



# MAXIMIZING THE FEDERAL INVESTMENT IN CRIMINAL LEGAL AID

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<b>Table of Acronyms</b>	
CBA	Canadian Bar Association
CCM	Criminal Case Management
CRU	Criminal Resolution Unit
CSC	Client Service Centre
CSJ	Commission des services juridiques
EDC	Enhanced duty counsel
FSDC	Full-service duty counsel
HUOS	Heavy Users of Service
JOT	Justice on Target
KPI	Key performance indicator
LAA	Legal Aid Alberta
LAM	Legal Aid Manitoba
LAO	Legal Aid Ontario
LAS	Legal Aid Saskatchewan
LIOW	Legal Information Outreach Workers
LSB-NWT	Legal Services Board of the Northwest Territories
LSC	Legal Services Centres
LSS	Legal Services Society of British Columbia
MAG	Ministry of the Attorney General
MHS	Mental Health Strategy
NBLASC	New Brunswick Legal Aid Services Commission
NLLAC	Newfoundland and Labrador Legal Aid Commission
NLSB	Legal Services Board of Nunavut
NPA	National Partnership Agreement
NSLA	Nova Scotia Legal Aid
PEI LA	Prince Edward Island Legal Aid
PLEI	Public legal education and information
PWG	Federal–Provincial–Territorial Permanent Working Group on Legal Aid
SFET	Simplified Financial Eligibility Test
SOAP	Simplified Online Application Portal
YCDO	Youth Criminal Defence Office
YLSS	Yukon Legal Services Society

## 1.0 Introduction

The purpose of this study was to explore and identify innovations/best practices in criminal legal aid that will enable the federal government to maximize its investment in criminal legal aid and help ensure that Canada's system of justice remains accessible, efficient, and fair, particularly for economically-disadvantaged Canadians. The innovations/best practices can include efforts to promote greater efficiency (e.g., streamlining processes; reducing costs in some areas through use of new technology or using other legal practitioners or professionals to deliver services; enabling people to assist themselves for simple matters), or improved access to justice by increasing the scope, accessibility, and quality of criminal legal aid services.

The study focused on the federal investment in criminal legal aid. However, innovations/best practices that did not directly address criminal legal aid but promoted more effective, accessible, and efficient legal aid service delivery and operations, regardless of the type of legal aid, were also considered relevant to this study.

In October 2013, Justice Canada established a Deputy Minister Advisory Panel (the Advisory Panel) comprised of a cross-section of experts from the health, economic, and justice sectors. Based on their respective areas of expertise, Panel members were expected to provide guidance with respect to the research, contribute to an analysis of the research findings, and, based on the research findings, provide advice and input to the Deputy Minister regarding innovations, best practices, and efficiencies in criminal legal aid that will contribute to maximizing the federal investment. The research results were intended to be used to inform the work of the Advisory Panel in advising the Deputy Minister on the development of a path forward to maximizing the federal investment in criminal legal aid.

## 2.0 Approach

Two methods of data collection were used to support this study: a document and literature review, and key informant interviews.

### 2.1 Document review and literature review

The document and literature review component involved a literature search of innovative approaches used in delivering criminal legal aid, both domestically and internationally. The review focused on literature from 2007 to present. The literature relied on publicly-available materials located on the websites for each legal aid plan in Canada. To ensure that the literature review was systematic and gathered comparable information from all legal aid plans, a template was used (see Appendix A). The resulting compendium of innovations/best practices within Canada is found in Appendix B.<sup>1</sup>

The international literature on innovations/best practices in legal aid focused on Australia, New Zealand, England/Wales, Scotland, and the United States. Early in the study, it was determined that the fragmented nature of the provision of legal aid in the United States made a literature review unfeasible; instead, interviews were conducted with individuals identified by an access to justice expert in the United States, who is also a member of the Advisory Panel, and a “snowball” technique was used to identify additional interviewees (i.e., innovative service providers identified by interviewees were also interviewed). Reports based on publicly-available literature on criminal legal aid in Australia, New Zealand, and England/Wales and Scotland are found in Appendix C.

The study also included a review of the law practice management literature. This body of literature tends to focus on the private sector legal practice, rather than public sector law or, like many legal aid plans, a mixed model of service delivery. However, the literature does provide some possible considerations for legal aid plans, and is discussed where relevant.

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<sup>1</sup> “Best practices” is used because it is common terminology in environmental scans (e.g., best practices and lessons learned). However, because there is little evidence of relative impact of the innovations and some of them are quite recent, the compendium might be considered a list of promising practices.

## 2.2 Interviews

Interviews were conducted with representatives of the Federal–Provincial–Territorial Permanent Working Group on Legal Aid (PWG) and/or their designates,<sup>2</sup> Justice Canada officials, young Canadian lawyers with criminal legal aid experience,<sup>3</sup> and international legal aid service providers. Interview guides tailored to each category were developed in consultation with Justice Canada’s Legal Aid Directorate. Table 1 provides a more detailed breakdown of interviewees.

<b>Category</b>	<b># of interviews</b>	<b># of interviewees</b>
PWG		
• Legal aid plans	13	16
• PT representatives	7	10
Justice Canada	2	14
Young lawyers <sup>4</sup>	2	11
International		
• New Zealand	1	2
• Australia	1	10
• United Kingdom	1	1
• United States	6	10
<b>Total</b>	<b>33</b>	<b>74</b>

Potential interviewees received an invitation to participate in an interview. Individuals who agreed to participate were provided with a copy of the interview guide (in the official language of their choosing) prior to the interview. Each interview was conducted in the respondents’ preferred official language, and they were assured of the confidentiality and anonymity of their responses. Interviews were conducted by telephone.

