

A Report to the Minister of Justice

Regarding

**Adult Probation Services
(Community Corrections)**

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Introduction

Project Background

On Friday, December 11, 2009 the Honorable Felix Collins, Minister of Justice, Newfoundland and Labrador announced a review of adult probation services in the Province. (Appendix A)

The Minister's press release was reported by The Telegram (Appendix B) and CBC News (Appendix C). Both news items state that the review was prompted after [REDACTED] of Nain was charged with second-degree murder on December 6, 2009, in Toronto, Ontario.

At the time [REDACTED] was on probation in Newfoundland and Labrador in relation to other convictions. He had failed to report to his probation officer and had left the Province without notification some three months prior to the alleged homicide.

The CBC News report states that ‘Collins said the province is worried that its probation system isn’t working.’ And quotes him saying, “That creates some concerns for this government, for the Department of Justice, with respect to the probation system and how it failed in that particular situation,”

In February 2010 I was contacted by the Minister and requested to conduct a review of adult probation services in the province. I agreed to do so in accordance with the Scope of Work set out by the Minister. This scope of work, which I refer throughout this report as my *terms of reference*, is reproduced as follows:

Scope of Work

Scope of Work

Report on Adult Probation Services (Community Corrections)

To conduct a full review of Probation Services in the following areas:

1. A review of the work flow and case loads of Probation Officers;
2. A review of the organizational structure;
3. A review of human resource levels and practices;
4. A review of office accommodations and locations;
5. A review of the adequacy of policies and procedures applicable to Probation Services, in particular as it relates to standards and modes of supervision of clients;
6. A review of the status of the Assistant Adult Probation Officer Program; and where any deficiencies or concerns are identified in relation to any of the above noted matters to make recommendations which appear necessary and desirable in the circumstances.
7. To provide a report to the Minister of Justice.

Approach to Collecting Information

At the beginning of the review I was uncertain as to what form the review should take. After much deliberation and considering the Minister's directive in the Scope of Work, I decided that the proper, (and probably the best), way to accomplish my mandate would be to visit every regional office and to request interviews with all probation officers and support staff.

I was able to visit all regional offices except Nain, although I interviewed the resident Adult Probation Officer while he was traveling on the Island. Information regarding the physical condition of the Nain office premises was supplied to me by the resident Adult Probation Officer, and by Mr. Dean Gambin, Director of Corrections and Community Services.

It is clear from the Scope of Work that I was to conduct a *review, not an inquiry*. I was not given authority to subpoena or take evidence under oath. There is no

reference to any incidents or situations which may or may not have prompted this review.

This was to be an information gathering process to determine what if any, concerns and deficiencies exist within Adult Probation Services as outlined in the **Scope of Work**, to report such concerns and deficiencies to the Minister, and to offer reasonable and desirable recommendations.

Brief Overview of Findings

Before outlining my findings I wish to advise the Minister that, in my opinion **the probation system has not failed and is working extremely well.**

That it is working so well is somewhat amazing given the general working environment and perceptions prevalent through out the Service.

It is generally perceived by Adult Probation Officers, that the Division of Adult Corrections has been neglected (perhaps inadvertently) by former administrators and leaders.

It appears that the Division (*which I shall hereafter refer to as Probation Services*), prior to the last three or four years, was administered on an 'ad hoc' basis with the regions 'outside the overpass' consistently complaining of being neglected.

The Service seems to operate without any overall 'strategic plan' or 'mission statement' in place to ensure that the service as a whole is able to carry out its mandate in the most effective and efficient way.

Compounding present problems is the further perception that Probation Services has never been recognized and acknowledged as an equal and integral component in the Administration of Justice.

Most Adult Probation Officers feel that since the appointments of the Present Chief Adult Probation Officer and the Director of Corrections and Community Services things may be changing for the better. The Officers are supportive of the present incumbents.

Notwithstanding any issues and concerns or general perceptions, the morale and dedication of Adult Probation Officers and their support staff are very high. They should be recognized and commended for their dedication to their profession and to fulfilling the mandate of Adult Probation Services.

The mandate of Adult Probation is set out in Section 5 of the Adult Corrections Act. RSN 1990, Ch. A-4. , (Appendix D) and in pages iii, iv and v of the Policy and Procedures Manuel, Community Corrections Branch, Department of Justice Newfoundland and Labrador. (Appendix E)

I would like, at this time, to acknowledge in particular the forty-nine (49) Adult Probation Officers and their support staff who provided information for this review in a candid, pragmatic and professional manner.

The minister and his subordinates are to be commended for undertaking this review irregardless of what may have prompted it.

Brief overview of “Probation”

Probation is a sentence authorized by the Criminal Code of Canada.

Section 718 outlines the purpose of sentencing.

718. Purpose --- The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community, and
- (f) to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims and to the community.

Section 731.(1) outlines the making of a probation order.

731. (1) Making of probation order--- Where a person is convicted of an offence, a court may, having regard to the age and character of the offender, the nature of the offence and the circumstances surrounding its commission,

(a) if no minimum punishment is prescribed by law, suspend the passing of sentence and direct that the offender be released on the conditions prescribed in a probation order; or

(b) in addition to fining or sentencing the offender to imprisonment for a term not exceeding two years, direct that the offender comply with the conditions prescribed in a probation order.

(2) Idem --- A court may also make a probation order where it discharges an accused under subsection 730(1).

Where an offender receives an intermittent sentence pursuant to Section 732.(1), subsection 732. (1) (b) provides that the offender comply with the conditions prescribed in a probation order for the period not in confinement.

