



# Office of the Attorney General

Annual Report  
2013-2014



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The Honourable Jocelyne Roy Vienneau  
Lieutenant-Governor of New Brunswick

May it please your Honour:

It is my privilege to submit the Annual Report of the Office of the Attorney General, Province of New Brunswick, for the fiscal year April 1, 2013 to March 31, 2014.

Respectfully submitted,



Hon. Serge Rousselle, Q.C.  
Attorney General

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The Honourable Serge Rousselle, Q.C.  
Office of the Attorney General

Sir:

I am pleased to be able to present the Annual Report describing operations of the Office of the Attorney General for the fiscal year 2013-2014.

Respectfully submitted,



Johanne C. Bray  
Deputy Attorney General

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# Table of Contents

<b>Attorney General’s Message</b> . . . . .	<b>1</b>
<b>Deputy Attorney General’s Message</b> . . . . .	<b>2</b>
<b>Highlights</b> . . . . .	<b>3</b>
<b>Strategic Priorities.</b> . . . . .	<b>4</b>
<b>Performance Measures.</b> . . . . .	<b>6</b>
<b>Overview of Departmental Operations</b> . . . . .	<b>9</b>
Public Prosecutions Services Branch. . . . .	10
Legislative Services Branch . . . . .	11
Legal Services Branch . . . . .	12
Communications, Policy & Planning and Administrative Services . . . . .	13
<b>Financial Information.</b> . . . . .	<b>14</b>
Table 1: Ordinary Account Expenditures by Program . . . . .	14
Table 2: Ordinary Revenue . . . . .	14
Table 3: Special Purpose Account Revenue and Expenditures. . . . .	14
<b>Summary of Staffing Activity.</b> . . . . .	<b>15</b>
<b>Summary of Legislation and Legislative Activity</b> . . . . .	<b>16</b>
<b>Summary of Official Languages Activities.</b> . . . . .	<b>17</b>
<b>Summary of Recommendations from the Office of the Auditor General.</b> . . . . .	<b>19</b>

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# Attorney General's Message

The integrity of every government rests with the Office of the Attorney General. The impartial administration of justice provides the foundation for all social institutions a culture and society require to sustain and develop.

All government operations rely on the services and advice that the Office of the Attorney General provides. Government departments and agencies call upon the Office of the Attorney General to support and defend government policies. All contractual rights and responsibilities conferred by the Constitution upon the Province of New Brunswick are administered by the Office of the Attorney General.

It is an honour to be part of this institution as the chief law officer of the Crown. I look forward to serving New Brunswickers in the coming year.

Hon. Serge Rousselle, Q.C.  
Office of the Attorney General

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# Deputy Attorney General's Message

The mandate of the Office of the Attorney General is to promote the impartial administration of justice and to ensure protection of the public interest.

The Office of the Attorney General has numerous responsibilities including administering the criminal justice system, the prosecution of all offences under the *Criminal Code of Canada* and the Statutes of New Brunswick. The office also represents the Crown in all matters of civil and constitutional litigation.

The Office of the Attorney General provides legal advice and services to all government departments and agencies. The Office of the Attorney General is called upon to represent the Crown where public rights of concern to the provincial government are being questioned. The Office of the Attorney General also provides advice to government on proposed legislation and undertakes studies for the reform of law.

The Office of the Attorney General provides advice and drafting services for the government and is responsible to print and publish all acts and regulations in accordance with the *Queen's Printer Act*.

As Deputy Attorney General I will continue to promote the impartial administration of justice and ensure the protection of the public interest.

Johanne C. Bray  
Office of the Attorney General

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# Highlights

The Office worked cooperatively with the Department of Justice on the Early Resolution and E-Disclosure Projects in Moncton.



The Office has developed nationally recognized expertise in the prosecution of Internet Child Exploitation (ICE).



The Office has undertaken two Mega-trials this past year, which require an extraordinary use of staffing and other resources.



Between April 1, 2013, and March 31, 2014, a total of 53 Bills drafted by the Office received Royal Assent, and 100 Regulations drafted by the Office were filed with the Registrar of Regulations.



The Office completed an overhaul and modernization of the law relating to the enforcement of money judgments, which culminated in the new *Enforcement of Money Judgments Act* and additional supporting legislation.



