



Department of Justice  
Canada

Ministère de Justice  
Canada

## **EVALUATION DOCUMENT**

# **NUNAVUT COURT OF JUSTICE**

## **Evaluation Framework**

**March 31, 2000**

**Evaluation Division  
Policy Integration and Coordination Section**



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## CONTEXT

Canada's first unified<sup>1</sup> Court is an exciting development that all jurisdictions in Canada will be following with great interest. With so much logistical and planning work to be done, it may appear that an evaluation framework is premature. However, an evaluation framework can be a valuable planning aid, helping the Court to clarify its objectives, to decide how those objectives will be measured, and to create processes for continuous improvement.

Therefore, we want to be very clear that the purpose of this project is to assist in planning. All too often an evaluation is called for after new legislation has been in place for an extended period - or a program's funding is coming to an end. By this time, if there have been problems in the implementation, the evaluation serves only as a report card and is reporting after the fact that the legislation or program did not reach some of its important goals.

The early design of this evaluation framework will help planners consider the relevant issues and questions as the Court's information system is being developed. In February 1999, just prior to the elimination of the Territorial Court, we consulted with various stakeholders (including members from the judiciary, the Crown, the Department of Justice, Legal Aid, the private bar, Court personnel, and others involved with the Court system) and integrated their questions into the framework. In March 2000, almost one year after conversion to the unified Court, we conducted a second set of interviews to gain knowledge from those who are directly involved in the operation of the new Court. New questions arising from these interviews have also been included in the framework

A logical outcome of this framework development is a monitoring process, which will enable planners to review and amend procedures as the Nunavut Court of Justice evolves.

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<sup>1</sup> Unified Court refers to the elimination of the lower Territorial Court.



## **1. INTRODUCTION**

As of April 1, 1999, the Canadian Arctic has a new territory, Nunavut. This new territory has a unified Court which is unlike the system currently used anywhere else in Canada. The *Nunavut Act* creates a unified Court system for the Territory of Nunavut in order to provide an efficient and accessible Court structure capable of responding to the unique needs of the Territory while at the same time, maintaining substantive and procedural rights equivalent to those enjoyed elsewhere in Canada.

The federal government and the Nunavut Territorial leaders recognize the need to plan for an evaluation to assess the impact of the unified Court and the requirements for future judicial resources in Nunavut. This report presents a framework for the evaluation of the unified Court system.

### **1.1 Structure of the Report**

The report is divided into four main areas:

- a comparison of the old and new Court structure
- a profile of the Court
- logic models of the criminal and civil components of the Court
- an evaluation framework.





## 2. A COMPARISON OF THE COURT STRUCTURES BEFORE AND AFTER APRIL 1, 1999

As of April 1, 1999, a portion of the Northwest Territories has been separated to form a new territory, Nunavut. Nunavut has its own Court system, which is different from that of the Northwest Territories. This section explains the Court system that was in place prior to April 1, 1999 and the structure that replaces it.

All cases commencing after April 1, 1999 arising in Nunavut are heard by the Nunavut Court. All cases and actions initiated prior to April 1, 1999 will continue to be heard by the Northwest Territories Courts unless specifically transferred to the Nunavut Court.

Figure 1 provides a general overview of the two Court structures in the Northwest Territories and Nunavut and Table 1 (next page) discusses the differences between them.

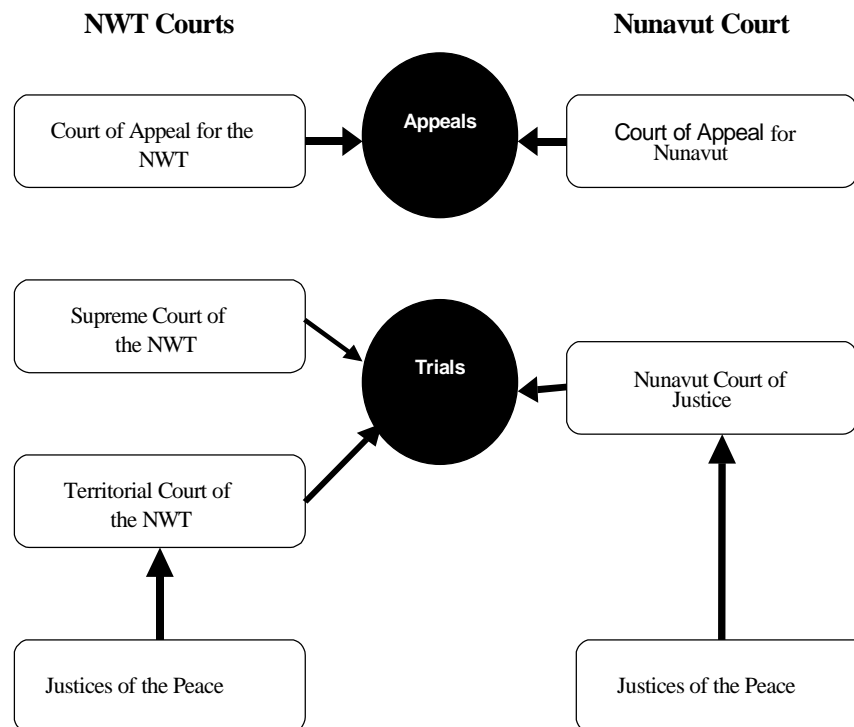


Figure 1

<b>Table 1: Comparison of the NWT Courts (pre-April 1, 1999) to the Nunavut Courts</b>			
<b>Court Level</b>	<b>Description of Court</b>	<b>NWT</b>	<b>Nunavut</b>
<b>Court of Appeal</b>	<b>Composition</b>	<p>The Court of Appeal for the Northwest Territories consists of the justices of the Northwest Territories Supreme Court, and the justices and supernumerary Judges of the Court of Appeal of Alberta and Saskatchewan, all of whom are appointed by the Governor-in-Council.</p> <p>The Court sits with a panel of three justices.</p>	<p>The Alberta Court of Appeal will continue to function as the Appellate Body for issues arising in Nunavut.</p> <p>Some appeal mechanisms are different. For example, the first level of appeal in some matters is a single Justice of the Court of Appeal (i.e., on summary conviction appeals from a Nunavut Court of Justice judge). The appeal thereafter is to a full panel of the Court of Appeal.</p>
	<b>Geographic location</b>	The Court may sit in the Northwest Territories and in Alberta and there are regular sittings in Yellowknife.	The Court may sit anywhere in Canada unless otherwise restricted by statute in Nunavut.
	<b>Jurisdiction</b>	This Court has the jurisdiction to hear appeals in criminal and civil matters from the Supreme Court of the Northwest Territories and the Territorial Court.	The Court hears appeals in criminal and civil matters from the Nunavut Court of Justice.
<b>The Superior Court</b>	<b>Name</b>	The Supreme Court of the NWT	The Nunavut Court of Justice
	<b>Composition</b>	The Court consists of four judges who are appointed by the Governor-in-Council.	There are presently 2 judges in Nunavut appointed by the Governor-in-Council. A third appointment is planned.
	<b>Geographic Location</b>	The Court is resident in Yellowknife and travels on circuit throughout the territory as required. The Court registry and office is located in Yellowknife.	The Nunavut Court of Justice is located in Iqaluit and travels on a circuit throughout Nunavut.
	<b>Jurisdiction</b>	<p>This Court is a Court of original jurisdiction and, therefore, has jurisdiction in all cases arising in the Northwest Territories, except those matters or cases expressly excluded by statute.</p> <p>In civil cases, there is no monetary amount limiting jurisdiction, although the Court generally only hears matters with claims exceeding \$5,000.</p>	The Nunavut Court of Justice hears <i>all</i> criminal, civil and family matters. The Nunavut Court of Justice has a reduced appellate function because there is no lower Court from which to appeal decisions. The Nunavut Court of Justice serves as an appellate body for decisions of the Justices of the Peace.

