

# **Making Justice Work (DRAFT)**

## Part 2

### Enhancing Legal Aid Services

The Legal Services Society  
BC's Legal Aid Provider

# Recap of Part 1

- In 2012, the Attorney General sought the advice of the Legal Services Society on ways legal aid could be used to reduce justice system costs so that savings could be redirected to legal aid.
- LSS prepared a report, *Making Justice Work: Improving Access and Outcomes for British Columbians*. It recommended a new approach to reform that focuses on outcomes and not process.
- LSS also recommended a number of specific initiatives in criminal law, family law, and aboriginal law services that could be implemented in scalable pilot projects should additional funding be available.
- The following page provides a cost estimate for those initiatives.
- *Making Justice Work* is available on the LSS website.

# Cost estimates for part 1

Service	Year 1 Cost	Year 2 Cost	Year 3 Cost
<b>Criminal law services:</b>			
Expanded criminal duty counsel 2 locations	\$ 584,000	\$ 1,730,00	\$ 1,730,000
<b>Enhanced family advice:</b>			
Increased duty counsel 10 locations	295,400	295,400	295,400
Expanded Family LawLINE telephone advice	387,430	387,430	387,430
Mediation 100 referrals / year	156,800	156,800	156,800
<b>Total family advice</b>	<b>839,630</b>	<b>839,630</b>	<b>839,630</b>
<b>Non-lawyer services:</b>			
Community partners 18 locations	201,600	201,600	201,600
Legal information outreach workers 10 FTEs	596,019	596,019	596,019
Paralegals 8 FTEs	631,116	631,116	631,116
<b>Total non-lawyer services</b>	<b>1,428,735</b>	<b>1,428,735</b>	<b>1,428,735</b>
<b>Aboriginal services:</b>			
Gladue reports 100 / year	168,000	168,000	168,000
Aboriginal community legal workers 11 FTEs	569,900	569,900	694,341
First Nations duty counsel 735 hours / year	78,204	78,204	78,204
<b>Total aboriginal services</b>	<b>816,104</b>	<b>816,104</b>	<b>940,545</b>
<b>Estimated total cost for part 1</b>	<b>3,668,469</b>	<b>4,814,469</b>	<b>4,938,910</b>

# Priorities and context

- The following 3 pages outline new family law and poverty law services that LSS believes are a priority should additional funding be available.
- These priorities assume that the initiatives outlined in Part 1 have been or are being implemented.
- Pages 8 to 10 provide comparative information about the current state of legal aid funding in BC, some examples of the operational impact of systemic underfunding, and the services we are able to provide to clients with available funding.

# Family law priorities – critical services

- Since 2002, representation by a lawyer is available only in situations involving violence, the threat of violence, or the threat of parents losing contact with their children.
- LSS provides representation for the matters listed below on an exceptional basis when funding is available. Fiscal pressures make it unlikely these services will be offered throughout 2013. These services address critical problems and justice system inequities for vulnerable clients. LSS believes full funding for these services should be a priority. The approximate annual cost would be \$1.5 million.
- The next priority is funding for a broad range of dispute resolution services to address issues currently not covered by legal aid that have a serious impact on vulnerable individuals such as divorce, separation, and financial support.

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Services provided on an exceptional basis:

- Resolution of serious legal issues in high-conflict cases; cases where there are barriers to self-representation due to emotional abuse, psychological trauma, or mental illness; cases where appointment of counsel is needed to avoid a significant injustice; or cases where all alternatives to resolution have been exhausted and where resolution will make a significant difference to the individual or the children.

