

BACKGROUND

- 11.1** The justice system of Nova Scotia, as with all jurisdictions in Canada, is complex. It is also unique when compared to other government functions because various levels of independence are fundamental to the working of the justice system. Within the system are both Federally and Provincially appointed judges who operate independent of government administration. The independence of the judiciary is Constitutionally required and must be respected and maintained in all administrative actions. Public prosecutors work for the Public Prosecution Service, an organization independent of the Department of Justice. This organization is accountable to the Minister of Justice, but there are mechanisms to distance it from political and administrative government structures. Legal aid lawyers operate as an independent commission, separate from the Department of Justice and the Public Prosecution Service.
- 11.2** Each of these groups, as well as others such as Justices of the Peace, Small Claims Court Adjudicators and private lawyers, depend on the availability of a Province-wide court system to enable them to fulfil their respective roles in the Nova Scotia judicial system (see Exhibit 11.2). The Court Services Division of the Department of Justice provides administrative support and facilities management for the court system. The Division provides court staff and support services to the judiciary and is primarily responsible for managing the system's budget. This requires fairly extensive communication between Division staff and the judiciary.
- 11.3** Other responsibilities of the Court Services Division include court security, safe transportation of prisoners to and from court, coordination of the Justice of the Peace program, as well as the government's Restorative Justice, Aboriginal Court Worker and Maintenance Enforcement programs.
- 11.4** The Division operates through a network of 35 courthouses and other facilities throughout the Province. Court administration is managed through 13 justice centres headed by 10 Court Administrators. The Division employs approximately 450 full-time staff. Total program expenditures for fiscal 2002-03 were \$40.5 million, \$26.7 of which comprised salaries and benefits. Revenues totaled \$1.1 million, while fees and other charges totaled \$14.3 million (Exhibit 11.3).

RESULTS IN BRIEF

- 11.5** The following are our principal observations from this audit.
- The Division has clearly defined and well-documented roles and responsibilities.

- The Division strives for consistency of service throughout the Province and has developed some administrative service standards. However, it is constrained by the design and size of some of its facilities. Also, the Supreme Court (Family Division) is currently only established in Halifax and Cape Breton. The Provincial government will be asking the Federal government to expand it to other parts of the Province.
- The judiciary is responsible for the flow of cases through the courts. However, the Division, in consultation with the judiciary and court system stakeholders, has taken steps to help make the operation of the courts more efficient. These include implementing elements of case-flow management in one Halifax-based court, and establishing or improving processes relating to night courts, Justices of the Peace, alternative dispute resolution and mediation, and small claims court.
- The Division performs strategic and business planning, and reports accomplishments relating to its plans. There is regular financial, statistical and operational reporting to help the Division monitor its performance.
- Security over the Division's computer systems appears appropriate, though we believe mandatory password changes, identification of inactive system users and better input quality control procedures for certain systems would strengthen control.
- The Division regularly reviews the fees charged for services it provides. In some cases, fees are waived where warranted by the financial circumstances of a client. We recommended that the Division monitor the number of waiver applications received and the amount of fees waived in order to be better able to assess the impact of waivers on government revenues, as well as on access to justice.
- The Division has appropriate control over the recording, tracking and collecting of fines. Measures have been taken to improve the rate of collection on fines.

AUDIT SCOPE

- 11.6** In July 2003 we completed a broad scope audit of the Court Services Division of the Department of Justice. The audit was conducted in accordance with Section 8 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants, and included all tests and other procedures we considered necessary in the circumstances.

- 11.7** The objectives of this assignment were:
- to assess whether the Department has adequate procedures in place to ensure resources used in the administration of the courts system are managed with due regard for economy and efficiency; and
 - to assess whether the Department has adequate procedures in place to ensure proper control over the administration and collection of fines.
- 11.8** Audit criteria were developed to assist in the planning and performance of the audit (Exhibit 11.1). The criteria were discussed with and accepted as appropriate by Court Services Division management.