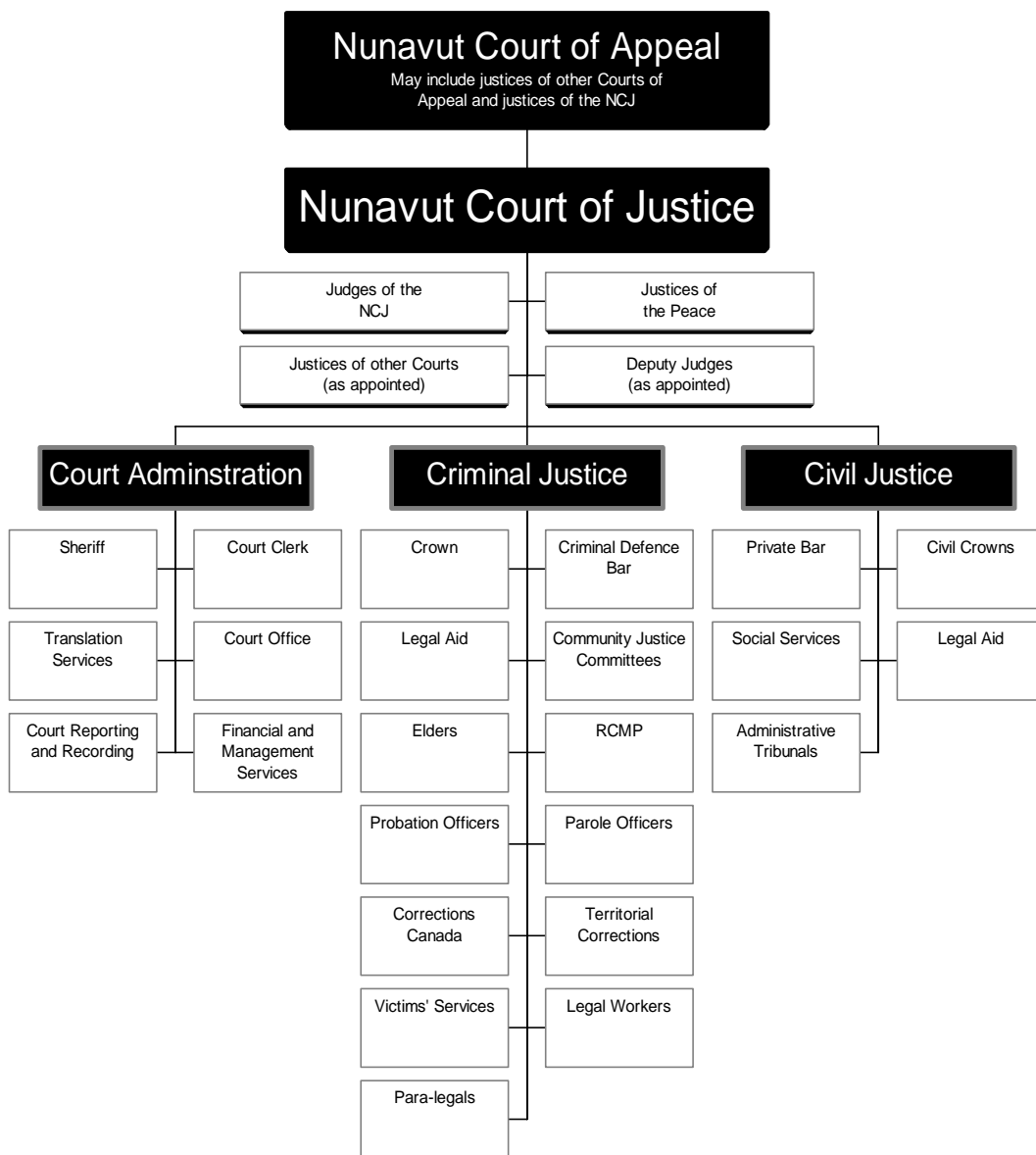
Table 1: Comparison of the NWT Courts (pre-April 1, 1999) to the Nunavut Courts			
Court Level	Description of Court	NWT	Nunavut
		<p>The Court can hear most family law cases.</p> <p>In criminal cases, the Court has jurisdiction over indictable offences and hears summary conviction appeals from the Territorial Court. The Court also has an appellate capacity in some civil matters.</p>	
The Territorial Court	Name	Territorial Court of the NWT	N/A
	Composition	This Court is established under the <i>Territorial Court Act</i> (NWT). There are 4 judicial appointments that are made by the Commissioner of the Northwest Territories.	
	Geographic location	The Court is resident in Yellowknife, Iqaluit, Hay River and Inuvik and travels a circuit throughout the territory.	
	Jurisdiction	<p>This Court is a court of record and it has jurisdiction throughout the territory to exercise all the power and perform all the duties conferred by or under any Act of the Territory or of Canada.</p> <p>In particular, the Court has jurisdiction in the following matters:</p> <ul style="list-style-type: none"> <li>• most civil claims under \$5,000</li> <li>• support/maintenance, child welfare, paternity, guardianship, and intra-family Criminal Code offences</li> <li>• this Court is a Youth Court within the meaning of the Young Offenders Act and has all the powers of that Act</li> <li>• the Court has absolute jurisdiction to hear some adult criminal matters and may hear other criminal matters</li> <li>• preliminary inquiries</li> </ul>	