## 2.3 Interpretation of results

Throughout the report, examples are provided of innovations and best practices by legal aid plan. This is done to enable the reader to refer to the compendium entry for additional details where they are available. However, because the study relies on self-reporting, the examples given for each area of innovation may not be exhaustive. Some legal aid plans may not have reported on a practice that another legal aid plan identified as an innovation. Because of this, the results should not be interpreted as comparing legal aid plans or as providing a comprehensive listing of innovations and best practices for each plan. The study is intended to give a broad understanding of the types of innovations and best practices that legal aid plans are undertaking in Canada and internationally.

<sup>2</sup> The PWG includes representatives of legal aid plans, provincial and territorial justice ministries, and Justice Canada.

<sup>3</sup> Young lawyers were defined as lawyers under 40 years of age who had been practicing law for ten years or less.

<sup>4</sup> The 11 participating young lawyers were from eight different provinces and territories and included five staff legal aid lawyers, five private bar, and one Crown prosecutor who previously handled legal aid matters as a private bar lawyer. Participants were identified with the assistance of the Canadian Bar Association and legal aid plans.

### 3.0 Context for study

Evidence shows that criminal legal aid has the potential to produce a wide range of benefits — from broad benefits to the legal system as a whole, to economic, social, and health benefits for society and individuals. At the same time, fiscal constraints for all orders of government and the need for transparency and accountability with respect to government spending have caused governments to review programs and services for methods to create efficiencies, reduce costs, and improve service. The federal government has demonstrated a continued commitment to support criminal legal aid in Canada, as evidenced through the ongoing support to provinces and territories to fund criminal legal aid, with approximately \$112 million provided annually. Canada has also committed to a balanced budget by 2015–16, achieved through sustainable and responsible management of public finances. All federal departments are expected to contribute towards these efforts, not only through spending restraints, but also by ensuring the relevance, effectiveness, and value for money in program expenditures (Honourable James M. Flaherty, Minister of Finance, 2013). As a result, these demands for fiscal responsibilities, coupled with increasing legal aid costs and demands for service, place increasing importance on the need to maximize Canada’s investment in criminal legal aid. The desire to explore innovative practices arises from this current context.

#### 3.1 Benefits of criminal legal aid

The benefits of criminal legal aid include direct benefits to the criminal justice system but also broader social benefits.

##### Criminal justice system

Legal aid is integral to fulfilling obligations under the *Canadian Charter of Rights and Freedoms* — 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) (Canadian Bar Association, 2014).<sup>5</sup> According to the Canadian Bar Association, as well as interviews conducted for this report, government provision of counsel for low-income persons facing serious criminal charges is critical to maintaining the rule of law and upholding democracy (Canadian Bar Association, 2014).

Legal aid is also essential to the fairness of the justice system. Studies show that economically-disadvantaged persons who are accused of criminal offenses are among the more marginalized and vulnerable members of the population, and often suffer from other issues, such as low literacy, low education, mental health issues, or addictions. These issues prevent these litigants from being able to effectively advocate for themselves, and many are incarcerated as a result of not being represented by legal counsel (Buckley, 2010; Department of Justice Canada, 2012; Matthews, 2012). Interviewees also pointed out that lawyers funded through legal aid ensure that the relevant circumstances of guilty persons are brought before the court, which, in turn, makes it more likely that outcomes are fair and not arbitrary.

Related to the issue of fairness is the continued confidence in the criminal justice system that legal aid supports. Recent public opinion surveys have found that the Canadian public continues

<sup>5</sup> According to some scholars, the adversarial nature of the criminal justice system means that criminal legal aid is especially important to uphold individuals’ legal rights. For example, it can be argued that when Crown prosecutors oppose impoverished, unrepresented litigants, the result is not a fair trial; therefore, providing representation through legal aid is essential in order to uphold Charter rights (Lamoureux, 2006).



to support legal aid. Survey results show that Canadians place high value on access to justice and believe that legal representation is necessary to ensure fair trials. In addition, survey results reveal a direct, positive link between the availability of legal aid and public confidence in the legal system (Department of Justice Canada, 2012).

Criminal legal aid also helps to eliminate inefficiencies within the court and criminal justice system. When unrepresented litigants try to make their own way through the legal system and complex legal proceedings, this “bogs down” the courts. In fact, studies show that more court time is used (and more Crown legal resources are consumed) when economically-disadvantaged litigants are unrepresented than when they are represented by legal counsel (Canadian Bar Association, 2006; Lamoureux, 2006; Matthews, 2012). Interviewees pointed out that unrepresented accused can create complications for prosecutors and the courts, simply because they do not understand the system. According to interviewees, without legal aid, the number of self-represented accused would increase. Effects of self-represented individuals on the justice system include: an increase in delays; a reduction in the possibility of early resolution; and increased potential for unjust outcomes, including higher rates of remand, harsher sentences, inappropriate guilty pleas, and wrongful convictions — all of which increase costs to the court system and corrections. In addition, police officers and social workers can become tied up in court delays, contributing to inefficiencies in the use of these resources (Matthews, 2012). By providing access to legal representation for economically-disadvantaged persons, criminal legal aid can reduce the use of court time, and, in some cases, can help avoid costly incarceration, and can help to screen out and achieve earlier resolution of cases that do not need to go to court (Canadian Bar Association, 2006; Matthews, 2012).

