

December 18, 2019



Dear :

**Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [JPS/129/2019]**

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On November 20, 2019, the Department of Justice and Public Safety (JPS) received your request for access to the following records:

**“I would like to request a list of all current studies being undertaken by or for the department, their time frame, their scope and their cost. This would include pilot projects, consultant studies and any other research pertaining to department programs or policy.”**

Please be advised that a decision has been made by the Deputy Minister of JPS to provide access to the requested information (see attached). Additionally, key messages that were prepared on the attached programs have been included for additional information.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request as set out in section 42 of the Act (a copy of this section has been enclosed for your reference). A request to the Commissioner must be made in writing not later than 15 business days of the date of this letter or a longer period that may be allowed by the Commissioner.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests

website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any questions please contact me by telephone at 709-729-7128, or by email at [sonjaelgohary@gov.nl.ca](mailto:sonjaelgohary@gov.nl.ca).

Sincerely,

A handwritten signature in black ink that reads "Sonja El-Gohary". The signature is written in a cursive style with a large initial 'S' and a long, sweeping underline.

Sonja El-Gohary  
ATIPP Coordinator

**Access or correction complaint**

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21 ;

(b) a decision respecting an extension of time under section 23 ;

(c) a variation of a procedure under section 24 ; or

(d) an estimate of costs or a decision not to waive a cost under section 26 .

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

**Direct appeal to Trial Division by an applicant**

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42 , the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45 (2).

JPS/129/2019 – Studies, including pilot projects, consultant studies and any other research re: programs or policy

Study	Type	Timeframe	Scope	Cost
Drug Treatment Court	Pilot Project	To be determined. Became operational Nov. 30/18. Current agreement in place until 2023.	Drug Treatment court is an alternative approach for offenders with serious drug addictions, who commit non-violent, drug-motivated offenses. The pilot project operates in St. John's.	\$242,000/fiscal year. There was a feasibility study completed in 2016-18 fiscal years that cost \$30,000
Bail Supervision Program	Pilot Project	To be determined	<ul style="list-style-type: none"> <li>Bail supervision provides an alternative to pre-trial detention that reduces custodial costs by supervising accused in the community and providing referrals, monitoring and support.</li> <li>The program gives judges the option to have accused supervised in the community instead of simply remanding them with the goal being to rehabilitate offenders while reducing the burden on provincial institutions and maintaining community safety.</li> </ul>	\$100,000 allocated in 2019-20 budget
Electronic Monitoring Program	Pilot Project	Six months once started	<p>During the pilot, JPS will be using electronic monitoring as a post-conviction tool to enhance monitoring of offenders serving community and custody based sentences. It will be used for:</p> <ul style="list-style-type: none"> <li>inmates eligible for Temporary Absence (TA) release from a correctional institution,</li> <li>offenders serving Conditional Sentence Order including those with intimate-partner violence convictions in the greater St. John's area, and</li> <li>offenders serving probation sentences.</li> </ul> <p>JPS will procure approximately 50 devices and of the targeted EM groups, emphasis will be given to offenders convicted of domestic related crimes for enhanced supervision.</p> <p>During the pilot, JPS will assess the feasibility of expanding to offenders serving intermittent sentences and remand.</p>	\$254,000 allocated in 2019-20 budget
Adult Diversion Program	Pilot Project	1 year	<ul style="list-style-type: none"> <li>Provides offenders alternative means to serving time.</li> <li>The pilot program covers areas serviced by the Provincial Court in Stephenville and Corner Brook.</li> </ul>	No cost associated with program – is covered by

JPS/129/2019 – Studies, including pilot projects, consultant studies and any other research re: programs or policy

Study	Type	Timeframe	Scope	Cost
			<ul style="list-style-type: none"> <li>• Alternative measures will not be available in cases of bodily harm, intimate partner violence, sexual offences, impaired driving, where children are victims, or those with mandatory minimum sentences.</li> <li>• Alternative measures could include counselling, a letter of apology, community service, etc.</li> </ul>	existing budget
Fines Options Program	Research/ Development stage	To be determined	JPS is in the process of developing a new Fines Option Pilot Program which would allow individuals to settle their debt, in part or whole, to the province by performing community service work.	Unknown
Family Violence Intervention Court Expansion	Research stage	To be determined	Currently there is Family Violence Intervention Court in St. John’s and Stephenville. JPS is working to expand the court beyond these two locations to allow for enhanced services in other regions of the province.	\$392,500 currently available for expansion

# KEY MESSAGES

## Justice and Public Safety Drug Treatment Court October 7, 2019

### Summary:

On May 17, 2017, the Provincial Government established a working group to initiate a pilot project in St. John's. The Drug Treatment Court became operational November 30, 2018 and the first DTC sitting to review applications was on January 18, 2019.