<b>Table 1: Comparison of the NWT Courts (pre-April 1, 1999) to the Nunavut Courts</b>			
<b>Court Level</b>	<b>Description of Court</b>	<b>NWT</b>	<b>Nunavut</b>
<b>Justice of the Peace</b>	<b>Name</b>	Justice of the Peace	Justice of the Peace
	<b>Composition</b>	<p>The Justice of the Peace Court is a component of the Territorial Court. Justices of the Peace are appointed by the Commissioner of the Northwest Territories.</p> <p>There is no Court support for the Justice of the Peace, and the Justice of the Peace is responsible for recording the proceedings and forwarding all documents to the nearest Court Office.</p> <p>Justices of the Peace are not required to have formal legal training or be members of the Bar.</p>	<p>Justices of the Peace are governed by the <i>Justices of the Peace Act</i>, a Nunavut Statute. Appointments are made by Nunavut's Commissioner in Executive Council. Justices of the Peace are under the supervision of the Senior Judge of the Nunavut Court of Justice.</p> <p>The plan is for Justices of the Peace to be able to update cases electronically.</p> <p>There are no formal educational requirements for Justices of the Peace.</p>
	<b>Geographic location</b>	In 1997, there were approximately 180 Justices of the Peace in the Northwest Territories and usually a minimum of one in a community.	Nunavut will attempt to maintain the current level of Justice of the Peace service in each community. If Justices of the Peace are expected to hear more matters, the number of appointments will likely increase.
	<b>Jurisdiction</b>	<p>The duties of the Justice of the Peace may include the following:</p> <ul style="list-style-type: none"> <li>• receive and swear Informations</li> <li>• confirm or cancel Appearance Notices, Promises to Appear and Recognizances</li> <li>• issue or cancel a summons, Warrant for Arrest or Subpoena</li> <li>• grant adjournments</li> <li>• perform marriages</li> <li>• interim child custody</li> <li>• bail applications (limited)</li> <li>• hear summary and territorial offences matters.</li> </ul>	The legal power given to Justices of the Peace in Nunavut extends to the summary conviction crimes under the Criminal Code, as well as Nunavut Statutes. They have limited power to deal with family and civil matters and can also conduct bail hearings on indictable offences. Justices of the Peace may also perform marriage ceremonies and swearing of oaths.

Table 1: Comparison of the NWT Courts (pre-April 1, 1999) to the Nunavut Courts			
Court Level	Description of Court	NWT	Nunavut
		<p>In the Northwest Territories, there are three functional levels of the Justice of the Peace:</p> <ul style="list-style-type: none"> <li>• Administrative</li> <li>• Sentencing</li> <li>• Trial</li> </ul> <p>These levels are based upon the training of the Justice of the Peace. In practice, there are few Justices of the Peace operating at the third level and few of those justices conduct summary offence trials.</p>	<p>As in the Northwest Territories, there are three levels of Justice of the Peace based on training and experience. A Justice of the Peace Director has been hired to undertake the administration of the Program. This includes recruitment and ongoing training for Justices of the Peace.</p> <p>It is anticipated that eventually some Justices of the Peace will achieve a level of competence to be able to more fully exercise their statutory jurisdiction and take on a greater number of criminal and possibly civil matters. The intent of this is to increase access to judicial services in remote communities throughout Nunavut.</p>

### 3. RELATIONSHIP BETWEEN THE NUNAVUT COURT OF JUSTICE AND OTHER AGENCIES, ORGANIZATIONS AND DEPARTMENTS

The linkages between the Nunavut Court of Justice and other agencies, departments, and organisations are shown in Figure 2 below. See Appendix A for a detailed description of the various components in Figure 2.



## **4. LOGIC MODELS**

As part of the evaluation framework, all activities of the Nunavut Court of Justice are identified and indicators of success established. The logic model links all activities of the Court to the various elements of each activity. The elements are:

- actors - describes all participants involved for each activity
- objectives - describes the intent of each activity
- inputs - describes the action involved in each activity
- outputs - describes the expected result of each activity
- short-term outcomes - describes the desired effects shortly after the activity occurred
- long-term outcomes - are not included in this logic model as they include many elements of the justice system that are not uniquely within the control of the Court.

The intended outcomes for each activity reflect the underlying objectives of this new Court system, which are accessibility, increased cultural sensitivity and efficiency.

For greater clarity, the logic model has been divided into two charts: one for adult and youth criminal matters, and the other for civil matters. Although the Nunavut Court of Justice can hear both types of matters, the sequence and types of activities differ.

### **4.1 Adult and Youth Criminal Court Logic Model**

The activities involved in adult and youth criminal matters are described on the following page in the order that they would be expected to occur in criminal proceedings.

The model assumes that administrative procedures will be in place to track all charges through the system.