### **Economic, social, and health benefits**

Studies show that legal aid programs produce a variety of economic, social, and health benefits. The links between poverty, legal, and social issues are well established in legal aid literature. Studies show that poverty generates specific legal and social problems, and that restricted access to justice can have a variety of negative outcomes — from reduced health to increased social isolation and conflict (Martin, 2002).

Criminal legal aid programs have the potential to produce positive socio-economic outcomes. Interviewees identified that legal aid connects clients to community resources and treatment services that individuals proceeding to court without assistance may not be able to access. While some clients may already be involved with social services prior to receiving legal aid, some individuals do not receive services until they are in contact with the criminal justice system. In these cases, legal aid serves a referral role and helps to ensure that clients are connected with the services they need. Legal aid literature confirms that legal aid can help to facilitate legitimate claims for social services, and to address social issues underlying legal ones (Buckley, 2010). According to interviewees, efforts to understand and address the underlying issues that lead to criminal behaviour require the involvement of legal aid counsel and other actors within the justice and social service system.

Legal aid also helps to lessen the impact of criminalization on families. According to interviewees, if lack of counsel has resulted in a harsher sentence that involves imprisonment, the disruption to the individual and their family is increased. Already-vulnerable families can be pushed into crisis if they are evicted from housing, need to apply for social assistance, or require other social and health system supports. Family breakdown creates further impacts on children.

All of these consequences can cause additional costs to the system. Legal aid can reduce instability created by the criminal justice system's involvement in the lives of the accused and their families. Studies have confirmed that legal aid can lead to positive outcomes for families. Legal aid can facilitate legitimate claims for family and child support, division of matrimonial property, social assistance, and other family-related social services. In these ways, it can help address issues underlying family violence, and help families stay together and keep their homes (Buckley, 2010; Matthews, 2012). Studies have estimated substantial cost savings from these outcomes (Matthews, 2012).

According to literature on legal aid, criminalization, as a form of social marginalization, is a determinant of poor health — both mental and physical. Studies have shown that access to legal counsel and representation helps to empower criminalized people to address their health barriers. Incarceration has been identified as a health risk particularly to individuals facing discrimination, as it contributes to social exclusion and stigma, and often impoverishes people and reduces their economic potential (Csete & Cohen, 2010). Access to legal counsel for disadvantaged, criminalized people has been associated with a number of positive outcomes related to health, including enabling access to health care, avoiding health risks associated with incarceration, assisting with access to housing, welfare benefits, and other social services (Csete & Cohen, 2010).

In addition, evidence indicates that investments in legal aid can save money in areas of government spending, such as health and social assistance (Matthews, 2012). According to interviewees, legal aid reduces downstream costs to the medical system and social services when it helps to connect clients to needed community programs and treatment options.

### 3.2 Current pressures facing legal aid

Many economically-developed countries, including Canada, struggle to balance the need for fairness in the justice system with the challenges of financing legal services for low-income, disadvantaged members of society (Buckley, 2010). While legal aid programs are an important part of ensuring Canadians' right to fair trial, and for supporting the court system in determining criminal court cases in a just and timely manner,<sup>6</sup> a gap between the availability of, and the need for, legal aid services in Canada has been identified (Buckley, 2010; Department of Justice Canada, 2013; Lamoureux, 2006).

Canada's criminal legal aid system is experiencing both demand and cost pressures. Pressures on or increases in the demand for legal aid have been identified in the literature. In part, these pressures have been attributed to an increase in the number of "working poor," as well as trends or changes in government policies related to legal aid (Buckley, 2010; Canadian Bar Association, 2014). Some legislative or policy changes have led to an increase in criminal charges, particularly among some vulnerable populations who are consumers of legal aid services. For example, concerns have been raised about the impacts of the *Safe Streets and Communities Act*<sup>7</sup> on the demand for legal aid. The Act, designed with the intention to amend criminal laws to make communities safer, contains certain aspects (e.g., introducing mandatory

<sup>6</sup> According to the Steering Committee on Justice Efficiencies and Access to the Justice System, the success of measures to reduce delays within the court system is dependent on the adequacy legal resources — including legal aid counsel (Department of Justice, 2013).

<sup>7</sup> The Safe Streets and Communities Act was introduced as Bill C-10 in 2011 and received Royal Assent on March 13, 2012.

minimum sentences for certain offenses; increasing some existing minimum penalties; changing the *Youth Criminal Code* by adding denunciation and deterrence as sentencing principles, and rules to facilitate keeping youth in custody while they await sentencing) that have the potential to increase further the overrepresentation of Aboriginal people in the criminal justice system (BC Office of the Provincial Health Officer, 2013; Northwest Territories Justice, 2012). According to an analysis prepared by Northwest Territories Department of Justice, the *Safe Streets and Communities Act* will result in an increased number of appeals — the cost of which will be borne by legal aid, as most accused offenders in the Northwest Territories are eligible for legal aid due to their financial circumstances (Northwest Territories Justice, 2012).

In addition, according to the Canadian Bar Association (CBA), legal aid policy development has diminished over the past decade, and there is a need for legal aid in Canada to be “rebuilt.” The CBA calls for a revitalization of the federal government’s role in supporting legal aid through policy development and legislation — specifically, to create national standards for legal aid and recognize essential legal services through legislation (2014).

