

Legal Aid in Canada

PRESENTATION TO THE UKRAINIAN NATIONAL BAR ASSOCIATION

Legal Aid Directorate Department of Justice Canada April 27, 2016

Ottawa







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

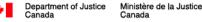




Federal Funding for Legal Aid in Canada (cont.)

- 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" <u>http://publications.gc.ca/collections/collection_2015/jus/J2-406-2014eng.pdf</u> and the "Report of the Deputy Minister Advisory Panel on Criminal Legal Aid" <u>http://www.justice.gc.ca/eng/rp-pr/csj-sjc/esccde/rr14/toc-tdm.html</u>

- 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

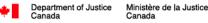




Recent Directions in Legal Aid in Canada (cont.)

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





Questions?

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Canada