The Office was instrumental in drafting regulatory amendments for the Province which resulted in the government-wide attainment of the 20% regulatory obligation reduction target of the New Brunswick Smart Regulations Initiative.



The Office appeared before the Supreme Court of Canada to present the position of the Province in the matter of the Reference by the Governor in Council concerning the reform of the Senate.



The Office continued to work with a consortium of private law firms retained by the Province to pursue the recovery of health care costs against large tobacco companies.



The Office processed 19 requests made under the *Right to Information and Protection of Privacy Act*.



2013-2014 was the Office of the Attorney General's first full year of participation in the Government's Performance Excellence Process.

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# Strategic Priorities

## Strategy Management

The Government of New Brunswick (GNB) has implemented a formal management system built on leading business practices to develop, communicate and review strategy. This process provides the public service with a proven methodology in both public and private sectors to execute strategy.

The formal management system starts with a strategic vision. The government expresses its vision through the themes for a stronger economy and an enhanced quality of life while living within our means. This strategic vision is articulated through the strategy map, which is a tool to provide focus and overall direction for improvement.

## The Perspectives of the Strategy Map

The strategy map focuses on what's important to citizens: stimulating job creation and getting more people working; access to necessary programs and services; and providing value for their tax dollars.

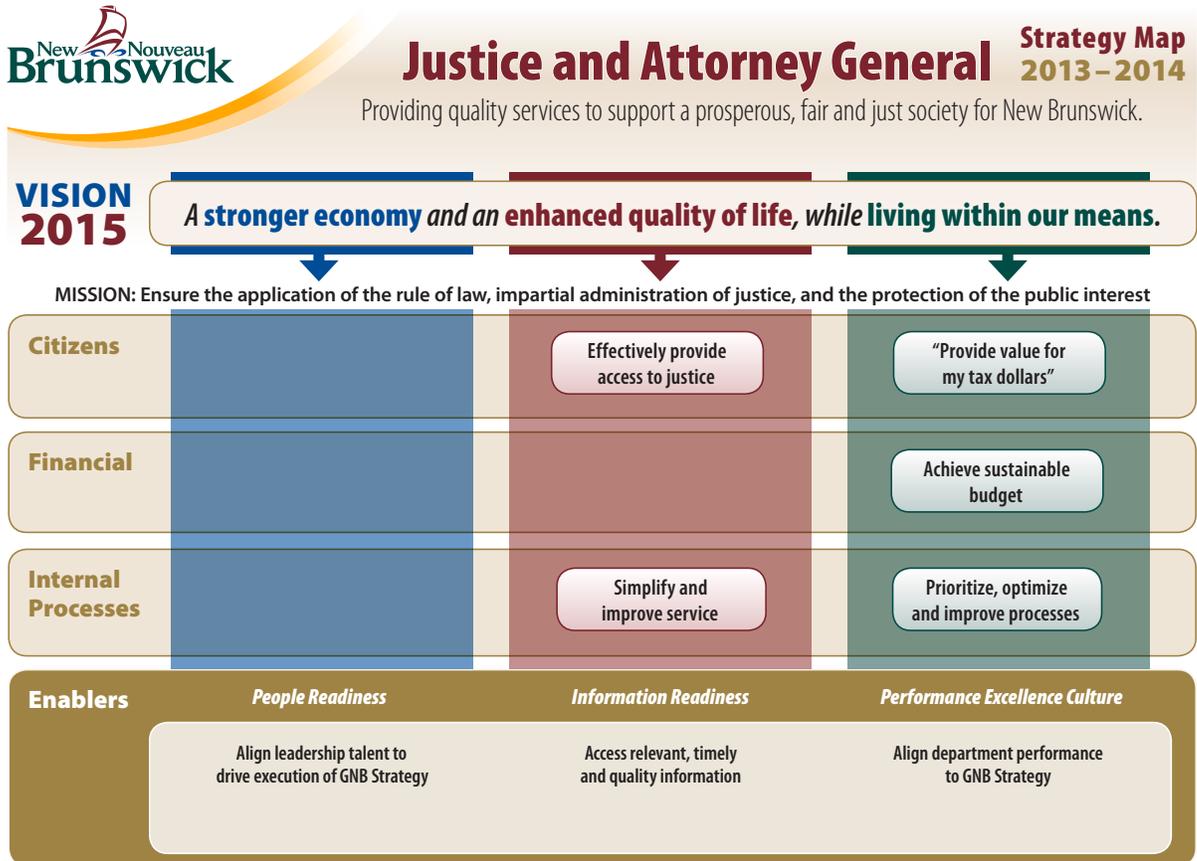
The financial perspective addresses the financial requirements needed to sustainably support the commitment to citizens, stretching across all three themes of the vision. The financial perspective focuses on supporting the private sector to stimulate growth, ensuring the government lives within its means by achieving a sustainable budget, and funding priority programs to contribute to an enhanced quality of life.