Section 732.1 sets out compulsory conditions which must appear in a probation order as well as discretionary conditions which may be imposed by the court.

Legislative Authority

Legislative authority for adult probation services in Newfoundland and Labrador is found in the *Adult Corrections Act*, RSN 1990, Ch. A-4. Some relevant sections are set out below.

Appointment of Staff

4. (1) The Lieutenant-Governor in Council shall appoint a Director of Adult Corrections to administer the affairs of the division and may appoint an Assistant Director of Adult Corrections to help the director in that administration.

(2) The minister may, following the recommendation of the director, appoint, in the manner authorized by law, probation officers having different ranks or classifications and other clerks and employees that are necessary for the proper conduct of the business of the division, and may designate persons to act as honorary probation officers.

Duties of division

5. The duties of the division are

- (a) to provide the courts with reports and information relating to background character, employment potential, family circumstances and other matters that a judge may consider appropriate respecting adult persons charged with or convicted of crimes or offences;
- (b) to supervise and offer guidance to adult persons who are subject to probation orders issued by the courts;
- (c) to encourage, supervise, treat and train adult prisoners serving sentences of imprisonment within correctional

institutions with a view to their ultimate rehabilitation to society;

(d) to promote and help in public and private welfare programs designed to prevent and diminish the commission of crimes and offences within the province; and

(e) to implement a function specifically assigned by the Lieutenant- Governor in Council relating to the supervision, treatment and training of offenders against the law.

Duties of officers

6. The director and a probation officer appointed under this Act

(a) have the powers of a peace officer while acting under an order made by a judge;

(b) are considered to be probation officers for the whole province, notwithstanding that the probation officer's place of employment is within a district of the province;

(c) are officers of the court in the province; and

(d) shall prepare and submit to the courts the reports and give oral testimony respecting adult persons charged with or convicted of crimes or offences that may be ordered by the judge of the court.

Probation Orders

8. (1) The provisions of the Criminal Code respecting the making of a probation order, the form of and the conditions considered to be contained in a probation order shall apply with the necessary changes to probation orders made by a court upon persons convicted of an offence under a statute of the province.

(2) Where a person who is the subject of a probation order fails to comply with the conditions of the order, the probation officer charged with the supervision of that person shall report the failure to the court which made the

order and, where the probation officer considers the failure to be a significant failure, in the interests of justice may arrest the person who is the subject of the order and bring that person before the court to be dealt with as the court thinks appropriate.

Advisory board

11. (1) In order to help the minister in the proper administration of this Act, the minister shall appoint a board of advisors to be known as the Departmental Board of Corrections consisting of those persons that the minister considers necessary.

(2) The director shall be chairperson of the board of advisors.

(3) The members of the board referred to in subsection (1) shall hold office at the minister's pleasure and shall comprise of at least 1 Provincial Court judge, 1 member of a police force operating within the province, 1 official from every department of the government having a responsibility to administer juvenile corrections, together with other persons having the qualifications or being the holders of offices that may be prescribed in the regulations.

As I completed interviews and site visits, it became apparent that many issues and concerns were shared by the majority of Adult Probation Officers and support staff.

Many of those interviewed expressed concerns or issues which were more of a personal nature, such as interaction with specific people in other agencies, particular file supervision, or complaints about the system. I decided that

to address issues such as those I would have to adopt an investigative format, which was outside my mandate.

I therefore only identified issues and concerns which I feel relate directly to the Scope of Work .

Findings: Common Issues and Concerns Applicable to the Various Terms of Reference Set Out in the ‘Scope of Work’.

Review item 1. A review of the work flow and case loads of Probation Officers.

(i) Significant increase in data processing.

The majority of APOs indicate that more time is being spent on data entry than is being spent on personal supervision. All indicated that this trend manifested when the present computer program was implemented several

years ago. Also many report that the present data system is cumbersome and complicated and that more time and effort is now required for less than satisfactory results.

It is interesting to note that issues relating to data processing, computer programs and lack of training for Probation Officers regarding same were addressed in the report of the Auditor General, January 2007. Cited as Auditor General of Newfoundland and Labrador, Chapter 2, Part 2.11, January 2007.

It is recommended that experienced technology personal be engaged to consult with the Chief Probation Officer or her designate, to evaluate the present computer program used by Adult Probation for data processing, change or replace as necessary and provide proper training to Adult Probation Officers in the use of such programs.

(ii) Increase in number of requested pre-disposition reports and risk assessments.

Adult Probation Officers indicate that there seems to be ever increasing requests for reports, and increasing frequency of the completed reports being unnecessary or irrelevant at the disposition of the case because of issues being 'worked out by the parties.

Although I feel that the right of the parties or the court to request such reports cannot be interfered with I feel that there should be some way of addressing the unnecessary requesting of a report in minor cases, or as a delaying tactic.

It is recommended that the Minister consider section 721. (2) and evaluate the merit(s) of making regulations under this section.

(iii) *Lack of awareness of other departments and agencies regarding the process of preparing reports for court.*

Many Adult Probation Officers expressed frustrations with the apparent lack of understanding by many judges, defense counsel and crown attorneys of the time consuming and sometimes frustrating process of preparing the various reports for the courts.

This is especially so when reports are ordered and the information regarding the accused person which is supplied to the APO contains little more than the name and address (which is often incorrect). A tremendous amount of time is wasted by APOs seeking information which is probably already in court records, police investigators files or crown attorney's court briefs. Many APOs report the refusal of some judges to have any out of court discussion with them, while others report that judges are very receptive to discussing probation or conditional sentence conditions.