### Anticipated Questions:

- How many offenders have qualified for Drug Treatment Court?
- How does it work?

### Key Messages:

- Drug Treatment Court is an alternative approach for offenders with serious drug addictions, who commit non-violent, drug-motivated offenses.
- To date (September 30, 2019), there have been 32 applications filed for DTC. (20 male, 12 female).
- As of September 30, 2019, there have been 13 accepted participants and five potential participants.
- The Drug Treatment Court brings together treatment services for substance abuse and the criminal justice system to deal more effectively with drug-addicted offenders.

### Secondary Messages:

- Of the 18 participants:
  - Nine (3 male and 6 female) are currently actively participating in varying stages of the DTC process;
  - four participants have been dismissed from DTC, and;
  - there are five potential participants in the application/assessment process.
- Illicit drug abuse has health, social and economic costs. This problem-solving, therapeutic approach offers an alternative to traditional criminal justice responses by addressing the underlying issues that contribute to crime.
- It establishes long-term supports outside the criminal justice system by offering court monitored treatment, random and frequent drug testing, incentives and sanctions, clinical case management and social services support.
- Drug testing processes have been established with Eastern Health, testing commences on individual basis with each participant.
- Long-term supports are established for each individual participant through case management and treatment plans.

## Fact Sheet

- Operation of the Drug Treatment Court has involved continued collaboration of partners within the Justice System, including Provincial Court, the provincial Crown Attorney's Office, Public Prosecutions of Canada, the Newfoundland and Labrador Legal Aid Commission, Eastern Health, Health and Community Services and community supports.
- The first DTC sitting to review applications was January 18, 2019.
- As of September 30, 2019, there have been 32 applications filed for DTC. (20 male, 12 female).
- Applications for DTC will vary month to month as the intake process is continuous.
- Current applications are in various stages of the DTC process and review.

### Active Clients:

- 13 entered guilty pleas and began DTC and treatment process
  - 9 active clients currently participating in DTC and Services
    - (6 female, 3 male).
    - 3 others expelled due to new charges and suitability concerns
    - 1 other left voluntarily and returned to regular criminal court process for sentencing
- 5 new applications are in the review / assessment process
  - One completed assessment, pleas pending.
  - One is in assessment phase
  - Three are pending final review of DTC application
- 14 applicants were deemed not eligible for DTC
  - 10 Exclusionary offenses: recent or significant history of violence, impaired driving (by drug), current violent offenses, residential break and enter.
  - 2 Applications withdrawn by applicants/not interested
  - 1 Currently serving custodial sentence
  - 1 Too low risk: no criminal history, one offense, drug use not indicative of addiction

# KEY MESSAGES

## **Justice and Public Safety Bail Supervision Program** October 22, 2019

### **Summary:**

The Department of Justice and Public Safety is introducing a bail supervision program in the province.

### **Anticipated Questions:**

- What is bail supervision?
- How will the program impact the justice system?

### **Key messages:**

- Following a feasibility study in 2017, we are now moving forward with a bail supervision program.
- Bail supervision provides an alternative to pre-trial detention that reduces custodial costs by supervising accused in the community and providing referrals, monitoring and support.
- The program gives judges the option of supervising offenders instead of simply remanding them with the goal being to rehabilitate offenders while reducing the burden on provincial institutions and maintaining community safety.

### **Secondary messages:**

- The department strongly believes in restorative justice and recognizes the need to find alternatives to incarceration by looking for innovative ways to reduce the number of people imprisoned, to reduce the risk of reoffending and to ensure that justice is restored for everyone involved.
- The intent of the program is to increase the number of individuals eligible for bail and support accused in securing housing and a surety.
- More than half of those in custody at Her Majesty's Penitentiary are being held on remand.
- Provinces including Ontario, Manitoba, and British Columbia have used bail supervision programs to help alleviate the challenges of a high remand population.
- Budget 2019 allocated \$100,000 for a bail supervision program. The program will be overseen by the Adult Probation Division.
- Adult Probation Officers supervising those on bail will have the authority to issue a warrant for arrest should the participant breach their conditions.