The internal processes are government's direct role in achieving the vision. They are the strategic improvements government needs to successfully implement to achieve the vision. Each department sets its own goals and priorities within the strategic themes to match its programs and specialized needs.

The enablers ensure that GNB is ready to execute the strategy through internal processes. Leaders and employees need to develop and demonstrate behaviours that engage others to ensure the success of strategic projects. Leaders need the right information at the right time to make strategic decisions, and the culture must align and recognize those who contribute to achievement of the strategy.

## Departmental Strategy Map

The Department of Justice and Office of the Attorney General share a Strategy Map. The organizations have a common mission statement, a common executive team and administration, and unified goals and objectives. Although the departments have no mandate in developing a stronger economy in the province, effectively providing access to Justice is a fundamental requirement of ensuring New Brunswickers an enhanced quality of life.



NB PUBLIC SERVICE VALUES: COMPETENCE – IMPARTIALITY – INTEGRITY – RESPECT – SERVICE

# Performance Measures

Based on the strategy map, a framework that translates the organization’s strategy into a set of objectives and performance measures is developed. This allows the Office to measure progress in meeting objectives. The performance measures do not reflect all of the day-to-day operations but rather the strategic areas where the Office of the Attorney General and the Department of Justice focused on their improvement efforts.

Objectives:	Measures
<b>Strategic Theme : Enhanced Quality of Life</b>	
<p>The Office of the Attorney General and the Department of Justice share a Senior Management Team and Performance Excellence Goals. They share a common Strategy Map, Balanced Scorecard, and Lean Six Sigma Resources. While being a fully participating member in Performance Excellence, the departmental specific performance measures under the Enhanced Quality of Life theme for the two departments were for Access to Family Justice and Small Claims Court, neither of which pertain to Office of Attorney General specifically. More information on these measures is available in the Department of Justice’s Annual report for Fiscal 2013-2014.</p>	
<b>Strategic Theme : Living Within Our Means</b>	
Achieve sustainable budget	Ratio of actual to budgeted expenditures
	Ratio of actual to budgeted revenue

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## Living Within Our Means: Achieve Sustainable Budget

**Measure:**

Ratio of actual to budgeted expenditures

**Description of measure:**

Total Expenditures divided by Total Budget

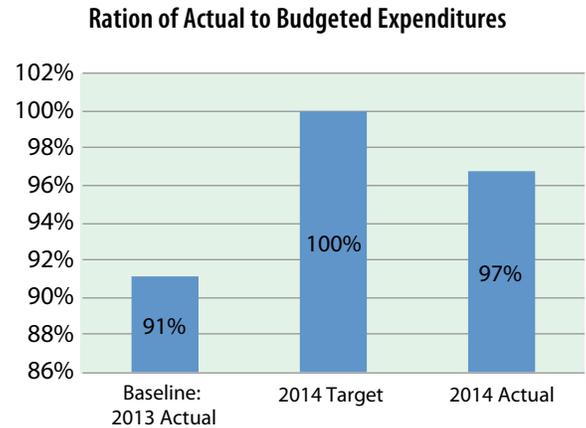
**Overall performance:**

Exceeded Expectations

**Baseline:** Last Year's Actual to Budget Expenditure Ratio

**Target:** The target is 100%, the Departments are expected to be on budget for expenditures.

**Actual:** Actual expenditures for Office of the Attorney General were \$17,476,600. This is 96.8% of the budget for fiscal year 2013-2014.



**Why do we measure this?**

This indicator measures the ability of the provincial government to manage its overall expenses as compared to budget. The provincial government must ensure expenses are managed in accordance with the budget and prepared to take corrective action if expenses are projected to be over budget during the year. Office of the Attorney General achieved results well beyond expected targets.

