

# Investment Fund Evaluation Report: Early Case Resolution Project

Prepared for:  
Jane L. Lancaster, Q.C.  
Chief Executive Officer  
#502 – 201 21<sup>st</sup> Street East  
Saskatoon, Saskatchewan  
S7K 2H6

Submitted by:

Yelland Research & Evaluation Services  
2610 – 57<sup>th</sup> Avenue  
Lloydminster, Alberta  
T9V 2C8

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# SECTION ONE: OBJECTIVES AND METHODOLOGY

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The Early Case Resolution (ECR) project was modeled after a pilot program initiated in 1996 in Lethbridge, Alberta. The purpose of the Lethbridge project was to “provide defence counsel and Crown counsel an opportunity to address critical issues at earlier stages of criminal proceedings before the matter is set for trial. Defence counsel will have additional time to meet with clients and then meet with Crown counsel in order to determine if the matter can be resolved before setting the matter for trial” (SLAC 2005). Similarly, the purpose of the Saskatchewan Early Case Resolution project was to “provide defence counsel and Crown counsel an opportunity to address critical issues at earlier stages of criminal proceedings before the matter is set for trial (SLAC 2005). In order to achieve this goal, the Saskatchewan Legal Aid Commission (the Commission) applied to Justice Canada’s Investment Fund for project funding.

The Commission hoped that providing an additional lawyer and creating an Early Case Resolution team would result in efficiency outcomes such as fewer trials and shortened delays in trial dates. Further, the Commission hoped that this project would “allow the client to deal with the matter earlier and avoid additional charges such as for failing to appear at court” (SLAC, 2005). Finally, the Commission anticipated this could result in increased client satisfaction.

This evaluation was conducted by Yelland Research and Evaluation Services (YRES) in the fall of 2005 and spring of 2006. The purpose of this evaluation was to provide information about how the Early Case Resolution project was designed, implemented and it’s success in achieving its objectives. The final evaluation report was submitted to the Saskatchewan Legal Aid Commission in May 2006.

## **Evaluation Objectives**

The specific objectives of this evaluation are to:

1. Describe the status of the Early Case Resolution Project’s development, implementation and context, activities, outcomes and impacts;
2. Identify the strengths and weaknesses of the Project and possible improvements;
3. Determine if the project has lead to a reduction in the number of:
  - a. Court appearances
  - b. Trials set down
4. Determine the level of clients’ satisfaction with the project.

These evaluation objectives guided the development of the research design, research questions and specific interview questions. Information specific to the first objective is contained in Section Two: Program Information. Information about the second, third and fourth objectives are in Section Three: Data and Analysis. Respondent suggestions and recommendations arising from the analysis are included in Section Four: Recommendations and Action Items.

## **Data Sources**

Data sources for this evaluation included:

- ✓ A review of internal Legal Aid documents
- ✓ Interviews with Early Case Resolution and Regina Youth Court stakeholders

Data for this evaluation was gathered between June 2005 and March 2006.

## **Document Review**

Yelland Research & Evaluation Services reviewed internal and external documents relevant to the Early Case Resolution project. This review assisted YRES in understanding the scope of the issues involved with the Early Case Resolution project and in uncovering issues relevant to the evaluation that needed to be addressed in the stakeholder interview guide.

## **Stakeholder Interviews**

Yelland Research & Evaluation Services and the Saskatchewan Legal Aid Commission evaluation project manager identified the stakeholder groups to be interviewed for this evaluation. The evaluation project manager and Legal Director identified potential interviewees in Regina. In addition to discussions about the Early Case Resolution project with the Legal Director in Regina and senior Saskatchewan Legal Aid Commission staff in Saskatoon and Regina, six interviews (two by telephone) were conducted with project stakeholders. In total, 10 people were formally or informally interviewed about the early Case Resolution project. The formal interviews used a semi-structured interview guide (see Appendix 1).

## **Sampling**

Potential interview participants were identified using a stratified purposeful sampling to identify the initial potential respondents. Stratified purposeful sampling is a form of non-probability sampling in which the researcher seeks to collect data from specific groups and individuals, who

are recognized as having significant knowledge about the project under examination. This approach to sampling facilitates comparison of data by sub-groupings where appropriate.