PRINCIPAL FINDINGS

Economy and Efficiency

- 11.9** **Roles and responsibilities** - Operational and supervisory responsibilities are clearly assigned in the Division. Job descriptions have been prepared and are up-to-date. The Division has a number of policy and procedures manuals that set out the requirements for the administration of each court, as well as the duties and functions of court administration staff. The manuals are reviewed and updated on a regular basis.
- 11.10** Court administrative staff and the judiciary interact through regular meetings as well as frequent informal discussions. In addition, liaison committees are established to deal with on-going issues of the courts, as well as specific matters as they arise. Some of the committees have Province-wide representation, while others are specific to a single justice centre.
- 11.11** **Services and standards** - The Division seeks to provide consistent levels of service across the Province for each court. However, some differences in services available remain. For example, the Supreme Court (Family Division), which hears all matters related to family law, is established only in Halifax and Cape Breton. For the rest of the Province, family matters are divided between the Provincial Family Court and the Supreme Court (General Division). The Provincial government will be submitting a proposal in the fall of 2003 to the Federal government for the expansion of the Supreme Court (Family Division) to the remainder of the Province. The expansion will require a commitment from the Federal government to make additional judicial appointments to the Supreme Court.
- 11.12** The design and construction of facilities are also a factor in the types of services available at justice centres. Facilities at some centres are too small to offer all services and, as a result, clients may need to visit more than one location. The Division has developed plans for upgrading and replacing facilities, which are discussed further in paragraph 11.30.

- 11.13** Service standards have been developed for certain court administrative functions, such as answering the telephone and counter service, which are expected to be implemented during 2003-04. The Division is also developing standards for sheriff services and the administration manual is being updated to incorporate them. Half of the sheriff vehicle fleet has been upgraded to ensure vehicles are of a standard size and uniformly equipped. Management expects that the remainder of the fleet will be replaced on a systematic basis.
- 11.14** In the Supreme Court (Family Division), administrative service standards were developed and implemented to assist the courts in moving cases through the various stages of the judicial system. Based on an internal review, the standards were not always being met at first, but improvements have been made. However, there is no regular and formal reporting to senior management of the Division on the degree of success in meeting the standards, although information is available upon request.

Recommendation 11.1

We recommend that the Division continue to develop and implement standards for court services and include a process for reporting on achievements.

- 11.15** **Case management** - Court procedures for civil cases in the Supreme Court and the Court of Appeal are governed by Civil Procedure Rules set and amended by the judges of the Supreme and Appeal Courts. The Rules include time standards for specific steps of the judicial process. No similar rules have been established for criminal matters heard in the Provincial or Supreme Courts because neither the Criminal Code of Canada nor Provincial statute provide time standards. However, a ruling from a Supreme Court of Canada case established that individuals have the right to a trial within a reasonable amount of time and outlined time frames that would be considered reasonable.
- 11.16** Delays in bringing cases to trial or in resolving them are monitored by judges on an individual basis. The Division does not have a Province-wide system of documenting and tracking cases and identifying unreasonable delays. A three-year pilot project for case-flow management of civil cases was commenced in 1996 in the Halifax Supreme Court. At the completion of the project in 1999, certain features of case-flow management were permanently incorporated into the Civil Procedure Rules. These include pre-trial settlement conferences, as well as appearance days (set times when lawyers for a case may be required to appear before a judge to deal with procedural matters). This process is only in operation at the Supreme Court in Halifax, which handles 65% of total Supreme Court civil cases in Nova Scotia.
- 11.17** Nonetheless, the judiciary, in conjunction with court administration staff, works to reduce backlogs as they arise. If delays affect the operation of the court as a whole, then meetings are held among senior management of the Division, court

administration staff, the judiciary, and representatives from the Bar to develop an action plan. As well, the Division, in consultation with the judiciary and court system stakeholders, has taken steps to streamline court processes and manage case loads. These include the establishment of:

- Summary Proceedings Courts (Night Courts) in Halifax and Sydney for summary offence cases and peace bond applications;
- Justice of the Peace Centre with a Justice of the Peace available seven days a week, 24 hours a day, for bail hearings, warrant applications and emergency protection order applications;
- alternative dispute resolution processes in the Supreme Court (Family Division);
- Restorative Justice Program to divert youth from criminal court to alternative dispute resolution processes;
- a higher dollar limit for claims in Small Claims Court; and
- a pilot project in the Small Claims Court to provide mediation services.