### Adult and Youth Criminal Court – Logic Model

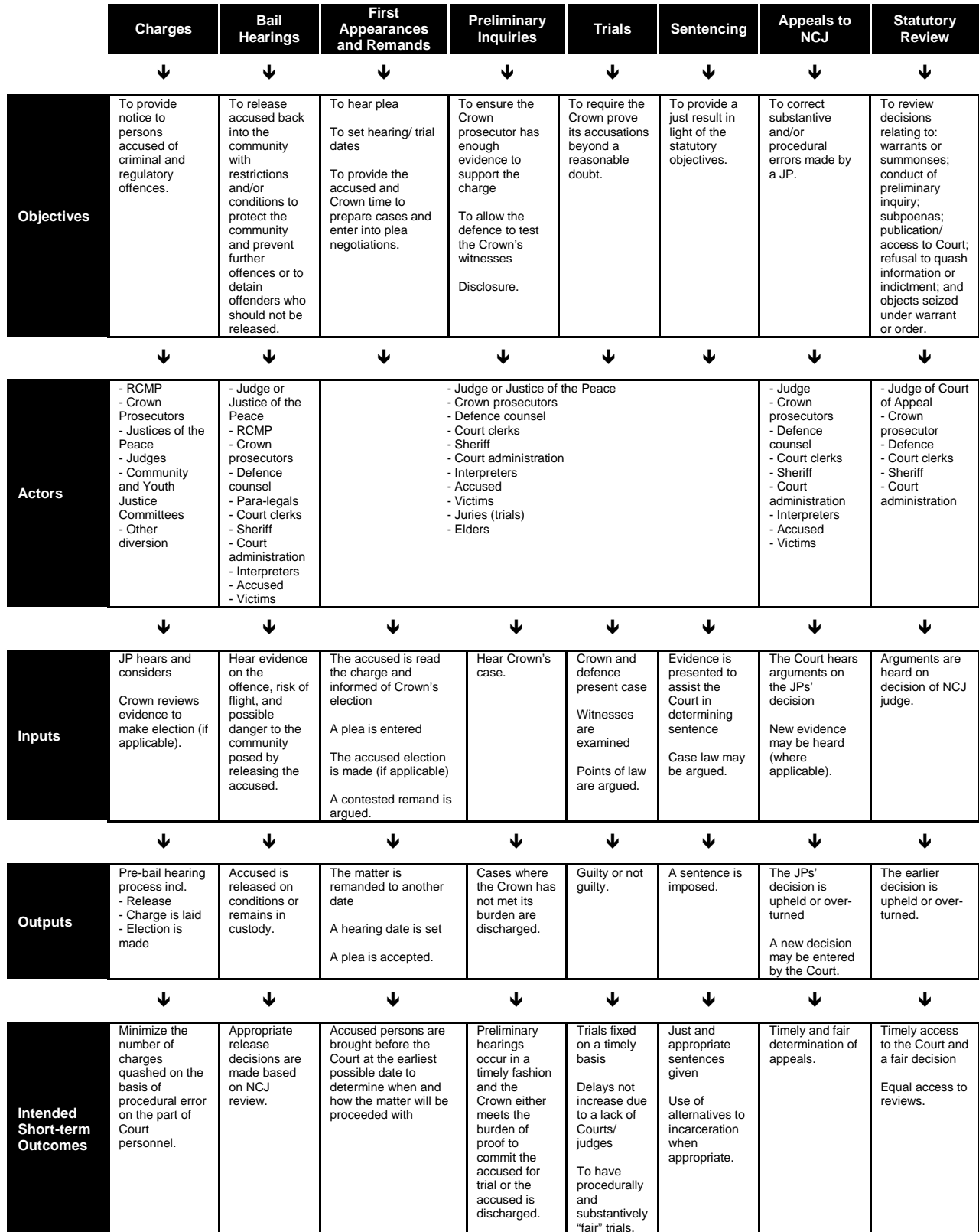




Table 2 provides a brief description of each activity and notes some implications that may arise as a result of the new Court structure.

<b>Table 2: Description of activities and implications of the change in Court structure</b>		
<b>Activity</b>	<b>Descriptions</b>	<b>Implication of Change to Court</b>
<b>Charges</b>	The involvement of the Court in laying charges is limited. The RCMP and the Crown prosecutors prepare the matter before it is brought to the Court.	The new Court structure is not expected to result in significant changes in the manner in which charges are laid. However, with increased caseloads and additional responsibilities upon judges, Court staff, Crown counsel, defence lawyers, etc. will make the delivery of services more complex, necessitating increased staff training and increased resources.
<b>Bail Hearings</b>	In some cases, the resident Justice of the Peace will be able to hear the bail application in the community where the offence took place. This procedure currently occurs in the Northwest Territories.	Increased Justice of the Peace training may result in more bail applications being heard in communities, thereby reducing the Nunavut Court of Justice judges' workload. Also, new technology may be developed and implemented to facilitate bail hearings in communities.
<b>First Appearances</b>	The first appearance is an opportunity for the accused to make a plea, set a trial or hearing date, or set the matter over to another date in order to obtain counsel.	First appearances are largely determined by the fixing of regular arraignment days by the Court. Recruitment and training of more Justices of the Peace may enable the Court to increase the number of days scheduled for first appearances.
<b>Preliminary Inquiries</b>	<p>The Preliminary Inquiry serves three main functions:</p> <ul style="list-style-type: none"> <li>• The Crown must present evidence to support the charge and if there is insufficient evidence, that charge will be dismissed.</li> <li>• The Crown discloses its theory of the case and evidence to the accused and his or her counsel, which may facilitate a plea agreement.</li> <li>• The defence has an opportunity to test the Crown's witnesses and evidence.</li> </ul>	With the Nunavut Court of Justice having only 3 (at this time 2) judges, conflicts may arise since the judge who heard the preliminary inquiry should not hear the trial. This may be resolved if the level of training of some Justices of the Peace reaches an appropriate level to conduct Preliminary Inquiries.
<b>Trials</b>	The Nunavut Court of Justice will try more types of matters than the Supreme Court of the Northwest Territories.	<p>Scheduling timely trials along with the additional matters heard by the Nunavut Court of Justice may be challenging. Increased caseloads and additional responsibilities upon the limited number of actors in the Court may create a need for additional resources.</p> <p>Compared with the Northwest Territories, a larger proportion of Nunavut's population speaks Inuktitut. There may be increased use of translation services at trial, which could have implications for cost and scheduling.</p>
<b>Sentencing</b>	Changing the Court system does not affect the principles behind sentencing nor the Court's authority to impose sentences.	If the Justices of the Peace conduct more trials, they will be sentencing more people from their own community. Given that some of the communities are small, there is a concern about the ability of the Justice of the Peace to appear impartial. There is a potential for external pressure to be placed on the Justice of the Peace, which may affect sentences. Moreover, pressure of this type may restrict the ability of the Court to recruit new Justices of the Peace.
<b>Appeals to NCJ</b>	The appellate function of the Nunavut Court of Justice is more limited than that of the Northwest Territories Supreme Court.	In the Northwest Territories Courts, decisions of the Territorial Court are often appealed to the Northwest Territories Supreme Court. In Nunavut since there is no

<b>Table 2: Description of activities and implications of the change in Court structure</b>		
<b>Activity</b>	<b>Descriptions</b>	<b>Implication of Change to Court</b>
		lower court, the only appeals heard by the NCJ will be decisions of the Justice of the Peace.
<b>Statutory Review</b>	<p>This process has replaced prerogative writs, which were infrequently used. An application for statutory review may be made in cases where a judge has made a decision:</p> <ul style="list-style-type: none"> <li>• relating to a warrant or summons</li> <li>• relating to the conduct of a preliminary inquiry</li> <li>• relating to a subpoena</li> <li>• -relating to the publication or broadcast of information or access to the courtroom</li> <li>• To refuse to quash an Information or indictment</li> <li>• relating to the detention, disposal or forfeiture of any thing seized under a warrant or order.</li> </ul> <p>A single judge of the Court of Appeal hears the application.</p>	It is expected that statutory review will be used infrequently. However, a substantial decrease in the use of this remedy may indicate that the new process has reduced accessibility. Prerogative writs were available from the Superior Court; the statutory remedy is now available from the Appellate Court.