Sources indicate that funding for criminal legal aid is insufficient to meet current demand (Buckley, 2010; Canadian Bar Association, 2014; Lamoureux, 2006). Although Statistics Canada data shows that federal funding for criminal legal aid remained stable between 2007–08 and 2011–12 at \$112 million per year to all federal and territorial legal aid programs, statistical data, evaluation results, and academic sources indicate that the number of applications submitted and approved has increased over time, as has the total cost per application — meaning that legal aid programs are under pressure to do more with available resources (Department of Justice Canada, 2012; Lamoureux, 2006; Statistics Canada, 2013a; 2013b; 2013c; 2013d). In addition, financial eligibility guidelines of legal aid plans in Canada have not evolved in accordance with economic indicators like the Low Income Cut-off and the consumer price index. This, in turn, has hindered the capacity of legal aid programs to respond to demand, as the unchanging financial guidelines for legal aid eligibility have resulted in an increasing proportion of unrepresented accused in the criminal justice system (Department of Justice Canada, 2012).

The costs of providing criminal legal aid must be understood within the broader context of changes to Canada’s legal system as a whole. Adult criminal cases in Canada are showing a long-term trend toward increased complexity and duration (Department of Justice Canada, 2013a). Criminal trials have become increasingly long and complex since the 1970s due to three main causal events: the passage of the *Charter of Rights and Freedoms* in 1982, the Supreme Court of Canada’s reform of evidence law, and the addition of complex provisions to the *Criminal Code* and related statutes (including the *Canada Evidence Act*, the *Young Offenders Act*, and the *Youth Criminal Justice Act*). These changes have resulted in an increased range of procedural motions and pre-trial proceedings. Studies have shown that legal reforms affecting pre-trial and trial processes must consider the way in which legal aid services are provided and funded in order to be effective; the effectiveness of case management reforms is linked to the availability of legal aid funding (Dandurand, 2009). Although legitimate and necessary, these law reforms and policy initiatives have had a significant impact on the costs and efficiency of all criminal trials — including those in which legal aid services are used (LeSage & Code, 2008).

## **4.0 Current innovations and best practices**

While service innovations have always been considered a method for improving public sector service, the emphasis on innovation to ensure cost-effective service delivery has increased as governments face increasing budget pressures. “A delicate balance must be struck between the need to provide high-quality services and the need to reduce expenditures. Both cost reductions and service improvement can be accomplished in part by innovative, indeed transformative approaches to the delivery of government services.” (Kernaghan, 2010, p. 7). Sharing information on successful innovations is a critical step in promoting service improvements across a sector, such as legal aid.

The following discussion considers innovations in the provision of legal aid across four main dimensions: accessibility, effectiveness, efficiency, and accountability. The innovations are self-identified, as they come from the literature on legal aid websites, as well as through interviews with legal aid plans and other stakeholders.

### **4.1 Accessibility**

The innovations related to accessibility of legal aid fell into several categories: offering multiple entry points and channels; using a triage process; streamlining or simplifying the application process; providing supports for clients with special needs; working with community organizations as referral and information sources; and offering public legal education and self-help tools.

#### **4.1.1 Multiple entry points and channels**

Several legal aid plans use multiple entry points for making legal aid applications. Offering multiple entry points and different channels (in person, telephone, online, video) for making legal aid applications gives clients options for how to contact legal aid and encourages a more accessible system.

All legal aid plans offer intake services in person and by telephone. The locations of in-person intake vary by legal aid plan. Some smaller plans offer in-person intake through their central and area legal aid offices. Some of these plans have found that additional in-person settings (e.g., courthouses) may be underutilized. However, offering application processing at the courthouse when the volume is sufficient to justify legal aid’s presence was considered an important innovation to streamline the application process and reduce the number of accused who commit in court that they will apply for legal aid but then do not. Some larger plans offer in-person intake services at courthouses and at regional or district offices (e.g., LAA and LAO). Even for the larger plans, the movement appears to be to reduce the number of legal aid facilities needed to conduct in-person intake by promoting intake through other channels, such as telephone and online (e.g., LAO), or by using a local agent approach where the plan contracts with private lawyers to provide intake services (LSS). LSS reports that the latter approach has enabled it to reduce infrastructure costs, while increasing the number of service points available.

Public sector external service delivery is moving to a multi-channel approach to improve accessibility (Kernaghan, 2010). This includes e-government (online options) and now m-government (mobile devices). Currently, few legal aid plans are using online options for their application process. This is likely due to the need to verify financial and other information in order

to determine eligibility. Since 2009, LAO has had the Simplified Online Application Portal (SOAP), which uses an online application form and financial eligibility test.<sup>8</sup> SOAP is also available for “criminal in-custody” applications. LAO reports that SOAP has reduced average application processing time by 62%. LAO also offers video or telephone applications for individuals in custody.

### **4.1.2 Triage**

Some legal aid plans have introduced triage systems in an attempt to connect individuals with appropriate services earlier and to provide all individuals who contact legal aid with some level of service. Examples of more formal triage processes in Canada are LAA’s Legal Services Centres (LSCs) and LAO’s Client Service Centre (CSC).

- ▶ LAO’s CSC is a telephone service that offers each caller legal support based on assessed needs: Level 1 provides general information on legal aid, other relevant programs, and referrals; Level 2 offers triage support for Level 3 services, handles complex applications and urgent support for domestic violence clients; and Level 3 provides summary legal advice to eligible clients, such as information on bail processes and first appearance procedures, as well as referral to certificate, duty counsel, or local service programs. LAO attributes the decrease in criminal law applications and certificates in part to the CSC.
- ▶ LAA’s LSCs conduct an initial assessment of client needs and then direct the client to the appropriate stream of services: information, resources and referrals; legal advice and/or assessment of legal merit; brief services; the Criminal Resolution Unit (CRU); limited scope services; and full representation.

