

National Report

Legal Aid in Canada

Prepared by Legal Aid Ontario, with input from other Canadian Legal Aid programs

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JURISDICTIONAL AUTHORITY

Canada does not have a single legal aid system, since the delivery and administration of legal aid is a provincial/territorial responsibility. Thus, there are 13 different legal aid programs across the country which operate independently of each other, with each program determining its own eligibility and coverage guidelines. Eleven of the 13 jurisdictions have legislation which establishes their legal aid programs; only two do not: Alberta and Prince Edward Island (PEI). In Alberta, the legal aid program is a non-profit society which operates under a governance agreement with the Province. In PEI, legal aid is run as a government program through the Department of Justice and Public Safety.

Of the 11 legal aid programs established by legislation, six are non-profit societies or corporations (B.C., Manitoba, Northwest Territories, Nunavut, Ontario, Yukon); four are independent commissions (Newfoundland-Labrador, Nova Scotia, Quebec, Saskatchewan); and one is a program of the Law Society (New Brunswick).

Each legal aid program operates independently of the other programs within Canada. The Association of Legal Aid Plans of Canada (ALAP) has been formed as an umbrella group representing each of the provincial and territorial legal aid programs and provides an opportunity to share best practices in the delivery of legal aid services and consider access to justice issues together.

Under Canadian constitutional law, the federal government has authority to enact criminal law and law related to criminal procedure. The federal government is also responsible for immigration and refugee law. Provincial governments are granted authority for the administration of justice and have exclusive jurisdiction over civil law. In the territories the federal government has constitutional authority over both criminal and civil law.

POPULATION ¹

Canada is the second largest country in the world for total area yet has a small population for its geographic size.

Canada: 36,708,083

Largest province/territory: 14,193,384 (Ontario)

Smallest province/territory: 37,996 (Nunavut)

¹ <https://www150.statcan.gc.ca/n1/pub/12-581-x/2018000/pop-eng.htm>

| | 2017 Population | % of total population |
|---------------------------|----------------------------|----------------------------------|
| Canada | 36,708,083 | 100.00% |
| Newfoundland and Labrador | 528,817 | 1.44% |
| Prince Edward Island | 152,021 | 0.41% |
| Nova Scotia | 953,869 | 2.60% |
| New Brunswick | 759,655 | 2.07% |
| Quebec | 8,394,034 | 22.87% |
| Ontario | 14,193,384 | 38.67% |
| Manitoba | 1,338,109 | 3.65% |
| Saskatchewan | 1,163,925 | 3.17% |
| Alberta | 4,286,134 | 11.68% |
| British Columbia | 4,817,160 | 13.12% |
| Yukon | 38,459 | 0.10% |
| Northwest Territories | 44,520 | 0.12% |
| Nunavut | 37,996 | 0.10% |

FUNDING

Legal aid plans derive their funding from a variety of sources, including provincial and federal contributions. In all provinces, the largest proportion of legal aid revenue comes from the provincial governments.

While the federal government has no role in the *delivery* of legal aid services in Canada, it does provide funding to provinces and territories to support their legal aid plans. In the areas of criminal law and refugee and immigration law, funding is provided through the Department of Justice Legal Aid Program. Funding for civil legal aid is provided through the Canada Social Transfer (a federal block transfer to provinces and territories for social services, social assistance and post-secondary education) which is administered by the Department of Finance Canada. Canadian legal aid plans also receive some revenue from additional sources such as contributions of the legal profession,

investment income etc. For example, in Ontario a portion of funding is received from the Law Foundation of Ontario through interest earned on lawyers' trust fund balances, after the foundation deducts its expenses. These revenues are variable year to year and depend largely on the Bank of Canada overnight interest rate and real estate activity levels in the province.

