

It may be worth commenting on the interplay between the Court Challenges Program and the Department of Justice's conduct of section 15 litigation. Even though the Court Challenges Program is aimed at clarifying certain provisions of the Constitution, it nevertheless remains a funding program. It permits disadvantaged groups and individuals to bring test cases before the courts to clarify section 15 rights. Yet, the object of clarifying provisions of the Constitution through the funding of test cases cannot displace the normal course of litigation, including the resolution of procedural issues that are a necessary incident of the proper conduct of the Government's defense of a case or settlements between the parties. It would be inappropriate through conditions imposed by the Court Challenges Program to influence the normal course of this litigation generally or to interfere with litigants' ability to manage or settle their cases.

It should be noted that the Department of Justice has senior-level committees that are responsible for superintending the conduct of important litigation, and whose role is, among other things, to ensure coherence in the approach taken by Departmental lawyers to Charter cases.