**What projects were undertaken in 2013-2014 to achieve the outcome?**

Office of Attorney General began working in Performance Excellence this year with various aspects of Lean Six Sigma, with a goal of improving the efficiency of the professional services offered by the Office. While always looking for opportunities to deliver their core mandate more efficiently, the surplus was mainly a result of vacancies in the Public Prosecutions Branch, which were under active recruitment, and it is not expected to be recurring.

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# Living Within Our Means: Achieve Sustainable Budget

**Measure:**

Ratio of actual to budgeted revenue

**Description of measure:**

Actual Revenues divided by Budgeted Revenues

**Overall performance:**

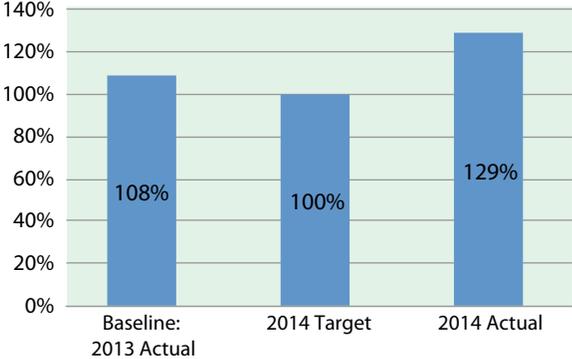
Exceeded Expectations

**Baseline:** Last Year's Actual to Budgeted Revenue Ratio.

**Target:** The target is 100%, the Departments are expected to be on budget for expenditures.

**Actual:** Office of Attorney General received \$193,000 in revenues. This is 129% of budgeted revenues.

**Ratio of Actual to Budgeted Revenues**



**Why do we measure this?**

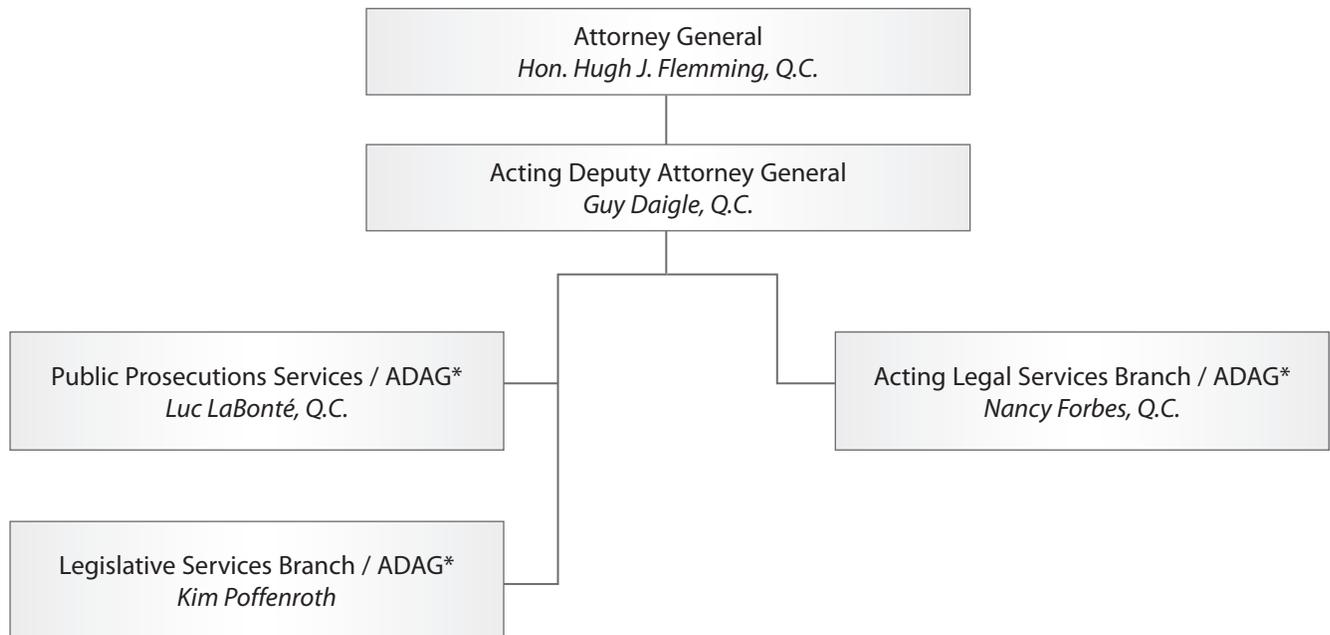
This indicator measures the ability of the Provincial Government to manage its overall revenues, with the goal of improving Government's finances. The Department of Justice and Office of the Attorney General achieved results beyond expected targets.