- 11.18** **Financial, statistical and operational information** - In 2000, the Division prepared a five-year strategic plan to guide its operations. Business plans are prepared annually to outline goals and the actions required to achieve them for the coming year. A 'Report Card' is prepared at the end of each year to document achievements with respect to the goals and action plans.
- 11.19** Senior managers of the Division receive monthly financial and other regular reports on operations. Actual expenditures are compared to the budget and forecasts are updated on a monthly basis. Senior managers also have regular, informal contact with the Court Administrators who are responsible for the cost of operations at the justice centres.
- 11.20** Statistical reports are available from the Department's computer systems, as well as from outside sources such as the Canadian Centre for Justice Statistics. The Department is also developing a report on key performance indicators. Some of the indicators will relate to the performance of the Court Services Division and it is expected that these indicators will be monitored and reported annually.
- 11.21** Assessments and reviews of programs and services are carried out periodically. Some are undertaken by staff of the Department and others by outside consultants. They sometimes include stakeholder consultation and service satisfaction surveys. We noted, however, that most assessments did not include significant cost or other financial analysis. We believe such information would enable the Division to better assess whether desired results were achieved at appropriate cost.

Recommendation 11.2

We recommend that cost and other financial analysis be included as part of program assessments.

- 11.22** We also noted that the Division gathers information on programs and services of other jurisdictions in Canada for comparison and examination of best practices. Although the usefulness of comparing costs with other jurisdictions is hindered because court administration is organized differently in each jurisdiction, and costs are often accounted for in different manners, we believe that making such comparisons is still informative.
- 11.23** **Information systems** - The Division uses a computerized system called the Justice Oriented Information System (JOIS) for recording criminal cases and fine collection information. Civil case information is entered into separate databases (Civil Index 1 or Civil Index 2). JOIS is currently undergoing a major restructuring which is expected to be complete by the end of 2003.
- 11.24** We reviewed the security controls and processes the Division has developed to ensure financial and other information in the computer systems is complete and accurate. We found controls were adequate to ensure information is complete and accurate, although some weaknesses were noted. Password changes are not required automatically on some systems, and the identification of inactive system users is not always timely. We were also concerned that there is no process for verifying the accuracy of case information entered into the civil case databases, as there is for information entered into JOIS. We were informed that an assessment and upgrading of security controls in system applications is underway and that the Division plans to develop a quality control program for civil case information.
- 11.25** **Staffing** - The Division determines staffing levels based on such factors as the number of judges at a justice centre, the number of cases processed and whether services are provided in one location or at several sites. Staff training needs are assessed and training plans developed. Regular staff performance reviews are carried out, which include follow up on training plans.
- 11.26** We observed that management of the Division monitors total staff sick time on a regular basis and discusses trends with the Court Administrators. Also, there is a review and survey of the use of casual staff by the Sheriff's Section under way to determine if justice centres are being staffed in the most appropriate and economic manner.
- 11.27** **Court fees** - The Court Services Division charges fees for some of the services it provides. We reviewed the process for establishing fees. We were told that the Division seeks to set fees that are fair and comparable to those charged in other jurisdictions, while ensuring adequate access to justice. Court fees are not based on full cost recovery, as this could unduly restrict access to justice. Court fees are reviewed by the Division, generally every two or three years.

- 11.28** The most recent fee changes came into effect in 2002, with some revisions in March 2003. We examined the documentation from the review process leading to these changes and found it did not indicate the rationale for the various fees charged. Management informed us that certain fee increases were based on recommendations of the Cost and Fees Review Committee, which has representation from the legal community. These fees were increased to a reasonable amount that would reflect the value of the services provided. As well, at that time, the Division implemented a 10% increase in all other fees. The Division plans to review the entire Cost and Fees Act in the near future. All fees named in the Act will be reviewed for relevance, fairness and consistency. We advised that this review should provide a better description of the rationale for individual fee amounts.
- 11.29** In 2002 the Division established a policy, set out in Regulations, to allow the waiving of certain court fees where warranted by the financial circumstances of the client. At the time of our audit, information was unavailable on the number of waiver applications received and the amount of fees waived under the policy.

Recommendation 11.3

We recommend the Division monitor the number of waiver applications received and the amount of fees waived in order to better assess the impact of waivers on government revenues, as well as on access to justice.

