

**INTERNATIONAL LEGAL AID GROUP CONFERENCE:  
8 TO 10 JUNE 2005 – KILLARNEY, IRELAND  
CONFERENCE PAPER – CANADA**

The Organization of Legal Aid in Canada

There are 13 legal aid plans in Canada, one in each province and territory. The legal aid plans operate under the statutory authority of the provinces and territories. The federal government contributes to the cost of delivering legal aid but is not involved directly in the delivery of services. In 2002-03 the federal government provided about 34 % of the approximately \$275 million spent on criminal legal aid in the provinces and territories under a program administered through the Department of Justice. This program includes an additional \$11.5 million for the provision of civil legal aid for immigrants and refugees. The federal government provides funding for other forms of civil legal aid indirectly through a general block transfer program known as the Canada Social Transfer. Since this is not dedicated funding the amount of federal support for civil legal aid can not be determined.

Statistical Overview

Total expenditures on criminal and civil legal aid in Canada increased by 17.6 % during the period 1998-1999 to 2002-2003, despite the decline from 2001-02 to 2002-03. The decline in 2002-2003 was driven by decreases in expenditures in British Columbia and Ontario. However, preliminary data suggest that legal aid expenditures may increase to about \$635 millions in 2003-2004.

Year	Total Legal Aid Expenditures (\$ 000)	Total Applications	Approved Applications	Summary Services + Duty Counsel	Total Population (000)
1998-99	\$494,409	833,441	490,842	1,031,776	30,246.9
1999-00	\$493,006	838,993	508,696	1,066,547	30,499.2
2000-01	\$519,715	849,369	522,602	1,113,456	30,790.8
2001-02	\$593,118	850,109	509,158	1,257,357	31,110.6
2002-03	\$581,602	814,025	493,976	1,555,211	31,414.1

Both total and approved applications show a similar decline as expenditures in the 2002-03. However, the volume of summary services and duty counsel service continued to expand as components of service delivery.

### The Renewal of Federal Legal Aid Policy

The level of federal activity in legal aid has increased significantly since 2001-02. Since that year the federal government has undertaken two successive initiatives as part of the federal funding agreements, to carry out a renewal of federal policy in legal aid. This has resulted in significantly increased activity in legal aid nationally. The major elements of the first initiative, that lasted two years from 2001-02 to 2002-03, were: increased federal funding for criminal legal aid, federal funding for immigration and refugee legal aid, a major research program to examine unmet need for criminal legal aid and selected issues in civil legal aid and significant federal funding available to the provinces and territories for pilot projects to experiment with innovative approaches to service delivery.

The second initiative began in 2003-04 and will last until 2005-06. This initiative includes a continuation of the increased base funding for criminal legal aid and for immigration and refugee legal aid. Building on the results of the research carried out in the previous initiative, the 2003-2006 initiative includes an Investment Fund amounting to \$20 million per year in each of the three years, designed to allow provinces and territories to address unmet needs in criminal legal aid. The Investment Fund has provided funding for more than 100 separate projects in all 13 jurisdictions. The research program has continued, this time focusing on unmet need in civil legal aid. Over 20 federally funded pilot projects have continued as part of the second initiative. A main thrust of policy development in the second federal initiative is the development of policy for a renewed federal involvement in civil legal aid.

### Highlights from the Provinces and Territories

It is beyond the scope of a brief report to summarize the richness and variety of recent activities in all thirteen legal aid plans in Canada. The following sections provide brief highlights concerning innovations and developments in service delivery in Canadian legal aid plans. More detail is available on the web sites of the individual legal aid plans.

British Columbia. Following a major cut in provincial government funding in 2002 the Legal Services Society is developing new forms of service delivery with approaches that maximize available resources. A family law duty counsel program, a telephone legal information service called LawLine, a computer-based legal information service called LawLink and a renewed emphasis on public legal information services are the major service delivery innovations in British Columbia. [www.lss.bc.ca](http://www.lss.bc.ca)

Alberta. The Legal Aid Society of Alberta is continuing a family law staff office pilot project, with two offices in Edmonton and Calgary. The projects have been evaluated and the future of the project as part of the regular delivery system is being considered. [www.legalaid.ab.ca](http://www.legalaid.ab.ca)

Saskatchewan. The Legal Aid Commission has implemented an enhanced in-custody duty counsel program. <http://legalaid.sk.ca/locations.html>