Some also report difficulties liaising with crown attorneys and police.

Since all parties are working towards a common goal—the imposition of an appropriate sentence on an offender---it seems to me that there should be more co-operation between the various agencies.

It is recommended that an awareness, information, or educational process be developed to address this situation.

(iv) *Communication between various agencies.*

Although this item appears similar to (iii) above it involves more specifically the neglect or deliberate decision by investigators not to advise Adult Probation when new information is obtained regarding a person who is already on probation and new charges are being contemplated. I am at a loss to understand why this should be.

The police would likely already know that the person they are investigating is on probation. It seems to me that the Adult Probation Officers should be made aware of new pending or possible charges. Also the Adult Probation Officer may have information that could assist the investigator.

There are also complaints regarding the lack of consultation by crown attorneys with APOs for input regarding sentencing recommendations.

It is recommended that a person or persons be designated to act as liaison, or inter agencies relations officers to help solve any communication problems that arise between a Regional Office and/or Adult Probation Officers and a particular agency.

(v) *Increase in case loads without any increase in support services.*

Case loads may fluctuate from time to time in any regional office. Many variables contribute to this. For example the amount of criminal activity in the area and the number of persons placed on supervision by the courts certainly affect case load. However, numbers alone do not determine how busy a probation officer will be. Other factors are relevant such as the complexity of the case, including, whether the probationer has mental, drug, alcohol, or domestic issues, or a combination of several issues.

Added to the problem of increasing case load, is the increasing use of conditional sentences by sentencing courts. Conditional sentences are a relatively recent sentencing option and, although the legislation was enacted about fifteen years ago, it appears that the number of conditional sentences have been increasing over the past five or six years.

A conditional sentence is a term of imprisonment which is allowed to be served in the community. (This sentence is commonly referred to as 'house arrest'). Adult Probation Officers have been assigned the responsibility of supervising persons placed on a conditional sentence. The conditions attached to these sentences are generally complex and more often as not contain an electronic monitoring condition.

Because of the many variables associated with a probation order or conditional sentence order it is generally undesirable to arbitrarily suggest a number for an APO's case load.

It is recommended that Adult Probation Officers case loads be monitored on a regular basis by supervisors who have authority to assign or re-assign cases as necessary and, where reassignment of case load is not a viable option there must be authority to retain or engage permanent or temp qualified personal to assist in managing the case load.

(vi) *The lack of discretion to adjust programs/supervision to deal with special or unique circumstances.*

Supervision of probationers can be fraught with difficulties at any time, and especially so when a probationer is subject to major change(s) in circumstances.

Two examples:

(1) travel by probationers without a car or money is extremely difficult, especially in rural areas without any public transportation;

(2) Often a probationer's employment situation or changed domestic circumstances, makes the keeping of appointments, or attending a program very difficult and sometimes impossible.

The Adult Probation Officer should be able in some circumstances, (or subject to approval of a supervisor) to work around stringent procedural rules or conditions to provide proper supervision and help reformation and rehabilitation following the mandate of The Act.

It is recommended that the policies and procedures be updated and/or re-written to allow APOs to exercise more discretion and common-sense when dealing with probationers whose circumstances change.

Review item 2. A review of the organizational structure.

(i) The location of the Chief Adult Probation Officer's office.

At present the office of Chief Adult Probation Officer is located in the St. John's Regional Office. The concern is that the Chief being located in the same office as the St. John's office leads to tensions and conflicts between Adult Probation Officers the Regional Supervisor and the Chief Adult Probation Officer.

It is also universally perceived that being located in the St. John's office detracts from the Chief Adult Probation Officers ability to fully focus on problems existing or arising in other regional offices, and from focusing fully on

the duties relating to the Chief's office as set out in Chief Adult Probation Officer's Position Description.

It is recommended that the office of the Chief Adult Probation Officer be removed from the St. John's regional office and located in proximity to the Director of Corrections and Community Services and, that the office be provided with at least one full time support staff.

(ii) A regional supervisor structure.

It is generally felt, and I totally agree, that the Province is simply too large to be administered by the Chief Adult Probation Officer alone.

A practical and cost effective way to improve the service and solve some of the issues and concerns would be to establish a regional supervisor structure which could have numerous benefits for the efficient operation of the Adult

probation system. Not only would it be cost efficient, but in the 'long run' likely to be cost saving.

The province should be comprised of four regions, Labrador, Western, Central, and Eastern. Given the state of communications and, (except for Labrador) travel now available, the regional supervisor could be a resident APO in any existing regional office. The Regional supervisor could still carry a case load, albeit reduced depending upon other factors.

These regional supervisors should be classified in between Chief Adult Probation Officer and Adult Probation Officer Supervisor (Policy and procedures manual).

Some examples of the benefits;

- (a) The regional supervisor would be resident in the region and be more cognizant of local issues and concerns,
- (b) The supervisor would be more accessible to the regional APOs allowing the Chief APO to devote more time to other duties related to that office,

- (c) The supervisor could assist with communication or liaison problems with other agencies in the region, i.e. courts, crown, police, prisons etc., again without involving the Chief at first instance. (A concern referred to in items iii and iv under review item 1), and
- (d) The supervisor could undertake the responsibility of orientating and training new appointees.

It is recommended that a regional supervisor structure be implemented.

Review item 3. A review of human resource levels and practices.