## **4.2 Civil and Family Matters – Logic Model**

The residents of Nunavut have historically not utilised the Civil Court to any great extent. Some of the reasons may be linked to:

- limited access to Courts
- lack of community support for civil actions
- the use of community dispute resolution mechanisms
- a lack of understanding civil processes
- limited access to lawyers and legal aid.

With the creation of Nunavut, the territory will be able to create civil and, to a limited degree, family laws reflective of the people of Nunavut. Until Nunavut reforms its own civil or family law systems, civil proceedings will remain similar to those in the Northwest Territories.

Activities that arise in civil and family matters are described on the following page in the order that they may be expected to occur. The model assumes that administrative procedures will be in place to track all cases through the system. These are in development at this time.

## Family and Civil Matters Logic Model

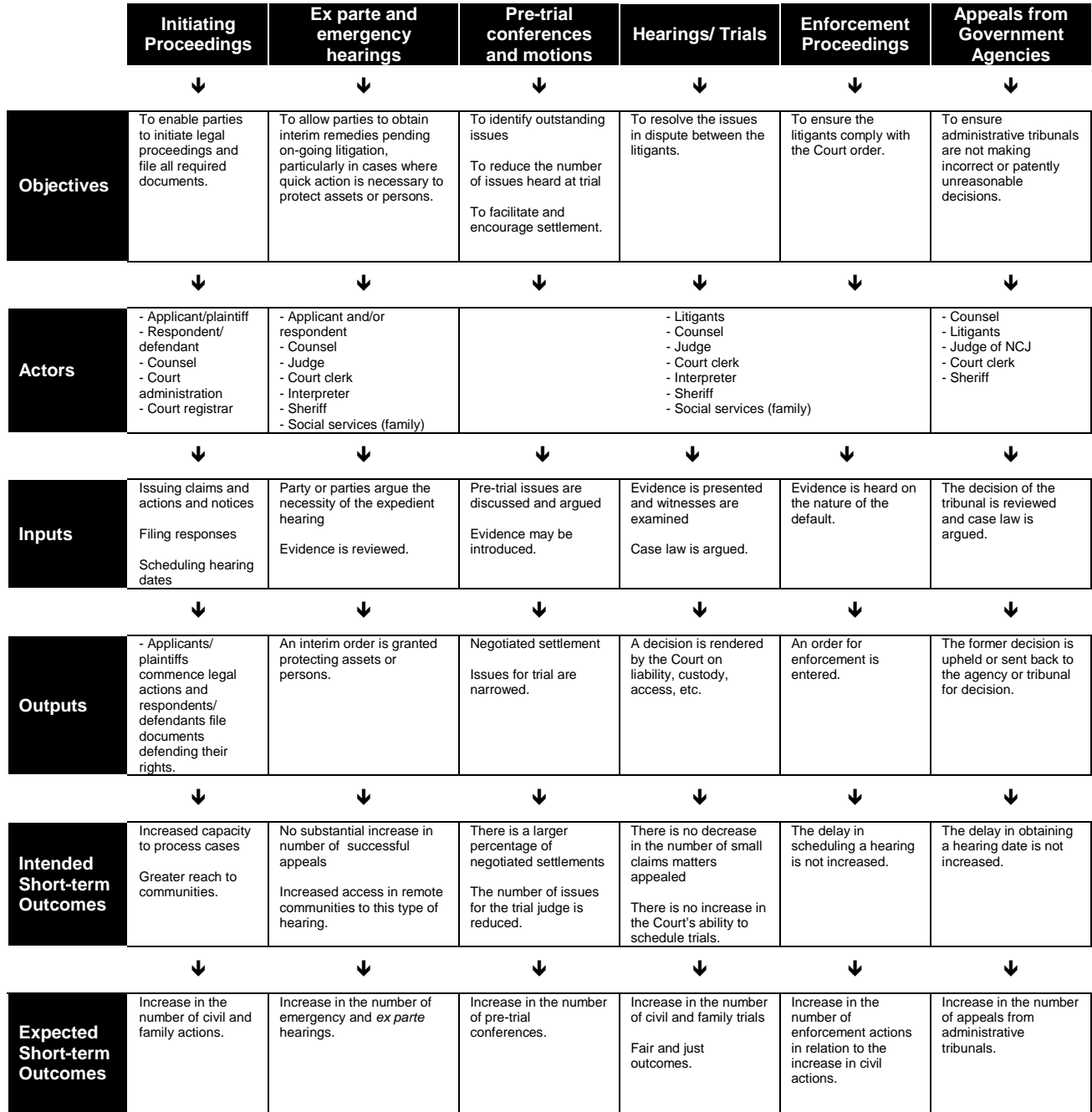


Table 3 provides a brief description of each activity and notes some implications that may arise as a result of the new Court structure.

<b>TABLE 3: DESCRIPTION OF ACTIVITIES AND IMPLICATIONS OF THE CHANGE IN COURT STRUCTURE</b>		
<b>Activity</b>	<b>Descriptions</b>	<b>Implication of change to Court</b>
<b>Initiating proceedings</b>	All civil and family proceedings may now be commenced in Iqaluit.	Access to the Court to initiate proceedings should increase for those living in Iqaluit. Access in the remaining 25 communities will continue to be somewhat limited. Additional lawyers will be needed to handle civil and family matters.
<b>Ex parte and emergency hearings</b>	In <i>ex parte</i> and emergency hearings time is of the essence. These proceedings are designed to protect the interests in property or personal safety on an interim basis until the issues can be resolved at trial or final hearing.	The presence of the Court in Iqaluit will increase access there, but for those living outside of Iqaluit, the ability to use remedies derived from these hearings are still limited. Telephone may be used in some circumstances to facilitate access.  In child custody issues, the Justices of the Peace may be expected to hear interim child custody issues on an emergency basis but may be somewhat reluctant to hear these matters.
<b>Pre-trial conferences and motions</b>	Pre-trial conferences and motions are used in the Northwest Territories Courts and will continue to be used in the Nunavut Court of Justice. Pre-trial motions and conferences help narrow and focus issues to be heard at trial.	Anticipated increased civil caseloads will likely increase the usage of pre-trials.
<b>Hearings/trials</b>	The trial or hearing is where the matter is resolved after witnesses are examined, evidence reviewed and case law argued.	The elimination of the two-level Court system in family matters has the potential to increase efficiency by having one Court administration system.  At this time, Justices of the Peace have very limited power to deal with family and civil matters. With training and experience, some of the restrictions may be relaxed.
<b>Enforcement proceedings</b>	Enforcement proceedings are actions taken to ensure compliance with Court orders.	With the anticipated increased use of civil and family law remedies, there will be an increased need for enforcement of Court orders.
<b>Appeals from Government agencies, boards and tribunals</b>	The Northwest Territories Supreme Court sometimes functions as an appellate body for territorial administrative tribunals/agencies, e.g., Social Assistance Reviews, Worker's Compensation Appeals. In these cases, all appeals within the administrative framework have been exhausted and the appellant is generally asking the Court to review the decision of the Appeal Board.	The Nunavut Court of Justice will continue to hear these appeals.