## FACT SHEET

- Bail supervision is only available to those persons who would have been released by the court under their own recognizance or under a surety recognizance but for a lack of adequate surety, lack of financial resources or lack of fixed address. Persons released on bail have not been found or pleaded guilty.
- Section 515 of the Criminal Code states that in cases where there is no reverse onus, an accused should be released on the least restrictive bail unless the Crown has shown cause otherwise. In cases of reverse onus, it falls on the accused to show why they should be released and, if released, on what form of release and with what, if any, conditions of that release.
- Though general crime rates are decreasing, the number of persons held on remand is increasing, suggesting a procedural cause not directly related to the commission of criminal offences.

## How it works:

### **1. The accused first meets with his/her lawyer.**

During this meeting, an individual may disclose that he/she is not able to pay the cost of bail, does not know of an adequate surety, or does not have stable housing.

### **2. The lawyer puts a referral for his/her client in to the bail supervision offices.**

A simple form confirms the accused meets a number of basic requirements. This differs between provinces. For example, accused persons participating in bail supervision programs in both Ottawa and Manitoba need to be “non-violent”. Individuals with violence on their criminal records, or are currently charged with a violent offence, may be reviewed on a case-by-case basis. For newer bail supervision programming it is recommended that applicants be low-risk and non-violent while processes are still being ironed out.

### **3. Bail Supervision / Bail Verification Officers review the submission and interview accused.**

If there is no reason to question eligibility, the accused is then interviewed. If the accused states they would like to participate in the bail supervision program and are amenable to possible conditions put forth by the courts, the supervisor may state their conditional acceptance to the program.

### **4. Bail supervision recommendation documents are completed and given to the Crown and Defense prior to bail hearing.**

### **5. Bail hearing takes place as usual.**

A recommendation for the release of an accused under the supervision of a bail program is presented as an option to the judge. Persons accused of non-violent offences such as fraud, property crimes, drug or alcohol offences etc. are often the best candidates for a newer program.

### **6. The court makes the final decision regarding release and conditions of a release.**

### **7. The accused is accepted into the bail supervision program and is released from custody.**

When the accused is released from custody under the bail supervision program, they will be given a list of instructions and directions to the bail supervision office. In most programs, a client is responsible for getting to the bail supervision office the following business day post-release, first thing in the morning.

### **8. Supervision begins.**

The supervision plan is followed and the accused will meet with the bail supervisor regularly. The bail supervisor is afforded the appropriate discretion, however, the supervisor has reason to breach an accused, and a bench warrant is developed and provided to police.

### **9. Trial**

If convicted, the bail supervision office may submit a written letter of support before sentencing if appropriate.

## The Case of Joe:

Joe is a middle-aged male who resides in the city-centre of St. John's. Joe is currently employed part-time as a dishwasher at a restaurant close to the boarding home he shares with a group of other residents. He has a lengthy criminal record for offences of theft. Joe has just been arrested for stealing from Walmart (theft under \$5,000) and is now awaiting his bail hearing.

1. Joe is seen by his legal aid lawyer as he is unable to afford a lawyer. Joe confirms that he would not be able to pay bail and does not have a surety who would meet the standard requirements. A decision is made to conditionally refer Joe to the Bail Supervision Program.
2. Joe's lawyer confirms that no surety is available.
3. A referral is completed and sent to the bail supervision office and includes a current CPIC report (criminal history).
4. The bail supervision office receives the file and reviews Joe's case. Joe is found to be a good candidate for supervision.
5. Joe is interviewed by the bail supervision worker.
  - a. Joe is interested in getting out on bail to ensure he keeps his job and room.
  - b. Joe has no dependents.
6. After the interview is completed, it is determined that Joe is amenable to possible conditions, including behavioral conditions, and is therefore conditionally accepted.
7. Documentation is completed and a formal recommendation for release under the bail supervision program is submitted to both the Crown and Defense.
8. Joe participates in his bail hearing and confirms his amenability to the conditions set out.
  - a. Joe will be released under the supervision of the bail program.
  - b. Joe will remain at his address and if changes to the address are made both the court and bail program will be advised within 48 hrs.
  - c. Joe will abstain from entering the Walmart on Main Street in St. John's.
  - d. Joe will keep the peace and be of good behavior.
  - e. Joe will attend Anger Management.
9. Joe is released under the supervision of bail program at 3:30 p.m. on Wednesday. He is given a paper with instructions and a bus ticket.
10. Joe attends the bail supervision office on Thursday with a letter addressed to him at his residence for proof of address. He goes through a lengthy intake process with his supervisor and they develop a plan.
11. Joe meets with his supervisor once a week, in person for the first eight months of his pre-trial period. He regularly attends programming and brings proof (usually signed attendance sheets). The supervisor uses his/her discretion to not breach Joe given he has remained employed, is housed and has not committed any new offences.
12. After eight months Joe now sees his supervisor once every two weeks in order to accommodate his new work schedule as he is now a full-time employee.
13. Joe goes to trial!