- (i) *Sharing workers between different departments.*

This practice is strongly condemned by all APOs and especially by those who have to share support staff. Support staff also voiced dislike for the practice.

The consensus is that it leads to conflict when the worker performs duties for both the 'probationer and the victim' where the worker is shared between Adult Probation and Victim Services.

In other situations when the worker has to perform duties for two agencies conflict may arise over which duties take priority.

There are also fundamental difficulties with the efficient management of the APO's time and servicing their case load. They include:

1. No reception service for drop in clients or persons seeking information;
2. No telephone response if the Adult Probation Officer is out of the office;
3. The Adult Probation Officer having to allocate much of their time to 'paper work';
4. No one to cancel appointments or direct persons with appointments should the APO be required to leave the office by necessity; and

5. The security issues of working alone.

The list could go on and on, but the point is there should be at least one full time support staff in every regional office.

It is recommended that effective immediately every regional office have at least one full time support staff.

(ii) The lack of orientation and training of new appointees.

I was surprised to learn that new appointees are for the most part assigned their duties with only the most rudimentary orientation. I would think that there should be a minimum of two weeks supervision under the direction of a supervisor or senior Adult Probation Officer to familiarize the new appointee with routine items i.e. the policy and procedures manual, effective scheduling , data entry, forms, etc., etc. This would help eliminate potential future problems.

It is recommended that all new appointees be given a minimum of two week training and orientation under the tutelage of a supervisor or senior adult probation officer before being sent to a regional office or given a case load.

(iii) Genuine safety concerns of APOs who frequently work alone.

A number of regional offices are single worker offices with either part time support staff or in one case no support staff. This is appalling considering Government's ' working alone policy' , ' occupational health and safety policies', and the many other polices which exist to protect workers.

Given the realities of the times and with increased drug and/or alcohol addiction and mental health problems presenting in persons on probation, a very volatile and dangerous situation exists during every interview with such

a client. Except in cases where these issues were part of the sentencing hearing and the Adult Probation Officer was in court, they might be completely unaware that these problems may exist with the probationer that they are currently interviewing.

It is recommended that every regional office have at least one full time support staff and only in controlled or unique circumstances, subject to a supervisor's approval, should an Adult Probation Officer interview a client anywhere but in a controlled environment.

(iv) Continuing education.

Adult Probation Officers were unanimous in expressing a need for continuing education. At minimum there should be an annual 'educational conference' whereby APOs could discuss common problems, socialize as a group and arrange to have representatives of other agencies i.e. police,

courts, dept of justice and other private organizations, engage in forum type discussions. An important function of such meetings should be 'Strategic Planning and Visioning', mission statements, guiding principles etc.

In addition regional seminars such as a weekend retreat at least once per year would be beneficial.

I am totally committed to the concept of continuing education in the form of periodic meetings, consisting of formal educational sessions and seminars, as well as the informal meetings which occur whenever a group of professionals meet to discuss common issues and concerns.

The far reaching benefits of such meetings are invaluable. It enhances camaraderie and knowledge between co-workers, allows for discussion regarding individual work related issues and concerns, suggests ideas and solutions regarding professional conduct , and generally enhances the profession.

It is recommended that all Adult Probation Officers meet once a year as a group for a three or four day educational seminar. It is desirable that the Adult Corrections Act be amended to make this mandatory.

Review item 4. A review of office accommodations and locations.

(i) Concerns of the adequacy of office facilities including security, space, equipment and supplies.

I heard story after story about requests for office renovation to ensure safety of workers as well as helping to separate offenders and victims in circumstances when both parties happened to be at the office. It was reported to me that in some cases approval was given but the work never done or, approval given, plans approved but the renovations carried out in a manner different than the approved plan.

I did not investigate or verify these allegations, but I am willing to accept the information as accurate.

There were many complaints from rural offices about the difficulty in getting basic supplies i.e. decent chairs, filing cabinets, copy paper etc., etc.

The physical lay out and condition of some of the regional offices is appalling. There could be a contest to determine between Port Aux Basque regional office and Labrador West regional office, which is worse. Although I did not see it, my information on the Nain office indicates it could also compete for the worst office contest.

After viewing many of the regional offices one could rightly conclude that probation service must be extremely low on the Government's priority list. To have Adult Probation Officers and probationers and others attend and work in those premises is a blight on Probation Services.

Some locations are better than others and reflect an attempt to provide a proper working environment suitable to enable

Adult Probation Officers to perform their duties in a somewhat dignified environment.

However, there does not appear to be any real attempt to standardize offices to any basic concept of how a Probation Office should be designed to provide a comfortable, dignified and secure working environment for Adult Probation Officers as well as probationers.

Although some offices are adequate, they still pose safety issues. I am aware that many of these issues have been studied and reported on by Occupational Health and Safety yet nothing seems to get done. I am also aware that there is a 'working alone policy'. I did not review these reports or policies but I did view many offices some of which had a single Adult Probation Officer with a part time support

staff or no staff. The offices contained one door which invariably would be located behind the probationer as they were being interviewed by the Officer. Such a set up is very dangerous should the probationer have alcohol, drug or mental issues as I referred to in item 3 (iii) above.

Just visiting some of these offices is enough to make one conclude that there is a pressing need to evaluate the whole concept of what are the basic requirements for a Probation Services office.

The most functional office layout I observed was the regional office in Port Saunders. I believe this office could be used as the model for future construction or renovations.