## 5. FRAMEWORKS

### 5.1 Performance Framework

The performance framework in Table 4 stems from the logic model but provides a general overview of the entire program, in this case, the structure of the Court. The activities of the Court are identified in general areas as are the outputs, reach and impacts of the program.

<b>Table 4: Main elements of a performance framework for a Court system</b>				
Mission: To hear matters effectively and efficiently and be accessible				
Activities	Outputs	Reach	Immediate Impacts	Intermediate/Long-term impacts
Define scope of service	- Policies, guidelines	<b>Clients:</b> - accused  <b>Co-Delivery Systems</b> - federal justice - provincial justice departments - Law Societies - Victims Assistance organizations  <b>Stakeholders</b> - lawyers delivering service - taxpayers - police - Crown - Judges	Fair hearings	Fair hearings
Identify methods for service delivery	- Administrative procedures - Training		Effective use of resources	Effective use of resources
Engage staff services - administrators - prosecutors - judiciary	- Staff, firms under contract - Job descriptions - Infrastructure		Efficient Court processes	Efficient and timely Court processes
Schedule trials, motions, hearings	- Schedules - Minimize downtime		Accessible Court	Accessible Court
Arrange support services	- Administrative staff hired - Facilities leased - Support equipment		Cultural sensitivity	Cultural sensitivity
Maintain records and evidence	- Reports on cases - Case tracking		Minimum standards of access in all regions	Cost-effective service

### 5.2 Evaluation Framework

The traditional core of an evaluation framework is the matrix that presents the issues and questions. The evaluation framework is presented below and is divided into 6 key issues: implementation, accessibility, efficiency/effectiveness, sufficiency of resources, and understanding of the community. The evaluation framework is flexible and will evolve as the development and implementation of the Court progresses.

Each of the issues is broken down into a series of questions that assist management in determining whether the program is meeting its objectives. If it is not, management is alerted to those areas where modifications are required.

The indicators identify key sources of information, such as stakeholder opinion, management information systems, administrative data, and tracking of cases as they move through the Court.

The data collection method describes how information can be obtained from key sources. Data may be obtained by case review and tracking, interviews with those involved with the administration of the Court or providing Court services, and obtaining feedback from “consumers” of Court services. It is desirable for procedures to be developed for routine data gathering.

In terms of analysis, simple descriptions of activity, case attributes, etc. are useful for planning and resource allocation. By tracking information over time one can describe change. Ultimately, the evaluation will need to measure impact. This can be done by:

- comparing Court data collected in Iqaluit before and after April 1, 1999.
- comparing data collected after April 1, 1999 by Nunavut and by NWT.
- developing a baseline from April 1, 1999 for one year and monitoring (and comparing) change over time (e.g., months 18, 24, 30, etc.).

The evaluation will also need to measure the factors that affect outcomes. For example, it will be important to determine whether findings are consistent throughout the 26 communities of Nunavut. If there are differences, it is useful to find out:

- what they are
- where they are
- why they are occurring.

A process evaluation will identify problems in the early stages and provide recommendations to assist the Court in making modifications.

**TABLE 5: EVALUATION FRAMEWORK**

Issues	Questions	Indicators	Data Collection Method	Priority (1-3)
<b>Implementation</b>	<p>The number of Adult matters The number of Youth matters</p> <p>In criminal (both <i>adult and youth</i>) matters, the number of:</p> <ul style="list-style-type: none"> <li>- Information sworn</li> <li>- search warrants</li> <li>- arrests</li> <li>- criminal charges</li> <li>- guilty pleas</li> <li>- summary offences</li> <li>- indictable offences</li> <li>- adjournments/remands</li> <li>- bail applications</li> <li>- bail reviews</li> <li>- preliminary inquiries</li> <li>- trials</li> <li>- jury trials</li> <li>- statutory review applications</li> <li>- appeals to NCJ from Justice of the Peace</li> <li>- fines</li> <li>- undertaking</li> <li>- recognizances</li> <li>- show cause hearings</li> <li>- probation orders</li> <li>- court orders</li> <li>- types of election by charge</li> <li>- convictions/ incarceration rates</li> <li>- unrepresented accused</li> </ul> <p>How long do each of these matters take to hear/process?</p>	<ul style="list-style-type: none"> <li>- administrative/ management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	To be ranked by management
	How much has been collected in fine, surcharges? In what cases are these being charged?	<ul style="list-style-type: none"> <li>- administrative/ management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	
	<p>What is the average caseload and types of case of:</p> <ul style="list-style-type: none"> <li>- Judges?</li> <li>- JPs?</li> <li>- Crowns?</li> <li>- Legal Aid?</li> <li>-</li> </ul>	<ul style="list-style-type: none"> <li>- administrative/ management information</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> <li>- key informant interviews</li> </ul>	
	Has the number of adjournments increased or decreased? Why?	<ul style="list-style-type: none"> <li>- administrative/ management information</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> <li>- key informant interviews</li> </ul>	
	<p>Are alternatives to incarceration being used? If so, in what circumstances? What are they? Do they differ by community?</p>	<ul style="list-style-type: none"> <li>- administrative/ management information</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> <li>- key informant interviews</li> </ul>	

<b>TABLE 5: EVALUATION FRAMEWORK</b>				
<b>Issues</b>	<b>Questions</b>	<b>Indicators</b>	<b>Data Collection Method</b>	<b>Priority (1-3)</b>
	What are the reasons for adjournments/remands and other delays in the various stages and types of Court appearances?	<ul style="list-style-type: none"> <li>- administrative/management information</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> <li>- key informant interviews</li> </ul>	
	<p>In civil matters, the number of:</p> <ul style="list-style-type: none"> <li>- claims</li> <li>- defences</li> <li>- counter-claims</li> <li>- cross claims</li> <li>- third party claims</li> <li>- default judgements</li> <li>- applications</li> <li>- motions</li> <li>- claims under \$5000</li> <li>- pre-trial conferences</li> <li>- trials</li> <li>- enforcement hearings</li> <li>- wills probated</li> </ul> <p>How long do each of these matters take to hear/process?</p>	<ul style="list-style-type: none"> <li>- administrative/management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	
	What types of claims, applications, motions initiated?	<ul style="list-style-type: none"> <li>- administrative/management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	
	<p>In family matters, the number of:</p> <ul style="list-style-type: none"> <li>- applications</li> <li>- motions</li> <li>- petitions</li> <li>- undefended actions</li> <li>- interim orders</li> <li>- final orders</li> <li>- variances</li> <li>- enforcement proceedings</li> </ul> <p>How long do each of these matters take to hear/process?</p>	<ul style="list-style-type: none"> <li>- administrative/management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	
	Under what statute are actions being brought in family matters?	<ul style="list-style-type: none"> <li>- administrative/management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	
	What is the average docket size for criminal, civil and family matters?	<ul style="list-style-type: none"> <li>- administrative/management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	
<b>Accessibility</b>	Are the number of civil actions increasing over time?	<ul style="list-style-type: none"> <li>- Administrative data</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	
	Are the number of family actions increasing over time?	<ul style="list-style-type: none"> <li>- administrative/management information</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> </ul>	