Total revenues nationally for 2017/2018 were \$968 million, with 77% of all revenues contributed by the provinces and territories. Federal contributions in criminal and refugee and immigration totalled over \$146 million, just over 15% of all revenues.

| Legal aid plan revenues (2017-2018) ² | | | | | | |
|--|-------------------------------|---------------|-----------------------|-------------------------|--------------------------|-----------------------|
| | Total legal aid plan revenues | | Federal contributions | | Provincial contributions | Other contributions** |
| | | | Criminal* | Immigration and Refugee | | |
| Newfoundland (NL) | \$17,519,774 | 1.8% | 13% | 0.0% | 85% | 2.5% |
| PEI | \$2,100,830 | 0.2% | 22% | | 25% | 53.8% |
| Nova Scotia (NS) | \$26,615,629 | 2.7% | 15% | | 85% | 0.6% |
| New Brunswick (NB) | \$9,314,912 | 1.0% | 27% | | 65% | 7.8% |
| Quebec (QC) | \$177,796,868 | 18.4% | 14% | 1.8% | 82% | 2.2% |
| Ontario (ON) | \$487,655,006 | 50.4% | 10% | 3.3% | 75% | 12.2% |
| Manitoba (MB) | \$37,956,444 | 3.9% | 15% | 1.5% | 73% | 10.5% |
| Saskatchewan (SK) | \$25,697,877 | 2.7% | 21% | | 78% | 0.9% |
| Alberta (AB) | \$96,644,707 | 10.0% | 13% | 0.8% | 79% | 7.5% |
| British Columbia (BC) | \$84,579,964 | 8.7% | 18% | 2.5% | 75% | 4.6% |
| Yukon Territory (YK) | \$2,573,822 | 0.3% | 37% | | 62% | 0.4% |
| Northwest Territories (NT) | | | | | | 0.0% |
| Nunavut (NU) | | | | | | 0.0% |
| Canada | \$968,455,833 | 100.0% | 13% | 2.3% | 77% | 8.4% |

*and civil in territories

**Other contributions include client contributions, cost recoveries to legal aid programs, contributions of the legal profession to legal aid programs and other legal aid program revenues.

On April 11, 2019, Ontario's provincial budget was delivered which included the following impacts on LAO funding:

- An immediate reduction of approximately 30% (\$133M) to the anticipated provincial funding for legal aid in 2019-2020 which amounts to LAO receiving \$323M from the province instead of the \$456M that was anticipated.
- By 2020-2021, the annual reduction in provincial funding will increase from \$133M to \$164M.
- Refugee and immigration services are to be delivered without the use of provincial funds.

And while Ontario is facing drastic funding cuts, British Columbia's Legal Services Society last year received its largest government funding increase in almost 20 years.

² Legal Aid in Canada, 2017-18, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2019 at 5.

This has allowed BC to launch Indigenous services and to improve other services such as increasing the number of hours lawyers can bill on family law cases and increasing the availability of duty counsel.

The BC Legal Services Society is also beginning discussions with the provincial government and the private lawyers who provide legal aid services in the province to develop a new funding formula for legal fees. Fees paid to lawyers have not increased for more than a decade and are now far below what is needed to attract and retain lawyers for legal aid work.

In Alberta, a new Legal Aid Governance Agreement between Legal Aid, the Law Society and the government has established a transparent funding model. The Agreement promotes stability through increased collaboration with stakeholders and mandatory reviews of financial eligibility guidelines and tariff rates paid to lawyers. The new framework supports enhanced cooperation between Legal Aid Alberta and the Alberta Government for a more effective legal aid system.

Manitoba met increased demand and further expanded coverage areas, duty counsel services and family law coverage within its existing funding model.

LEGAL AID EXPENDITURES

Most legal aid jurisdictions in Canada spend more on criminal matters than on civil.

| Legal aid plan expenditures (2017-2018) ³ | | | | | | | |
|--|--|--|-----------|-------------------|----------|--------------------|-----------|
| | Total legal aid plan expenditures Dollars (%) | Direct legal aid services expenditures ² (includes administrative and other costs) | | | | | |
| | | Criminal matters | | I&R | | All other civil | |
| | | \$ | % | \$ | % | \$ | % |
| NL | 17,317,907 | 10,621,747 | 61 | 21,364 | .1 | 6,674,796 | 39 |
| PEI | 1,809,229 | 828,548 | 46 | | | 980,681 | 54 |
| NS | 26,671,008 | 15,721,111 | 59 | | | 10,949,897 | 41 |
| NB | 8,164,995 | 4,487,712 | 55 | | | 3,677,283 (45) | 45 |
| QC | 176,185,634 | 74,488,740 | 42 | 5,065,253 | 3 | 96,631,641 | 55 |
| ON | 470,167,765 | 214,528,515 | 46 | 42,622,936 | 9 | 213,016,314 | 45 |
| MB | 36,750,641 | 26,290,899 | 72 | 625,405 | 2 | 9,834,337 | 27 |
| SK | 25,477,369 | 19,425,545 | 76 | | | 6,051,824 | 24 |
| AB | 95,568,696 | 61,400,986 | 64 | 1,032,236 | 1 | 33,135,474 | 35 |
| BC | 77,938,423 | 47,156,769 | 61 | 3,402,538 | 4 | 27,379,116 | 35 |
| YK | 2,635,382 | - | | | | - | - |
| NT | - | - | | | | - | - |
| NU | 3,747,662 | 2,583,766 | 69 | | | 1,163,896 | 31 |
| Canada | 942,434,711 | 477,534,338 | 51 | 52,769,732 | 6 | 409,495,259 | 43 |