### **Analytic Approach**

The Early Case Resolution evaluation project included both quantitative (numeric) and qualitative (textual) data. The quantitative data was analyzed with Descriptive Statistics (frequencies and percentages of responses) and the qualitative data was analyzed by examining the responses to the interview questions for common or similar responses. These similar responses were then grouped into themes. The themes and their frequencies are reported below.

### **Limitations of the Evaluation**

This evaluation was not designed to be generalizable beyond this particular project. It would be inappropriate to apply the lessons learned in this evaluation to other Early Case Resolution projects without first ensuring the similarity of the project's context.



## SECTION TWO: PROGRAM INFORMATION

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The Early Case Resolution project background information and project description provided below comes from discussions with, and documents provided by, the Saskatchewan Legal Aid Commission evaluation project manager. This background information includes details about the state of the services provided prior to implementation of the Early Case Resolution project. The project description provides an overview of the original design of the project; some of which had been altered during implementation. The project implementation section describes the actual implementation process for the Early Case Resolution project. Project costs are discussed after the project implementation section.

### **Project Background Information**

As mentioned above, the Saskatchewan Early Case Resolution project was based on a similar initiative in Lethbridge, Alberta. The intent of this project was to increase the number of lawyers available for out of custody accused adults eligible for service. Prior to this project, after determining if a non-custodial adult was eligible for service the matter would be set down for trial – often for 6 to 8 months in the future. Currently, “90% of these trials do not proceed, mainly as there is no meaningful discussion between the Crown and defence until very close to the time of the scheduled trial regarding witnesses and plea negotiations” (Lacoursiere 2004).

### **Project Description**

The original intent of the Early Case Resolution project was to increase the number of lawyers available for non-custodial adult accused clients with the hope of reducing the waiting time between determination of eligibility and appointment with a lawyer and the number of trials. The Commission anticipated that reducing this waiting time would allow clients to deal with their matters earlier, thus avoiding additional administrative charges such as failure to appear, increasing overall efficiencies for the clients, the Crown, the court and the clients’ satisfaction with services provided by Legal Aid. Original project partners included: the Crown, Defence Counsel, Legal Aid, Police, and the Court and Court Administration (SLAC 2005).

### **Project Implementation**

According to discussions with the Legal Director and senior staff in Regina, when the Investment Fund project money became available the Early Case Resolution process was not in place. Thus, the Regina office reviewed other services to see where they could have a similar impact (helping clients resolve their matters earlier). The result was a restructuring of the services provided in Regina Youth Court. Increasing the number of counsel available to the

Regina Youth Court allowed for the development of a Youth team and specialization of duties amongst the team members. According to a September 2004 status report, “At present the YCJA (Youth) team consists of two lawyers and one paralegal. This team assists in-custody youth matters. One lawyer and paralegal have been assigned to dealing with bail and one lawyer has been assigned to dealing with in-custody Youth trials” (Lacoursiere, 2004). The additional lawyer joined the Youth team July 2004.

## Project Costs

Table 2.1: Project Expenses below outlines the budgeted, revised, and actual/ projected costs for the Early Case Resolution project for 2003 through 2006.

**Table 2.1: Project Expenses**

	Budget		Actual	Variance	%
		Revised			
2004 - 2005	\$85,479	\$71,156	\$71,164	\$8	0.01%
			Projected		
2005 - 2006	\$118,256	\$90,265	\$101,497	\$11,232	12.44%
<b>Total</b>	<b>\$203,735</b>	<b>\$161,421</b>	<b>\$172,661</b>	<b>\$11,240</b>	<b>6.96%</b>

1) This table is based on data provided by the Saskatchewan Legal Aid Commission (Accounting Department).

2) A full breakdown of project expenses was not available when the report was prepared.

In its first year of operation, SLAC reduced the original budget by \$14,323 (16.76%) and finished the year \$8.00 over this revised budget. The 2005-2006 data is based on projected rather than actual costs and shows that the Commission anticipates exceeding the revised budget by 12.44%. In total, if these projected expenses are realized the ECR project will have exceeded the *revised* budget by 6.96% in its first two years. Finally, even if the 2006 expenses are realised the ECR project will still be 15.25% or \$31,000 under budget according to the *original* budget.

Discussions with SLAC in June of 2006 revealed that the following factors had a significant impact on the ECR wage cost and therefore the total budget.

- 1) A Temporary Salary Supplement of 10% in January 2005 and 5% in April 2005.
- 2) Settling of a union negotiation in October 2005.
- 3) Personnel changes in August 2005 reduced project related wage cost.

