

Every employee benefits from having clear expectations of their duties. A job description also supports organizational design, job classification, recruitment, employee performance, learning and development, and succession planning.

The Common Job Description (CJD) is used to describe work where several positions have common core responsibilities and reporting relationships, as well as comparable knowledge needed to perform the work.

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CJD LIBRARY #:

EFFECTIVE DATE:

WORKING TITLE: LEGAL COUNSEL

CLASSIFICATION: JUSTICE LEGAL COUNSEL 2 (AKA LO2)

PAY GRADE:

JOB CODE: M2JLC

 CROSS-GOVERNMENT COMMON JOB DEPARTMENT-SPECIFIC COMMON JOB**ORGANIZATIONAL CONTEXT**

Briefly describes the purpose for the business operation and how this job fits within the organizational structure (i.e. reporting relationship).

Resolution & Court Admin Services (RCAS) Division resides within the Justice and Solicitor General ministry and includes Court Judicial staff that provide professional legal services and advice to the judiciary in accordance with relevant legislation, regulation and legal procedure and precedent.

The Court of Appeal hears criminal appeals from the Provincial Court and both criminal and civil appeals from the Court of Queen's Bench. It also hears appeals from administrative and board tribunals. In addition, the Court of Appeal may be asked to provide an opinion on questions referred to it by the Lieutenant Governor in Council under the Judicature Act. The Court of Appeal does not re-try cases. Rather, the Court of Appeal reviews the record to determine whether errors of law or fact were made in a decision.

The Court of Appeal of Alberta is the highest court in the province. The Court's primary responsibility is to create, interpret and apply the law. The Court's decisions are reviewed only by the Supreme Court of Canada, and only rarely. It is, therefore, the final court of resort for almost all the cases it hears. The Court thus plays a vital role in shaping Alberta's legal landscape.

The Court of Appeal of Alberta sits in both Edmonton and Calgary. The Chief Justice and justices also serve on the Courts of Appeal of the Northwest Territories and Nunavut.

The Court of Appeal of Alberta hears criminal and civil appeals from decisions made by the Court of Queen's Bench, the Provincial Court and various administrative and regulatory tribunals of particular importance to Alberta's society and economy. The Court also provides innovative alternatives to traditional appellate hearings, including judicial dispute resolution and case management.

The Court of Appeal consists of Legal Counsels level LO1 - LO3, and Case Management Officers at the LO2 level. All currently reporting to Executive Director (LO6).

Instructions for use: Position works independently for the most part under some guidance and general work instructions as instructed by the judiciary. Administratively, this position reports an Executive Director (LO6) and operationally reports to assigned judiciary.

JOB PURPOSE

Briefly describes why the job exists and its scope (i.e. who is directly impacted by the outcomes of the job).

Legal counsel are lawyers who are often senior members of the bar that works directly with the judges of the Court of Appeal and provide them with legal support in all of their work. Legal counsel review every appeal heard by the Court, and play an important role in the way that judges deal with appeals from beginning to end.

This position also plays an important role in the administrative and operational work of the Court, for example by:

- Participating in court committees (such as: strategic planning, Bench Book committee, and other committees to improve court efficiencies),
- Participating in the hiring of legal counsel and students
- Dealing and addressing issues with court records and information such as providing guidance and implementation of publication bans and privacy matters.

This position independently performs routine work with some oversight and general work instructions by a more senior counsel and/or judge.

RESPONSIBILITIES

Describes the key responsibilities that make up the majority of the job and the corresponding duties.

Legal counsel responsibilities include conducting research and legal analysis, providing briefs, editing and drafting judgments for review and consideration by the judiciary. Legal counsel also supervise the work of the Court's articling students, identifying legal issues that require additional research, assigning and overseeing that research.

At this level, the responsibilities are:

