



**Legal
Services
Society**

Providing legal aid
in British Columbia
since 1979

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**Presentation to the Select Standing Committee on Finance and Government Services
September 20, 2016 – Kamloops**

The Legal Services Society is an independent organization established by provincial legislation in 1979 to provide legal information, advice and representation to people with low incomes. It is funded by the provincial government with additional support from the Law Foundation of BC and the Notary Foundation of BC.

**Mark Benton, QC
Chief Executive Officer
The Legal Services Society**

Mark Benton joined the Legal Services Society in 1983 and has served as the Chief Executive Officer since 2002. He holds a B.A. from the University of British Columbia, a LL.B. from Osgoode Hall Law School, and a LL.M. from the Dalhousie University Faculty of Law. He was appointed Queen's Counsel in 2008.

He is past-chair of the Association of Legal Aid Plans of Canada, is a Canadian Forum for Civil Justice board member, and is an active participant on a number of prominent government and non-government collaborations addressing justice issues of importance to Canadians, including the steering committee of the Action Committee on Civil and Family Justice and the Reinventing Criminal Justice Forum. Mark has served as an advisor to governments and NGOs on the development of legal aid programs in the Caribbean, East Africa, Eastern Europe, and Asia's Pacific region. He has an active interest in making justice systems more effective in responding to people's needs.

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More information about the Legal Services Society

Website:
www.legalaid.bc.ca

Justice reform pilot projects:
http://www.lss.bc.ca/assets/aboutUs/reports/presentations/2016_05JusticeSystemSolutions.pdf.

Background and Statistics:
<http://www.lss.bc.ca/assets/aboutUs/reports/presentations/2016-04BackgroundAndStatistics.pdf>.

Legal Aid in Three Big Issues

1. Everyone knows and agrees legal aid is underfunded.
2. LSS believes funding discussions should focus on specific programs and services that help the society to better serve the legal needs of low-income people.
3. Currently, there are three areas in greatest need of better funding.

Funding for Legal Aid Innovations That Work

1. In response to recommendations from LSS, the Attorney General, in 2014, gave LSS \$2 million a year for three years for pilot projects designed to improve access to justice:
 - a. A legal clinic model for child protection cases that focuses on Aboriginal families.
 - b. A criminal duty counsel program that expands the scope of services.
 - c. A family law telephone advice service that helps clients with court forms.
 - d. A family duty counsel project that coaches self-represented litigants.
2. Independent evaluations demonstrate that each pilot project is improving the justice system.
3. Funding for the projects ends March 31, 2017. LSS has submitted business cases to government for province-wide expansion of these projects.

Funding for Family Law Services That Promote Stability and Security

1. Due to limited funding, representation is only available when there is a family emergency, specifically where there is a risk of violence, where there is persistent denial of access to a child, or there is a risk that a child will be permanently removed from the province.
2. Funding is not sufficient to provide lawyers to assist clients, 71% of whom are women, with other issues that promote family security and financial stability such as spousal support, asset division, divorce or child custody.
3. While it is not possible to calculate with certainty the funding needed to provide a full range of family services, the amount is likely more than \$20 million.

Funding for Adequate Tariffs to Ensure Services for Low-Income People

1. Due to funding restrictions, the Legal Services Society has been able to increase tariff rates only once since 1991. The current rate for junior lawyers of \$84/hour is equal to \$55 in 1991 dollars, a decline of 34%.
2. Current rates do not provide adequate compensation to lawyers for their work and are not comparable to rates paid by government for similar services or to rates paid by other legal aid plans. LSS's top tier for standard cases is \$92; Legal Aid Ontario is \$136; Legal Aid Newfoundland is \$135. BC's Ministry of Children and Families standard rate for work similar to that of legal aid lawyers is \$135. This is not about money for lawyers, this is about the cost of providing necessary services to legal aid clients.
3. Funding needed to match MCFD or Newfoundland: \$21 million. Funding needed to match Ontario: \$16.5 million.

For more information, see: [Justice System Solutions](#): and [Background and Statistics](#).

System Reform in Three Key Areas

1. Major reforms that will make a difference are impossible in isolation. They require participation from a broad range of stakeholders – everyone from police and social workers to government and lawyers.
2. System reform is strategically important to LSS because it needs major changes to the justice system to serve its clients better without increased costs.
3. LSS is uniquely positioned to support system-wide change This is because we are independent of government and because we see more facets of our legal institutions than most other organizations.

Listen to Aboriginal People

1. Aboriginal people are over-represented in the justice system. 41% of LSS's child protection clients are Aboriginal; 31% of criminal clients; 21% of family law clients.
2. The Truth and Reconciliation Commission made 18 [Calls to Action](#) for justice system reform.
3. All justice system stakeholders need to listen to Aboriginal people and, in collaboration with Aboriginal people, develop culturally appropriate systems and services that address historic wrongs.