# SECTION THREE: DATA AND ANALYSIS

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This section of the report presents the results of thematic analyses of the interviews.

## Document Review

Internal documents and project status reports (internal and external) were reviewed in order to fully understand the scope (breadth and depth) and purpose of the Early Case Resolution project. This document review assisted in development of the semi-structured interview guide (see Appendix 1).

## Stakeholder Interviews

The stakeholder interviews were designed to elicit information from Early Case Resolution project stakeholders about their perceptions of various aspects of, and issues relating to, the Early Case resolution project. For reporting purposes, the following text presents the significant themes that emerged during the analysis. These emergent are the result of grouping together responses that are thematically similar. Where possible, themes are presented from strongest (view shared by largest number of individuals) to weakest (view shared by least number of individuals).

### **Question 1: What are the strengths of the Early Case Resolution project? What are the weaknesses of the project?**

#### Strengths

- Many respondents declared *faster service* to be the key strength of the Early Case Resolution project following the Investment Fund project changes.
- The second strength identified is the *specialization* that resulted from the restructuring of the Youth team which has allowed the team members to have:
  - More familiarity with the Youth Justice code;
  - Greater knowledge of youth issues and the resources available;
  - Increased experience through increased opportunity to practice.
- Team of *staff dedicated to Youth court* has lead to better working relationships with Clients, Crown, and other stakeholders that provide services to accused youth.
- Relatively *small team size* (3 members) has resulted in greater ease of scheduling which

has resulted in reduced wait times to see a lawyer and get one's matters dealt with, resulting in faster service for the clients.

## Weaknesses

- Some respondents reported that *increased familiarity* between counsel and client/ client's families was a potential weakness of the ECR project. The size of the team means that a young offender who comes through the system more than once will likely be represented by the same lawyer. If the relationship is problematic, this repeated exposure is likely to exacerbate existing problems.
- *Closer working relationship* between Crown and defence counsel may:
  - Be perceived by clients and/or their families as detrimental to the defence counsel's ability to provide *quality* representation.
  - Exacerbate problems between Crown and defence counsel
  - Reduce the defence counsel's ability to "bluff"
- The *workload* can be overwhelming. If volumes get too high the waiting time to see a lawyer may increase.
- Constantly dealing with the *same issues* may result in stagnation of professional motivation and growth.

## **Question 2: How well does the Early Case Resolution project meet its intended objective of reducing the time to see a lawyer, the number of court appearances and trials set down?**

- All respondents interviewed agreed that the Early Case Resolution project had met its goals of reducing the time necessary to see a lawyer and the number of court appearances. No one specifically addressed whether less trials were being set down but a number of respondents commented on the increased efficiency in Youth court following these changes.

### **What facilitated or impeded the process?**

- Respondents felt these goals were met as a result of:
  - Having a team dedicated to and focused only on Youth matters.
  - Restructuring team duties and streamlining the process used to provide service.
  - Increasing the number of lawyers and refining their focus increased the number of time slots available for clients to see a lawyer and therefore reduced the wait to see a lawyer.

### **Question 3: To what extent has the Early Case Resolution project met your organization's needs and expectations?**

- All respondents commented that the project met their organizations' needs and expectations for the project.
- Some respondents reported clients are more satisfied with the service.

### **What has facilitated or impeded this?**

- The respondents reported that the ECR projects success was due to:
  - The small team of knowledgeable, experienced, approachable individuals dedicated to Youth court.
  - Focusing on Youth matters has lead to increased experience and efficiency through targeting of efforts and familiarity with the files and the Youth act.

### **Question 4: To what extent has the Early Case Resolution project met the client's needs and expectations?**

- Interviewees responded that the ECR project has met clients' needs and expectations quite well. In fact, some respondents commented that youth are receiving better representation and service since these changes.

### **What has facilitated or impeded this?**

- Youth needs and expectations are met better now because they are receiving services from a specialized team dedicated to Youth issues. As a result they are more:
  - Focused on youth issues;
  - Aware of alternative measures and resources available for youth;

- Aware of the files so they are able to report on progress for repeat offenders;
- Ability to spend more time with the youth.