# Family law priorities - paralegals

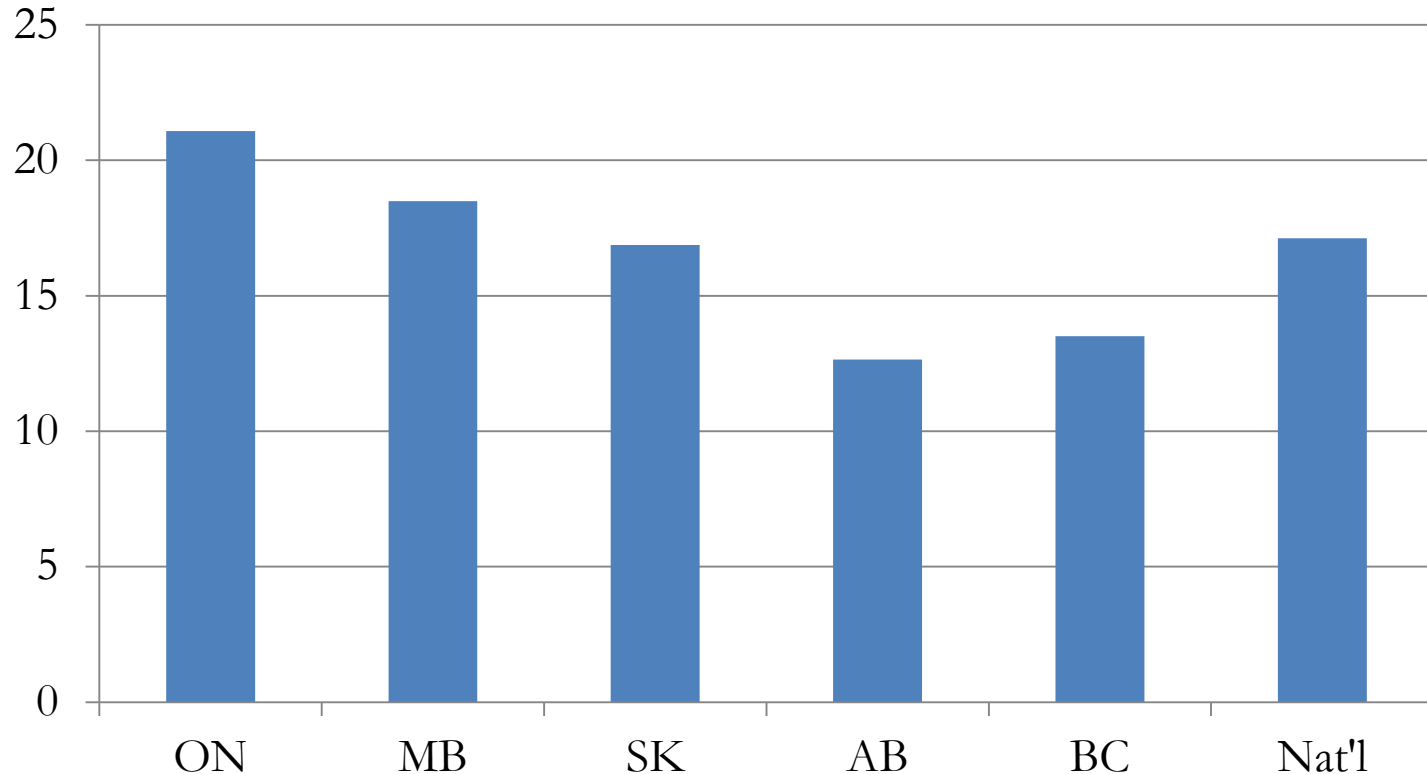
- Another priority for family law is to expand the availability of services through the use of paralegals who are supervised by lawyers.
- Paralegals can provide information and advice, assist with court forms, help people who do not qualify for legal aid to prepare for court, provide education and outreach services to social service agencies, and take conduct of files in appropriate cases.
- LSS recommends using paralegals in 25 communities throughout the province. To ensure vulnerable clients have effective access to needed services, LSS will give priority to paralegals working in collaboration with community-based social service agencies and justice system stakeholders.
- The approximate cost for 25 paralegals plus legal supervision is \$2.5 million per year.