1. Work with internal and external contacts to identify legal issues and keep the Court apprised of changes in the law.
 - Provide legal advice/recommendations to the Court of changes in the Law, and to the Court's Registrar/Registry
 - Keep apprised of changes in legislation, case law, precedent setting cases, and Supreme Court decisions by attendance at conferences or reviewing legal resources
 - Maintain and update internal legal resources for use by the judiciary and judicial staff
 - The internal contacts for this purpose would include CJA and Justices, Exec Director/Registrar, the Tri-Court Privacy committee, LCs and CMOs, Judicial Assistants, judicial librarians and students
 - The external contacts could include various bodies that provide continuing legal education and legal updates: for example: Legal Education Society (LESA) and Canadian Bar Association (CBA)
2. Conduct comprehensive and current legal research on identified legal questions that have general work instructions and some guidance from judge.
 - Assess the appeal file for completeness, publication bans and privacy concerns
 - Conduct pre and post hearing legal research and analysis
 - Identify key issues, and consider the need for further pre-hearing research and analysis
 - Identify and address publication bans and privacy issues that arise on appeals and with judgment publication
 - Recommend additional legal research where appropriate – either to undertake that research or assign it to a student
 - Perform interpretative and analytical research of complex fact patterns and multiple areas of law
3. Prepare legal documentation, such as:
 - Briefing materials
 - Other materials required for consideration and approval of legislation
 - Appeal documentation
 - Review appeals set for hearing for completeness, privacy issues, and to identify key legal issues
 - Prepares
 - Draft judgments for review and consideration by the judiciary
 - Draft documentation for judgments based on specific requirements, framework, style guidelines
 - Proofreads and edits draft judgments for clarity, flow, and accuracy of facts, citations, etc.
 - Legal summaries
 - Independently draft and edit complex memoranda and judgements on any area of law
 - Draft and/or edit papers/speeches/presentation materials as requested by the judiciary

4. May be called upon to participate in operational matters:
 - Development of Court policies
 - Streamlining the Court's processes to find efficiencies
 - contribute to the Court's Committee work/Special Projects, initiatives, or processes that relate to the effectiveness of the Court
 - Participate in Court Administration Committee work, for example, Strategic planning
 - Addressing issues regarding FOIP, publication bans and privacy concerns
 - Design and/or attend continuing legal education for legal counsel and students
 - Must be comfortable with change and evolving technologies such as e-filing, paperless court record and electronic hearings
5. Provide support and guidance to students
 - Assign and oversight of the completion of research memoranda, pre/post hearing legal research and analysis
 - Mentor students

APPLICATION OF KNOWLEDGE

Briefly describes the required education and the level of knowledge essential to perform the job/above responsibilities (not intended to be an exhaustive listing).

Bachelor of Law Degree provides a solid foundation in court processes, policies, procedures and protocols, Civil procedures and legal research. Ideally, this position will have a strong academic record to demonstrate that they are motivated and have the ability to produce high quality work under strict deadlines.

Member in good standing with the Alberta Bar Association provides the position with ensuring that the position practices law competently and ethically as well as to stay up-to-date on the latest trends and leading edge professional development. This knowledge will assist with effectiveness and efficiency of legal services provided to the Court of Appeal.

Legal research is a specific body of analytical and practical skills, requiring legal training and experience with Canadian and foreign legal research tools. Legal research requires further analysis, application, as well as well-developed legal writing skills. At this level, this position will require an ability to use a wide range of legal research tools, online and otherwise, and prepare legal memoranda on any area of law.

This position is required to have a full understanding of legal rules, legal procedures, legislation and legal authorities applicable to all areas of law including aboriginal, administrative, access and privacy, bankruptcy, constitutional, corporate, criminal, employment, extradition, labour, education, energy, environmental, health, real estate, finance, pensions, surrogate, tax, trade, family, immigration, intellectual property, youth criminal justice and wills and estates.

Exceptional/excellent legal research, legal analysis, and legal writing skills are required to provide research and analysis on complex and potentially precedent-setting legal issues.

The position is meant to be a fully functioning working level position that has full understanding of how the law applies to various scenarios in the Court of Appeals.

This position will be exposed to many areas of the law such as; aboriginal, administrative, access and privacy, bankruptcy, constitutional, corporate, criminal, employment, extradition, labour, education, energy, environmental, health, real estate, finance, pensions, surrogate, tax, trade, family, immigration, intellectual property, youth criminal justice and wills and estates.

PROBLEM SOLVING/DECISION MAKING

Briefly describes the types of problems or challenges the job routinely faces or solves and the types of assistance available (e.g. process guides, standard operating procedures, policy documents, availability of experts/specialists, on site supervision, etc.)

The position works largely independently, making recommendations to and with direct accountability to the judiciary.

The position will deal with complex problems of a sensitive and high-profile nature, which may affect a diverse group of stakeholders, including matters that can impact the relations within the judiciary, division, ministry, GoA and cross-GoA.

Takes instruction directly from judges with respect to legal research, writing and editing, and from the Registrar with respect to work on Court committees and operational projects.

Provides high-level professional legal services and advice to the judges of the Court of Appeal. This includes reviewing and analyzing every appeal that is set for hearing, assessing the appeal for publication bans and privacy concerns, identifying the legal issues involved, and providing legal research and analysis, as well as drafting and editing support.

Determines whether identified areas of law have been accurately applied to case at hand and conducts research and analysis as appropriate.

Independently identifies law that is at issue although it may not have been raised in court by lawyers or self-represented litigants.