Some of the perceived benefits of effective triage of clients are that it enables legal aid plans to connect clients to their lawyer sooner and to provide clients with better service. Early involvement with counsel could potentially reduce delays in the system caused by remands and adjournments due to the status of legal aid not yet being determined. In addition, the triage process could also give lawyers more initial information about the client and more time to prepare, which could mean that fewer clients are remanded and more receive bail.

### **4.1.3 Streamlining and simplifying the application process**

Several legal plans have reviewed their eligibility guidelines (e.g., LAM, NLLAC, and NSLA) or are in the process of conducting a review (NBLASC). These reviews are intended to clarify the eligibility criteria to ensure more consistency in their application and to reduce their complexity so that eligibility decisions can be made more efficiently. LAM conducted a complete restructuring of its application process, which included revising the Area Director’s Manual to provide clear guidelines on what to consider when processing applications and redefining the roles of clerks and administrative officers in the application process. LAM reports that these changes have reduced its application process from two months to 3–5 days. This improved processing time will also result in fewer court appearances and remands, while accused wait for a decision from LAM.

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<sup>8</sup> For more on LAO’s new financial eligibility test, see Section 4.1.3.

Two plans had unique ways to streamline and simplify their application processes.

- ▶ NLLAC has an agreement with the Department of Human Resources, Labour, and Employment to provide confirmation of an applicant's benefits. Applicants who are receiving benefits now do not need to submit proof of income and expenses.
- ▶ LAO has instituted a Simplified Financial Eligibility Test (SFET) to make the guidelines clearer and accelerate decisions. The SFET included adjusting family-size income levels to approximate the results of the existing financial eligibility test. LAO believes that this simplified test has enabled it to handle applications through other channels (telephone, online), and although it may result in LAO providing service to a small percentage of individuals who would not have qualified for legal aid before, the new approach still results in an overall cost savings.

#### **4.1.4 Supports for clients with special needs**

A few legal aid plans highlighted supports for clients with special needs. The supports identified were specific to making legal aid applications, offering public legal information, corresponding with clients, or obtaining legal advice through call centres. These supports included simultaneous translation services through services like CanTalk (used by LAO and LAM); review of correspondence, materials, or forms to use plain language and address the needs of low literacy clients (LSS and LAM); and multi-format materials for persons with disabilities. Ontario's *Accessibility for Ontarians with Disabilities Act* requires measures to ensure accessibility of services, and LAO has undertaken several measures, including ensuring that materials are available in many formats (large font, Braille, audio).

#### **4.1.5 Working with community organizations**

Some plans are working with community organizations to serve as information and referral sources for legal aid. By reaching clients in their community, legal aid is enhancing its accessibility and also educating community organizations about legal aid. LSS has a community partnership program that uses a micro-contract approach, where community organizations receive funding and, in return, assist potential clients with referrals to legal aid and access to confidential computers and telephones.

#### **4.1.6 Public legal education and self-help tools**

The responsibility for public legal education and information (PLEI) differs across the jurisdictions in Canada. In some provinces and territories, the legal aid plan has a statutory obligation to provide PLEI (e.g., Nunavut, Northwest Territories, British Columbia), while in others, non-profit organizations have been established that handle PLEI (e.g., Yukon Public Legal Education Association, the Legal Information Society of Nova Scotia, Public Legal Education Association of Saskatchewan). PLEI and self-help tools are considered important for assisting individuals who might not qualify for legal aid, as these resources give them some assistance, should they have to represent themselves in court.

Online legal guidance, which provides clients with information for legal matters to encourage self-help, is identified as a best practice in the law practice management literature (Susskind, 2010). Almost all legal aid plans provide at least some PLEI through information posted on their websites. A few legal aid plans do not have websites. The information typically includes at least one of the following: a description of legal aid and how to apply; a glossary of key legal terms; descriptions of lawyer and client roles and responsibilities; online brochures or briefs on legal topics (e.g., LSS has a “Defending Yourself” series that covers different types of charges); and/or links to other resources (e.g., other legal aid plan websites, PT justice websites). Each plan has developed its own PLEI materials.

Legal aid plan websites are static rather than interactive. LAO has linked to an interactive site that helps youth prepare for court ([www.courtprep.ca](http://www.courtprep.ca)).<sup>9</sup> LSS is also exploring opportunities to make its site more interactive (e.g., online chats) or more individualized (e.g., decision trees). While current plans for the website focus more on family law, it was noted that these approaches could also work for criminal law. LSS has also created a mobile website and quick response codes to improve access to the legal information on its website.

Plans use a variety of other methods to provide legal information to the public:

- ▶ Plans use court workers to assist with the provision of legal information. Aboriginal court workers are used by LSB-NWT and NLSB to provide legal information to clients. LSS has Legal Information Outreach Workers (LIOW) in three locations.
- ▶ Other plans use call centres to provide legal information (LAO and LAA).
- ▶ Plans will respond to community requests for in-person presentations. NLSB is developing a catalogue of presentations that can be provided by lawyers or by Aboriginal court workers. LAA has a Speakers Bureau of volunteer lawyers who will make presentations on legal topics in the community.

## **4.2 Effectiveness**

Innovations to improve the effectiveness of legal aid related to improvements in service delivery and the quality of services.