It is recommended that an immediate assessment of all regional offices be undertaken especially the two named above. There should be established some sort of committee which working with the Chief Adult Probation Officer and/or the Director of Corrections and Community Services will develop basic minimum standards for regional offices. It is further recommended that all renovations and construction meet the basic layout standards and approval of the Chief Probation Officer and/or the Director of Corrections and Community Services.

Review item 5. A review of the adequacy of policies and procedures applicable to Probation Services, in particular as it relates to standards and modes of Supervision of clients.

(i) Operating manual of policy and procedures.

The present operating manual of policy and procedures needs to be reviewed and possibly revised to reflect the changing times and overall mandate and philosophy of Adult Corrections.

I am also of the opinion that Adult Probation Officers need to be more familiar with the Procedures Manual even in its present form.

It is recommended that a senior experienced officer be assigned the task of reviewing the procedures manual and recommending revision to reflect the overall mandate of Probation Services. It is also recommended Adult Probation Officers be kept up to date on policy and procedures changes or updates.

(ii) *Home visit protocols.*

The majority of Adult Probation Officers question the mandated home visit requirements. All feel that this requirement should be made discretionary. There were many examples of the danger and overall frustration of having to make unannounced home visits in particular circumstances.

This involves safety issues as well as the utility of making unannounced home visits. This is just one example of the need for a revision of policy and procedures referred to in the preceding issue above.

It is recommended that unannounced home visits be suspended and the policy of mandated home visits be revised to provide for discretionary visits as necessary.

(iii) *The audit process.*

Most Adult Probation Officers whom I interviewed felt the audit process as it now exists lacks any real purpose except to verify that the ' t's are crossed and the i's are dotted' in accordance with the current policies and procedures manual.

All feel that the audit process should involve personal interaction between the auditor and Adult Probation Officer relating to the Officer's general case load management and overall work performance. Such interaction would be meaningful and beneficial with an opportunity for reciprocal feedback.

It is recommended that the policy regarding audits be reviewed and revised to make them more meaningful and beneficial. This issue could be addressed as per the

recommendation regarding revision of the policy and procedures.

(iv) Sexual offender notification policy/program.

None of the Adult Probation Officers interviewed was comfortable with the Sexual Offender notification process. Many were unsure of how the policy came into being and why. Most felt that the policy developed for political reasons rather than any real function or purpose.

Those who had to perform these duties felt uncomfortable doing so and reported hostility and attempted intimidation by family members of some offenders. They also questioned the rationale of the decision as to who had to be notified.

All felt that if these duties are to continue they should be carried out by one of the many uniformed services operating in the province i.e. police, sheriff's officers, commissionaires, etc.

It is recommended that the sexual offender notification policy be reviewed, and if it is to continue the duties should be preformed by one of the 'uniformed services'.

Review item 6. A review of the status of the Assistant Adult Probation Officer Program

(i) Lack of training and working tools/resources for Assistant Adult Probation Officers.

Only the regional offices located at St. John's and Nain report using Assistant Adult Probation Officers. The other

regional offices all reported no need to avail of the program as they are better able to serve the clients themselves.

It is my opinion that Probation Services need a program such as this. Whether or not it is often or seldom used, it exists if needed.

The main problems with the present program are the inability to recruit or attract qualified persons given the very low rate of remuneration and the lack of resources available to these workers.

Many Adult Probation Officers felt that when they did use Assistants it added to their case load because not only did they still have responsibility for the probationer but also had to supervise the Assistant as well.

The program works well for the St. John's regional office but it is a rather unique situation. The Assistant Adult Probation Officer supervises probationer's resident on the

‘Southern Shore’. The Officer is qualified, dedicated to the work and has a high enough caseload to make it ‘worth his while’. He has established a rapport with agencies in the area and is able to supervise his clients on a consistent basis. He is however, hampered by the lack of resources, including access to St. John’s office files and computer information. He also receives a very low rate of remuneration.

The Program is useful for Coastal Labrador because of the tremendous travel difficulties inherent to that area of the Province.

It is my opinion that the program needs to be revised especially regarding remuneration and information access. I feel that a person who supervises a probationer carries the

same responsibility whether they are a full time Adult Probation Officer or part time Assistant Adult Probation Officer and the remuneration and access to information should reflect this. The remuneration scale should be according to a pro-rata formula based on the current basic salary of an Adult Probation Officer.

This could help in attracting part time professionals, or even retired Adult Probation Officers, to assist in a region where case loads may be rising but another full time Adult Probation Officer position may not be justified, as referred to in Item 1, (v) above.

It is recommended that the Assistant Adult Probation Officer Program be revised, especially regarding

remuneration and access to information, making it more attractive to qualified people.

Leadership.

The concept of 'leadership' can be an abstract one with many connotations especially when applying it to a profession such as Adult Probation Services.

The concept came up frequently, albeit indirectly, as Adult Probation Officers related to me their various issues and concerns. They often blamed the lack of adequate offices, lack of staff, difficulties with other agencies etc. on the fact that those in charge either didn't understand what was going on, didn't care, or had other priorities.

Consequently, through out the review process I became more and more aware of, and awed by the fact that such an important segment of the Administration of Justice has operated so long without any apparent visionary leadership

or strategic plan. That it operates so well is a credit to the dedicated professional who comprises the Service.

It is my opinion that had Probation Services been guided by a strategic plan or mission statement committee or board, most, if not all of the issues and concerns raised here would not have arisen or would have been addressed. Even at this time the establishment of a strategic planning committee could address many of the present issues and concerns and recommend solutions.

