Yukon became Conservative territory in Monday's election, after political newcomer Ryan Leef won the riding in a close contest with longtime Liberal MP Larry Bagnell. Leef, 37, won by a margin of just 0.82 per cent of the vote, making him the first Tory MP in Yukon since Erik Nielsen represented the territory from 1957 to 1987.

The Conservatives also won in Nunavut, where Leona Aglukkaq won her second term on Monday. Aglukkaq was health minister in Harper's last government, but she said she does not know if she will get another cabinet post.

New Democrat Dennis Bevington won his third term as MP for Western Arctic, the federal riding that covers the Northwest Territories. Bevington, who has represented Western Arctic since 2006, won 45.8 per cent of the vote on Monday.

**FASD**

**FASD is a big issue in the North.**

In December 2010, Yukon Premier Fentie met with Federal Justice Minister Rob Nicholson to discuss issues related to fetal alcohol spectrum disorder (FASD), as he said many Yukoners with the disorder have had run-ins with the justice system.

"The community wellness court, for example, is something that we feel strongly is a good mechanism to better serve in this area. But at the same time, we still have to cover the prevention, the diagnostic issues, the programming requirements to deal with individuals who are suffering from FASD," Premier Fentie said.

**Access to justice for people with FASD**

CBA President Rod Snow has been contacted by the Yukon Justice Minister asking for input from the CBA on Fetal Alcohol Spectrum Disorder (FASD). The request follows discussions of FASD by federal, provincial, and territorial justice ministers in October. In their joint communiqué, the ministers expressed strong support to continue to make FASD and the justice system a priority item, and to engage the CBA in dialogue about FASD as an access to justice issue.

The CBA position on FASD was established by resolution at the Canadian Legal Conference in Niagara last August. [Resolution on FASD](#).
Recent Publications about FASD in the North

Zhong-Cheng Luo, Sacha Senécal, Fabienne Simonet, Éric Guimond, Christopher Penney, Russell Wilkins
http://www.cmaj.ca/cgi/rapidpdf/cmaj.082042v1

The Inuit-inhabited areas had much higher rates of preterm birth, stillbirth and infant death compared with the rest of Canada and with other rural and northern areas. There is an urgent need for more effective interventions to improve maternal and infant health in Inuit-inhabited areas.


Reflecting the recent increased public awareness of the topic, this is the first and most comprehensive resource for over a decade on the molecular basis, prevalence, treatment options, socioeconomic impact and prevention strategies of FASD.


Children with ADHD-C are typically impaired in handling understimulation, while children with FASDs may have problems with overstimulation. The dissociation in responsivity to event rate between groups may have significant differential diagnostic value.

**FASD AND ACCESS TO JUSTICE IN THE YUKON**, Canadian Research Institute for Law and the Family, March 2008

In recent years there has been growing recognition that individuals with Fetal Alcohol Spectrum Disorder (FASD) experience difficulties functioning in their communities, and more specifically, within the justice system. Few studies, however, have focused on issues related to access to justice, and whether the justice system is adequately meeting the needs of individuals with FASD. This project examined access to justice issues as they relate to FASD, with particular emphasis on these issues in Yukon communities.
Territories lead Canada in struggle with FASD
Tue, Nov 23, 2010 - The three Canadian territories are leading the way in bringing fetal alcohol syndrome and its effects to the forefront of justice issues across Canada. At their annual meeting held August 14-15, the Canadian Bar Association (CBA) passed a resolution calling for changes to the country's justice system addressing the unique challenges posed by individuals with FASD.

FASD Symposium
September 28, 29, 2010 Whitehorse, Yukon
About 200 people gathered to share knowledge, practice, research and ideas for moving forward with this information. We hope that everyone was inspired to do at least one thing differently as a result of the symposium.