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# Overview of Departmental Operations

To ensure the application of the rule of law, impartial administration of justice, and the protection of the public interest.

In 2013-2014, the Office of the Attorney General employed up to 187 individuals on a full time, casual or contract basis. This was up from 177 in 2012-2013.



\* ADAG : Assistant Deputy Attorney General

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## Public Prosecutions Services Branch

The mission of **Public Prosecutions Services Branch** is to seek justice according to law, and to do so firmly but fairly, and with an ingrained sense of dignity, in search of the truth.

The Branch attempts to achieve its objective with a contingent of approximately 55 Crown Prosecutors, 13 Family Crown Counsel, Administrative and Regional Directors located in six regions as well as Specialized Prosecutions, all of which are overseen by an Assistant Deputy Attorney General and 2 Executive Directors.

The Branch performs a quasi-judicial function whereby it independently and objectively determines whether there is sufficient evidence to pursue a prosecution in any given investigation carried out by a policing agency or to justify the filling of adult and child protection applications which engage section 7 of the *Canadian Charter of Rights and Freedoms*.

Where a prosecution is commenced, the Branch attempts to obtain a just outcome while protecting the rights of charged persons and obtaining the participation of victims and other vulnerable persons without exposing them to undue hardship or abuse.

Similarly where adult and child protection applications are commenced, support orders are sought and enforced and applications under the *Hague Convention on the Civil Aspects of International Child Abduction* are pursued, the Branch attempts to obtain a just outcome while protecting these most vulnerable members of our society and balancing the rights of opposing parties to fundamental justice.

The Branch performs these functions while taking into account the Charter of Rights, language rights, aboriginal and treaty rights and the current statutes and caselaw.

In the performance of its duties the Branch at all times balances its obligation to function at a high level in determining and seeking the public interest with our obligation to make every effort to remain within our budgetary restraints.

### Highlights

The **Public Prosecutions Services Branch** has managed over 20,000 criminal prosecutions against adults and a further 2,100 prosecutions under the *Youth Criminal Justice Act*. These have resulted in 60,000 appearances in Provincial Court during the year. There have also been over 50 matters before the Court of Appeal and one matter in the Supreme Court of Canada.

The Branch has been involved in the Early Resolution and E-Disclosure Projects in Moncton. The Early Resolution project shows promising results in reducing Court backlogs and increasing overall efficiencies at the Prosecutor and Court levels. The E-Disclosure Project increases efficiencies in the disclosure of files and further reduces storage costs.

The Branch has developed nationally recognized expertise in the prosecution of Internet Child Exploitation (ICE). Our Crown specialist has provided training expertise at the Canadian Police College in Ontario.

The Branch has undertaken two Mega-trials this past year. These are prosecutions or groups of prosecutions which are identified according to established criteria based on their size, complexity and public interest. One of these mega-trials has resulted in over 70 suspects and over 200 potential charges. The other mega-trial remains before the Courts.

Family Crown Counsel of the Branch has successfully litigated numerous adult and child protection cases.

In particular, Family Crown Counsel dealt with the unprecedented case which went through 2 guardianship hearings, 2 appeals before the New Brunswick Court of Appeal and which is now awaiting leave to the Supreme Court of Canada.

Currently child support issues litigated by these same counsels account for more than 50% of family crown work. This litigation assists those receiving income assistance in obtaining child support orders and contributes to the successful recovery of income assistance costs by the Province of New Brunswick (through the Family Support Orders Services) each year.

Family Crown Counsel provides a number of services under the *Hague Convention on the Civil Aspects of International Child Abduction*. They have dealt with a number of incoming requests from foreign states for the return of children wrongfully removed from the foreign country or wrongfully retained in Canada. They have also processed outgoing requests for the return of New Brunswick children wrongfully removed from New Brunswick or wrongfully retained in a foreign state. Additionally, Family Crown Counsel have responded to inquiries from New Brunswick residents and/or their lawyers seeking to prevent international child abduction by referring them to websites which identify preventative measures to consider in custody/access litigation or agreements or when dealing with travel of children outside Canada.