### **4.2.1 Unbundled legal services or limited scope advice**

Legal aid plans have traditionally provided services through the issuance of a full-service legal aid certificate to individuals who met the eligibility criteria. Within the last decade, some plans have begun to increase their offering of what is sometimes termed “unbundled” or limited scope services. While these concepts are most often attached to family or civil legal aid, criminal legal aid does offer limited scope services through duty counsel and is increasingly offering summary legal advice through helplines or other methods for criminal, civil, and family law matters. The concept behind providing unbundled or limited scope criminal law advice is that it enables legal aid plans to provide at least some critical service to individuals who may not otherwise receive legal assistance.

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<sup>9</sup> Courtprep.ca was developed by the Sexual Assault Care program of The Scarborough Hospital and a youth team from Scarborough in partnership with Toronto Child Abuse Centre.

## Duty counsel

All legal aid plans in Canada offer some type of duty counsel services for criminal matters, where someone appearing in court without counsel can receive some assistance. Duty counsel services are typically limited to first appearances and include assistance such as explanation of the charges. Several plans are now offering what are termed expanded or enhanced duty counsel (EDC) services. EDC services are intended to facilitate earlier resolution of matters and improve access to justice by having counsel provide more extended assistance for unrepresented individuals. It should be noted that “duty counsel services” are defined differently in each jurisdiction, as are “expanded or enhanced duty counsel services.” Smaller jurisdictions, for example, may not refer to their services as “expanded or enhanced duty counsel,” but given their size, the set-up of the courts, the use of presumed eligibility, and other factors, their duty counsel services may operate very similarly to what are called EDC services in other jurisdictions. For that reason, this discussion is not intended to be exhaustive, but to provide examples of EDC services. Among the jurisdictions that offer a form of EDC, the services are usually geographically limited and may focus on certain types of offences.

- ▶ LSS offers EDC for four types of administrative offences (breach of probation, failure to appear, failure to comply with a recognizance, and breach of a conditional sentence). A review of the EDC conducted for LSS found that stakeholders believe that the more substantial services provided by EDC had reduced the number of cases without merit going to trial and, for matters where trials were set, the number of admissions of fact was greater, leading to reduced trial time.
- ▶ LSS also offers EDC in First Nations Courts and some remote communities by taking calls from clients between court dates in order to provide advice and by attending the day before court in order to meet with clients.
- ▶ LAA’s CRU provides expanded duty counsel services for lower level criminal offences through a staff model. Counsel order disclosure, meet with the client, assess whether there is a viable defence, and provide advice. Where the individual desires LAA to handle the charges by submitting a guilty plea and speaking to the sentence, the CRU will handle the matter. If the client wants to proceed to trial, they are referred to LAA to make an application for a certificate. The CRU counsel have the mandate to handle as much of the matter at first appearance as possible.
- ▶ LAO uses staff and private bar lawyers to provide EDC, which is offered in the Greater Toronto Area and Barrie. EDC typically are involved in the following types of dispositive matters: withdrawal of charges; guilty pleas/speaking to sentence; judicial interim release proceedings; diversion/extra-judicial sanctions; and peace bonds/recognizance.
- ▶ LAO provides resolution duty counsel in London, Ontario. Senior legal aid lawyers meet with the accused and, with their authorization, meet with the Crown in order to potentially resolve possible issues (e.g., incomplete discovery) or the entire the matter prior to any court appearance.
- ▶ LAM offers what is termed full-service duty counsel (FSDC) and domestic violence FSDC. FSDC is offered throughout the province, except for Winnipeg.
- ▶ NSLA uses staff EDCs who are assigned to the same court on a continuous basis. EDCs are available in Halifax and Sydney with plans for expansion.



Studies of EDC to determine their effectiveness in resolving matters are rare and typically involve stakeholder opinion. This is due, in large part, to the difficulties in obtaining data on EDC activities and outcomes. NSLA has kept administrative data on EDC and found that 35% of all charges were resolved against in-custody accused at the duty counsel stage in Sydney and 31% in Halifax, which is higher than rates of resolution in centres without EDC. LAO reports that while costs of duty counsel have increased, it anticipates that the reduction in adjournments and a greater ability to focus on dispositive services will reduce costs.

### Summary legal advice

In addition to the advice provided by duty counsel in the courthouse, legal aid plans are offering more options for summary legal advice in criminal matters.

- ▶ *Brydges* duty counsel services are provided through the use of private contractors (LSS, LAA, LAS, LAO, and LSB-NWT); staff lawyers (CSJ, NLLAC, and NLSB); and a mixed model of staff and private lawyers (LAM, NSLA, PEI LA, and YLSS).<sup>10</sup>
- ▶ Through its CSC, LAO provides up to 20 minutes of summary legal advice to eligible callers.
- ▶ LAA provides summary legal advice to eligible clients through its LSCs.
- ▶ NSLA provides one hour of summary legal advice by a staff lawyer to individuals who are charged with criminal offences not covered by legal aid. This service was increased in the 2013–14 fiscal year.
- ▶ LSS offers advice counsel services by telephone to individuals who are in detention waiting for a bail hearing.
- ▶ LSS also provides summary legal advice and information to women with infants and pregnant women facing child protection, family, and/or criminal issues at the Sheway Drop-in Centre in Vancouver’s downtown eastside and the Fir Square Combined Care Unit at BC Women’s Hospital. LSS indicates that these programs are intended to provide help to women at an early stage, before their legal problems worsen.

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<sup>10</sup> *Brydges* duty counsel services are offered by legal aid plans in response to the Supreme Court decision in *R. v. Brydges*, [1990] 1 S.C.R. 190. In that decision, the Supreme Court held that Section 10(b) of the *Charter of Rights and Freedoms* includes “the right to have access to immediate, although temporary, advice from duty counsel irrespective of financial status.” Detained persons have the option of contacting a private lawyer, or the *Brydges* services offered by legal aid plans.

