



Legal Aid in Canada

PRESENTATION TO THE UKRAINIAN NATIONAL BAR ASSOCIATION

Legal Aid Directorate
Department of Justice Canada
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Constitutional and Historical Context of Legal Aid in Canada

- Constitutional division of powers
 - ❑ Criminal justice is a shared responsibility between the federal government (authority for criminal law-making and criminal procedure) and the provincial and territorial governments (authority for the administration of justice)

- The Canadian *Charter of Rights and Freedoms*
 - ❑ Criminal legal aid is integral to fulfilling obligations under the Charter, including the right to a fair trial (section 11(d)); to life, liberty, and security (section 7); and to equal protection and equal benefit of the law (section 15)

- 40 + years of federal funding support



Federal Funding for Legal Aid in Canada

➤ Criminal Legal Aid (\$121 million in 2016-17)

- ❑ Cost-shared with provinces and territories
- ❑ Supports the *Charter's* right to a fair hearing

➤ Immigration and Refugee Legal Aid (\$11.5 million)

- ❑ Supports due process under the *Immigration and Refugee Protection Act*
- ❑ Six provinces provide I&R legal aid

➤ Public Security and Anti-terrorism legal aid (\$2.5 million)

- ❑ Supports the provision of legal aid in national security cases
- ❑ Ensures federal prosecutions are not stayed

➤ Court-ordered Counsel in Federal Prosecutions (\$1.65 million)

- ❑ Court orders mandate the Attorney General of Canada to fund defence counsel (usually when the accused does not qualify for legal aid services)
 - ❑ Helps to ensure federal prosecutions proceed
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Federal Funding for Legal Aid in Canada (cont.)

- Civil legal aid (family law, etc) is provided through the Canada Social Transfer (CST) a block transfer managed by the Department of Finance

- Federal government has contribution agreements for legal aid with provincial and territorial governments
 - ❑ Provinces and territories then transfer funds to legal aid service delivery agencies
 - ❑ Provinces and territories provide reports on legal aid services to the federal government



Recent Directions in Legal Aid in Canada

- 2014 Federal Criminal Legal Aid Study:
 - ❑ Consisted of a document and literature review, “Maximizing the Federal Investment in Criminal Legal Aid”
http://publications.gc.ca/collections/collection_2015/jus/J2-406-2014-eng.pdf and the “Report of the Deputy Minister Advisory Panel on Criminal Legal Aid” <http://www.justice.gc.ca/eng/rp-pr/csj-sjc/esc-cde/rr14/toc-tdm.html>
 - ❑ Focus was on improving the effectiveness and efficiency of criminal legal aid, and enhance access to justice for Canadians, at a time of limited resources
 - ❑ Document and literature review examined innovative practices in Canadian jurisdictions and internationally
 - ❑ Deputy Minister Advisory Panel stressed need for leadership, performance measurement and management, innovation



Recent Directions in Legal Aid in Canada (cont.)

- Legal aid is no longer about just providing a lawyer; it includes a wide variety of services, for example:
 - ❑ legal information web sites;
 - ❑ guidance from paraprofessionals such as paralegals, law students;
 - ❑ specialized outreach to and services for, specific populations (youth, Indigenous people, immigrant communities);
 - ❑ linkages to social service supports (through specialized courts such as drug courts, mental health courts)



Links to Provincial/Territorial Legal Aid Entities

- British Columbia (<http://www.lss.bc.ca/>)
 - Alberta (<http://www.legalaid.ab.ca/Pages/default.aspx>)
 - Saskatchewan (<http://www.legalaid.sk.ca>)
 - Manitoba (<http://www.legalaid.mb.ca/>)
 - Ontario (<http://www.legalaid.on.ca/>)
 - Quebec (<http://www.csj.qc.ca/>)
 - New Brunswick (<http://www.legalaid.nb.ca/en/index.php>)
 - Prince Edward Island
(<http://www.gov.pe.ca/infopei/onelisting.php3?number=46064>)
 - Nova Scotia (<http://www.nslegalaid.ca/>)
 - Newfoundland and Labrador (<http://www.legalaid.nl.ca/>)
 - Nunavut
(<http://www.justice.gov.nu.ca/apps/authoring/dspPage.aspx?page=boards>)
 - Northwest Territories (<http://www.justice.gov.nt.ca/legalaid/index.shtml>)
 - Yukon (<http://www.legalaid.yk.ca/>)
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Questions?

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