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## Legislative Services Branch

The mandate of the **Legislative Services Branch** is to provide to all government departments and agencies a central legislative drafting service, in both French and English. The Branch also provides advice to the Attorney General, the Deputy Attorney General, the Executive Council Office and Cabinet on all legislative matters before the Officials and Policy and Priority Committees and on Cabinet agenda and carries out law reform projects for the Office of the Attorney General.

The Registrar of Regulations is located within the Branch, and discharges the responsibilities of that office as provided by the *Regulations Act*. The Legislative Publishing Unit discharges the responsibilities of the Queen's Printer as provided by *The Queen's Printer Act*, including the publication and distribution of all public Acts and Regulations.

In addition to providing government departments and agencies with a central drafting service, the Branch provides these departments and agencies with legal advice and critical analyses of their legislative and regulatory proposals.

At the end of 2013-2014, the Branch had a staff complement of 31 Full Time Equivalents (FTE's), including two vacancies, of which 21 were Legislative Counsel positions.

### Highlights

The Branch dealt with a heavy workload in terms of the breadth and complexity of the legislative portfolio. A total of 53 Bills drafted in the Legislative Services Branch received Royal Assent between April 1, 2013, and March 31, 2014, many of which dealt with significant Government priorities, such as the *Electricity Act*, the *Financial and Consumer Services Commission Act*, *An Act Respecting Pensions under the Public Service Superannuation Act* and the *Prescription and Catastrophic Drug Act*. Also, 100 Regulations drafted in the Branch were filed with the Registrar of Regulations during the same period.

The Branch played an important role in government achieving its target of reducing regulatory obligations by 20% under the SMART Regulations initiative. The Branch was responsible for drafting all regulatory amendments required to achieve the government-wide target. The Branch also provided invaluable and necessary guidance and advice to government departments and agencies allowing them to determine how their SMART regulation objectives could be best achieved, including identifying necessary legislative amendments and legal and legislative challenges to their objectives.

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## Legal Services Branch

The **Legal Services Branch** is responsible for the provision of legal advice to and representation of government departments and agencies in all matters not pertaining to public prosecution and legislative drafting. The legal advice and representation services provided by professional staff of the Legal Services Branch is intended to assist the Attorney General of New Brunswick in the fulfillment of his constitutionally mandated role as Chief Law Officer of the Crown and legal advisor to government.

The Branch is composed of five practice groups: a Litigation Practice Group, an Employment and Administrative Law Practice Group, a Corporate, Commercial and Property Law Practice Group, a Legal Advice Services Practice Group, and a Constitutional Law Practice Group.

The practice group mode of service delivery is designed to encourage the sharing of knowledge among group members. The particular mode of service delivery implemented in the Legal Services Branch retains sufficient flexibility to accommodate the delivery of services in a cross-disciplinary environment. It thereby allows the Attorney General to take full advantage of in-house resources to expedite resolution of matters submitted to him.

The increasing complexity of legal matters dealt with by solicitors of the Branch on behalf of the Executive Branch of government requires a certain degree of specialization on their part. The practice group mode of service delivery combined with a collegial approach to the practice of law has been determined as the most effective model for the delivery of legal services.

### Highlights

The Branch conducted research and provided legal advice on complex real property matters involving ownership, title to real property and major infrastructure projects (courts, hospitals, schools and bridges) throughout the Province, including the Perth Andover compensation claims and flood relocation and the Petitcodiac River land claims.

The Branch assisted various government departments with respect to their government renewal projects including cost saving initiatives and the disposition of non-core assets such as the Bon Accord Elite Seed Potato Centre and the government aircraft.

The Branch assisted the Department of Health with its introduction of a universal drug prescription plan as well as negotiated various contracts with the New Brunswick Medical Society.

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## Communications, Policy & Planning and Administrative Services

The Office of the Attorney General received support from the following Branches and Division of the Department of Justice.

**Communications Branch:** The Communications Branch provides public awareness and promotion of departmental programs, services and policies. The Communications Branch is responsible for public communication and education/awareness programs, as well as providing strategic communications planning and advice to the Minister, senior managers and staff. The branch prepares news releases, advertisements, speeches, speaking notes and briefing notes for the Office. Along with providing ministerial support, the branch also co-ordinates departmental news conferences and events as well as coordinating activities related to the Legislative Assembly.