**Question 5: Are there any unresolved issues regarding the Early Case Resolution project you would like to see addressed?**

- No significant unresolved issues were reported but respondents suggested Legal Aid consider the following four changes:
  - Internal changes to:
    - § Increase counsel's availability by reducing the number of external duties required of Youth court counsel;
    - § Reduce the number of matters scheduled for the same day;
  - Ensure that awareness of drug and alcohol issues is included in their professional development training;
  - Formalize linkages between Legal Aid and agencies providing services to youth;
    - § At a minimum, Legal Aid should *meet with partner* agencies to share information and learn of changes within these agencies that may help the youth team provide service.

**Question 6: What impact has the Early Case Resolution project had on your organization? On the clients? On other stakeholders? (Please identify which stakeholder)**

- The respondents reported *only positive impacts*. These impacts included:

<b>Clients</b>	<b>Process (Crown/ Court)</b>	<b>Other stakeholders</b>
Faster service = better service - reduces # of administrative charges - reduces # of clients pleading guilty in order to deal with their matter quickly	Small number of team - focused on Youth matters increases efficiency - develop stronger working relationships - refine procedures & routines	Non youth team Legal Aid counsel – decreased stress - not having to appear in Youth court - focusing on adult matters
Lawyers understand resources available for youth	Lawyers have more time for clients	Single point of contact
Greater efficiency	Court & Crown perceive Legal Aid is more functional	Consistency/ timeliness/ increased quality of service
Lawyers have more time for clients - helps build trust & willingness to cooperate	Reduced backlog of matters in the system	Greater efficiency
Perception that changes resulted in happier Crown & Court and therefore better deals for clients		Increased satisfaction with Justice system among External stakeholders and public
		Lawyers have more time for clients
		More time to find alternatives for accused

**Question 7: Have there been any unintended outcomes, positive or negative, for the program stakeholders or the local community? What was the cause? What could be done to mitigate or eliminate the negative outcomes?**

- The most frequent response was “No unintended outcomes come to mind”.
- The second most frequently reported response was that the restructured process (with the additional lawyer) has resulted in a smoother functioning delivery of service and this resulted in:
  - Decreased stress among Legal Aid counsel (Youth and Adult)
  - Increased confidence in the system among general public

**Additional Comments**

The following “Additional Comments” were, mostly, provided by individual respondents.

- One respondent commented on reported his\_lack of awareness of changes regarding the changes\_Legal Aid had made to the Youth team. He commented that his agency was aware that youth were receiving faster service but did not know why.
- One respondent commented that restructuring the process and reassigning duties was as important as adding the lawyer. This respondent acknowledged this restructuring was only possible because of the additional lawyer. But felt that the staffing was now adequate and further changes to the process and assignment of duties should be considered before adding more staff.
- Clarity of the roles and accountability of the counsel and client might help the process.
- Increasing the number of Aboriginal lawyers/ staff might help Aboriginal clients feel more comfortable and appreciated/ understood by the system, also therefore, better represented.
- Participation in community activities regarding youth would be very beneficial for both Legal Aid and the local community, assuming Legal Aid staff were both expected and given time to participate.
- The perception that private counsel is better than Legal Aid counsel still exists – this respondent felt this was emphatically untrue.

# SECTION FOUR: RECOMMENDATIONS and ACTION ITEMS

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This section includes the recommendations and action items that arise out of the analysis as well as those offered by the interview respondents. The action items are presented here as a starting point for The Saskatchewan Legal Aid Commission to use to begin implementing these recommendations. It would be useful for The Saskatchewan Legal Aid Commission and the Early Case Resolution project management team to prioritize the implementation of these recommendations and action items in terms of the resources required and the resources available for implementation. Additionally, Legal Aid management, the evaluation project manager, and the Early Case Resolution project team should clearly delineate they will use to assess the success or failure of the implementation of each recommendation and action item.

## **Recommendations**

The following recommendations arise out of the analysis or reflect suggestions presented by the respondents.

**I: Increased efficiency and small team size could result in *workload* becoming an issue. Therefore it is important for the Early Case Resolution team, Legal Aid management and other Legal Aid staff to look for opportunities to manage the workload.**

Action Items:

- Clarify the roles and responsibilities of each team member. Identify gaps and/or overlaps. Determine the level of overlap (redundancy) necessary to ensure sufficient support and backup exists within the process/ system. Use this predetermined level of redundancy as one of the criteria when assessing potential changes to the process. Eliminate redundancy above this level by reallocating resources within the process/ system to fill in any gaps.
- Keep in mind that *system level changes* will be the most profitable over the long term.