May make or enable decisions on cases that are of a routine nature, or with reference to existing guidelines and procedures. For example, by providing summaries of chambers decision.

At this level, this position will assist in the handling of all cases that come before the Court by providing a well-thought out analysis that includes comprehensive legal research, thorough review of relevant authorities and sources, and the creative application of legal knowledge and analytical skill.

Some cases will be high impact and/or high profile. High impact cases include those that will set precedent in an area of the law, interpret or apply new legislation for the first time, consider whether new legislation is constitutional, or involve matters of high public interest, such as constitutional cases and high profile criminal matters. Some high impact cases are legally and factually complex and will have a high profile within the legal community and among legal scholars and commentators. Others (particular high profile criminal cases) will attract a great deal of media and public interest.

As the impact rises, so does the level of expectation for a comprehensive, well thought-out analysis that addresses all aspects of the case.

Complexity can be grouped into four categories and is generally evaluated from the time shortly before materials are distributed to the judiciary to the time that a judgment is rendered. The four groups:

1. Legal Complexity

- a. The state of the law – whether there is clear direction from the SCC or whether the Court is being asked to create new law often involving complex factual or legal issues
- b. Whether policy analysis, interpretation or development is required
- c. The impact to Albertans and Canadians:
 - i. Low – little impact to the public and no media interest
 - ii. Medium – moderate impact to the public that may attract media attention
 - iii. High – significant impact to the public that will attract media attention
- d. The number and nature of procedural and legal issues. The greater the number, the more time is required for research, analysis and drafting. Whether facts are:
 - i. clear or not
 - ii. simple or complex
 - iii. sensitive or egregious

2. Volume and Speed

- a. Level of workload - Backlog of cases have been created both by a greater number of cases being commenced in the trial courts and the suspension of sittings in the trial courts in response to the COVID-19 pandemic.
- b. Time frame for completion - the Supreme Court's 'Jordan decision' has created pressure for trials to be heard within specified timelines

3. Litigant Experience

- a. Whether the matter involves a self-represented litigant
 - i. they display vexatious behavior and pursue frivolous litigation or because they lack legal and procedural knowledge – or both
 - ii. they may become very familiar with and well versed in trial court procedure and usually struggle with understanding the difference between trial procedures and appellate procedure as it is far more stringent and defined.
 - iii. documents filed by them take more time and effort at every level, from clerks to judges

- iv. Legal counsel may be required to conduct further research and analysis to fill gaps in legal arguments left by them, and spend considerable time reviewing the evidence and transcripts of hearings to understand the factual context of the dispute

4. Role Complexity

- a. Requirement to work in all areas of the law - judges of the Court of are called upon to adjudicate on all areas of the law, however in most cases have a specialization in one/few areas. Legal Counsel must therefore stay up to date on all areas of the law in order to support the judges thoroughly, accurately and efficiently.
- b. Complexity of relationships
 - i. Legal counsel are generally assigned to work with more than one judge and must manage the conflicting workloads and priorities
 - ii. Legal counsel are often involved in the administration and operations of the Court and sit on committees and projects and in that role legal counsel take instruction from the Executive Director of the Court.
 - iii. Legal counsel work with judicial staff to prepare for appeals and finalize judgments
 - iv. Oversee the work of the Court's articling students while providing mentorship and direction to those students.
- c. Operational complexity
- d. Development of Court policies
- e. Streamlining the Court's processes to find efficiencies
 - i. contribute to the Court's Committee work/Special Projects, initiatives, or processes that relate to the effectiveness of the Court
- f. Participate in Court Administration Committee work, for example, Strategic planning
- g. Addressing issues regarding FOIP, publication bans and privacy concerns
- h. Design and/or attend continuing legal education for legal counsel and students
- i. Must be comfortable with change and evolving technologies such as e-filing, paperless court record and electronic hearings

KEY CONTACTS

Briefly describes the frequency and purpose of regular contact the job makes internally and externally.

Supervisory responsibility: Yes No

Internal:

- Chief Justice of Alberta
Purpose: Take direction from the CJA or her delegate
- Justices
Purpose: Takes instruction directly from judges with respect to legal research, writing and editing.
- Executive Director/Registrar
Purpose: Takes instruction directly with respect to work on Court Administration committees and operational projects
- Courts Advisory Counsel
Purpose: Regarding privacy matters
- Legal Counsel/Case Management Officers
Purpose: Ensuring the completeness of appeal files and identifying and addressing privacy issues and publication bans
- Judicial assistants/ Judicial librarians/ Student-at-law
Purpose: Works with judicial assistants and students in the drafting, editing and finalizing of judgments.

External:

Educational bodies such as the Legal Education Society

Purpose: May be called upon to draft, design and/or present education materials by or with the Law Society.