The Communications Director, acting as spokesperson for the Office of the Attorney General, responds to inquiries from the media and the public with regard to services, programs, policies and decisions. The director also oversees content on the department's web page.

**Policy and Planning Branch:** The Policy and Planning Branch provides leadership in the identification, and development of broad policy initiatives, and provides advice and support services in relation to the overall corporate strategy, policies and direction. The branch is responsible for the strategic and departmental planning, represents the Office of the Attorney General on numerous federal/provincial/territorial committees, plays an integral role in policy development and program design and reviews, and provides executive support to the Attorney General and Deputy Attorney General.

**Administrative Services Division:** Administrative Services Division supports the Office of the Attorney General in meeting its mission, goals and objectives through the provision of quality support, advice, consultation, monitoring and coordinating services to all managers and employees in the areas of departmental services, financial services, human resources, information systems and facilities management. It also oversees the expropriation advisory function. The employees responsible for the execution of the Lean Six Sigma aspect of GNB's Performance Excellence Process, the departmental Process Improvement Facilitators, are part of Administration.

# Financial Information

## Table 1: Ordinary Account Expenditures by Program

For Year Ending March 31, 2014 (in thousands of dollars)

	Budget	Actual	Variance Over / (Under)
Prosecutions	10,989.7	10,372.1	(617.5)
Legislative Services	3,066.1	2900.6	(165.6)
Legal Services	3,995.9	4203.9	207.9
<b>TOTAL PROGRAM</b>	<b>\$ 18,051.7</b>	<b>\$ 17,476.6</b>	<b>\$ (575.1)</b>

## Table 2: Ordinary Revenue

For Year Ending March 31, 2014 (in thousands of dollars)

	Budget	Actual	Variance Over / (Under)
<b>Sale of Goods and Services</b>			
Queen's Printer	140.0	172.2	32.2
<b>Fines and Penalties</b>			
Court Cost-Recoveries	10.0	20.9	10.9
<b>TOTAL REVENUE</b>	<b>\$ 150.0</b>	<b>\$ 193.1</b>	<b>\$ 43.1</b>

## Table 3: Special Purpose Account Revenue and Expenditures

For Year Ending March 31, 2014 (in thousands of dollars)

	Budget	Actual	Variance Over / (Under)
<b>Proceeds of Crime Trust Fund</b>			
Revenue	500.0	267.7	232.3
Expenditures	325.0	86.5	238.5
<b>NET PROCEEDS OF CRIME</b>	<b>\$ 175.0</b>	<b>\$ 181.2</b>	<b>\$ (6.2)</b>

# Summary of Staffing Activity

Pursuant to section 4 of the *Civil Service Act*, the Deputy Minister of the Department of Human Resources delegates staffing to each Deputy Head for their respective departments. Please find below a summary of the staffing activity for 2013-2014 for the Office of the Attorney General.

The Office of the Attorney General advertised 20 competitions, including 13 open (public) competitions and 7 closed (internal) competitions.

Pursuant to section 15 and 16 of the *Civil Service Act*, the Office of the Attorney General made the following appointments using other processes to establish merit than the competitive process:

Appointment type	Appointment description	Section of the <i>Civil Service Act</i>	Number
Specialized Professional, Scientific or Technical	An appointment may be made without competition when a position requires: <ul style="list-style-type: none"> <li>• a high degree of expertise and training</li> <li>• a high degree of technical skill</li> <li>• recognized experts in their field</li> </ul>	15(1)	N/A
Equal Employment Opportunity Program	Provides Aboriginals, persons with disabilities and members of a visible minority group with equal access to employment, training and advancement opportunities.	16(1)(a)	N/A
Department Talent Management Program	Permanent employees identified in corporate and departmental talent pools, who meet the four-point criteria for assessing talent, namely performance, readiness, willingness and criticalness.	16(1)(b)	N/A
Lateral transfer	The GNB transfer process facilitates the transfer of employees from within Part I, II (School Boards) and III (Hospital Corporations) of the Public Service.	16(1) or 16(1)(c)	N/A
Regular appointment of casual/ temporary employees	An individual hired on a casual or temporary basis under section 17 may be appointed without competition to a regular properly classified position within the Civil Service.	16(1)(d)(i)	1
Regular appointment of students/ apprentices	Summer students, university or community college co-op students or apprentices may be appointed without competition to an entry level position within the Civil Service.	16(1)(d)(ii)	N/A