There is an irony in all this. The legislation relevant to Probation Services, the *Adult Corrections Act* contains a section that covers this very issue. Section 11, states:

11. (1) In order to help the minister in the proper administration of this Act, the minister *shall* appoint a board of advisors to be known as the Departmental Board of Corrections consisting of those persons that the minister considers necessary.

(2) The *director shall* be chairperson of the board of advisors.

(3) The members of the board referred to in subsection (1) shall hold office at the minister's pleasure and *shall comprise of at least 1 Provincial Court judge, 1 member of a police force operating within the province, 1 official from every department of the government having a responsibility to administer juvenile corrections*, together with other persons having the

qualifications or being the holders of offices that may be prescribed in the regulations. **Emphasis Added**

The section makes the establishment of an advisory board mandatory and sets out a number of specific persons who are to be members. Apparently the framers of this legislation recognized the importance of the Service and decided that the other agencies who would be involved such as the courts, the police, other departments of government and persons felt to be necessary, would serve along with the Director of Adult Corrections as advisors for the division.

As far as I can determine an advisory board was never established. As I stated above I think it is fair to speculate that if there had been such a board a lot of the issues and concerns expressed here may not have arisen or would have been resolved.

Section 4 of the Act makes the appointment of a Director of Adult Corrections mandatory. At the present time I am unable to identify any person who holds this specific title. I

can only assume that the Director of Corrections and Community Services is an analogous position.

It is recommended that pursuant to the *Adult Correction Act*, an advisory board be established immediately with the mandate to address all the issues and concerns raised in this review as well as the continuous overview of Probation Services as contemplated by the Act.

Conclusion

This report outlines issues, concerns, and recommendations regarding Adult Probation Services.

The report is my independent assessment and opinion.

Over the past several months I visited all regional offices except Nain. I personally met with and interviewed forty-

nine Adult Probation Officers and support staff, including the resident Officer of the Nain regional office.

Again I would like to thank all those Officers and support staff that so willingly and candidly provided me with information and shared with me their concerns and suggestions

It is my opinion that implementation of the recommendations will have a positive effect on Adult Probation Services (Community Services).

Recommendations

Review item 1

1. It is recommended that experienced technology personal be engaged to consult with the Chief Probation Officer or her designate, to evaluate the present computer program used by Adult Probation for data processing, change or replace as necessary and provide proper training to Adult Probation Officers in the use of such programs.

2. It is recommended that the Minister consider section 721. (2) and evaluate the merit(s) of making regulations under this section.

3. It is recommended that an awareness, information, or educational process is developed to raise the awareness of other agencies regarding the role and work of Adult Probation Services.

4. It is recommended that a person or persons be designated to act as liaison or inter agency relations officers to help solve any communication problems that arise between a Regional Office and/or Adult Probation Officers and a particular agency.

5. It is recommended that Adult Probation Officers case loads be monitored on a regular basis by supervisors who have authority to assign or re-assign cases as necessary, and, where reassignment of case load is not a viable option there must be authority to retain or engage permanent or temp qualified personal to assist in managing the case load.

6. It is recommended that the policies and procedures be updated and/or re-written to allow Adult probation Officers to exercise discretion and common-sense when dealing with probationers whose circumstances change.

Review item 2.

7. It is recommended that the office of the Chief Adult Probation Officer be removed from the St. John's regional office and located in proximity to the Director of Corrections and Community Services and, that the office be provided with at least one full time support staff.

8. It is recommended that a regional supervisor structure be implemented.

Review item 3

9. It is recommended that effective immediately every regional office have at least one full time support staff.

10. It is recommended that all new appointees be given a minimum of two week training and orientation under

the tutelage of a supervisor or senior adult probation officer before being sent to a regional office or given a case load.

11. It is recommended that every regional office have at least one full time support staff and only in controlled or unique circumstances, subject to supervisor approval, should an Adult Probation Officer interview a client anywhere but in a controlled environment.

Review item 4

12. It is recommended that an immediate assessment be done of all regional offices especially the two named above. There should be established some sort of committee which working with the Chief Adult Probation Officer and/or the Director of Corrections and Community Services, will develop basic minimum standards for regional offices. It is further

recommended that all renovations and construction meet the basic layout standards and approval of the Chief Probation Officer and/or the Director of Corrections and Community Services.

Review item 5

13. It is recommended that a senior experienced officer be assigned the task of reviewing the procedures manual and recommending revision to reflect the overall mandate of Probation Services. It is also recommended that Adult Probation Officers be kept up to date on policy and procedures changes or updates.

14. It is recommended that unannounced home visits be suspended and the policy of mandated home visits be revised to provide for discretionary visits as necessary.

15. It is recommended that the policy regarding audits be reviewed and revised to make them more meaningful and beneficial. This issue could be addressed as per the recommendation regarding revision of the policy and procedures.

16. It is recommended that the sexual offender notification policy be reviewed, and if it is to continue the duties should be preformed by one of the 'uniformed services'.

Review item 6

17. It is recommended that the Assistant Adult Probation Officer Program be revised, especially regarding remuneration and access to information, making it more attractive to qualified people.

Review items 1 - 6

18. It is recommended that pursuant to the *Adult Correction Act*, an advisory board be established immediately with the mandate to address all the issues and concerns raised in this review as well as the continuous overview of Probation Services as contemplated by the Act.

Appendix A

News Releases

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Justice

December 11, 2009

Media Advisory: Minister of Justice Available to Discuss Adult Probation Services

The Honourable Felix Collins, Minister of Justice and Attorney General, has requested a review of adult probation services in Newfoundland and Labrador. The minister will be available outside the House of Assembly at 11:30 a.m. today (Friday, December 11) to discuss this review.