# Reintroduce poverty law services

- LSS lost all government funding for poverty law services in 2002. Poverty law services help low-income people address critical legal problems such as welfare, disability benefits, housing, pension income, debt, and unemployment insurance. Poverty law advice is also an important adjunct to family, criminal, and immigration law services.
- LSS recommends reintroducing poverty law services through:
  - Paralegals in 24 communities around the province who assist individual clients and who support local community service agencies.
  - A poverty law center of expertise (2 lawyers, 2 paralegals, 2 support staff) that provides direct representation to clients and supports the paralegal work around the province.
- Annual cost:
  - Paralegals: \$2,300,000
  - Clinic: 550,000
  - Administration: 285,000
  - Total: 3,135,000

# Funding context

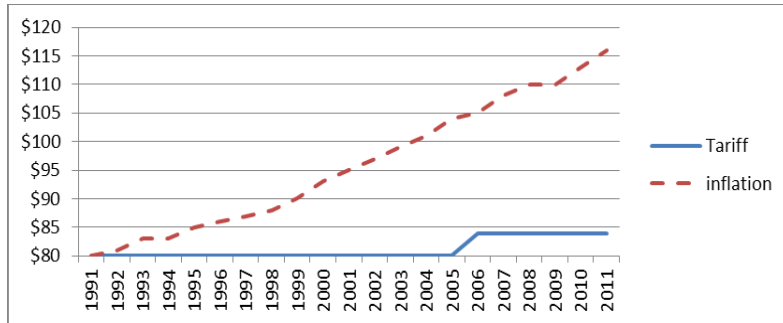
- 2001 BC legal aid per capita funding: \$20.46.
  - Amount required to match 2001 annual funding adjusted for inflation and population growth: \$41,880,456.
- Provincial per capita funding 2011-12 (Statistics Canada):



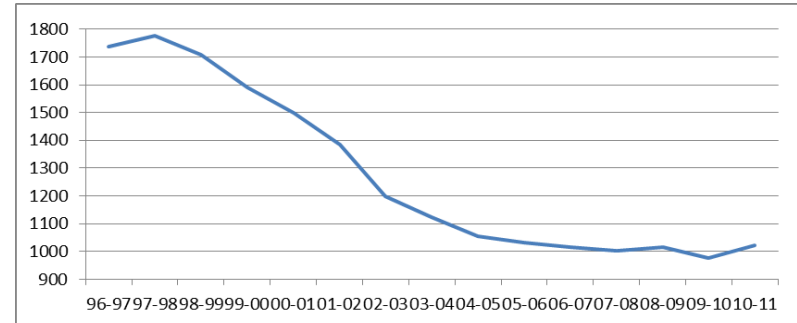


# Some impacts of fiscal pressures

## Tariffs v inflation



## Legal aid lawyers



- LSS surveys show that low tariffs are the primary reason lawyers refuse to take legal aid referrals. In some locations, LSS is unable to place cases with local lawyers and must pay transportation costs for lawyers from other communities. Since 2008, transportation costs have risen by more than 190 per cent.
- The average legal aid lawyer earns \$52,000 a year from referrals. Lawyers have engaged in a number of collective service withdrawals in the past two years to protest low tariffs.
- In Ontario, the provincial government (which, unlike BC, sets legal aid tariffs) agreed to increase tariffs following a service withdrawal. Matching Ontario tariffs would cost \$10.1 million in 2013/14, plus an additional \$10 million over the following three years.
- LSS staff salaries have also fallen behind what is paid for similar positions. To achieve parity with government salaries would require an additional \$1.25 million per year.

# 2011 – 2012 client services

<b>Information</b>	Publications distributed	138,286
	Legal information outreach worker information requests	8,463
	LSS website visits per month	26,346
	Family Law in BC self-help website visits per month	31,355
<b>Advice</b>	Criminal duty counsel client assists	74,724
	Immigration duty counsel client assists	1,196
	Family duty counsel and advice lawyers client assists	36,473
	Criminal law telephone advice for persons detained client assists	23,883
	Family law telephone advice service (part-time in 2011-2012)	2,675
<b>Representation</b>	Criminal representation	20,117
	Family representation	4,086
	Child protection representation	2,174
	Immigration representation	1,056