Family Maintenance Act, but as of July 19, 2006, after concluding an agreement with Justice Canada, the CSRS has the authority to recalculate final Divorce Act child support orders.

To be eligible to use recalculation services, both parents must reside in Manitoba and the recalculation order itself must:

- be for a table amount of child support;
- be based on actual income and not the imputed income of the payor;
- not have been determined or adjusted pursuant to one of the discretionary provisions in the guidelines.

#### **First Year Statistics**

The CSRS has:

- handled over 700 screened inquiries for service;
- opened 228 files;
- prepared 136 Recalculation Authorization request documents:
- accepted registration of 88 new orders with recalculation provisions;
- recalculated 80 orders;
- declined to recalculate 18 orders;
- stayed recalculation of 1 order;
- filed 22 motions seeking financial disclosure and other relief.

#### Other statistics include:

- no parties have opposed their recalculated order;
- 62 of 80 recalculated orders resulted in increases of child support that ranged from \$1 to \$333;
- 18 of 80 recalculated orders resulted in a decrease of child support that ranged from \$5 to \$418.

Preliminary statistics indicate that in cases where there was one child and there was an increase in child support, the table amount increased on average by 65%.

# Alberta Justice reviews services for high-conflict families

Alberta Justice, Court Services, has retained the Canadian Research Institute for Law and the Family to review services for high conflict families and summarize strengths and weaknesses. Current services include Open Assessments; Family Practice Note 7—Use of Independent Experts; Parental Conflict Intervention; Brief Conflict Intervention; Home Studies; and Focus on Communication in Separation. The review will include:

• gathering information from stakeholders regarding current programs and future recommendations;

- completing a national and international review of best practices in court-connected programs for high conflict families;
- preparing a summary of program funding options;
- making recommendations for future directions and preparing a final report.

Recommendations are expected for services that are effective and available both between the Provincial Court and the Court of Queen's Bench and across the province. The target date for completion of the report is March 31, 2007.

# **Newfoundland and Labrador's new Family Justice Service Division**

Since May 2006, there has been a lot of activity in Newfoundland and Labrador regarding the development of the new Family Justice Service Division of the Supreme and Provincial Courts. The Family Justice Service Division will deliver Family Justice Services, parent education, dispute resolution and counselling throughout the province. These services will be made available to individuals who make court applications for custody, access, child support or spousal support and to individuals who request services.

The Division is expanding upon the services of the Family Justice Services Central, Family Justices Services Western, the Support Application Social Worker Program and Mediation and Counselling Services that are provided as part of the Unified Family Court in St. John's. Work in progress includes:

- the development of three parent-education programs, a general information session, a session focusing on communication and a session for parents in high conflict.
- the drafting and review of a staff policy manual for the delivery of education and dispute resolution services

• meetings with provincial and regional stakeholders to discuss their perspectives on the provision of services

In addition, the Family Justice Services Division, along with the Department of Health and Community Services, has begun to explore the provision of child protection mediation to resolve child care issues.

Child Support recalculation is also expected to go province wide in early 2007.

# **Alberta Provincial Court Intake** and Caseflow Management project expanded to Calgary

Caseflow Management has been successful in Edmonton for the past five years and as a result was expanded to Calgary on April 1, 2006.

The project assists litigants deal with matters related to parenting, and contact and guardianship disputes but does not include disputes related to child support. Unrepresented litigants are required to meet with a caseflow coordinator to explore alternative dispute resolution options before proceeding to court. A lawyer may choose this option for a client and request a meeting; however, a person who is represented by legal counsel is not required to meet with a caseflow coordinator

# PEI's Dinosaurs Divorce Story Sack **Project**

The Positive Parenting from Two Homes "for kids!" Program has always used the book, Dinosaurs' Divorce by Laurene Krasny Brown and Marc Brown as a method of helping kids six to eight years old get in touch with their feelings about their parent's divorce.

In the summer of 2005, the Parent Education Program networked with the provincial correctional facility and learned about a project underway where inmates produce story sacks to help in literacy programs. The

project involves taking a children's book and creating wooden characters, as well as a game and a puzzle to accompany the reading material. The characters and puzzle which are placed in a large colourful sack so that it can be easily transported, allow the children to participate on a more involved level with the book. The social worker who coordinates the children's program was involved in designing the game included in the story sack. The inmates happily took on the task of making a story sack to go along with the Dinosaurs' Divorce book. The Positive Parenting from Two Homes Program "for adults" has been delivered at the provincial correctional facility, and inmates indicated that they were happy to do something to "give back" to the program.

# Saskatchewan Justice pilots Access **Facilitation Project**

Access is a frequent source of conflict identified by families coping with the aftermath of a separation or divorce. On-going disputes over access arrangements can result in high levels of conflict and protracted family law proceedings between parties that are costly in both emotional and financial terms. Parties in conflict need alternatives to the court system to work through access issues.