#### 4.2.2 Integrated service delivery or multi-disciplinary approach

Legal aid service provision has moved from a traditional focus on resolving the legal issues facing the client to a more client-centred approach that considers the non-legal needs of the client that contributed to the criminal behaviour and/or will impact the lawyer's ability to best serve the client. A client-centred approach assumes that lawyers cannot meet all of a client's needs and that a more integrated, multi-disciplinary approach is required.

##### Therapeutic justice and problem-solving courts

In Canada, problem-solving courts (e.g., drug treatment courts, domestic violence courts, mental health courts, community wellness courts) use a more holistic approach by attempting to address criminality through court-ordered treatment rather than incarceration and probation. These courts involve multi-disciplinary teams of judges, Crown, defence counsel, and treatment professionals. Participation is voluntary, but the criminal accused must meet the eligibility criteria for the court, which includes entering a plea of guilty. While the courts are government initiatives, defence counsel are an integral partner in the problem-solving courts.

Within the various problem-solving courts, legal aid plans may use staff or private counsel. Staff legal aid models obviously use legal aid staff counsel for these courts. Mixed plans have varying approaches. For example, LSS has a staff lead defence counsel for the Downtown Community Court, but otherwise the lawyers involved are from the private bar. Based on its experience, LAA determined that the use of staff lawyers is a best practice. Initially, LAA had private counsel who represented the client at trial continue to represent them in the drug treatment court. Since clients in the treatment phase may have weekly progress report meetings for 18–24 months, LAA found that either private lawyers were not regularly appearing, which meant they were not well-positioned to speak to the sentence at the end of the treatment phase, or they were billing for each progress report hearing, which was expensive for LAA. Recently, LAA has changed its practice so that a CRU lawyer is assigned to the drug treatment court, which it believes has reduced costs and improved client representation. In general, interviewees noted that legal aid's participation in problem-solving courts is not cost neutral, as the courts are intensive and require greater involvement of the defence counsel.

The literature on problem-solving courts indicates success in reducing recidivism (Mitchell, Wilson, Eggers, and MacKenzie, 2012). However, the methodologies employed by many studies have been questioned, and the results should be accepted with caution (Public Safety Canada, 2010). A recent study of the Downtown Community Court in Vancouver indicated reductions in re-offending, which was primarily with respect to property offences (Somers, Moniruzzaman, Rezansoff, and Peterson, 2014).

Community courts are distinct from other problem-solving courts, as they focus on a particular neighbourhood or community where crime rates are high rather than on an issue (e.g., drug offenders and addictions). Like other problem-solving courts, their design differs substantially across locations, so there is no one model; however, they typically use a multidisciplinary team, focus on alternative sanctions to incarceration, and have a strong mandate for community involvement. The Downtown Community Court, which is the first community court in Canada, focuses on criminal matters, which is true of many community courts in North America. Some locations in the United States have expanded the community court model to offer a multi-

jurisdictional court that can handle criminal, youth, family, and civil matters. A recent evaluation of the first multi-jurisdictional community court, the Red Hook Community Justice Center, was recently completed and reported a reduction in recidivism when compared to a comparable group of offenders (National Center for State Courts, 2013).

### **Multi-disciplinary teams<sup>11</sup>**

While problem-solving courts have a multi-disciplinary approach (counsel and treatment professionals), within the courts each discipline collaborates but operates separately. A few legal aid plans are innovating by internally teaming social workers with staff counsel. LAA has long had social and youth workers in its Youth Criminal Defence Office (YCDO) (described in more detail under “Specialized services for targeted groups” in Section 4.2.3) and has recently begun a pilot project in one location that teams a social worker with CRU counsel. The social worker will focus on non-legal needs, such as locating treatment programs and housing, which will enable counsel to concentrate on legal services.

LAA is also moving toward reducing silos between its staff law offices (YCDO, CRU, Siksika, and the Family Law Offices). Each office used to each have its own independent reporting structure to the Chief Executive Officer and operated independently. To encourage a more holistic approach to service delivery, these staff offices are now all reporting to the Vice President of Representational Services. This restructuring has allowed LAA to expand its use of multi-disciplinary teams by enabling it to team lawyers with social workers by sharing this resource between the Family Law Office and the CRU.

### **Holistic defence**

This model of providing public defence services is used by several public defender offices in the United States. The review focused on three offices that use forms of holistic defence: the Bronx Defender and the San Francisco Public Defender’s Office, which are staff models, and the Massachusetts Public Counsel, which is a mixed model of staff and private bar counsel. Holistic defence typically goes beyond teaming criminal defence counsel with social workers but also includes non-criminal subject matter legal and non-legal specialists.

The Bronx Defender uses a holistic defence model where interdisciplinary teams address clients’ legal and non-legal issues. Each of its 11 interdisciplinary teams has a team leader who oversees lawyers and non-legal professionals in the team, which include criminal lawyers, civil lawyers, family lawyers, immigration lawyers, social workers, investigators, housing advocates, parent advocates, and civil legal advocates. The team works collaboratively, and its members meet regularly with each other and the client. Everyone on the team has a working knowledge of each other’s roles so they involve other members of the team, as appropriate. The meetings of the full team are not client-specific but reinforce the interdisciplinary approach.