- 11.30** **Facilities management** - The Division has a long-term facilities plan which was prepared in 1997 and subsequently used as the basis for construction and renovations of justice centre facilities. The plan does not include facilities in the Halifax Regional Municipality. The Division has initiated a study to develop a long-term facilities plan for the Halifax area. It is expected to be completed during 2003.
- 11.31** There is a manual for courthouse facility design which was developed by the Courthouse Standards Committee in 1987 and revised in 1995. Membership of the Committee is made up of representatives from the judiciary and the Bar, as well as staff from the Departments of Justice, and Transportation and Public Works. The manual is still in use, although it needs to be updated. The Division plans to have the manual updated over the next year.
- 11.32** Constructing or renovating justice centre facilities is a challenging process, as the needs of various stakeholders must be considered. Oversight of a project is usually coordinated between staff at the Departments of Justice, and Transportation and Public Works. A protocol has been developed to set out the respective roles of the two departments. We reviewed three construction and renovation projects and found no problems with the project management procedures employed.

Fine Collection

- 11.33** **Background** - The Division administers the fine collection process for violations under Provincial legislation, as well as for certain Federal and municipal laws in accordance with agreements with other governments. During the year ended March 31, 2003, fines totaling \$8.8 million were processed. Of that amount, \$1.1 million was recorded as fine revenue of the Department of Justice, the remainder relating to other Provincial departments and other levels of government.
- 11.34** The Division has established policies and procedures for distributing ticket booklets, recording and tracking fines, and fine collection and enforcement.
- 11.35** **Distribution of tickets** - Booklets of pre-numbered tickets are distributed centrally from the Halifax Provincial Court to Halifax-area law enforcement agencies and other Provincial courts in the Province. Each Provincial court is responsible for distributing booklets to law enforcement agencies in the area.
- 11.36** We tested the controls over the distribution of ticket booklets and concluded they were generally adequate. However, we noted weaknesses in recording disbursed booklets in logbooks, and in the documentation and follow up of confirmation receipts - forms that courts and law enforcement agencies must send to acknowledge receipt of ticket booklets.

Recommendation 11.4

We recommend that the Division ensure all ticket booklets disbursed are properly recorded in the logbook. We also recommend the Division establish and implement a policy for the periodic review of confirmation receipts to ensure all forms are signed and returned as required.

- 11.37** **Recording and tracking fines** - Tickets issued by law enforcement agencies and court decisions on related cases are recorded in the Division's computer system (JOIS). The Division also records all payments of fines in this system.
- 11.38** Periodic reviews of accounting procedures in place at the justice centres are carried out and reported upon by a staff member of the Division. We believe this process is valuable for maintaining control at the centres. This person is due to retire soon. The Division expects to continue the review process and is also considering other measures to ensure control is maintained at the justice centres, but nothing specific has been decided yet. We encouraged the Division to develop a plan to ensure accounting procedures and practices at the justice centres continue to be monitored.
- 11.39** **Enforcement and collection of fines** - Fines can be paid at any justice centre in the Province through cash payments or certain non-monetary means. Non-monetary payment is when a fine is paid off through community service under

the Department's Fine Option Program, or through time served in jail. Monetary payments can be made by means of a debit or credit card at some justice centres. Credit and debit cards are expected to be accepted at all centres by the summer of 2003. As well, a pilot project was established in 2000 to allow fine payments to be made at Access Nova Scotia Centres in Halifax, Dartmouth, Baddeck and Sydney.

- 11.40** Notification of an overdue fine is automatically generated by JOIS when a fine remains outstanding after a court appearance date. If a motor vehicle related fine is not paid within 30 days, the offender is identified for denial of service at the Registry of Motor Vehicles. At this point, the offender will not be able to renew a driver's licence or vehicle permit. The fine must be paid, along with a \$30 reinstatement fee, before the Registry will provide services.
- 11.41** We discussed this process with Division staff and believe it will motivate payment of motor vehicle related fines. However, considering that motor vehicle licences are renewed only every five years, and permits every two years, the effect of the prohibition could be delayed in many cases. We asked why there could not be a revocation of existing licences and were informed that a judicial hearing would be required in each case to determine the reason for the failure to pay a fine. Revocation cannot be an administrative decision by court or other government staff. In contrast, where a licence has expired, government may decide the conditions that must exist for extension. One such condition is that applicants must not have unpaid motor vehicle fines.
- 11.42** We also asked why this compliance measure is limited only to motor vehicle fines. We were informed that Section 269 of the Motor Vehicle Act stipulates that the Registrar can, in certain cases, refuse to renew a driver's licence or vehicle permit until a fine is paid. The permitted cases are infractions of municipal by-laws, Provincial enactments or Federal enactments involving the operation of a motor vehicle. No present authority exists to refuse to renew a licence for fines arising in other situations.
- 11.43** In 1997-98 the Division entered into an arrangement with Service Nova Scotia and Municipal Relations (SNSMR – formerly the Department of Business and Consumer Services) where SNSMR became responsible for collecting fines outstanding for one year or more. SNSMR receives a percentage of overdue fines collected. The terms of the arrangement were recently amended to allow SNSMR to begin collection procedures on fines outstanding after six months. Exhibit 11.4 shows the amount collected by SNSMR since the inception of the arrangement. In total, \$9.2 million has been collected on overdue fines to the end of March 31, 2003.
- 11.44** Collection procedures, other than automatic notices, taken before an account is transferred to SNSMR can vary among the justice centres. Some centres have staff make calls to collect fines, and some do not. The differences are mainly due to the availability of staff to do such work. Where the number of fines being processed is high, time available for collection procedures is reduced.