Parents in conflict currently have access to a number of family justice support services in Saskatchewan:

- Parenting after Separation/Divorce information sessions through Family Justice Services;
- legal information services through the Family Law Information Centre to help parents obtain information about their situation; and
- fee-for-service mediation through the Dispute Resolution Office to help parties resolve conflict.

The Access Facilitation Pilot Project links and builds on these existing services to provide a comprehensive and integrated strategy for resolving access issues.

Lower-income parties who meet the eligibility criteria are screened into the program. They must first attend the Parenting After Separation/Divorce sessions, which provide participants with information about options for resolving disputes, stages of separation and divorce, children's reactions to separation and divorce, and parenting after separation and divorce. These sessions encourage parents to focus on the needs of their children—an approach that is an important precursor to a successful conflict resolution process. The parties then must attend an information session with a legal professional where they are provided with information about their access rights and responsibilities, typical access arrangements, and the approach of the court system on access issues. The session is designed to ensure that the parties have adequate information and realistic expectations about access arrangements before entering the mediation process. The parties then begin the mediation process, where they receive help to improve communication and resolve their access issues in a collaborative manner. Parties are able to meet with a mediator for up to four sessions. If an agreement is not reached within four sessions and the parties want to continue with mediation, they can access the fee-for-service family mediation program.

The program is being piloted in the judicial centre of Saskatoon (which includes the surrounding area). Referrals to the program from other locations may be accepted.

# Alberta MEP establishes new Document Intake and Processing Unit (DIPU)

To streamline internal operations and free collection staff from routine administrative tasks, Alberta MEP established a Document Intake and Processing Unit (DIPU). This unit uses the Maintenance Information Management System (MIMS) to classify, record and scan incoming correspondence. The capability of MIMS to provide images of all scanned documents gives staff using the system access to correspondence and documents as soon as they are received and scanned.

In addition to conventional mail and file room activities, DIPU staff update client addresses, answer routine requests for information, acknowledge receipt of requested documentation and contribute to increased efficiency and prompt response time of general correspondence. The result has been improved client service and increased time available to collections officers to focus on collections-related tasks.



# **Public Legal Education and Information News**

# Saskatchewan PLEA updates A Guide to the Law for Saskatchewan Women

The Public Legal Education Association of Saskatchewan (PLEA) has partnered with the Status of Women Office, Saskatchewan Labour, to update and reprint A Guide to the Law for Saskatchewan Women. Published in 2004, this was the first resource to provide Saskatchewan women with relevant legal information on a broad range of topics, including family law, in an all-inclusive handbook. It is a comprehensive guide, written in plain language to appeal to the broadest possible demographic, including hard-to-reach groups such as Aboriginal women, immigrant women, rural and Northern women, abused women, and young or teen mothers. Some 10,000 original copies were distributed within a few weeks, and demand could not be met. The newest edition of the handbook is expected to be available for distribution in early 2007. Copies may be obtained by contacting the Public Legal Education Association of Saskatchewan at (306) 653-1868 or from the PLEA web site at: http://www.plea.org/freepubs/gtlfsw.htm

taking place in their lives. To obtain copies of this workbook, please contact Mary Troszko by telephone at (204) 943-2382 ext. 1, or by e-mail at: mctroszko@communitylegal.mb.ca.

# Saskatchewan PLEA to develop new booklet on parental responsibilities

PLEA has received funding from the Child-centred Family Justice Fund of Justice Canada to develop and distribute a booklet focusing on the responsibilities of being a parent. Topics covered will include the obligation to provide and care for children both before and after a separation or divorce. The booklet will also contain a pull-out section directed to children whose parents are separating or divorcing. The pullout will give parents a chance to discuss with their children changes that will take place when parents no longer live together. It will also assure children that parents obligations will continue. The booklet and accompanying pull-out will be available in English and French by summer 2007.

## New workbook for children now available from Manitoba CLEA

A new workbook entitled Family Law for Children is now available. Published by the Community Legal Education Association in Manitoba, the workbook is intended for children between the ages of eight and twelve, whose parents are going through a separation or divorce. It deals with issues such as mediation, living in two homes, family violence, and mobility. Parents, guardians and teachers are encouraged to choose the stories, explanations and activities that will help children cope and understand the changes



# Passport issues—Passports for children under 16 and considerations for separation agreements and court orders

# General information on passport applications for children under 16 years of age

by Passport Canada

Passport Canada strongly recommends that both parents participate in obtaining a passport for their child. One parent should apply and the other parent should participate by signing the passport application in the "Other Parent" section.

When a child is under 16 years of age, only the child's parents or legal guardian can apply for a passport. In cases of separation or divorce, the applicant must be the custodial parent. If the parents have joint custody, then either parent may apply for the child's passport with the consent of the other parent. In most cases, Passport Canada will require a long form birth certificate to prove the child's parentage.

If the applicant parent has custody, but the other parent has specific access, then that parent will be asked to acknowledge that they are aware that a passport application has been made for the child by signing the application form or the Passport Canada form called "Acknowledgment/Consent to provision of passport facilities for a minor child." If the applicant parent has custody and the other parent has been granted "reasonable access" (as opposed to specific access or joint custody) then the participation of the other parent in the application process is not generally required. However, the information regarding the other parent must be completed.

