



National Federation of Aboriginal Peoples (NFAP)

February 15, 2003

Dear NFAP

Please find enclosed our evaluation strategy for the Court Challenges Program. The design of the strategy has focused on Aboriginal people's involvement with the Court Challenges Program (CCP) and once completed is expected to yield information on:

- i. Aboriginal involvement with the CCP that should be useful in future discussions with the Department of Canadian Heritage and the Court Challenges Program of Canada in improving access and the usefulness of the program to Aboriginal people;
- ii. Information on how best to market the CCP to the Aboriginal community and to overcome barriers to participation; and
- iii. Information that will contribute to successful involvement of Aboriginal peoples with individual initiatives under the program and specifically, the Kouchibouguac Aboriginal people in their challenge to recently passed rezoning laws.

The evaluation process is also expected to unite a great number of Aboriginal peoples from remote, rural and urban areas with respect to the Kouchibouguac issue. We would be pleased to meet with you to discuss the proposed evaluation strategy and delivery issues including necessary participation in the process by NFAP members.

Yours sincerely,

June Sunshine  
Bright Consulting



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## **Proposed Evaluation of the Court Challenges Program**

Report prepared for: National Federation of Aboriginal Peoples

Report prepared by: Bright Consulting

*February 15, 2003*



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**Executive Summary**

The Court Challenges Program (CPP) is a federal initiative designed to provide financial assistance to minority and disadvantaged groups for legal purposes. The objectives of the program are to clarify and protect the constitutional rights and freedoms of such groups. The National Federation of Aboriginal Peoples (NAFP) has been awarded funding from the CPP to challenge recently passed rezoning laws that will have an impact on lands considered sacred by the Kouchibouguac Aboriginal people. This report outlines a plan for evaluating the efficiency and effectiveness of the CPP as requested by the NFAP and incorporates their suggested key components. It includes a discussion of major evaluation issues and the methodologies to address them with a special focus on including as many Aboriginal communities as possible. The findings of the evaluation will assist the NFAP in their own case as well as understanding how past CCP assisted cases have been handled. It will also allow the NFAP to determine whether the CCP has been successful in achieving its objectives and assisting Aboriginal communities in clarifying and protecting their rights and freedoms.



## 1.0 Introduction

The National Federation of Aboriginal Peoples (NFAP) is currently challenging recent rezoning laws that will affect lands considered sacred by the Kouchibouguac Aboriginal People. The NFAP has been successful in obtaining financial assistance from the Court Challenges Program (CCP), a federal initiative designed to assist minority and disadvantaged groups in protecting their rights and freedoms.

NFAP has hired our organization, Bright Consulting to complete a framework for evaluating the CCP that will complement an evaluation framework initiated by Prairie Research Associates (PRA), Inc. PRA has provided an overview of the CCP, as well as its objectives, resources, and organizational structure. Furthermore, PRA have created a logic model for the CCP.

NFAP have contracted this organization to evaluate the effectiveness and efficiency of CCP. NFAP has also expressed that they would like as many Aboriginal Groups as possible to be involved in the evaluation process. Therefore, the proposed evaluation will include process, outcome, and cost analysis evaluation components.

First, a discussion of the central evaluation issues and concerns relevant to the NFAP will be provided. This section will also include an overview of other Aboriginal issues relevant to the evaluation of the CCP such as Aboriginal self-governance, control of resources, and education. Second, an overview of the methodologies that will be used in the evaluation will be outlined. This will include a description of process, outcome, and cost evaluation approaches. Finally, a description of the implications of the evaluation framework and overall summary will be provided.

## 2.0 Key Evaluation Issues

In order to evaluate the effectiveness and efficiency of the CCP, the evaluation team will investigate the use of the CCP by Aboriginal people using process and outcome evaluation as well as through cost effectiveness analysis. A number of key issues for evaluation have been identified. Questions to be addressed in this evaluation will be examined here. Methods for evaluating these questions will be addressed in the following section.

### Process Evaluation Issues

Process evaluation is necessary to evaluate the how effectively the CCP is meeting its intended objectives. This type of evaluation systematically appraises program delivery as well as program usage under routine operation (Myers, 1999). It will provide the NFAP with a profile of CPP users and its role in Aboriginal rights issues. The process evaluation will address the following issues:

- Who receives funding from the CCP?
  - What are the demographic characteristics of participating communities (e.g. age, geographic location, education level, socioeconomic status, language)?
  - Have these people participated in the CCP on more than one occasion?



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- Who does not receive funding from the CCP?
  - What are the demographic characteristics of these groups (e.g. age, geographic location, education level, socioeconomic status, language)?
  - Who are the groups that do not apply for CPP funding? Are these groups aware of the CPP and if so what are the barriers/constraints to their submitting applications?