# KEY MESSAGES

## Justice and Public Safety Electronic Monitoring

October 17, 2019

### Summary:

The Department of Justice and Public Safety is reintroducing electronic monitoring for some offenders.

### Anticipated Questions:

- What will the electronic monitoring program look like?
- How much will it cost?

### Key messages:

- The Department is in the process of selecting a vendor from the RFP and finalizing an eight-week implementation plan.
- Our government continues to work to develop initiatives that directly target violent behavior and fight the social normalization of violence in our communities.
- Through the work of the Justice Minister's Committee on Violence Against Women and Girls, electronic monitoring was discussed as a way to protect those exiting violent relationships.
- The technology has advanced such that exclusion zones can be programmed using GPS for conditions like no contact and curfew orders.
- Electronic monitoring will allow offenders to continue to work and support their families, and be contributing members of society.

### Secondary messages:

- Electronic monitoring will enhance public and more importantly victim safety and increase the accountability of offenders in the community.
- Electronic monitoring enhances supervision of offenders meaning it will be easier to prove conditions were breached.
- Electronic monitoring was cut in 2013 because of the cost to replace outdated technology.
- Budget 2019-20 allocated \$254,000 for an electronic monitoring program.

### How it works:

- During the pilot, JPS will be using electronic monitoring as a post-conviction tool to enhance monitoring of offenders serving community and custody based sentences.
- Electronic monitoring will be used for:
  - inmates eligible for Temporary Absence (TA) release from a correctional institution,
  - offenders serving Conditional Sentence Order including those with intimate-partner violence convictions in the greater St. John's area, and
  - offenders serving probation sentences.
- During the pilot, JPS will assess the feasibility of expanding to offenders serving intermittent sentences and remand.
- JPS will procure approximately 50 devices and of the targeted EM groups, emphasis will be given to offenders convicted of domestic related crimes for enhanced supervision.
- A third-party monitoring centre specializing in dispatch will perform monitoring for NL offenders.
- Adult Probation Officers (APO) will be responsible for the supervision of offenders in the EM program. This includes bracelet installation, removal, maintenance and receiving alert notifications.
- APOs can use EM software to customize offender schedules, geo-fencing, and notification alert protocols.
- JPS staff, in consultation with law enforcement, is developing standard operation procedures (SOPs) and relay information to the monitoring centre. SOPs will classify alert types by priority and include the necessary steps to take once an alert is issued.
  - Example of a scheduling alert: An offender is released on a TA to avail of a drug treatment program. Their schedule, including when they are expected to be at programming, is entered into the software. An alert is issued when the client doesn't attend treatment as scheduled.
  - Example of an exclusion zone alert: An offender convicted of assault against their partner is on probation with a no-contact condition. An alert is issued when the offender arrives at their partners' home violating an exclusion zone.
- JPS also hopes to obtain devices/services enabling victims of domestic violence to connect to an EM monitoring centre in the case of an emergency.
- EM will allow real-time GPS tracking of offenders in locations with strong cellular signal. In areas where cellular data is variable, EM improves curfew and house arrest conditions.
- In areas where GPS tracking is not reliable, APOs may use EM for offenders with curfew conditions. The EM device has hybrid technology that allows monitoring by a Radio-Frequency (RF) signal once a beacon is installed in the home. This mirrors the old EM program. Alerts go to the monitoring centre if the signal from the ankle bracelet cannot be transmitted to the beacon.
- Over the next few months, JPS will work with the vendor to conduct final testing of the ankle bracelets, finalize SOPs, finalize the evaluation plan, and provide staff training.