The applicant parent must provide copies of all legal documents, such as separation agreements and court orders, pertaining to custody of, access to, or mobility of the child to apply for a passport. The applicant parent must submit these documents in their entirety. Passport Canada reviews the documents to ascertain the custodial arrangement, whether specific access has been granted to the non-custodial parent, and to ensure that there are no mobility restrictions for the child. If a mobility restriction exists, no passport can be issued without a new court order. If under the court order, the restriction could be removed with the consent of both parents, then the passport can be issued with the consent of both parents.

In cases where a parent's participation is required but cannot be obtained, Passport Canada will review the documents provided with the application before deciding what further documentation will be necessary. In such cases, the applicant parent may need to provide a statutory declaration or a new court order to ensure that he or she has the authority to make a passport application for the child.

Please note that divorce or family law court orders or separation agreements should not contain any clauses requiring Passport Canada to act. The only court with the power to authorize or order Passport Canada to act, or refrain from acting, is the Federal Court of Canada.

For more information, please contact Passport Canada at 1-800-567-6868 or visit www.passportcanada. gc.ca. For further information on the requirements for traveling with a child, including consent letters, please visit http://www.voyage.gc.ca/main/before/faq/children travel-en.asp

# **Passport Considerations for Separation Agreements and Court Orders**

by the Canadian Bar Association

The Canadian Bar Association's National Family Law Section offers the following drafting suggestions for clauses to be incorporated into separation agreements or court orders:

#### Custody

Where sole custody is granted, it could be useful to add a paragraph clarifying that the custodial parent has the necessary authority to apply for a passport for the child without the other parent's participation or consent.

If both parents wish to consent for the issuance of a passport, a clause could be added that for the purposes of a passport application, the custodial parent will apply but the other parent must consent to a passport being issued to the child. Note that in situations where one parent has custody and the other parent has "reasonable access", the participation of the parent with "reasonable access" is not generally required.

Consideration could be given to adding a provision in separation agreements and court orders that requires a non-custodial parent to notify the custodial parent of any change in address.

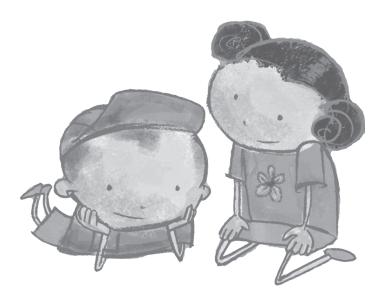
#### **Mobility restrictions**

If the purpose of a mobility restriction is not to inhibit travel but rather to ensure that a parent does not establish a new residence in another jurisdiction (such as in another city or province) it would be important to clarify in an order that the restriction regarding the residence of the parent does not limit the parents' ability to take the child out of the jurisdiction of the court, and travel abroad with the child.

If abduction is a concern, a mobility restriction for the child should be included. The mobility restriction can be imposed on one or both parents. Usually, if there is a mobility restriction that is imposed on the parent who has the authority to apply for a passport, no passport will be issued. However, if the mobility restriction concerns the non-custodial parent, it is suggested that the custodial parent advise Passport Canada to add the name of the child on an alert list.

Some examples of clauses with a mobility restriction are:

- the child cannot be removed from the province of X without a new court order. In this case no passport will be issued without the authorization of the court.
- the child cannot be removed from the province of *X* without a new court order or the consent of the other parent. If the other parent has signed the passport application the passport will be issued. However, if the signature is missing, a new court order has to be provided.
- the mother, for instance, cannot remove the child from Canada without a new court order. If the mother is the custodial parent, no passport will be issued. However, if the mother is the non-custodial parent, a passport can be issued to the father (custodial parent).



Spring 2007

# **Provincial/Territorial Information**

1-888-373-2222

For further information on provincial or territorial child support guidelines and related programs, please call the following number within each province or territory:

Alberta		Nunavut	1-800-792-4183
Calgary	(403) 297-660	0 Iqaluit	(867) 975-6137
Edmonton	(780) 415-040	4	
	Dial 310-0000 for toll-free acce	S Ontario	1-800-980-4962
British Columbia	1-888-216-22	1 Prince Edward Island	1-800-240-9798
Vancouver	(604) 660-219	2 Charlottetown	(902) 892-0853
Manitoba	1-800-282-8069 ext. 026	8 Quebec	Communication-Québec
Winnipeg	(204) 945-026	8	1-800-363-1363
1 0		Mir	nistère de la Justice du Québec
New Brunswick	1-888-236-244	4	(418) 643-5140
Newfoundland and	<b>Labrador</b> (709) 729-183	1 Saskatchewan	1-888-218-2822
Northwest Territori	ies 1-888-298-788	0 Yukon	1-800-661-0408 ext. 3066
		Whitehorse	(867) 667-3066
Nova Scotia	1-800-665-9779 ext. 2		
Halifax	(902) 455-3135		

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