### Outcome Evaluation Issues

To understand the effectiveness of the CCP, an outcome evaluation will be used to determine whether the program has achieved its objectives. The following outcomes will be assessed in the outcome evaluation:

- What are the effects of participating in the CCP?
  - Do people show an increased awareness of their rights and freedoms after their participation? If so, what percentage?
- Which people benefit most from their participation?
  - People who are successful vs. unsuccessful in their cases (in relation to court rulings, policy changes)
  - People from urban vs. rural vs. remote locations
  - People from different ethnic groups/bands/tribes
- Are there any negative effects of participating in the CCP?

### Cost-Effectiveness Analysis

To understand the efficiency of the CCP, a cost-effectiveness analysis will examine the relationship between the cost of the program and the program results. This analysis will address the following issues:

- Dollars spent per CCP funded case
- Benefits of CCP funding
  - greater access to the justice system for linguistic and disadvantaged people
  - success of case related to court outcomes and policy changes
  - Aboriginal people's increased awareness of their rights and freedoms
  - research produced on case

Given the political and social context of Aboriginal communities, the evaluation will also address additional issues that drive the participation in, or act as barriers to, CCP involvement. Aboriginal communities face a number of unique issues in the areas of self-governance including control of resources, education, and health and safety. These issues will be evaluated to determine:



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- how each issue impacts on the use of the CCP by various Aboriginal communities
- the equity and linguistic issues addressed through participation in the CCP
- if community participation in the CCP has been constrained

For example, groups that are dealing with self-governance and control of resource issues might be more inclined to apply for funding from the CCP as they have built up capacity in dealing with equity issues. Groups that are more remote, have less access to post-secondary education and individuals with the appropriate experience may be less aware of or willing to work through the CCP. Likewise, communities facing severe health issues may be fully occupied with these matters and unable to participate.

### **3.0 Methodology**

#### Process Evaluation

The strategies that will be used for the process evaluation are CCP user profiling and focus groups. First, the profiling of CCP users will help identify groups that have applied for funding and whether or not they were successful in gaining funding. This profile will help the evaluators to compare the experiences of those who were successful and unsuccessful with their funding applications. The information for this profile will cover the time period since the signing of the second Contribution Agreement. This is the time period that the current NFAP case is involved. The information will be gathered from the CCPC and address the following questions:

- Who has applied for CCP funding since the second Contribution Agreement was signed in March 1998?
- Who was successful and unsuccessful in gaining funding?
- How many of the funded cases were settled through negotiation? How many were settled through litigation?

Once the profile is completed, focus groups will be used to solicit experiences of CCP users. The focus groups will bring together people with similar experiences to discuss their experience with CCP, including why they decided to participate and barriers to participation such as sociopolitical issues. Focus Groups are more cost-effective than one-on-one interviews and allow for participant interaction so that new ideas and opinions can be generated (Myers, 1999). For the purpose of this evaluation, two types of focus groups will be conducted: one with key informants of the successful funding applicants and the other with key informants of unsuccessful applicants. The focus groups will be held in locations accessible to the key informants from urban and rural groups. As for those groups located in remote areas, telephone one-on-one interviews will be used for practical reasons (i.e., long-distance travel). If possible, the focus groups will be conducted by an Aboriginal facilitator from within the applicant community. The Aboriginal facilitators will also record field notes to provide the cultural context of the focus groups. An interview guide will be developed and used to provide structure to the



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focus groups and interviews. The questions for all focus groups and interviews will focus on the following areas:

- Experiences with completing the application
- Experiences with the application submission process
- Experiences with receiving the application outcome

Each focus group and interview will be audio-taped, with the permission of participants, to allow for transcription at a later time. Data analysis will be conducted by the evaluators.

The evaluation team would also like to find out the awareness of CCP among potential users and whether there are any access barriers to the program. Thus, a questionnaire will be sent to key informants of each NFAP membership who have not used the CCP.

As NFAP would like to unite as many Aboriginal people as possible in its challenge to the Kouchibouguac rezoning law, an information sheet about the Kouchibouguac case will be provided to all NFAP members and all the participants of this evaluation process.

### Outcome Evaluation and Cost Analysis

The outcome evaluation will help the evaluators to determine the effectiveness of the CCP, whereas the cost analysis will determine the efficiency of the program (Myers, 1999). The primary long-term outcome of interest is whether the freedom and rights, as guaranteed and protected by the *Constitution Act of 1867* and the *Canadian Charter of Rights and Freedom*, are clarified. Specifically, the evaluation team would like to determine:

- What are the effects of participating in the CCP?
  - Do people show an increased awareness of their rights and freedoms after their participation? If so, what percentage?
- Which people benefit most from their participation?
  - People who are successful vs. unsuccessful in their cases (in relation to court rulings, policy changes)
  - People from urban vs. rural vs. remote locations
  - People from different ethnic groups/bands/tribes
- Are there any negative effects of participating in the CCP?

Content analysis will be conducted of past cases funded by the CCP. Focus will be on the questions mentioned above, that are funded by CCP will be conducted. A content analysis will help the evaluators identify patterns of the CCP experiences of different groups (Patton, 2002).