**II: Track all improvement suggestions, notions, questions, etc and review them at regular team meetings.**

Action Items:

- ECR team members should record all ideas, questions, comments and suggestions provided by clients, parents, partners, Crown, court, etc so that potentially important ideas are kept separate from the activity of the daily work.
- These ideas, etc should be reviewed quarterly and assessed for applicability and relevance.

**III: Reduce the potential for professional stagnation of team members by ensuring that ECR team members have access to opportunities for professional development (PD).**

Action Items:

- In addition to training, workshops, conferences, etc., it may be quite beneficial to both the ECR team member and Legal Aid to investigate the possibility of secondments to other members within the Justice system. For example, spending some time working with Saskatchewan Justice, the Department of Community Resources, and Provincial and/or Federal justice initiatives could help to minimize the impact of working with the same legislation from the same perspective – day in and day out. This could also help relieve job stress due to the consistency of the workload.
- Providing ECR team members with time to liaise with community partners and work on community level justice projects can also help minimize professional stagnation and can serve to strengthen existing partnerships and help develop new ones. This professional development opportunity offers benefits to:
  - the ECR team member,
  - the ECR team,
  - existing youth justice partnerships Legal Aid is involved with,
  - the local community,
  - Legal Aid, and
  - the Justice system
- Maximize the return on investment for PD activities by focusing the ECR team members' activities in the youth justice field as much as possible.

**IV: Legal Aid and the ECR team should identify the type and amount of back up support/resources required by the ECR team.**

Action Items:

- The limited team size that helps develop close working relationships can also result in a strained and potentially dysfunctional relationship in some cases if the relationship does not have the opportunity (time and space) to cool off.
  - It may be desirable to have the ability to pass a client off to another team member or even external counsel if a client relationship becomes too strained.
  - It may also be desirable to be able to move into a different role on the team if necessary to reduce the strain in a working relationship between ECR counsel and the Crown.
    - § This questions the role of private counsel in the ECR process, which was discussed only minimally and should be clarified.

**V: The pressure for increased efficiency can result in a tendency to reduce the team member's duties within and outside the team. It would be more advisable to focus on process or system level changes that will allow the process to be as efficient as possible.**

Action Items:

- Recognise that focusing on *efficiency of the system* will likely mean that some aspects of the process are functioning at less than maximum efficiency, but this is necessary in order to maximize the efficiency of the system.
- The ECR team could meet with their youth justice partners to explore opportunities for increasing the efficiency of the system overall.

**General Recommendations/ Action Items**

- Formalize and strengthen linkages between youth justice partners so all partners have the opportunity to learn about each other's initiatives directly and to share how each can best support the youth in this process.
- Maintain project outcomes of increased speed of service, quality of representation and reduced trials by focusing available resources on project strengths of specialization, dedicated staffing and limited team size.

- Provide clients with information that outlines the ECR process and the roles and responsibilities of all parties in the process. This could also be made available online through the SLAC website.
- Due to the large number of Aboriginal clients, it was suggested that Legal Aid increase the availability of Aboriginal counsel, in particular in areas of the province where Aboriginal clients are in the majority. This may also help address existing misperceptions about the “quality of service” provided by Legal Aid to Aboriginal clients.

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# APPENDIX 1 – Early Case Resolution Interview Guide

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## 1. Focus Statement

The purpose of this meeting is to discuss the Early Case Resolution project. I have been contracted by the Saskatchewan Legal Aid Commission to conduct an evaluation of this project and you have been identified as someone I should talk with.

## 2. Questions (probe for clarity and depth)

1. What are the strengths of the Early Case Resolution project? What are the weaknesses of the project?
2. How well does the Early Case Resolution project meet its intended objective of reducing the time to see a lawyer, the number of court appearances and trials set down? What has facilitated or impeded this?
3. To what extent has the Early Case Resolution project met your organization's needs and expectations? What has facilitated or impeded this?
4. To what extent has the Early Case Resolution project met the clients' needs and expectations? What has facilitated or impeded this?
5. Are there any unresolved issues regarding the Early Case Resolution project you would like to see addressed?
6. What impact has the Early Case Resolution project had on your organization? On the clients? On other stakeholders? (Please identify which stakeholder)
7. Have there been any unintended outcomes, positive or negative, for the program stakeholders or the local community? What was the cause? What could be done to mitigate or eliminate the negative outcomes?
8. Finally, is there anything about the Early Case Resolution project that I have not asked you about that you would like to discuss or comment on?