# KEY MESSAGES

## Justice and Public Safety

### Adult Diversion

October 8, 2019

#### Summary:

Using the principles of restorative justice a new program gives offenders alternative means to serving time.

#### Anticipated Questions:

- How does the program work?
- Who can qualify?

#### Key messages:

- The one-year pilot program covers areas serviced by the Provincial Court in Stephenville and Corner Brook.
- In order to qualify for alternative measures, the offender must accept responsibility for the act and waive Jordan to allow time to complete the program.
- Alternative measures will not be available in cases of bodily harm, intimate partner violence, sexual offences, impaired driving, where children are victims, or those with mandatory minimum sentences.
- Alternative measures could include counselling, a letter of apology, community service or even a charitable donation.

#### Secondary messages:

- Diversion programs reduce pressures on the court and help instill a sense of responsibility in offenders so they will hopefully avoid repeat offenses and the negative consequences of a criminal record.
- Offenders, who are likely to be diverted, are not those who would typically be incarcerated. This is about getting people who make mistakes out of the justice system early.
- This program expands on existing mechanisms to the traditional court process like the Drug Treatment Court and the Family Violence Intervention Court.
- If an offender completes the program charges are withdrawn, otherwise the offender would proceed through the traditional court process.
- Adult Probation, Victim Services, Public Prosecutions and Family Justice Services are facilitating the program within existing resources.

## FACT SHEET

- The first case in Newfoundland and Labrador to get referred to the adult diversion program was a woman charged with two counts of theft and one charge of mischief. [REDACTED]
- Referrals generally happen on plea days; Tuesdays in Corner Brook and Mondays in Stephenville.
- To date there have been 66 referrals – 17 people have completed the program; there are 35 active files and 14 people have been terminated for various reasons (decided against participating, did not show up for appointments) and have been returned to Court.

## How it works:

1. Police will lay a charge as per the usual practice. Crown will assess for reasonable prospect of conviction and public interest.
2. The Crown Attorney shall consider referring a matter to adult diversion where the Crown Attorney is satisfied that alternative measures would be appropriate, having regard to the needs of the person alleged to have committed the offence and the interests of society and of the victim.
3. Some offences are generally not eligible (may be eligible with DPP consent): those which resulted in bodily harm to the victim, intimate partner violence offences, sexual violence offences, impaired driving offences, offences having a mandatory minimum sentence and offences with child victims;
4. Before referring a matter to alternative measures, the Crown Attorney shall notify the victim (through victim services, if engaged) of the decision to refer;
5. Before consenting to participate in the alternative measures, the offender must be advised of the right to be represented by counsel (usually a consult with duty counsel at first appearance);
6. Upon agreeing to participate, the offender and the Crown Attorney appear in Court to adjourn the matter for four to six months to allow sufficient time for the program to be completed. The offender provides a s. 11(b) *Jordan* waiver;
7. The Crown Attorney forwards a referral including the Prosecutor's Information Sheet (PIS) and any prior Criminal Record to Adult Probation, along with recommendations for the content for the program;
8. Adult Probation contacts the offender to arrange a meeting for intake and to sign an alternative measures contract. The contract includes a time for completion.
9. Possible terms include: Counselling, programming, including online programming, designed to provide the offender with insight or information with respect to the effect of criminal behaviour, a letter of apology, reviewing a statement outlining the impact of the offence on the victim, reparation for damage done to the victim, community service, facilitated victim-offender discussion, a charitable donation to a community organization, and any other condition deemed appropriate by the Probation Officer in consultation with the Crown, victim and offender.
10. Where both the victim and offender agree to participate in facilitated victim-offender discussions, Adult Probation shall complete a referral to Family Justice Services who will arrange and provide facilitation services for the facilitated victim-offender discussions;
11. If the offender refuses to sign the alternative measures contract, or having signed the contract, refuses or fails to complete the alternative measures program, Adult Probation will return the file to the Crown Attorney's office to consider whether it is in the public interest to continue the prosecution;
12. Where the offender has completed the alternative measures program, Adult Probation will advise the Crown Attorney's office and the Crown Attorney shall have the matter called in Court and the charges withdrawn.