A cost-effectiveness analysis will be used to determine the efficiency of the CCP. This type of analysis is more practical than cost-benefits analysis, where the relative benefits must be



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converted to monetary terms. In collaboration with the NFAP and other Aboriginal organization, the evaluators will establish a set of criteria to determine the relative significance and benefits of the past case outcomes. The evaluators will then rate the past cases using the criteria. Furthermore, the evaluators will compare the cost of each case to its relative significance and benefits. Those cases where benefits outweigh the cost will be considered cost-effective.

### **4.0 Summary & Implications**

The Court Challenges Program (CCP) is a program administered by the Department of Heritage and the Court Challenges Program of Canada (CPCC). Over the course of 20 years, the CCP has undergone several structural changes and has experienced cancellations and reinstatements. The primary objective of the CCP is to clarify constitutional issues as they pertain to language and equality rights. The CCP operates by providing financial assistance to official minority and disadvantaged groups or individuals to participate in activities to challenge and protect legal decisions. Our organization was contracted by the NFAP, who recently have been awarded funding by the CCP to challenge rezoning laws. The NFAP has requested that our organization evaluate the efficiency and effectiveness of the CCP with special consideration to:

- Pertinent evaluation issues/questions to the Aboriginal community.
- The methods to used in gathering information on these issues taking into consideration the need for inclusiveness and remote communities.
- Other pertinent issues to be considered in the evaluation given the political and social context of Aboriginal communities.
- The long range effects and outcomes of the CCP and how these will be assessed.

In our report, we have outlined the evaluation issues and questions that need to be raised as well as developed a strategy for evaluating the effectiveness and efficiency of the CCP. This evaluation plan was developed with the specific request of the NFAP to include as many Aboriginal communities as possible. The following is a summary of the evaluation plan that we are proposing to the NFAP.

#### Summary of Evaluation

##### 1. Understanding the current operations of the CCP

A profile of the CCP has already been developed by Prairie Research Associates (PRA) Inc. as contracted by Canadian Heritage.

##### 2. Knowing how Aboriginal Communities and the CCP work together

In order to understand how effectively CCP is operating, a better understanding of who attempts to access the program and who is successful is necessary. To do this, we have proposed a review of all requests for funding submitted to the CCP over the past 3 years. This will allow for the NFAP to see what types of communities and issues are brought forward to the CCP. It will also





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allow for determination of what types of requests for funding are accepted by the CCP and whether patterns exist at this level. Additionally, we have also proposed that a survey be carried out among Aboriginal communities who have not accessed the CCP in the past 3 years. This will be done to determine whether the CCP has succeeded in making itself known to these communities and, if so, why the communities have not participated.

### 3. Evaluating effectiveness and efficiency of the CCP

Past cases that have received CCP assistance will be examined to determine the course of action taken following the receipt of funds. This will include examining the legal route taken (i.e. negotiation, litigation, other dispute resolution method) and any other research performed on the case and its impact. Furthermore, changes in policy and further clarification in rights and freedom protection made following the completion of the case will be examined. These steps will be undertaken in order to determine whether the CCP is achieving its intermediate and final objectives. Finally, to evaluate efficiency a cost analysis will be developed that will measure the achievement of outcomes in relation to moneys provided by the CCP.

#### *Implications of the Evaluation*

This evaluation strategy will generate data and information through several steps that will assist the NFAP in understanding the CCP and its success in reaching the desired outcomes. The findings that emerge from this evaluation have a number of potential implications.

1. This evaluation will lead to a better understanding of the types of issues affecting Aboriginal communities that are brought forth to the CCP. It will also help to develop a better understanding of whether there are barriers to Aboriginal involvement in the program and whether these barriers are the result of a lack of knowledge of the CCP or the result of other socio-political factors.
2. This evaluation will lead to a better understanding of how cases are handled once they have become involved with the CCP. These findings will inform the NFAP of what will be encountered as the case progresses and whether various routes are more likely to lead to certain outcomes. Specifically, the findings will ensure that the current case involving land rights of the Kouchibouguac Aboriginal people will receive appropriate attention and guidance.
3. The findings that emerge from this evaluation will assist the NFAP in interacting with the CCP and its administrators. It will assist the NFAP in judging whether CCP assistance does improve the protection of rights and freedoms of Aboriginal groups and will allow for the NFAP to provide feedback to the CCP and its administrators on how to better incorporate the needs of Aboriginal communities into program planning.
4. The process and findings of this evaluation allow for cooperation and input from Aboriginal communities across Canada. This will provide an opportunity for the voices of Aboriginal groups with different social and political contexts and geographic localities to be heard with respect to issues of legal access and court challenges. This will help the



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NFAP, CPP, and other organizations to better understand and serve the needs of Aboriginal groups across the country.



### References

Myers, A. M. (1999). *Program Evaluation for Exercise Leaders*. Champaign, IL: Human Kinetics.

Patton, M.Q. (2002). *Qualitative Research and Evaluation Methods* (3<sup>rd</sup> ed.). Thousand Oaks, CA: Sage.