- 11.45** The Division reviewed its collection process in March 2002 to determine if more could be done by the Division before overdue accounts were transferred to SNSMR. It concluded, given the Division's resource constraints and the earlier transfer of individual accounts to SNSMR (from one year to six months), that further enhancements to the collection process at the centres would not produce significant benefits.

CONCLUDING REMARKS

- 11.46** Based on our audit, the Court Services Division of the Department of Justice has adequate procedures in place to ensure resources used in the administration of the courts system are managed with due regard for economy and efficiency. Roles and responsibilities have been defined, some administrative service standards are established, measures have been taken to improve the flow of cases through the courts, internal financial and non-financial reporting are good, and there are guidelines and studies relating to the staffing of the courts.
- 11.47** We also concluded that the Division has adequate procedures in place to ensure proper control over the administration and collection of fines. As well, measures have been taken to improve the rate of collection of fines.
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Audit Criteria

Audit criteria are reasonable and attainable standards of performance and control, against which the adequacy of systems and practices can be assessed. They relate to the audit objectives developed for an assignment and are used to design detailed audit tests and procedures.

The following criteria were used in our audit of the Court Services Division of the Department of Justice.

- **Economy and efficiency** - Authority, responsibility and accountability for management of the Province's courts system should be clearly defined. Sufficient, appropriate financial, statistical and other information should be collected and analyzed to assist in planning and decision-making for the courts system. Management planning and control, operational systems and work practices should demonstrate due regard for economy and efficiency.
- **Fine collection** - Roles and responsibilities for the administration and collection of fines should be clearly established. There should be an adequate system for tracking the issue and collection of fines. There should be procedures in place to ensure that appropriate actions are taken to collect overdue fines on a timely basis.