- 30 -

Media contact:

Ken Morrissey
Director of Communications
Department of Justice
709-729-6985, 685-6612
kenmorrissey@gov.nl.ca

2009 12 11

10:40 a.m.



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Appendix B

Province to review adult probation services

Published on December 11th, 2009
Staff ~ The Telegram

Topics : Toronto , Labrador

Justice Minister Felix Collins has announced a full review of adult probation services in the province. Collins told reporters this morning that the review was prompted by the murder of a Toronto woman in that city last weekend. [REDACTED] who is originally from Labrador has been charged with the killing of [REDACTED] but is also currently on probation in this province. Collins said [REDACTED] never checked in with his probation officer, and officials didn't know he had left the province. The minister hopes to name an independent reviewer within the next few days. The report should take about six months to complete.

Appendix C

Toronto homicide sparks N.L. justice review

Last Updated: Friday, December 11, 2009 | 3:37 PM NT [Comments34](#)[Recommend27](#)

CBC News



The arrest of [REDACTED] originally from the northern Labrador community of Nain, on a charge of murder has sparked a review of the probation system in N.L. (Courtesy: Toronto Police Services)

A murder charge in Toronto has prompted a review of Newfoundland and Labrador's justice system.

Toronto police charged [REDACTED] of Nain, northern Labrador, with second-degree murder on Dec. 6.

At the time, [REDACTED] was on probation for past convictions in Newfoundland and Labrador.

[REDACTED] did not meet with a probation officer as he was supposed to have done," said Newfoundland and Labrador's Justice Minister Felix Collins on Friday. "[He] did not give any information about his whereabouts. He didn't suggest any change of address or that he was leaving the province."

[REDACTED] had been in Toronto for about three months, living on the street and in homeless shelters.

Collins said the province is worried that its probation system isn't working.

"That creates some concerns for this government, for the Department of Justice, with respect to the probation system and how it failed in that particular situation," said Collins.

Collins has launched a review of the probation system that will look at staffing levels, workload and the location of the officers.

The minister expects to appoint an external reviewer in the next few days. He said the review will take at least six months.

The province employs 36 probation officers. The Justice Department says each officer handles between 50 and 60 cases at any given time.

- This story is now closed to commenting.

Appendix D



ADULT CORRECTIONS ACT

CHAPTER A-4
RSNL1990

Amended:
2006 c40 s21

OFFICE OF THE QUEEN'S PRINTER
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Print Date: October 13, 2010

CHAPTER A-4

AN ACT RESPECTING ADULT CORRECTIONS

Analysis

- | | |
|-------------------------------|----------------------------------|
| 1. Short title | 7. Designated probation officers |
| 2. Definitions | 8. Probation orders |
| 3. Adult Corrections Division | 9. Offence |
| 4. Appointment of staff | 10. Agreements |
| 5. Duties of division | 11. Advisory board |
| 6. Duties of officers | 12. Regulations |

Short title

1. This Act may be cited as the *Adult Corrections Act*.

1975 No12 s1

Definitions

2. In this Act

- (a) "correctional institution" means the penitentiary as defined in the *Prisons Act* and includes all places, buildings and camps considered by that Act or by an order made under that Act to be part of the penitentiary as well as the other places, buildings and establishments that may be designated as correctional institutions by regulations made under section 12;
- (b) "court" means a court within the province;
- (c) "director" means the Director of Adult Corrections appointed under section 4;
- (d) "division" means the Division of Adult Corrections constituted under section 3;
- (e) "minister" means the minister appointed under the *Executive Council Act* to administer this Act; and

- (f) "probation officer" means an officer specifically appointed or designated as an adult probation officer under this Act, and includes the director.

1975 No12 s2; 2006 c40 s21

Adult Corrections
Division

3. There is established a division of the Department of Justice called the Division of Adult Corrections under the control and direction of the minister.

1975 No12 s3

Appointment of
staff

4. (1) The Lieutenant-Governor in Council shall appoint a Director of Adult Corrections to administer the affairs of the division and may appoint an Assistant Director of Adult Corrections to help the director in that administration.

(2) The minister may, following the recommendation of the director, appoint, in the manner authorized by law, probation officers having different ranks or classifications and other clerks and employees that are necessary for the proper conduct of the business of the division, and may designate persons to act as honorary probation officers.

1975 No12 s4

Duties of division

5. The duties of the division are

- (a) to provide the courts with reports and information relating to the background, character, employment potential, family circumstances and other matters that a judge may consider appropriate respecting adult persons charged with or convicted of crimes or offences;
- (b) to supervise and offer guidance to adult persons who are the subject of probation orders issued by the courts;
- (c) to encourage, supervise, treat and train adult prisoners serving sentences of imprisonment within correctional institutions with a view to their ultimate rehabilitation to society;
- (d) to promote and help in public and private welfare programs designed to prevent and diminish the commission of crimes and offences within the province; and

- (e) to implement a function specifically assigned to the division by the Lieutenant-Governor in Council relating to the supervision, treatment and training of offenders against the law.

1975 No12 s5

Duties of officers

6. The director and a probation officer appointed under this Act
- (a) have the powers of a peace officer while acting under an order made by a judge;
 - (b) are considered to be probation officers for the whole province, notwithstanding that the probation officer's place of employment is within a district of the province;
 - (c) are officers of the court in the province; and
 - (d) shall prepare and submit to the court the reports and give oral testimony respecting adult persons charged with or convicted of crimes or offences that may be ordered by the judge of the court.