<b>TABLE 5: EVALUATION FRAMEWORK</b>				
<b>Issues</b>	<b>Questions</b>	<b>Indicators</b>	<b>Data Collection Method</b>	<b>Priority (1-3)</b>
	Are the number of emergency and ex parte motions increasing over time?	- administrative/management information	- review administrative data	
	Are enforcement actions increasing over time?	- administrative/management information	- review administrative data	
	Are the number of claims matters increasing over time?	- administrative/management information	- review administrative data	
	Do litigants understand how to access the Court and legal remedies?	- decision-maker opinion - stakeholder opinion	- surveys, key informant interviews	
<b>Efficiency/Cost-Effectiveness</b>	What is the time from charge to bail hearing? How does it vary by community?	- administrative/management information - stakeholder opinion	- review administrative data - key informant interviews	
	How long does it take to move between activities (i.e., arrest to first appearance, preliminary inquiry to trial, etc)? How does it vary by community? What are the reasons for delays?	- administrative/management information	- review administrative data	
	How often are charges quashed due to procedural error?	- administrative/management information	- review administrative data	
	Have police been able to access the JP when required?	- RCMP, decision-maker and JP opinions	- review administrative data - key informant interviews	
	What are the reasons for adjournments/remands?	- administrative/management information - decision-maker opinion - stakeholder opinion	- review administrative data - key informant interviews	
	How often do appeals result from preliminary inquiries? From sentences? Who hears them? How many decisions are overturned?	- administrative/management information - decision-maker opinion - stakeholder opinion	- review administrative data - key informant interviews	
	Are there any barriers to selecting juries in any of the communities?	- administrative/management information - decision-maker opinion - stakeholder opinion	- review administrative data - key informant interviews	

<b>TABLE 5: EVALUATION FRAMEWORK</b>				
<b>Issues</b>	<b>Questions</b>	<b>Indicators</b>	<b>Data Collection Method</b>	<b>Priority (1-3)</b>
	How long does it take to obtain a statutory review (prerogative writ) remedy?	<ul style="list-style-type: none"> <li>- administrative/ management information</li> <li>- decision-maker opinion</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative data</li> <li>- key informant interviews</li> </ul>	
	What are the operating costs of the Nunavut Court of Justice? What are the travel costs? What are the training costs (staff, JPs, translator, etc.)?	<ul style="list-style-type: none"> <li>- financial data</li> <li>- administrative/ management information</li> </ul>	<ul style="list-style-type: none"> <li>- review financial data</li> <li>- review administrative interviews</li> </ul>	
	How often and when are pre-trials used? Do they reduce the number and strength of trials?	<ul style="list-style-type: none"> <li>- financial data</li> <li>- administrative/ management information</li> <li>- decision-maker opinion</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- review financial data</li> <li>- review administrative interviews</li> </ul>	
	How much time does the Court spend in communities? Is the amount of time sufficient?	<ul style="list-style-type: none"> <li>- administrative/ management information</li> <li>- decision-maker , user and community opinion</li> </ul>	<ul style="list-style-type: none"> <li>- review administrative interviews</li> <li>- key informant interviews</li> </ul>	
<b>Sufficiency of resources</b>	Do JPs feel equipped to perform their expanded duties? Are the caseloads manageable?	<ul style="list-style-type: none"> <li>- JP opinion</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- key informant interviews</li> </ul>	
	Do judges feel that their caseloads are manageable?	<ul style="list-style-type: none"> <li>- Judge opinion</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- Key informant interviews</li> </ul>	
	How does Court staff perceive the services they provide to their clients?	<ul style="list-style-type: none"> <li>- Court staff opinion</li> <li>- stakeholder opinion</li> </ul>	<ul style="list-style-type: none"> <li>- key informant interviews</li> </ul>	
	Are there adequate facilities in which to hold Court?	<ul style="list-style-type: none"> <li>- stakeholder, client, decision-maker, staff opinion</li> </ul>	<ul style="list-style-type: none"> <li>- key informant interviews</li> </ul>	
	Is the Court able to meet the needs of local communities? i.e., adequate translation services?	<ul style="list-style-type: none"> <li>- decision-maker, user, stakeholder and community opinion</li> </ul>	<ul style="list-style-type: none"> <li>- key informant interviews</li> </ul>	
	Are the dockets manageable for the Crown attorneys?	<ul style="list-style-type: none"> <li>- Crown opinion</li> </ul>	<ul style="list-style-type: none"> <li>- key informant interviews</li> </ul>	
<b>Understanding of the communities served by the Court</b>	What role do the communities play in the justice system (i.e., community justice committees, use of Elders, etc.)?	<ul style="list-style-type: none"> <li>- decision-maker, stakeholder, community group opinion</li> </ul>	<ul style="list-style-type: none"> <li>- key informant interviews and surveys</li> </ul>	

<b>TABLE 5: EVALUATION FRAMEWORK</b>				
<b>Issues</b>	<b>Questions</b>	<b>Indicators</b>	<b>Data Collection Method</b>	<b>Priority (1-3)</b>
	Is the unified Court compatible with the needs and traditions of the population?	- management stakeholder and client opinion	- key informant interviews and surveys	
	Does the Court promote the concept of justice in light of the unique culture, communities and socio-economic conditions of Nunavut?	- decision-maker, stakeholder and client opinion	- key informant interviews and surveys	



## **APPENDIX A**

### **DESCRIPTION OF ORGANIZATIONS, AGENCIES, AND DEPARTMENTS LINKED TO THE NUNAVUT COURT OF JUSTICE**



## **DESCRIPTION OF ORGANIZATIONS, AGENCIES, AND DEPARTMENTS LINKED TO THE NUNAVUT COURT OF JUSTICE**

### **Sheriff**

Sheriff's officers perform four main functions:

- Service of documents
  - Civil Summonses and Subpoenas, garnishee orders, petitions, notices and any other civil documents
- Court security (NCJ only)
  - Escort and protect judges while attending Court
  - Protect the public attending Court
  - Separate and protect witnesses
  - Arrest on order of the judge (contempt)
- Jury Management
  - Summons juries
  - Prepare attendance lists
  - Payment to jurors
  - Seclude and guard juries
- Executions
  - Writs of seizure and sale and other writs of execution issued under Nunavut Court of Justice Court rules
  - Writs of the Federal Courts
  - Warrants to arrest ships
  - Sheriff sales
  - Order of Replevin

The RCMP and fee-for-service bailiffs continue to serve criminal documents in Nunavut. The RCMP continues to provide courtroom security for Justice of the Peace Courts outside of Iqaluit.