It should be noted that the hourly tariff paid to private bar lawyers who do legal aid work varies considerably across Canada. The lowest rates are generally paid to private bar lawyers with less than five years' experience, and the rates may increase with

³ Legal Aid in Canada, 2017-18, Research and Statistics Division and Legal Aid Directorate, Department of Justice Canada, 2019 at 5.

experience and for complex case matters. A few legal aid programs pay a flat hourly rate to private bar lawyers regardless of experience.

SCOPE OF LEGAL AID COVERAGE AND SERVICE DELIVERY

Each legal aid jurisdiction in Canada varies in the breakdown of how direct legal services are provided. Legal aid services are primarily delivered by private bar lawyers with staff lawyers also providing direct legal aid services to clients. Overall, most programs have a mix of private bar and staff lawyers, but service provision differs greatly across the provinces/territories. PEI and Nunavut legal aid services are provided completely by staff lawyers as compared to British Columbia, which provides services through the private bar only. While Nova Scotia has almost three times as many private bar lawyers, over 70% of services are handled in-house. In Newfoundland 98% of legal services are provided by staff lawyers.

Increasingly, non-lawyers are also being used to provide direct legal services in Canada. Non-lawyers may include paralegals, legal aid workers, articling students, legal assistants and other intake workers. Various laws and practices exist which lay out the extent to which unsupervised non-lawyers may provide certain services.

| | Total legal aid plan personnel | Total lawyers | | Private bar | Staff lawyers | Other | Total non-lawyers | |
|---------------|--------------------------------|---------------|----------------------|--------------|---------------|-----------|-------------------|----------------------|
| | | Total # | % of total personnel | | | | Total # | % of total personnel |
| NL | 172 | 104 | 60% | 33 | 68 | 3 | 68 | 39.5% |
| PEI | 15 | 8 | 53.3% | 0 | 8 | 0 | 7 | 46.7% |
| NS | 364 | 355 | 82.2% | 256 | 95 | 4 | 77 | 21.1 |
| NB | 176 | 140 | 79.5% | 107 | 31 | 2 | 36 | 20.5% |
| QC | 3,316 | 2,761 | 83.3% | 2,361 | 336 | 64 | 555 | 16.7% |
| ON | 4,384 | 3,702 | 84.4% | 3,401 | 301 | 0 | 682 | 15.6% |
| MB | 447 | 343 | 76.7% | 282 | 56 | 5 | 104 | 23.3% |
| SK | 281 | 210 | 74.7% | 127 | 83 | 0 | 71 | 25.3% |
| AB | 1,722 | 1,568 | 91.1% | 1,480 | 88 | 0 | 154 | 8.9% |
| BC | 1,055 | 1,055 | 100.0% | 1,055 | 0 | 0 | 0 | 0.0% |
| YK | 19 | 12 | 63.2% | 2 | 9 | 1 | 7 | 36.8% |
| NT | 48 | 43 | 89.6% | 28 | 15 | 0 | 5 | 10.4% |
| NU | 31 | 17 | 54.8% | 0 | 17 | 0 | 14 | 45% |
| Canada | 12,098 | 10,318 | 85.8% | 9,132 | 1,107 | 79 | 1780 | 14% |

While some jurisdictions focus almost exclusively on full representation services for court or tribunal proceedings, others provide a continuum of services to tailor legal services to the client's need and abilities. This may help to prevent or reduce the need for further legal services and/or full-blown litigation.