Nova Scotia Court System Structure

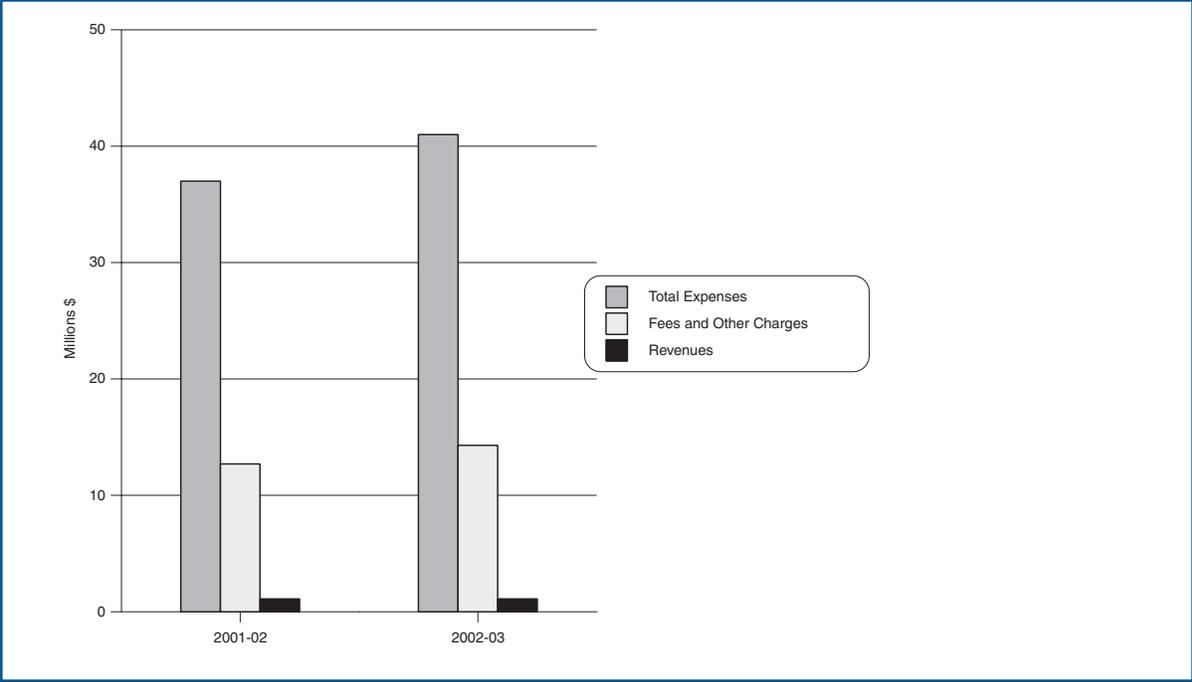
Exhibit 11.2

NOVA SCOTIA COURT OF APPEAL
Federally Funded – Judges’ Salaries Provincially Funded – Administration and facilities

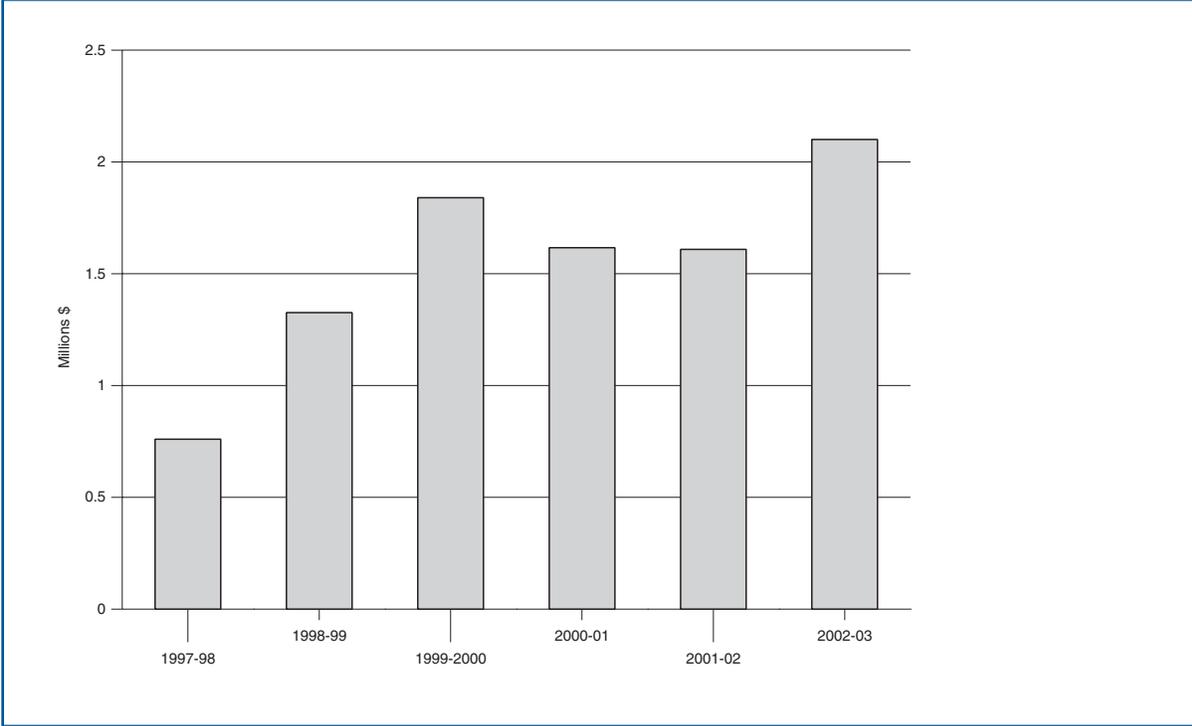
SUPREME COURT OF NOVA SCOTIA	
Federally Funded – Judges’ Salaries Provincially Funded – Administration and facilities	
<p style="text-align: center;">SUPREME COURT (GENERAL DIVISION)</p> <ul style="list-style-type: none"> ▪ Civil ▪ Probate ▪ Adult Indictable Criminal Matters ▪ Bankruptcy ▪ Appeals From Small Claims Court ▪ Appeals From Provincial Court (Summary Convictions) 	<p style="text-align: center;">SUPREME COURT (FAMILY DIVISION)</p> <p>All family matters, including, but not limited to:</p> <ul style="list-style-type: none"> ▪ Divorce ▪ Family Maintenance Act ▪ Children and Family Services Act ▪ Adult Protection Act ▪ Youth (under 16)