Highlights of the symposium included:
- hearing from people with FASD about their lives and what supports they have found helpful
- sharing amongst all people at the symposium – making connections
- Andy Nieman’s message about how we can make a difference by showing that we care
- Myle’s Himmelreich’s message of FASD = Faith, Ability, Strength and Determination
- much specific information about FASD and prevention, diagnosis, and supports

New Cases/Appeals:

There have been a large number of recent criminal cases that deal with FASD in the Yukon, including:


Sentencing of accused who suffered from FASD and Mental Health issues after he pleaded guilty to trafficking cocaine, failing to appear in court, refusing to provide a breath sample pursuant to a valid demand, driving while disqualified and dangerous operation of a motor vehicle — Accused was a 28-year old aboriginal who had a lengthy and related criminal record — He abused drugs and alcohol and had cognitive and intellectual impairments that affected his behaviour — Accused was sentenced to a global sentence of seven months’ imprisonment, three-year driving prohibition, to commence after he was released from custody, a DNA order and a 10-year weapons’ prohibition.


Court accepted that individuals with FASD are suggestible and can be easily led in cross-examination.

Accused pleaded guilty to two counts under s. 733, one count under s. 266 (spousal assault), one count under s. 264.1 (uttering threat), and one count under s. 145. The Court was cognizant of the fact that the accused has severe cognitive delays and has been diagnosed as FASD, and these are the reasons that he continues to fall into the system.


Because Accused was significantly affected by Fetal Alcohol Spectrum Disorder (FASD), this decision addressed the appropriate sentencing principles applicable to the facts of the case and to the accused’s cognitive deficiencies. Judge Lilles addressed appropriate sentencing principles for someone suffering FASD, as follows:

“…I am of the opinion that separation (where necessary for the protection of society) and rehabilitation should be the primary focus of judges involved in sentencing FASD-affected offenders. Separation does not equate with jail, however. Separation can and should be achieved in a secure community setting in most instances. We do not jail children under the age of 12 in Canada and when they are under the age of 18 years, they are detained separately from adults. FASD-affected individuals who function at the level of children should only be placed in jail as a last resort and then in a facility separate from adults in order to avoid the victimization experienced by Mr. Harper when he was in custody. Similarly, rehabilitation for Mr. Harper must accommodate his cognitive disabilities and can not be achieved through typical offender programming. It must involve individualized supports and a focus on improving his life skills through repetitive tasks done under supervision. Mr. Harper is capable of learning and developing, but he needs to be guided and supported in a manner that takes into account his limitations.”


The Court recognized that FASD is a serious problem that extends beyond the First Nations community. In the Yukon, however, it is disproportionately an issue within the First Nations peoples. The problematic consumption of alcohol that has resulted in children being born suffering the permanent effects of FASD often finds its roots in the systemic discrimination of First Nations peoples and the resultant alienation they experience from their ancestry, their culture and their families.


The Court considered FASD with respect to fitness and whether or not FASD can be considered a disease of the mind, which is the definition of mental disorder also set out in s. 2 of the Criminal Code. Judge Ruddy stated, “I think it is fair to say that FASD is an area that is only now becoming understood and it is clear that the particular wording of our legislation, as it relates to the issues of fitness and criminal responsibility, is not always a good fit when we are looking at individuals with FASD, even though the impact of the disorder, of FASD, can equally, if not more so, impact on an individual's fitness to stand trial as would a psychiatric condition.”

Court addressed issue of mitigation that resulted from what appears to be FASD (although not formally assessed), a cognitive disorder and the impact this cognitive disorder may have on this accused's moral blameworthiness.


Court engaged in a discussion of recent Northern cases which speak to how we address issues like diminished capacity when we are talking about individuals who suffer from FASD and other cognitive impairments, and how many of those decisions have resulted in somewhat discounted sentences in recognition of those disabilities.

**ALCOHOLISM IN THE NORTH**

There have been recent deaths involving alcoholism and the RCMP in all three Territories recently and all of these have resulted in Inquiries and Investigations of the RCMP.

**Dead Yukon man’s family files RCMP complaint**

May 8, 2011

The family of Robert Stone, a Yukon First Nation man who recently died at a detoxification centre after spending seven hours in RCMP custody, has filed a complaint against the police force as they demand more answers about his death. Stone, 34, had been in the hands of the RCMP, Whitehorse General Hospital, and the detox centre for 15 hours leading up to his death on May 2.

