



THE CANADIAN
BAR ASSOCIATION
Northwest Territories Branch

June 20, 2016

Via Email: Louis_Sebert@gov.nt.ca

Hon. Louis Sebert
Minister of Justice
Government of the Northwest Territories
Yellowknife, NT

Minister Sebert;

I write to you on behalf of the Northwest Territories' Branch of the Canadian Bar Association (CBA-NT) regarding the CBA-NT's concern over the imminent closure of the M.M. deWeert Law Library located in the Courthouse building in Yellowknife.

The Canadian Bar Association (CBA) is a professional, voluntary organization representing more than 36,000 lawyers, judges, notaries, law professors and law students from across Canada. The CBA promotes fair justice systems, facilitates law reform, and is devoted to the elimination of discrimination. A significant part of the CBA's mandate is to improve the law, advance the administration of justice and improve and promote access to justice.

The CBA-NT is very concerned about the impact that the closure of the library will have on access to justice in the Northwest Territories. The population of the Northwest Territories is one for which access to justice is particularly important. Approximately half of the population is located outside of the capital, mostly in small communities that only receive periodic court services. The Government of the Northwest Territories (GNWT) Department of Justice 2015-16 Business Plan indicates that the Northwest Territories' crime rate remains the highest in Canada, at over eight times the national average. That document also indicates that the legal system does not currently always provide effective response to the needs of families in crisis or in transition. Other issues the population faces include the difficulty in accessing a lawyer due to cost or lack of lawyers with capacity for new clients, or with the experience in certain areas of law. There are quite a few challenges impeding the people of the Northwest Territories as it is. The closure of the law library will be a further roadblock, one that will impact access to justice in a number of ways.

Self-represented litigants, whether defendants in a criminal action; participant in a family matter; or plaintiff or defendant in a civil action, will have an increased difficulty in accessing the tools necessary to actively and effectively participate in their matters. For those involved in the criminal system or those whose adversary in any litigation has the benefit of legal counsel, the reduced access to legal resources could be quite detrimental. Without direct access to source material about the law, inadequate legal information may lead to errors in law. Litigants would then face the cost of appealing a matter, or having to live with the consequences of an unrectified legal error.

The Department of Justice's proposal that the department intends to establish a research centre where people can access online legal research is, with all due respect, not sufficient. Non-lawyers will find it

difficult to navigate or otherwise use the online legal research tools due to unfamiliarity of key words to search or how legal research is generally organized. Those with limited literacy or computer skills will have even greater challenges. Without a librarian to assist, it will be a useless tool.

Additionally, not all resources are yet online, particularly those materials prior to a certain year. Although the Department of Justice indicates that the books currently in the library may be saved they will not be updated and will gradually become obsolete. If they are saved, the Department of Justice suggested they may be housed in the barrister's lounge, or other parts of the courthouse. These areas are not accessible to the public and thus will not assist with the access to justice issue.

The suggestion that an inter-library loan program could address the issue of unavailable materials is, in the CBA-NT's opinion, unsatisfactory. It does not address the question of how a self-represented individual would know what text to request. It also does not consider the issue of timely access to a legal resource when there are legislatively imposed deadlines, or deadlines imposed by the Courts.

The lack of access to legal resources will also affect the public through the impact on small/local firms. These firms tend to have fewer resources available to them and rely more heavily on the law library. Without the library, the firm's ability to provide effective legal representation to their clients is made increasingly difficult. Any increased costs necessary to provide an acceptable level of service would likely be passed on to the client. Increased legal costs are identified as one of the main barriers to access to justice.

In April 2015, Alberta Justice and the Alberta Solicitor General assembled the Alberta Law Libraries Review Committee (ALLRC) to provide strategic guidance and options for the future of Alberta Law Libraries. The ALLRC completed over seventy structured one-on-one and group interviews, in-person and telephone with the judiciary, legal counsel, Alberta Crown Prosecution Service, Legal Services Division, and the legal profession as well as other participants in Alberta's justice system. Print and electronic surveys were made available to members of the public who visited the libraries over the course of the review and to members of the Law Society of Alberta.¹ The main findings included the following points:

- *ALL is an essential element of Alberta's justice system and the rule of law, which are the underpinnings of civil society. ALL is critical to the effective functioning of Alberta's justice system.*
- *The scope of required legal resources is far more than statutes and case law. Up-to-date textbooks are crucial to effective and efficient legal research.*
- *While the use of online legal resources is established across all stakeholder groups, the "digital age" of libraries is, currently, more myth than reality.*

The recommendations of the ALLRC included more funding, not less.

To my knowledge, there was no consultation by the GNWT with the legal community or the public on the closure of the law library and its impacts on access to justice.

The CBA-NT is not advocating for a budget increase for the law library; however, we certainly do not support its closure. If the planned closure proceeds, the Northwest Territories will be the only capital

¹ Alberta Law Libraries Review Final Report September 2015 <https://www.lawlibrary.ab.ca/>

city in Canada without a legal library available to the public. That is definitely a step backward in what is the stated goal of the GNWT to improve access to justice for its population. With the Northwest Territories' population consisting of a high number of disadvantaged individuals for whom access to justice is an ongoing challenge, the closure is even more daunting.

We would be willing to work with the GNWT on this issue to better determine how access to justice can be maintained through an accessible and useful legal library, while acknowledging the GNWT's fiscal concerns.

If you would like to discuss this further, I or any member of the CBA-NT executive would be happy to assist.

Yours truly,

A handwritten signature in black ink, appearing to read 'Shirley Walsh', written in a cursive style.

Shirley Walsh
Secretary-Treasurer, CBA-NT