### **Court Clerk**

The Clerk of the Court performs the following duties:

- Filing all required documents
- Filing and preserving all original wills submitted to the Court

- Maintaining an account of all fees, fines and money payable to the Court
- Taxing solicitor's bills of costs

### **Court Office**

The Court Office is located in Iqaluit and offers the following support services:

- Receiving and processing legal documents
- Issuing service
- Storage and retrieval of Court documents
- Co-ordinating trial scheduling under the direction of judges
- Accounting for monies paid into or out of Court in the form of
  - Fines
  - Fees
  - Funds held in trust
  - Payments to witnesses and interpreters
- Receiving, storing and maintaining the integrity of Court exhibits
- Providing Justices of the Peace before whom police can swear Informations
- Providing clerks in Court who call Court to order, administer oaths, take custody of evidence, record pertinent information about the proceedings
- Making arrangement for Circuit Court sittings
- Providing information to the general public and lawyers on procedural requirements

### **Financial and Management Services**

This department is responsible for the following tasks:

- Recording of all expenditures and commitments for court related services
- Invoicing for circuit travel by air
- Development of budgets

### **Crown Prosecutors**

The Federal Department of Justice will conduct prosecutions for the Nunavut Court of Justice. This is different from the provinces where the Provincial Departments of Justice or Attorney General handle most prosecutions, with the exception of drug and federal regulatory offence prosecutions.



## **Criminal Defence Bar**

The Criminal Defence Bar continues to operate as it had prior to the implementation of the unified Court. Defence attorneys act on behalf of accused in various criminal matters.

There are Legal Aid clinics in Iqaluit, Cambridge Bay, Rankin Inlet, and Pond Inlet. However, there are few criminal defence counsel and fewer family and civil lawyers in Nunavut.

## **Legal Aid**

The Legal Aid program is authorized by statute and provides eligible applicants with funding for legal counsel. There may be delays caused by an insufficient number of lawyers to represent accused. These delays will be a result of factors outside of the control of the Court and not due to the change in the Court structure.

## **Community Justice Committees**

These committees are not part of the formal Court system, but play a significant role in pre-charge diversion programmes in which the accused, usually young offenders, participate in rehabilitation activities as an alternative to having a formal charge laid.

There may be a future possibility that Community Justice Committees will be employed in post-charge diversion programmes.

## **Elders**

The use of Elders in criminal matters has increased in recent years. The Elders sit with the judge during the proceedings and provide input on sentencing and other disposition matters.

Since the Court may hear various matters ranging from criminal to civil to family in one sitting, it is not known whether Elders will have input in each type of matter. Different judges may not be consistent in their involvement with the Elders, if at all. At this time, Elders do not sit with the judge in Iqaluit.

## **Royal Canadian Mounted Police (RCMP)**

The RCMP will be responsible for policing in Nunavut as they are in the Northwest Territories. The RCMP also acts as prosecutors in trials and bail hearings in front of Justices of the Peace.

## **Probation and Parole Officers**

Probation Officers are responsible for ensuring released offenders comply with the conditions of their release.

## **Corrections Canada**

Corrections Canada is responsible for the custody of all inmates who have received a sentence of two or more years from the Court. These inmates are held in federal facilities.

## **Territorial Corrections**

Territorial Corrections are the responsibility of the territory and maintain custody of offenders receiving sentences of less than two years. There will likely be pressure to ensure that there are adequate correctional centres in Nunavut to house all offenders receiving sentences of less than two years.

Incarceration rates of the Nunavut Court of Justice will have a direct impact on the ability of the correctional facilities to manage their caseloads.

## **Victims' Services**

There are limited services currently available in Nunavut and there is no change indicated.

## **Legal Workers**

Legal Workers may be Native Court Workers or others who provide support and counselling to accused prior to trial and sentencing. They assist the accused understand the process and workings of the judicial system.

For the most part, these services are limited and scattered throughout the Northwest Territories and Nunavut. There is potential for a greater use of Legal Workers.

## **Civil and Family Justice**

The Civil Justice system is little used by the residents of Nunavut. It is expected that usage of the Civil Courts will increase over time since all actions may now be commenced in Iqaluit. This will increase access for those living in that community but will have less an impact on the other 25 communities.

## **Private Bar**

The Private Bar will continue to operate as it had prior to the creation of Nunavut: lawyers will act on behalf of litigants in various civil and family law matters.

As currently the case, there is very limited access to lawyers, especially civil litigators. Having the Circuit Court travel to communities may not necessarily increase access to civil remedies if there are no legal resources in that community. The cost of conducting a civil trial in the Circuit Court may be prohibitive for litigants if they must pay for a lawyer to travel and stay in the community. Otherwise, the litigants will have to travel to Iqaluit to have the matter heard.

## **Social Services**

The role of Social Services in the Courts is not expected to change with the new Court. Social Services continues to act in custody and access cases where issues of abuse and neglect have been raised and cases where one parent is receiving social assistance. Their role is to ensure that the best interests of the child are fully represented.

## **Legal Aid**

Legal Aid continues to operate as it did in the Northwest Territories Courts. For the most part, civil litigation is not funded by Legal Aid with the exception of family matters. Family law matters may become an issue if there is a substantial increase in the number of actions outside of Iqaluit where resources may be more limited. There is one family lawyer with Legal Aid in Iqaluit at this time.

## **Administrative Tribunals/Agencies**

In the interim, it is not expected there will be a great deal of change in the manner in which administrative tribunals (i.e., Human Rights, Worker's Compensation, etc.) interact with the Courts. Generally, the Court will only hear an appeal from an administrative tribunal if there is a claim that the board's decision was patently unreasonable.

The role of the Nunavut Court of Justice will not be significantly different than that of the Supreme Court of the Northwest Territory.