The case is similar to the 2008 death of Raymond Silverfox, 43, who died after spending 13 hours in Whitehorse RCMP custody. A coroner’s inquest, held last month, heard that RCMP officers and guards didn’t seek medical attention for him during his time in custody, with some even mocking and jeering him. In Stone’s case, he was picked up in the city’s downtown the night before, on reports that he was intoxicated. He then spent seven hours in the Whitehorse RCMP detachment cells, according to the Yukon coroner’s office. When Stone reported not feeling well, he was taken to the hospital. then transferred to the detox centre, where he was later found dead, according to the coroner.

The inquest into Silverfox’s death has prompted the territorial government to review policing in the Yukon. Stone’s death also moved the government to form a task force on how best to help acutely intoxicated persons.
Inquest called into N.W.T. man's death
January 14, 2011

The Northwest Territories' coroner will hold an inquest into the death of Raymond Eagle, a Yellowknife man who died after being in a coma for more than three years. Chief coroner Cathy Menard announced Thursday that an inquest will be held in March to determine the circumstances of Eagle's death, as well as find ways to prevent similar deaths from happening in the future. Eagle, a 48-year-old homeless person, died in January but had been in a coma since August 2006, after he had spent hours in RCMP custody. Eagle was initially taken to Stanton Territorial Hospital after he was discovered with visible head injuries at a Yellowknife trailer park. While he was being treated, Eagle told hospital staff he had been beaten up, according to his family, who claim that he even provided the names of his alleged attackers. But instead of being released from hospital, Eagle was handed over to the RCMP. Family members said he spent about 10 hours in police custody. Eagle was brought back to the hospital when he began vomiting blood. He was flown to an Edmonton hospital for neurosurgery, but he never regained consciousness. A coroner's inquest is mandatory in Eagle's case because he had spent time in police custody prior to his death. The RCMP officers who handled Eagle's case, as well as the hospital workers who treated him, are likely expected to testify at the inquest.

Nunavut RCMP responds to coroner’s recommendations
April 19, 2011

Nunavut’s RCMP division says it has already made changes in the way it handles drunken prisoners, after the Elisapee Michael coroner’s inquest jury last week aimed nine of its 29 recommendations at the police. RCMP Supt. Howard Eaton told reporters April 15 that some of the recommendations, like the one urging that cameras record occupied cells at all times, will raise policing costs, which will have to be negotiated with the Government of Nunavut.

Others, like the recommendation that drunk prisoners be roused every two hours, “are going to create some issues in the small detachments,” Eaton said. Michael spent more than 12 hours lying on the floor of a cell in the old Iqaluit RCMP detachment, which has since been replaced, on the night in August, 2009 when she fell down stairs in front of the Nova Hotel, injuring her head. Despite the head injury, she was taken into police custody after becoming difficult with hospital staff. The Department of Health and Social Services, the target of 16 of the 29 recommendations, issued a statement April 19 saying it “deeply regrets the tragedy of Elisapee Michael’s death.” The department said it’s reviewing the recommendations.

NORTHERN HEALTH CARE INITIATIVES

Yukon Health Care

2009/10 initiatives include:
 • work with the Yukon Medical Association to find solutions for a number of Yukon residents without a family physician continues;
• Yukon has recruited a broader base of visiting specialists to provide services at the Visiting Specialist Clinic;
• the Diabetes Collaborative, which helps physicians provide improved care for patients with diabetes, is moving to another phase that will see an expansion to other chronic conditions (CHF, COPD, hypertension, kidney disease) as well as diabetes in Whitehorse and communities.