Fixes for Criminal Justice

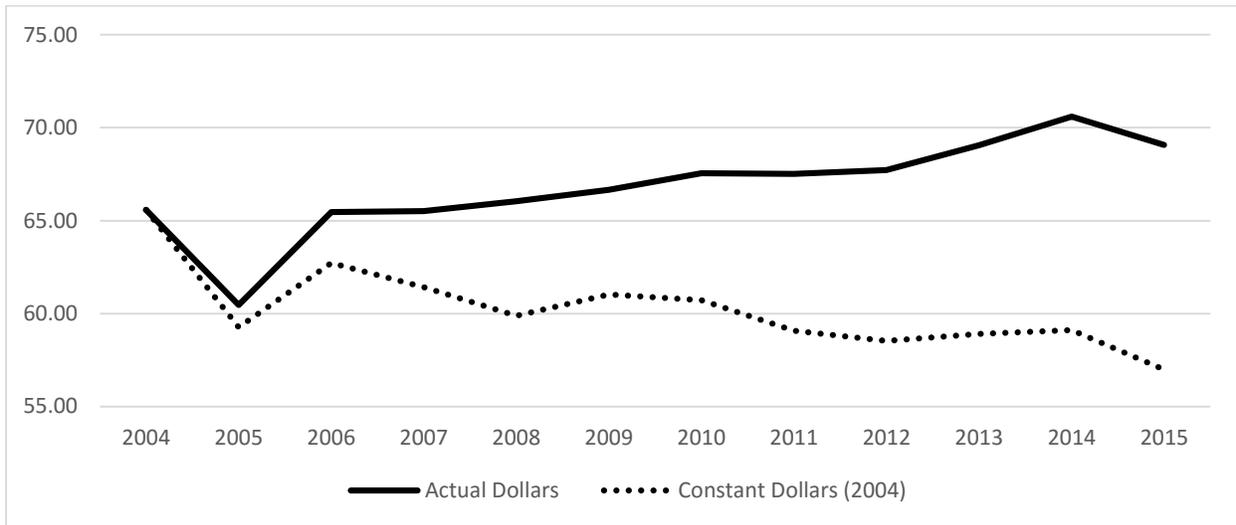
1. More than half of LSS criminal law referrals are for less serious summary and administrative offences. The justice system needs a simple, inexpensive process for resolving these cases expeditiously.
2. Large cases are a disproportionate draw on justice system funding and resources. One particular area where reforms will reduce costs and court time is pre-trial disclosure.
3. Too many people are caught in the criminal justice system because of mental health problems and substance abuse. The [Vancouver Police Department](#) estimates that 31% of all calls for service involve at least one individual with a mental illness. Health care, social services, police and justice need a new, collaborative way of dealing with these cases.

Justice for Everyone, Not Just Us

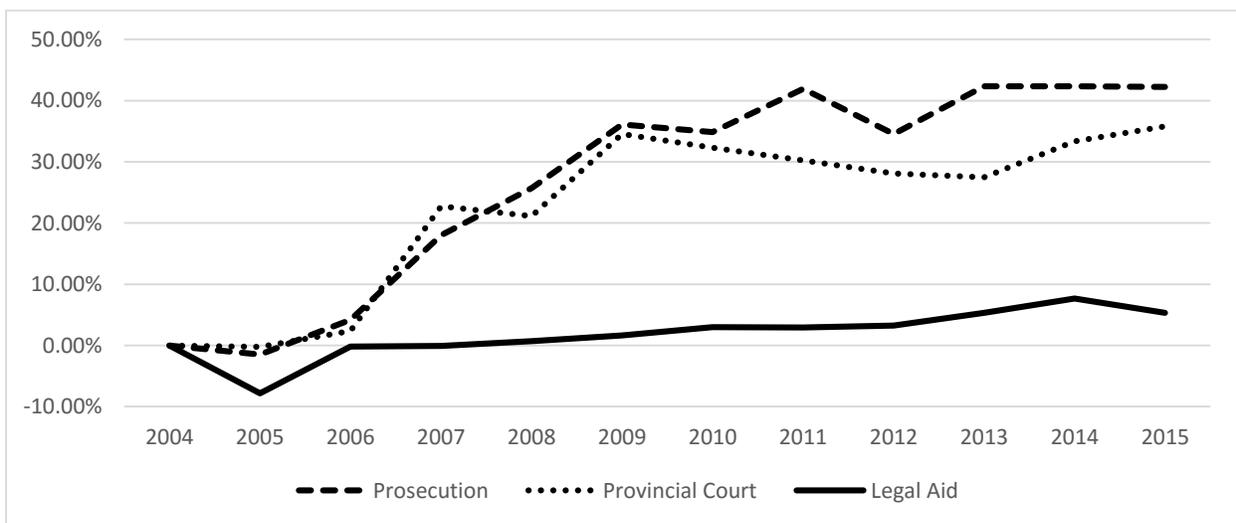
1. For many people, access to justice often means actually getting to the courtroom so they can exercise their rights.
2. Many people cannot afford a day off work to appear in court or the cost of transportation to the court. For a single mother in family court, finding someone to look after her children can be a serious problem.
3. Reform leaders need to look at the justice system for the user's point of view. Could access to justice be improved by opening courts for evenings and weekends or by providing on-site daycare?

