



Legal Aid Fact Sheet – Talking to BC’s MLAs about the legal aid crisis

The Coalition for Public Legal Services is seriously concerned by the deterioration of legal aid services in B.C. Access to justice is fundamental in upholding the rule of law, an essential element of democracy. Justice should not be a luxury, available only to those who can afford it; access to justice concerns us all, so that the legitimacy of our entire system is not undermined. Cuts to legal aid hurt all of us. We are asking YOU to take action.

There are many common misconceptions about legal aid in BC. Here are the facts:

1. **Underfunding legal aid costs us all more in public spending** on health care and other social programs. For example, a study in Texas showed that “For every direct dollar expended in the state for indigent civil legal services [legal services for low-income people], the overall annual gains to the economy are found to be \$7.42 in total spending, \$3.56 in output (gross product), and \$2.20 in personal income.”
2. **BC is now the third lowest province in Canada in per capita spending** on legal aid, and our system does not cover many types of legal issues that other provinces do. For example, Ontario spends almost \$18.50 per capita on legal aid, while BC spends less than \$12. Ontario funds 80 specialized and community legal clinics (dealing with poverty issues, immigration, human rights and more) while the last clinic in BC (the family law clinic) was closed in April 2009. By way of international comparison, the United Kingdom spends \$62 (Cdn) per capita on legal aid.
3. **Legal aid representation has undergone huge cut backs from 2002 to 2010.** Currently, legal aid representation is unavailable for most family law disputes, all poverty law issues, and minor criminal offences. Only the following types of cases are covered: high risk family law; child apprehension; limited prison and mental health related issues; some refugee claims; some immigration cases where the person risks deportation; and criminal cases where the accused faces a reasonable likelihood of jail and other limited serious consequences.
4. **Many people living in poverty are not financially eligible for legal representation.** A single person must make less than \$1450 per month to qualify for legal aid. Assets are considered in determining eligibility, and applicants may be required to go into debt to finance a lawyer. Yet the cost of a family law dispute is beyond the means of many British Columbians — the estimated average legal cost of a contested divorce in Canada is \$12,562, and the average cost of a two-day civil trial is \$29,436.
5. **Family law legal representation is restricted to high risk cases only.** Family law legal aid representation is primarily accessed by women, so the cut backs since 2002 impact low income women the most. A common experience is described by one woman who left her husband because he was assaulting her, but who did not qualify for legal aid because she made \$200 over the financial eligibility cut off. In fighting for custody of her children, she was forced to cross examine her ex-husband about the sexual and physical abuse she experienced in her relationship with him.

6. **Poverty law legal aid representation has been eliminated.** “Poverty law” refers to legal issues that affect a person’s ability to feed, clothe or house themselves or their dependents, or that threaten their physical or mental health. It includes issues like eviction, welfare, EI, disability pensions, debt and more. Cases approved for legal aid representation on poverty law issues dropped from 40,279 in 2002 to 0 in 2005. One advocate described a 50 year old immigrant client, who had been an exemplary employee for years. One day he found a \$50 bill on the floor; unable to locate the owner, he kept it. He was fired the next day for theft. He ended up homeless, collecting welfare. While he likely had a strong case for wrongful dismissal, there was no legal aid available and he couldn’t afford the filing fee to start his claim.
7. **Criminal law legal aid representation is inadequate.** Low income people who can’t get legal aid representation for criminal charges often don’t understand court procedures and cannot represent themselves adequately. This results in delays and other burdens on the courts, and unfairness to the accused. An unrepresented person may plead guilty when in fact they have a good defence. Even if someone does not go to jail, a criminal record can limit someone’s prospects for employment.
8. **Immigrants and refugees face additional hurdles.** Most applications for refugee and immigration legal aid are assessed based on the merit of the case – meaning the claimants have to show that their case has a reasonable likelihood of success, even before they’ve ever talked to a lawyer. Once approved, legal aid currently provides 10 hours for a lawyer to represent a refugee claimant at their hearing – which involves doing research into the human rights situation in the country, collecting and disclosing documents about the country and individual, preparing a claimant to testify and preparing submissions.
9. **People with mental health issues sometimes have to represent themselves.** When an individual is certified under the *Mental Health Act*, a review panel has the power to decide whether that person will continue to be detained in a mental health facility and whether medical treatment can continue without the patient’s consent. As a result of underfunding, about 350 requests for these essential legal services are refused each year. These individuals have to represent themselves in medically and legally complex hearings in which their liberty and security of the person are at stake.
10. **Low literacy rates are a significant barrier to accessing legal information.** 40% of British Columbians – generally those with the lowest incomes – are not sufficiently literate to function in the modern world. Yet much of the current legal aid available is in a written self-help format. This can assist those who are functionally literate and have access to the Internet (there are also multi-language resources and services). However, self-help “pamphlet law” is of very little use to many British Columbians and is not an adequate substitute for legal aid representation.

As an MLA, you can take action on this vital issue!

Here’s what we are asking you to do:

- ✓ Read the Executive Summary of the March 2011 report “Foundation for Change: Report of the Public Commission on Legal Aid in British Columbia” by Leonard Doust, QC. The report is available at: http://www.publiccommission.org/media/PDF/pcla_report_03_08_11.pdf
- ✓ Take steps in your caucus and party to make legal aid funding a priority. In particular, advocate for inclusion of support for legal aid and the recommendations of the Doust Report as a platform commitment in the next election.