Northwest Territories Health Care

009/10 initiatives include:
• The drafting of a new Medical Profession Act. The Act will replace current legislation, as well as modernize the processes for the registration and discipline of medical practitioners in the NWT.
• The drafting of amendments under the Dental Auxiliaries Act and the Veterinary Profession Act that will amend the qualifications for registration in the NWT. Dental hygienists and veterinarians will be required to successfully complete the requirements of the National Examining Board (veterinarians) and the National Dental Hygiene Certification Board (dental hygienists) as a measure of competence in these professions. The amended registration requirements will help the Government of the Northwest Territories meet labour mobility obligations under the Revised Agreement on Internal Trade.
• The coming into force of the Water Supply System Regulations under the new Public Health Act. These regulations meet current national standards and requirements, and allow the Chief Public Health Officer to respond effectively in the case of a health hazard linked to the water supply.
• The coming into force of the Reportable Disease Control Regulations under the new Public Health Act. These regulations are necessary for the control and mitigation of public health risks caused by the spread or potential spread of communicable diseases and serious health conditions.
• Implementation of the Foundation for Change, an action plan that reforms the delivery of health and social service programs throughout the NWT.
• An NWT-wide health care card renewal, which allowed the Department to ensure that only eligible NWT residents have coverage.

Nunavut Health Care

009/10 initiatives include:
• A comprehensive study of health and health care in Nunavut to determine optimal departmental staffing levels and service delivery approaches in each community;
• Increased regional integration of strategic territorial initiatives including the Nursing Recruitment and Retention Strategy;
• A comprehensive review of the medical travel system with the goal of providing a sustainable level of quality care and increasing services provided in the territory;
• Finalized a strategic plan for territorial physician services; and
• Conducted a territorial review of rehabilitation services.
MENTAL HEALTH LEGISLATION IN THE NORTH

Apprehension under Mental Health Legislation

Each province and territory has legislation permitting the police to bring apparently mentally disordered people into custody for the purposes of initiating an inquiry into their mental state. Typically, the legislation allows the police to bring individuals into police custody, and then requires them to convey the subject to a hospital or psychiatric facility for assessment by medical personnel.

The legislation in most provinces sets out two procedures, one involving planned police intervention, the other involving emergency police intervention. Planned intervention strategies usually involve the issuance of a court order mandating the police to bring an individual into custody. By contrast, emergency crisis intervention options typically entitle the police to bring an individual into custody without prior judicial authorization.

Northwest Territories (& Nunavut): Mental Health Act, R.S.N.W.T. 1988, c. M-10

11. (1) Where a peace officer has reasonable and probable cause to believe that a person
(a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself,
(b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him or her, or
(c) has shown or is showing a lack of competence to care for himself or herself, and, if based on the information before the peace officer, the peace officer is of the opinion that the person is apparently suffering from a mental disorder of a nature or quality that will likely result in
(d) serious bodily harm to that person,
(e) serious bodily harm to another person, or
(f) imminent and serious physical impairment of that person,

and the circumstances are such that to proceed under section 9 would be unreasonable or would result in a delay that would likely result in serious bodily harm to that person or to another person or in imminent and serious physical impairment of that person, the peace officer may take that person in custody without delay to a medical practitioner or a hospital within the Territories for psychiatric assessment by a medical practitioner.

Yukon: Mental Health Act, R.S.Y. 2002, c. 150

8(1) A peace officer may take a person into custody if at least one of the following conditions applies
(a) The peace officer believes on reasonable grounds that the person as a result of a mental disorder (i) is threatening or attempting to cause bodily harm to themselves or has recently done so,
(ii) is behaving violently towards another person or has recently done so, or
(iii) is causing another person to fear bodily harm or has recently done so,
and the peace officer further believes on reasonable grounds that the person as a result of the mental disorder is likely to cause serious bodily harm to themselves or to another person; or
(b) The peace officer believes on reasonable grounds that the person as a result of the mental disorder shows or has recently shown a lack of ability to care for themselves and the peace officer further believes on reasonable grounds that the person as a result of the mental disorder is likely to suffer impending serious physical impairment.

(2) A peace officer who has taken someone into custody pursuant to subsection (1), shall immediately take that person to a physician or a health facility and shall
(a) provide the physician or person in charge of the health facility with a written statement setting out the circumstances that led them to take the person into custody; and
(b) remain at the place of examination and retain custody of the person until the examination under section 10 is completed, or the physician or health facility accepts custody of the person.
S.Y. 1989-90, c.28, s 8.