Legal Aid Funding in Three Charts

Core Funding v. Inflation (\$million)



Percentage Change in Justice System Funding (actual \$)



Per Capita Funding

Province	Per Capita for Provincial Population	Per Capita for Low-Income Population (Market Basket Measure Formula)
Newfoundland	\$30	\$260
Ontario	28	216
Nova Scotia	25	168
Alberta	18	192
British Columbia	17	125

Legal Services Society Backgrounder in Three Key Facts

Mandate

1. **Assist:** To help people resolve their legal problems and to facilitate their access to justice.
2. **Administer:** To establish and administer an effective and efficient system for providing legal aid.
3. **Advise:** To provide advice to the Attorney General about legal aid and access to justice.

Governance

1. [9 directors](#): 5 appointed by government; 4 appointed by LSBC after consultation with CBA-BC.
2. [Legal Services Society Act](#); [Memorandum of Understanding](#); [Mandate Letter](#).
3. Independent of government and [strong corporate governance](#).

Philosophy

1. Services that help people reach early, stable and just outcomes often without going to court.
2. Innovative services and robust monitoring to ensure best use of funding.
3. Justice reform leadership.

Services

1. **Information:** Publications, websites, outreach workers and public education.
2. **Advice:** Criminal, family and immigration duty counsel. Telephone advice for persons detained by police. Telephone advice for people representing themselves in family law cases. Aboriginal advice programs and duty counsel in First Nations Court.
3. **Representation:** For serious criminal, family, child protection and immigration matters.

Locations

1. Staff offices in Vancouver and Terrace and a province-wide, toll-free call centre.
2. Contract agents in 31 communities, most courthouses and several Aboriginal communities where you can apply for legal aid and get legal information.
3. Partnerships with 35 social service agencies who provide legal information and connect people to legal aid services.

Funding

1. 2015-16 funding: Ministry of Justice = \$74.6 million (including large criminal cases and pilot projects); Law Foundation = \$3 million; Notary Foundation = \$756,000.
2. Government legal aid funding has not kept pace with inflation. 2004 funding = \$65 million. 2015 funding in 2004 dollars = \$57 million.
3. Government legal aid funding has not kept pace with funding for other parts of the justice system. Percentage increase in funding since 2004: legal aid = 6%; prosecution = 41%; Provincial Court = 52%. Increases to prosecution and court services create an increased demand for legal aid.

Three Recommendations for Legal Aid

The Legal Services Society urges the committee to recommend that the provincial government:

1. Collaborate with the Legal Services Society to expand the society's successful access to justice pilot projects throughout the province.
2. Increase its investment in family law legal aid services that promote stability and security.
3. Evaluate the cost of legal representation in legal aid cases to ensure adequate compensation for service providers.

One Recommendation for Justice Reform and Access to Justice

The Legal Services Society urges the committee to recommend that the provincial government:

1. Ensure that reform initiatives focus on the needs of justice system users (rather than the needs of judges and lawyers) and that they promote timely, fair and lasting solutions to legal problems.



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Communications

September 21, 2016

**From: Mark Benton, QC
Chief Executive Officer**

**To: Select Standing Committee on Finance and
Government Services**

Response to Question from the Committee

1. At the end of my presentation on September 20 in Kamloops, Mr. Heyman asked for more information about “areas [of legal aid services] where there have been very significant gaps created for access to justice for people in general or specific groups of people.”
2. As there was no time for a response, I was asked to provide this information by email.

Poverty Law and Access to Justice

3. Mr. Heyman prefaced his question with a reference to the difference between the broad range of legal aid services prior to 2002 and the much narrower range available following the budget reduction in that year.
4. While there have been significant changes to service delivery models, the law and our society since 2002, there is one gap in legal aid services that represents a serious impediment to access justice for low-income people – the lack of poverty law services.
5. “Poverty law” refers to areas such as welfare appeals, disability benefits, housing, pension income, debt and unemployment insurance.
6. [Social science research](#) shows that low-income people are more likely than others do be dealing with multiple, related problems such as those listed above and that these problems often cascade into larger problems.
7. It goes without saying that low-income people are generally less able to address these issues on their own than other sectors of our society and that failure to address these issues results in a greater draw on other government resources. For example, a single mother who is unable to contest eviction from her home, could soon find herself dealing with social workers who feel her children should be put in a foster home. This leads to significant stress and the woman is hospitalized. Addressing the housing issue at the beginning would have stopped the downward spiral.
8. Poverty law services could be provided through cost-effective telephone advice programs staffed by lawyers, paralegals and advocates. Other potential delivery models are online chat services, social media, video conferencing, and in person at self-help centres, Justice Access Centres, Aboriginal centres, and social service agencies.
9. For more information, see the Legal Services Society’s report to the Attorney General: [Making Justice Work – Improving Access and Outcomes for British Columbians](#).