# KEY MESSAGES

## Justice and Public Safety

### Fines Options

October 15, 2019

#### Summary

Issues raised about difficulties collecting on outstanding fines go back several years. A commitment was made in the 2019 Throne Speech to “explore the creation of a fines option pilot program, which would enable those in marginalized groups with outstanding fines to settle their debt by performing community service work providing social benefits to the community and to participants.”

#### Anticipated Questions:

- What is being done to recover outstanding fines?
- How will the new program differ from that previously explored?

#### Key Messages:

- This is an issue across the country and we continue to look for innovative, cost-effective ways to collect outstanding fines.
- A project started in 2015 with the primary purpose of recouping fines through the court process was not proving to be effective because it was costly and time consuming.
- The Department of Justice and Public Safety has been exploring alternative ways to operate a Fines Option Program. A new Fines Option Program would allow individuals to settle their debt, in part or whole, to the province by performing community service work.
- It is anticipated that the community service work would be comprised of volunteer-type work for non-profit community organizations or municipalities. Once the participant is enrolled in the program, they would be able to have their driver license reinstated, removing a significant barrier to employment.

#### Secondary Messages:

- The objective of the program is not to create revenue, but to provide an alternative for settling fines for those unable to pay. The program would also restore and build community relationships through volunteer work and provide opportunities to vulnerable persons.
- Nova Scotia, New Brunswick, Prince Edward Island, Quebec, Manitoba, Saskatchewan and Alberta all run Fines Options Programs.
- Most jurisdictions have programs with similar characteristics, including:
  - Having Probation Officers oversee the program;
  - Consultations with community organizations for participant placement; and
  - Allow some or all Criminal Code of Canada fines.

## Fact Sheet

- Approximately 80 per cent of people pay their fines voluntarily.
- As of September 30, 2019, there was \$42 million in fines, penalties and surcharges outstanding.
- Up to the end of September 2019, over \$4.7 million in fines, surcharges and penalties had been collected this fiscal year.
- The total of these fines include not just traffic violations. They include fines imposed by provincial court (victim fine surcharges, fines for criminal violations, contraband tobacco etc), fines resulting from a summary offence ticket (for offences under the Highway Traffic Act and other legislation), and fines resulting from parking violations.
- Most fines are collected either voluntarily or through automatic payment upon driver license or vehicle registration renewals.
- If a renewal is necessary and a client is unable to pay their fines in full, they can contact Fines Administration to apply for a payment agreement. If approved, this agreement will permit the client to renew their license or vehicle registration and pay their fines on a monthly basis.
- This can be a barrier to gaining employment as some people may not have the means to pay their fines without working, but are unable to work without having access to a driver license.
- There is an arrangement with the Canada Revenue Agency to collect outstanding fines. As of September 30, 2019, for the 2019-20 fiscal year, \$683,000 has been collected via CRA.
- A contributing factor to outstanding fines could be increases to fines and fees for offences.
  - Effective June 2016, there was an increase in the fine for use of a handheld cellular device, which tripled from \$100 to \$300 for a first offence.
  - Also, effective September 1, 2016, Provincial Victim Fines Surcharge increased from 15 per cent of provincial fines to 30 per cent.
  - In February 2018, 17 Highway Traffic Act fines were increased – most from \$20.00 to \$100.00.
  - In June 2018, new speeding offences became effective – speeding between 31-50 km/hr over the limit (\$300 for first offence) and a new offence - speeding 51km/hr and over the limit (\$400 for first offence) Speeding fines double in construction and school zones.
- We continue to assess late payment penalties of 12 per cent of fines up to a maximum of \$120.00.
- Each month, debtors who owe \$300 or more in overdue fines are registered at Supreme Court and the resulting judgments are filed with the Sheriff's Office so that civil action such as wage attachments, bank garnishments and property seizure can be initiated. This filing also affects a person's credit rating and can negatively impact a debtor's borrowing ability often resulting in rejections for mortgage and loan applications.
- As December 14, 2018, the Supreme Court of Canada has struck down Federal Victim Fine Surcharges, determining the mandatory nature of the surcharge violates the Charter of Rights and Freedoms. As this is a recent change, we are unaware of how this will affect those who owe federal surcharges in the province.