⁴ *Ibid* at 8.

Given Canada's vast size and dispersed population, services are delivered through a variety of means. In larger urban centres, in-person services can be augmented by telephone or web-based access. In other areas, video-conferencing and the use of other technologies can provide services across large distances.

The following table compares the eligibility requirements and areas of legal services of Canada's legal aid plans.

Eligibility and scope of legal aid services

| | Eligibility Criteria, Evaluation Process, and Other Limitations | SERVICES PROVIDED | | | | |
|--|--|---|---------------|--|------------------|---|
| | | Serious criminal matters Criminal with likelihood of incarceration | Youth matters | Family with merit. (excluding uncontested divorce and sole property claims) | Child Protection | Other non-family civil |
| <p>Newfoundland and Labrador (NL): Newfoundland and Labrador Legal Aid Commission</p> | <p>Legal Aid provides a range of legal services to low income individuals in Newfoundland and Labrador in the areas of family and criminal law.</p> <p>Those who are eligible can access the service of one of Legal Aid’s experienced lawyers located throughout the province of Newfoundland and Labrador.</p> <p>There are two requirements you must meet to get Legal Aid. First, you must fit within Legal Aid’s financial requirements. Second, your legal matter must be one of the types of legal matters that Legal Aid covers.</p> | Yes. Some summary offences. | Yes | Yes | Yes | Administrative matters such as workers compensation, social assistance, pension benefits; immigration and refugee; Mental Health Review Board |
| <p>Prince Edward Island (PEI): Prince Edward Island Legal Aid</p> | <p>Prince Edward Island Legal Aid is an access to justice program, providing legal representation and assistance to low income individuals who have serious legal needs in the areas of criminal law, youth criminal justice, or family and civil law.</p> <p>The first step is to contact your local legal aid office in Charlottetown or Summerside, to make an application. If your legal problem is one that is covered by legal aid, staff will assist in completing your application.</p> | Yes, where law require representation. Some summary offences | Yes | Yes, where domestic abuse is identified. Some less urgent family situations. | Yes | Involuntary hospitalization under mental health laws, guardianship and adult protection. |

| | | | | | | |
|--|--|------------|------------|---|------------|---|
| <p>Nova Scotia (NS): Nova Scotia Legal Aid (NSLA)</p> | <p>NSLA has many free legal aid services to help adults and youth facing a range of legal issues. If you need a lawyer and can't afford one, you may be able to get a Legal Aid lawyer to represent you.</p> <p>Nova Scotia Legal Aid (NSLA) offers some level of legal assistance to all Nova Scotians, including information, advice and full representation by a lawyer for qualified applicants. Full service is based on financial need, area of law requested and the merit of the case.</p> <p>You must fill out an application and meet financial, area of law, and legal merit requirements</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes. Applications for legal aid involving domestic violence are given priority.</p> | <p>Yes</p> | <p>Poverty administrative law services including Canada Pension Plan, Employment Insurance and Income Assistance.</p> |
| <p>New Brunswick (NB): New Brunswick Legal Aid Services Commission (NBLASC)</p> | <p>If the services identified fall within NBLASC scope of service and the household income falls within one of the three tiers, a client can get full representation. Client contributions must be paid in full before a certificate will be issued.</p> <p>NBLASC conducts a financial assessment based on three factors: income, allowable deductions and household size. Generally, people with low income, those on social assistance and youth qualify for free representation.</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes. Cases are screened and priority is given to urgent cases and those which can directly benefit children.</p> | <p>Yes</p> | <p>The Public Trustee of New Brunswick can be appointed to protect the financial and/or personal interests of the elderly who have become mentally incompetent or incapable of managing their affairs due to infirmity.</p> |
| <p>Québec (QC): Commission des services juridiques (CSJ)</p> | <p>Legal aid is provided free of charge or with a contribution from the recipient. There is a two-part eligibility test to receive legal aid, the client must be financially eligible, and the services requested must be covered.</p> <p>Anyone who receives financial assistance of last resort, other than a special benefit, under the Individual and Family Assistance Act or any family member receiving such a benefit is considered financially eligible for assistance.</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Immigration; claims regarding benefits for social assistance, automobile insurance, unemployment insurance and worker's compensation.</p> |