PROVINCIAL COURT	SMALL CLAIMS COURT	PROBATE COURT	FAMILY COURT
Provincially Funded	Provincially Funded	Provincially Funded	Provincially Funded
<ul style="list-style-type: none"> ▪ Preliminary hearings ▪ Trials (indictable and summary conviction) ▪ Summary offence tickets ▪ Peace Bonds 	Hearings with a claimed value under \$10,000 heard by an Adjudicator	Various Probate matters that can be heard by the Registrar or a Justice	All family matters (excluding divorce) including, but not limited to: <ul style="list-style-type: none"> ▪ Family Maintenance Act ▪ Children and Family Services Act ▪ Adult Protection Act ▪ Youth (under 16)

Court Services Division Financial Results



Amounts Collected by Service Nova Scotia & Municipal Relations Under the Fine Collection Agreement



DEPARTMENT OF JUSTICE'S RESPONSE

General Comments

The Audit Report and the audit experience proved to be an extremely helpful tool for the Court Services Division in reviewing our processes and policies to see if they were as efficient and equitable as they need to be. Senior staff in the Division were very appreciative of the auditors' professional and inclusive fact-finding procedures.

Response to Principal Findings and Recommendations

1. Re Recommendation #11.1: *"We recommend that the Division continue to develop and implement standards for court services and include a process for reporting on achievements."*

Court Services Division is in agreement that this recommendation should be followed and is continuing to work on the development of standards. As well, in the summer of 2003, the Court Services Division began work to develop a new business planning and reporting regime, which would include a viable reporting process on standards set.

2. Re Principle Finding on Case Management, Paragraph 11.16: *"The Division does not have a Province-wide system of documenting and tracking cases and identifying unreasonable delays."*

With software currently in use, Court Services can track global average times between first appearance and final disposition and has the ability to track individual delays. In addition, judges can track cases with their own docketing system. In September 2003, the Division established a project to create a scheduling package for use around the province. It will first be developed for the Supreme Court of Nova Scotia. It is anticipated that the software package developed will be able to provide statistical reports to assist in the analysis of delays.

As well, significant improvements to the Civil Index, the primary case management package in use throughout the province for civil matters, has been the subject of considerable improvements in 2003 and a major rewrite of the criminal case management package (JOIS/JEIN) will be complete in November 2003.

3. Re Recommendation #11.2: *"We recommend that cost and other financial analysis be included as part of program assessments."*

Court Services agrees with this recommendation and will ensure that future assessments and reviews of program and services include an enhanced cost and financial analysis.

4. Re Information Systems (Paragraph 11.24): “Password changes are not required automatically on some systems, and the identification of inactive system users is not always timely. We were also concerned that there is no process for verifying the accuracy of case information entered into the civil case databases.”

Password changes are now required automatically on all systems and a process for the identification of inactive system users is now in place. As well, a verification process for the Civil Index has been developed and will be rolled-out across the province in the fall of 2003.

5. Re Court Fees (Paragraph 11.28): “We advised that [a review of court fees] should provide a better description of the rationale for individual fee amounts.”

Court Services agrees with this recommendation and will implement it in the scheduled review of the Costs & Fees Act in 2003-2004.

6. Re Recommendation #11.3: “We recommend the Division monitor the number of waiver applications received and the amount of fees waived...”

Court Services Division agrees with this recommendation and modifications to the Civil Index are underway.

7. Re Recommendation #11.4: “We recommend that the Division ensure all ticket booklets disbursed are properly recorded in the logbook. We also recommend the Division establish and implement a policy for the periodic review of confirmation receipts to ensure all forms are signed and returned as required.”

The Division agrees in principle with this recommendation and will take all steps within our authority to record the disbursement of booklets and monitor the return of confirmation receipts.