## Background

- In early 2015, the department examined the list of individuals owing fines and sought to enter into payment plans with four individuals as part of a pilot project.
- The project was designed primarily to recoup fines owing to the province.
- The idea was to compel people to appear in court and allow them to make payment arrangements. If they could afford to pay and chose not to, they could be incarcerated.
- It was anticipated that the threat of imprisonment would encourage debtors with significant unpaid fines to voluntarily establish payment schedules, but ultimately it proved ineffective.
- We proceeded with a number of applications and our experience showed:
  - That the applications could take a significant amount of time to proceed through the court process without much substantive progress; and,
  - It could take a significant amount of time to get to a point where a person might agree to enter into a payment plan, and that there was no guarantee that the person could or would follow through with the terms of that payment plan.
- The Criminal Code of Canada creates two scenarios under which a person can be imprisoned for failing to pay a fine:
  - (1) the mechanisms in 734.5 (e.g. refusing to issue or suspending licenses or permits) and 734.6 (civil enforcement remedies) are not appropriate, or
  - (2) the offender has, without reasonable excuse, refused to pay the fine or discharge it.
- The Supreme Court of Canada has confirmed: (1) Poverty is a “reasonable excuse” for refusing to pay (734.7(1)(b)(ii) and (2) where the excuse for failure to pay is poverty, it is not then open to imprison an offender under 734.(1)(b)(i).
- So if a person is able to establish that his/her reason for failing to pay the fines is poverty, they cannot be imprisoned for failing to pay the fines.
- Criminal Code Section 734.7 (1) Where time has been allowed for payment of a fine, the court shall not issue a warrant of committal in default of payment of the fine
  - (a) until the expiration of the time allowed for payment of the fine in full; and
  - (b) unless the court is satisfied
    - (i) that the mechanisms provided by sections 734.5 and 734.6 are not appropriate in the circumstances, or
    - (ii) that the offender has, without reasonable excuse, refused to pay the fine or discharge it under section 736.
- The Department has accepted that it may never recoup in full historic fines owing so instead it is in the process of creating a program that would allow debtors to settle with the province through other means, like community service.
- Since being announced in the Throne Speech, we have already heard from a couple of debtors looking to participate.
- We hope to have the program operational very soon.

## KEY MESSAGES

### **Justice and Public Safety Family Violence Intervention Court** October 29, 2019

#### **Summary:**

Minister Parsons' mandate letter included a commitment to expand the Family Violence Intervention Court beyond St. John's by exploring site options, models and technologies to allow for enhanced services in other regions, including Labrador.

#### **Anticipated Questions:**

- When will the court be expanded?
- How will this court be different than the traditional court process?

#### **Key Messages:**

- Currently there is a Family Violence Intervention Court in St. John's and Stephenville.
- The department is working to expand the court beyond these two locations to allow for enhanced services in other regions of the province.
- Family Violence Intervention Court is a specialized court that attempts to better serve victims and hold offenders more accountable. This specialized court requires the offender to participate in intervention or programming regarding family violence.
- The goal of the Court is to prevent and reduce incidents of family violence by addressing the root causes of violence through teamwork with key community partners. Working together allows faster access to services for the victim and offender. The Court focuses on improving victim safety and offender responsibility.

**Background:**

- Budget 2015-16 approved funding for two courts (St. John’s and Stephenville) in the amount of \$1,566,000 (\$1,062,000 in salary and \$455,600 in operating).
- The funding costs for two courts is \$669,500.
- The amount of \$392,500 is available to be used for expansion.
- The funding is allocated for current sites for these resources:
  - Probation Officer
  - Victim Services
  - Crown Attorney
  - Social Worker
  - Specialty Court Liaison
  - Risk Assessment Officer (Legal Aid)
  - Community resources (eg. Counselling provided by John Howard)

Family Violence Intervention Court - St. John’s  
April 1, 2018 – Jan 31, 2019

Total Appearing	Not Interested/Not Eligible/Charges Withdrawn	Pending Plea	Completed Programming	Currently in Programming	Opted Out/Did not Complete
159	94	16	27	21	3

Family Violence Intervention Court - Stephenville  
April 1, 2018 – January 31, 2019

Total Appearing	Not Interested/Not Eligible/Charges Withdrawn	Pending Plea	Completed Programming	Currently in Programming	Opted Out/Did not Complete
52	30	8	8	3	1