1975 No12 s6

Designated probation officers

7. The Lieutenant-Governor in Council may designate probation officers appointed under the *Department of Social Services Act* to act as probation officers for the purposes of this Act and may designate probation officers appointed under this Act to carry out the duties of probation officers for the purposes of the *Department of Social Services Act*.

1975 No12 s7; 1984 c2 s27

Probation orders

8. (1) The provisions of the Criminal Code respecting the making of a probation order, the form of and conditions considered to be contained in a probation order shall apply with the necessary changes to probation orders made by a court upon persons convicted of an offence under a statute of the province.

- (2) Where a person who is the subject of a probation order fails to comply with the conditions of the order, the probation officer charged with the supervision of that person shall report the failure to the court which made the order and, where the probation officer con-

siders the failure to be a significant failure, in the interests of justice may arrest the person who is the subject of the order and bring that person before the court to be dealt with as the court thinks appropriate.

1975 No12 s8

Offence

9. A person who interferes with or obstructs a probation officer in the performance of a duty imposed upon that officer by a court is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to a term of imprisonment for a period not exceeding 3 months or to both a fine and imprisonment.

1975 No12 s9

Agreements

10. The minister may with the approval of the Lieutenant-Governor in Council enter into agreements with

- (a) the Government of Canada, or a department or agency of that government charged with the responsibility of providing correctional services in Canada respecting the exchange of services and facilities under the control of the federal and provincial governments, including
 - (i) the custody by a provincial correctional institution of persons sentenced to serve terms of imprisonment within a federal correctional institution and the custody within a federal correctional institution of persons sentenced to serve terms of imprisonment within a provincial correctional institution, and
 - (ii) for the appointment by Canada of probation officers appointed under this Act to carry out the duties of parole officers under the *Parole Act* (Canada), and the appointment by the province of those parole officers to act as probation officers under the supervision of the director;
- (b) the government of a province or territory of Canada respecting the exchange of correctional services including the exchange on a reciprocal basis of prisoners serving sentences of imprisonment within the province or territory covered by the agreement; and

- (c) a public or private organization, association or agency empowered to provide correctional services within the province for the delegation to that organization, association or agency of any of the duties imposed by this Act upon the division,

and agreements entered into under this section may make provision for a financial contribution to be paid to or by the province out of or into the Consolidated Revenue Fund.

1975 No12 s10

Advisory board

11. (1) In order to help the minister in the proper administration of this Act, the minister shall appoint a board of advisors to be known as the Departmental Board of Corrections consisting of those persons that the minister considers necessary.

(2) The director shall be chairperson of the board of advisors.

(3) The members of the board referred to in subsection (1) shall hold office at the minister's pleasure and shall comprise at least 1 Provincial Court judge, 1 member of a police force operating within the province, 1 official from every department of the government having a responsibility to administer juvenile corrections, together with other persons having the qualifications or being the holders of offices that may be prescribed in the regulations.

1975 No12 s11

Regulations

12. (1) The minister may, with the approval of the Lieutenant-Governor in Council, make regulations

- (a) respecting the qualifications, duties and powers of the director, assistant director or probation officers;
- (b) governing the Departmental Board of Corrections, prescribing the powers, functions and duties of that board and specifying the qualifications or offices to be held by the members of the board;
- (c) designating places, buildings and establishments as correctional institutions for the purposes of this Act; and
- (d) generally, to give effect to the purpose of this Act.

(2) Regulations made under paragraph (1)(c) may be made with retroactive effect to a date set out in the regulations.

1975 No12 s12

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Appendix E

Department of Justice Vision

A justice system that is accessible and understood, and which plays a key role in creating a fair, equitable and safe society where all people can pursue their lawful rights and freedoms.

Department of Justice Mission

To provide superior public services in the effective and impartial administration of justice through co-ordination and collaboration.

Strategic Priorities

“Four strategic priorities have emerged as a result of the strategic planning process. These priorities provide focus for the Department as it pursues excellence, innovation, adaptability” and, ultimately, it’s vision.

#1

Build a Department that is a high performance organization fostered by a supportive culture.

#2

Develop an informed understanding of the Department’s positive role in the community.

#3

Construct an integrated approach to the administration of justice.

#4

Initiate innovative and alternate approaches to service delivery.

Corrections and Community Services Mission

As a partner of the Criminal Justice System, we will strive for a safer society by encouraging and assisting offenders to become law abiding citizens.

We will strive to ensure that victims are able to participate meaningfully in the criminal justice process.

We will strive to provide access to programs and services necessary for the offender's safe reintegration into the community.

We will strive to provide access to programs and services necessary for the healing and recovery of victims.

We will exercise fair, just and humane measures of custody, supervision and control.

Corrections and Community Services Values

We believe in the fundamental worth of all persons, therefore, we will...

- * Preserve the dignity of the individual.
- * Treat people fairly and justly.
- * Provide for people's basic human needs while in custody.

We believe in the right of all persons to be safe from harm, therefore, we will...

- * Employ reasonable measures for protection, security and control.

We believe every person has the potential for self-improvement, therefore, we will...

- * Strive to give everyone in our system access to programs and services necessary to develop potential either as professionals or law abiding citizens.

We believe in excellence and integrity, therefore, we will...

- * Work co-operatively.
- * Communicate effectively.
- * Operate efficiently.
- * Be accountable for what we do.