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# Summary of Legislation and Legislative Activity

Received Royal Assent on June 21, 2013

**Bill 38**

*An Act to Amend the Law Reform Act*

<http://www.gnb.ca/legis/bill/pdf/57/3/Bill-38.pdf>

**Bill 56**

Enforcement of Money Judgements

<http://www.gnb.ca/legis/bill/pdf/57/3/Bill-56.pdf>

**Bill 65**

An Act Respecting the Enforcement of Money Judgements Act

<http://www.gnb.ca/legis/bill/pdf/57/3/Bill-65.pdf>

# Summary of Official Languages Activities

<b>Introduction</b>	The Department of Justice and Office of the Attorney-General developed an Action Plan on Official Languages for the period covering 2011-2013 which included actions on the four sectors of activity: Language of Service, Language of Work, Promotion of the Official Languages, and Knowledge of the Legislation and Other Obligations.
<b>Focus 1</b>	<p>Ensure access to service of equal quality in English and French throughout the province:</p> <p><b>Objectives for 2013-2014:</b></p> <ul style="list-style-type: none"> <li>• Ensure bilingual signage is properly displayed at 1<sup>st</sup> point of contact;</li> <li>• Ensure staff understand requirement for bilingual voice mail messages;</li> <li>• Extend a bilingual offer of service at first point of contact;</li> <li>• Ensure correspondence is provided in client’s language of choice;</li> <li>• Generic correspondence is sent in both official languages.</li> </ul> <p><b>Activities to meet objectives:</b></p> <ul style="list-style-type: none"> <li>• Managers monitored the use of bilingual messaging and interactions with clients;</li> <li>• Additional signage was ordered and posted in public areas as required;</li> <li>• Managers ensure correspondence was provided in the client’s language of choice;</li> <li>• Periodic reminders to staff of their obligations.</li> </ul>
<b>Focus 2</b>	<p>An environment and climate that encourages, for all employees, the use of the official language of their choice in their workplace:</p> <p><b>Objectives for 2013-2014:</b></p> <ul style="list-style-type: none"> <li>• Ensure branches maintain appropriate linguistic profiles to meet the needs of their clients;</li> <li>• Ensure performance reviews are conducted in the employee’s language of choice;</li> <li>• Ensure all new project timelines include time for translation;</li> <li>• Employees are offered upon hire language preference for computer set ups.</li> </ul> <p><b>Activities to meet objectives:</b></p> <ul style="list-style-type: none"> <li>• Periodically reviewing team linguistic profiles to ensure compliance;</li> <li>• Educate managers on their obligations to conduct performance reviews in their employee’s preferred language of choice;</li> <li>• Project teams are advised at the beginning to allow sufficient time for translation;</li> <li>• During orientation, employees are asked for their preferred language for computer set up.</li> </ul>

<b>Focus 3</b>	<p>New and revised government programs and policies taking into account the realities of the province's official language communities:</p> <ul style="list-style-type: none"> <li>• During this fiscal year, the Office of the Attorney General had no revised government programs or policies that required consultations with the public. Furthermore, the Office of the Attorney General did not receive any languages complaints during this period.</li> </ul>
<b>Focus 4</b>	<p>Ensure public service employees have a thorough knowledge and understanding of the <i>Official Languages Act</i>, relevant policies, regulations, and the province's obligations with respect to official languages:</p> <p><b>Objectives for 2013-2014:</b></p> <ul style="list-style-type: none"> <li>• Increase employees understanding of the Language of Work and Language of Service policies.</li> </ul> <p><b>Activities to meet objectives:</b></p> <ul style="list-style-type: none"> <li>• - The Office of the Attorney General required all employees to complete the I-Learn Modules on Language of Work and Language of Service;</li> <li>• All new employees were informed of their obligations as part of their orientation program</li> </ul>
<b>Conclusion</b>	<p>Based on our employee engagement survey results in 2013, much improvement was noted in employees' awareness of their obligations under the Language of Work and Language of Service policies due to our internal promotion to have everyone complete the Official Languages I-Learn Modules.</p>

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# Summary of Recommendations from the Office of the Auditor General

The Office of the Auditor General has not issued any recommendations to the Office of the Attorney General since 2009-2010.