| | | | | | | |
|---|--|---|------------|--|------------|---|
| <p>Ontario (ON): Legal Aid Ontario (LAO)</p> | <p>LAO provides legal services for financially-eligible, low-income Ontarians in the following areas: domestic violence, family law, immigration and refugee law, mental health law and criminal law.</p> <p>If you're financially eligible and have a legal matter that LAO covers, you may be able to apply for a certificate, which is like a voucher that you can use to 'pay' a lawyer to represent you for a certain number of hours. The lawyer must be one of the 3,600 private practice lawyers across the province who accepts legal aid certificates.</p> | <p>Indictable and summary only if likelihood of incarceration</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Some civil and immigration and refugee LAO also funds general service legal clinics across the province which deal with poverty law and some human rights issues and seven Student Legal Aid Services Societies (SLASS'). Each of the seven Ontario universities with a Faculty of Law has a SLASS. LAO also funds a number of specialty clinics which provide dedicated services to particularly vulnerable communities such as individuals living with HIV and AIDS.</p> |
| <p>Manitoba (MB): Legal Aid Manitoba (LAM)</p> | <p>Legal Aid Manitoba provides legal services to low-income adults and youth in Manitoba who qualify financially and have a case with merit. Application forms can be accessed online but must be completed in person at one of LAM Application Centres or over the telephone within 30 days.</p> | <p>Yes. Summary offences only if likelihood of incarceration</p> | <p>Yes</p> | <p>Yes; LAM also offers collaborative law.</p> | <p>Yes</p> | <p>Immigration and refugee; Mental Health Review Board. The Public Interest Law Centre represents eligible individuals or groups for human rights, Indigenous rights, consumer rights, poverty and protection of the environment.</p> |
| <p>Saskatchewan (SK): Legal Aid Saskatchewan (LAS)</p> | <p>Youth and those receiving social assistance or band assistance are eligible for Legal Aid. Those who are working and have a low income, are likely eligible for Legal Aid. Legal Aid does a financial test to determine if you are eligible for services.</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>None</p> |

| | | | | | | |
|---|---|---|------------|---|------------|--|
| <p>Alberta (AB): Legal Aid Alberta</p> | <p>Legal Aid Alberta considers both financial and service eligibility to determine if an individual is eligible for legal representation. When you call or go to a Legal Services Centre, a Legal Services Officer will work with you to complete an assessment to determine the nature of the issue and the type of service required.</p> <p>The Legal Aid Society of Alberta considers the applicant's income and an appraisal of their assets. A person may be eligible for legal representation and to have a lawyer appointed if their allowed income falls within the financial thresholds.</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>Immigration and refugee; adult guardianship/trusteeship and income support.</p> |
| <p>British Columbia (BC): Legal Services Society (LSS)</p> | <p>LSS will pay for a lawyer to represent you if: a) your legal problem is covered by their legal aid rules; b) you meet their financial guidelines, and c) you have no other way of getting legal help.</p> <p>LSS provides a wide range of public legal information and education services, including publications, community outreach, websites (family law and Aboriginal legal aid), and MyLawBC.</p> | <p>Yes, where likelihood of jail; conviction could result in immigration issues; where client has defence based on Indigenous rights or cannot represent because of mental/physical disability.</p> | <p>Yes</p> | <p>Limited representation in serious family matters where there is domestic abuse, child safety is at issue or there are highly contested issues.</p> | <p>Yes</p> | <p>Refugee claims, immigration issues that could result in removal from Canada, Mental Health Review Panel or BC Review Board Hearing, and some prison law issues.</p> |
| <p>Yukon (YK): Yukon Legal Services Society (YLSS)</p> | <p>To receive legal aid:</p> <ul style="list-style-type: none"> You must have a legal problem that we cover. Your income and the value of your property must be below a certain limit. You might have to pay a contribution to YLSS. In some civil matters, there must also be a strong reason (merit) for providing legal aid to assist you. The legal problem is something that a reasonable person of modest means would, if financially able, pay a lawyer to do. | <p>Yes, where likelihood of jail. Special applications may be covered where the application has merit.</p> | <p>Yes</p> | <p>Interim family matters if children are involved</p> | <p>Yes</p> | <p>Mental Health Act</p> |