Manitoba. Legal Aid Manitoba has developed a Collaborative Law project to provide non-litigation legal aid in the area of family law. LAM has also put in place a special “full service” duty counsel service to deal with child protection cases. LAM is also collaborating with a Women’s Advocacy and Social Clinic providing legal aid paralegal services to the clinic. [www.legalaid.mb.ca](http://www.legalaid.mb.ca)

Ontario. Three criminal legal aid staff offices, a Youth Court Action Planning Program pairing experienced duty counsel with youth court workers to develop community-based alternatives to incarceration, a project to meet the legal needs of the homeless, an outreach and service program for Aboriginal people and the use of collaborative law in family legal aid are among the service delivery innovations under way in legal aid Ontario. As well, Legal Aid Ontario is continuing to expand its duty counsel program in both criminal and family law to service larger numbers of clients. This includes an emphasis on achieving “dispositive” duty counsel assists in which matters are resolved or removed from the docket. [www.legalaid.on.ca](http://www.legalaid.on.ca)

Quebec. The *Commission des services juridiques* has implemented a program in five remote communities to improve the delivery of legal aid to Aboriginal people. The Commission has recently introduced a central province-wide telephone advice service for people arrested and detained by the police. Also, the legal aid commission has introduced a system of telephone conferencing for court appearances occurring during evenings and weekends. [www.cjs.qc.ca](http://www.cjs.qc.ca)

Québec. La *Commission des services juridiques* a mis en oeuvre un programme dans cinq collectivités éloignées afin d’améliorer la prestation de l’aide juridique aux Autochtones. La Commission a récemment mis en place à l’échelle de la province un service téléphonique central de consultations pour les personnes qui sont arrêtées et détenues par la police. Elle a également mis en place un système de conférence téléphonique pour les comparutions devant les tribunaux les soirs et les fins de semaine. <http://www.csj.qc.ca>

New Brunswick. Legal Aid New Brunswick is restructuring its service delivery system, moving from a *judicare* system to one utilizing mainly staff lawyers. The move toward a staff lawyer system also involves a greater reliance on the duty counsel component of the delivery model. LANB is also continuing an experiment providing criminal legal aid in a special mental health court. [www.lawsociety-barreau.nb.ca](http://www.lawsociety-barreau.nb.ca)

Nova Scotia. Nova Scotia Legal Aid has recently implemented an advice service for persons arrested and detained by police using staff lawyers rather than the private bar. A Youth Court duty counsel project and a Youth Court support worker project were recently developed to provide more effective service to young offenders. A family duty

counsel service has been implemented in the Family Division of the Supreme Court. [www.gov.ns.ca/just/legad.htm](http://www.gov.ns.ca/just/legad.htm)

Prince Edward Island. PEI Legal Aid, a staff lawyer system, is expanding the number of staff lawyers to provide an increased level of service in family law matters. [www.canadalegal.info/prov-pej](http://www.canadalegal.info/prov-pej)

Newfoundland and Labrador. The Legal Aid Commission has implemented projects in Aboriginal Justice and in remote areas of Labrador. Also, the Commission has put in place a legal aid service in a specialized mental health court. [www.justice.gov.nl.ca/just/otherx/legalaid.htm](http://www.justice.gov.nl.ca/just/otherx/legalaid.htm)

Northwest Territories. The Legal Services Board of the Northwest Territories has implemented a family law staff office to address unmet need for family legal aid service. Also, the Board has implemented enhanced Aboriginal Courtworker services in which courtworkers, who act as paralegals on the circuit courts, will make additional visits to remote communities between circuit court dates to carry out legal support work such as witness preparation. [www.gov.nt.ca/legalaid/LegalAid/htm](http://www.gov.nt.ca/legalaid/LegalAid/htm)

Yukon. The Yukon Legal Services Society has recently developed a Neighbourhood Law Centre providing poverty law services in a legal clinic format. YLSS is also initiating a telephone duty counsel service. [www.legalaid.yk.net/links.html](http://www.legalaid.yk.net/links.html)

Nunavut. Nunavut is the newest legal, established in 2000 following the establishment of the Territory of Nunavut in 1999. The Legal Services Board has recently established a family law project and a poverty law and civil service project to expand legal aid services in the non-criminal areas. Nunavut has also increased its capacity to provide access to legal aid for in-custody accused. The Legal Services Board is expanding the advocacy role of Aboriginal Courtworkers to provide representation in minor criminal matters in Justice of the Peace Courts. [www.gov.nu.ca/justice.htm](http://www.gov.nu.ca/justice.htm)