| | | | | | | |
|--|---|--|------------|---|------------|---|
| <p>Northwest Territories (NT): Northwest Territories Legal Aid Commission</p> | <p>To apply for legal aid, you must make an appointment with one of the legal aid offices in Yellowknife, or with a community court worker for assistance with filling out an application.</p> <p>In order to qualify for legal aid, you must meet financial eligibility requirements. You may be required to pay some or all of the costs of your case as determined by your total household income and number of dependents.</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> | <p>yes</p> | <p>The Legal Aid Commission offers a free outreach program to individuals to provide limited, confidential legal information or advice relating to poverty law Mental health and guardianship reviews and debtor, creditor or civil claims (formerly known as small claims court)</p> |
| <p>Nunavut (NU): Legal Services Board of Nunavut (LSB)</p> | <p>The Legal Services Board of Nunavut provides legal aid services in each region of Nunavut through regional legal aid clinics based in Iqaluit, Rankin Inlet and Cambridge Bay. Each clinic is staffed by a complement of family and criminal lawyers, administrative support, and court workers. Court workers are based both within the clinics and in the communities. As the territory's legal aid plan, LSB is responsible for providing legal services to financially eligible Nunavummiut in the areas of criminal, family and civil law. Lawyers help people who have kids and problems with their common-laws or Social Services. Civil Lawyers help people who have daily problems like with their landlords or employers. Legal Aid Lawyers also fly to communities for court.</p> | <p>Yes, if under arrest or charged. Everyone gets a lawyer when appearing before court for the first time.</p> | <p>Yes</p> | <p>Some family law plus family law information line</p> | <p>yes</p> | <p>Some civil law plus civil/poverty information line</p> |

CURRENT ISSUES

Specialized services for Indigenous Clients

Because of the diversity within Canada, legal aid programs work to create some specialized services for particular groups when possible. However, a critical issue for legal aid programs in every province and territory is Indigenous reconciliation. The Indigenous people of Canada include First Nations, Inuit and Métis who make up 4.9% of the country's population.⁵ Indigenous peoples have lived in what is now Canada long before the arrival of the first European settlers and there are more than 600 unique First Nations/Indian Bands in Canada.

Canada's Indigenous population is over-represented in every aspect of legal aid services – criminal, family and child protection. This can only be remedied through legal aid services that recognize the unique cultural needs of Indigenous people and that respond to the history of colonization.

- The Northwest Territories, along with its sister Territories Yukon and Nunavut, serve the most northern communities in Canada. The challenges experienced are geographic, cultural, linguistic, educational and socio-economic. Indigenous peoples have moved land-based traditions to the 'digital age' in a very rapid manner over the last generations. In addition, the colonial policies of the Canadian government have, over the last 150 years resulted in significant social harm. The NWT Legal Aid Commission strives to provide services in a manner that takes into account the unique vulnerabilities of clients while acknowledging a systemic lack of trust in the legal system.
- In BC, the Legal Services Society has opened seven new Parents Legal Centres that focus on Indigenous families who are at risk of having their children removed by government from the family home. BC has delivered Indigenous cultural competency training to staff and private lawyers, enhanced Indigenous online resources and produced several new publications focusing on specific Indigenous justice issues. BC has also implemented a Reconciliation Action Plan to guide future development of Indigenous legal aid.
- With no new funding in this fiscal year, Nova Scotia Legal Aid (NSLA) is taking innovative approaches to improving service to clients, improving caseloads and wellness of lawyers and staff, and enhancing efficiency in the courts. Two Social Workers have been added to the staff to support lawyers on child protection files - one to assist clients who identify as Indigenous or Mi'kmaq (a First Nation in Canada's Atlantic provinces), and one to assist clients who identify as African Nova Scotian.

⁵ "[Aboriginal peoples in Canada: Key results from the 2016 Census](#)," *The Daily*, October 25, 2017

- Legal Aid Ontario (LAO) has also expanded access to Gladue services⁶ by providing five extra hours on criminal certificates to allow counsel to prepare Gladue submissions at bail and sentencing and improved legal access for indigenous clients. LAO has also developed panel standards for representation of Indigenous clients in criminal matters through the Gladue panel which improves access to justice for Indigenous clients.
- Legal Aid Newfoundland has taken the lead in raising issues related to representation of Indigenous people with the Province and has established a working group of stakeholders to develop and work towards reform.
- Legal Aid Manitoba (LAM) has held consultations with First Nations and partnered to pilot audio, video and digital technology for remote locations.
- LAM has provided Indigenous cultural-competency training to all staff to better assist First Nations, Inuit and Métis applicants and clients.
- Legal Aid Alberta has established a role for a Métis youth advocacy coordinator responsible for assisting Métis clients.

Specialized services for particular client groups

- The Veterans Justice Outreach Initiative in Nova Scotia incorporates the Veterans military experience into decisions regarding Veterans in conflict with the law and promotes and facilitates referrals to Mental Health Courts.
- In 2017, LAM implemented on-demand representation to asylum seekers.
- In 2016/2017 NSLA began providing cultural context reports in criminal and youth matters for African Nova Scotians. This helps to provide a framework for understanding the defendant, their background and behaviours.
- LAO has provided grants to deliver legal aid services to Black students who are in conflict with the education system and facing suspension or expulsion.
- In certain cases, LAO offers members of vulnerable client groups (someone who self-identifies as First Nation, Métis or Inuit; someone experiencing domestic abuse; someone with mental health issues; or someone who self-identifies as a member of a racialized community) access to an expanded legal eligibility certificate for full representation in criminal law matter, even when the accused is not likely facing incarceration.
- In addition to English and French, LAO's telephone information and advice services are available in over 200 languages by way of interpretation services

⁶ If an Indigenous person has been charged with a crime there are special cultural considerations that the court must take into account. Section 718.2(e) of the *Criminal Code* and the Supreme Court of Canada in [R. v. Gladue, \[1999\] 1 S.C.R. 688](#) have stated that Judges should account for these considerations when making sentencing decisions. This applies to all Aboriginal peoples of Canada, including status and non-status Indian, Inuit, and Métis and whether living on or off reserve.

- In Ontario LAO provides services in French pursuant to the *French Language Services Act*. LAO works closely with francophone organizations and is an active partner in many French language services initiatives led by the Ministry of Francophone Affairs and the Ministry of the Attorney General, including:
 - the FLS Strategic Planning process for the Justice Sector
 - the Access to Justice in French Advisory Committee, which provides advice and guidance to the Attorney General about the development of strategies and emerging priorities related to access to justice in French and the provision of French language services based on the active offer of service
 - the FLS Regional committees across the province, which brings together representatives from the judiciary, Court Services, Victims and Vulnerable Persons, Criminal Law Divisions, as well as LAO, to discuss regional strategies and best practices relating to access to justice in French
- LAO has developed and supported two embedded counsel programs (the Justice In Time program in Toronto and the Hamilton Legal Outreach project). These programs were developed in response to stakeholders indicating that LAO services needed to be embedded in communities in order to properly assist persons with mental health needs. A staff lawyer is placed at a community based mental health services site and provides summary legal advice and referral services for clients.

Child protection matters

- In Nova Scotia, the current greatest pressure is the increasing number of child protection matters before the courts, particularly in urban areas. The province has set up a practice group of two staff lawyers, one support staff (non-lawyer) acting as a court and community-based navigator, and a second support staff providing office-based support. This group focuses on early intervention to help parents with advice and navigation before a court application is commenced so the families stay out of the system, and to also act on a limited retainer basis at the earliest stage of court proceedings. Their goals are to ensure culturally competent service; to keep families out of the court system, particularly those from over-represented populations; and to ensure legal information, navigation, and representation are available to families at all stages.
- Ontario offers early intervention services in child protection and may provide a lawyer to help clients negotiate an out-of-court voluntary care agreement, a customary care agreement (an agreement for the care and supervision of a First Nation child by a person who is not the child's parent, according to the custom of the child's band or native community), a temporary care agreement or participation in an Aboriginal alternative dispute resolution process.
- Manitoba offers free duty counsel services at the beginning of all child protection cases.

- There are two offices set up in rural parts of the province by Legal Aid Newfoundland which handle only child protection cases, and which provide support to parents who have children taken into care.

INNOVATIONS AND RECENT DEVELOPMENTS

Technology-based initiatives

- Both Nova Scotia and Yukon have modernized their websites to make them more user friendly and adaptable. Nova Scotia has also made their website available for use on mobile devices and the Yukon is in the process of doing so.
- In 2016 Nova Scotia launched an online application process.
- Nova Scotia produced video guides to assist self-represented litigants and help individuals better understand court processes as well as how to access the services and programs offered at the courts.
- Manitoba created an e-application for agencies and the general public in 2017/2018.
- As of 2018 Manitoba sends appointment and court date reminders to clients through text.
- In 2018 Ontario created a client portal which allows clients to view all communication with LAO in one place, find a lawyer that accepts legal aid certificates, view their personal information and complete their Consent & Declaration (C&D) agreement online.
- MyLawBC, an online legal information and service, provides recommendations based on information gathered by responses to a short interactive online questionnaire. It now also offers a negotiation platform that lets people co-create separation agreements online.
- MyLawBC now lets people create over twenty styles of wills through automated document assembly.
- As of May 1, 2018, members of the public can chat privately with a lawyer about family law or social justice issues through NS Legal Aid's new online chat.
- In the Northwest Territories, the Family Law Mediation Program is now available by skype and by telephone (as well as in person), ensuring early resolution options are available in remote communities.
- In 2017 the Clinic Information Management System (CIMS) was implemented for legal clinics, which are funded by LAO. The system functions much the same as other legal software applications to facilitate docketing and the management of electronic case files, contacts, appointments, tasks and deadlines. The data captured in CIMS is also used for clinic and LAO reporting purposes.

- Community Legal Education Ontario (CLEO), a legal clinic funded by LAO, has introduced Steps to Justice, a website with question and answer modules on everyday legal problems experienced by people in Ontario, practical tools such as fillable forms and checklists, referral information and live chat and email support.

Data collection

- Ontario now has service integration (SI) which permits duty counsel lawyers to record all client information in one secure location that is easily accessible by all duty counsel, permitting seamless transfer of data in real time. Using the SI sheet, LAO also captures race-based data, the existence of mental health issues and Indigenous background along with detailed bail outcomes and sentencing outcomes, which will permit LAO to analyze the data to identify trends in criminal justice.
- Nova Scotia has improved tracking of African Nova Scotian clients to ensure appropriate services are available.
- On April 1, 2018, LAO started to collect race-based information on the clients it serves under the certificate program. Understanding which racial groups use its services will help it identify whether all demographics are receiving the same services and to see whether special services and strategies are required.
- Yukon is in the process of developing a new database to help improve and monitor processes and meet statistical tracking and reporting requirements.

Streamlining application processes and improving access to services

- In 2017 Alberta expanded criminal settlement counsel allowing for better flow throughout the courts. They also expanded the number of criminal duty counsel, thus increasing the early resolution of cases in 2018.
- BC introduced an expanded duty counsel project in 2017.
- NB streamlined their financial eligibility process in 2018.
- Ontario now offers same day in-court legal aid certificates in criminal court.
- In 2018 Manitoba began a weekend duty counsel pilot for bail (a joint project with Manitoba Justice) so individuals arrested on the weekend can have their cases reviewed on the weekend.
- Manitoba has also introduced a Mental Health Review Board/ duty counsel pilot project which will match applicants with counsel within 20 minutes of receiving notification of hearing date and time. This pilot project increase access to justice for those detained under the Provincial Mental Health Act.

- In March 2017, the Northwest Territories officially launched the Outreach Legal Aid Clinic as a stand-alone full time clinic. They offer three weekly walk-in clinics to the public, namely a child protection clinic, a general clinic and a family law clinic.
- Saskatchewan now has a telephone application centre for province-wide applications. They also offer rapid remand resolution; crown and defence counsel meet each day (including Sunday) to resolve files that day.
- Newfoundland is in the process of re-vamping their financial eligibility guidelines to be more equitable and to correct some imbalances which have developed over the past several years.
- A new unit of Legal Aid Newfoundland has been created to handle serious criminal cases. The Special Defence Unit will take the lead in all homicide cases as well as being a resource for all the Area Offices of Legal Aid NL – providing training and mentorship in criminal law to staff solicitors.
- The Legal Clinic of Guelph and Wellington County received a grant from the Law Foundation of Ontario to test mobile legal outreach and navigation services to increase access to justice in rural communities in Wellington County. They will be working with a number of community partners to reach rural low income Ontarians.