The Bronx Defender conducts intake to identify the scope of a client’s legal and non-legal issues that its multi-disciplinary team needs to address. To ensure that the information is collected systematically from each individual, the Bronx Defender uses a triage approach that relies on a checklist to identify the legal and non-legal issues facing the client. Understanding the multiple

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<sup>11</sup> Non-lawyer, paraprofessional team members, such as court workers and paralegals, are discussed separately.

needs of clients is considered essential under the holistic defence model, as clients and their families experience multiple and cross-cutting legal and non-legal issues. The checklist responses are inputted into the case management software of the office, which generates an automatic email referral to the appropriate team members so they are aware of their new client.

The Bronx Defender is working with approximately 16 different jurisdictions that want to establish a holistic defence model. These jurisdictions range from large cities to very small communities, including some on reserves. The model is transportable because it is adaptable to the circumstances of the community but relies on its four foundational pillars, as described in Table 2.

<b>Pillar</b>	<b>Description</b>
Seamless access to legal and non-legal services that meet client needs	Holistic defence addresses clients' legal and social support needs. Recognizing that these needs vary by community, the holistic defence approach includes assessing the needs of the community. The holistic defence approach works to address the legal issues experienced by each client, but also the collateral consequences of criminal justice system involvement. Services, whether they be in-house or in partnership with other agencies, should be seamless.
Dynamic, interdisciplinary communication	Holistic defence involves an interdisciplinary team of advocates who work together to address client needs. The team's culture must include "open, frequent, and meaningful communication." This approach goes beyond "hierarchy and referrals" to an "exchange of ideas and information."
Advocates with an interdisciplinary skill set	The public defenders must "develop and enhance a specific set of skills that is both client-centred and interdisciplinary." This skill set means that the lawyer goes beyond simply understanding the areas in which other team members work but will advocate for the client in a way that supports the work of the other disciplines. This approach requires cross-training of the team in each others' areas.
A robust understanding of, and connection to, the community served	Holistic defence requires a thorough understanding of the community served. By having this knowledge of the community, the lawyer can advocate more effectively and is likely to achieve better outcomes. In addition, by being able to speak to a client's broader situation, the advocate will be more effective, whether it be in court or before a social service agency. Engaging with the community also provides the public defender with a better knowledge of available services.

Source: Bronx Defender. (2014). Retrieved February 24, 2014 from <http://www.bronxdefenders.org/the-four-pillars-of-holistic-defense/>

The Massachusetts Public Counsel uses a type of holistic approach adapted to a mixed system of public and private counsel. Offices have social workers available for staff counsel, and private counsel can, on a case-by-case basis, hire from a pool of private social workers that the Massachusetts Public Counsel has identified. The agency encourages private counsel to apply for funding to hire any necessary experts (e.g., forensic psychologists, investigators, social workers). The standard for approval is whether someone who could pay for this type of expertise would reasonably be expected to do so. In addition, the Massachusetts Public Counsel has specialized sections that provide assistance/advice to public and private counsel, including the immigration impact unit and the civil impact unit. These units provide advice within their area of expertise on the consequences of criminal convictions.

The holistic approach reorients the legal practice to consider client needs and not just legal issues. The Massachusetts Public Counsel has authorized criminal lawyers to attend housing court for eviction proceedings that arise out of the criminal case. They also noticed that many of their clients had experienced some form of trauma and responded by forming a committee to consider how lawyers can identify and better assist clients with this background. The goal of the committee is to prepare documentation for counsel on how to gather information on possible trauma as part of the client's history, interact with clients who have experienced trauma, and prepare their cases in a way that takes the client's background into account.

The San Francisco Public Defender's Office also uses a social worker in order to facilitate getting clients into treatment programs. This arrangement has reduced the time that accused spend in jail waiting for treatment slots to open. In addition, if the client is expelled from the treatment program, the social worker is contacted first so that alternative arrangements can be made, if possible. The availability of the social worker is considered to provide the Public Defender's Office with the supports necessary to arrange treatment outside of the problem-solving court setting, which requires a guilty plea. The other example of a holistic approach within this office is the Children of Incarcerated Parents project. A social worker is assigned to meet with incarcerated clients and their families to gather information on the impact of the incarceration on the family unit. The social worker prepares a report that the lawyer can use in court to demonstrate the effects of incarceration. The office has found that these reports affect the length of sentences because they provide the court with more information about the offender.

The young Canadian lawyers interviewed see benefits to the holistic defence approach but are concerned with the already over-stretched capacity of the current legal aid system. As a method of incorporating aspects of holistic defence, they suggested that greater use of social workers or resource coordinators (for referrals to treatment, etc.) would be helpful, as lawyers often have to serve those roles now. It was suggested that legal aid could have staff lawyers or lawyers on retainer who specialize in assisting individuals with mental illness and/or addictions available as a resource for other counsel. Another suggestion was for legal aid to build more relationships with social agencies where, with the appropriate consents, lawyers could involve social workers or social support workers on appropriate files.

In addition to having more supports for counsel, the young lawyers suggested that getting more information on the client through intake would be beneficial. For example, it would be helpful to know whether the client has been diagnosed with a mental health issue; whether he or she has a social worker; or if the client has mental deficiencies due to brain trauma, Fetal Alcohol Spectrum Disorder, etc. Changing the intake process to obtain more information on the client was thought to require little investment and could improve client service.

A few young lawyers also mentioned that connecting the legal disciplines/areas within legal aid plans (e.g., duty counsel and clinics; family law, criminal law, and poverty law practices) could enable legal aid to provide more holistic service to clients.

### **4.2.3 Specialized services for targeted groups**

Certain legal aid client groups are highly vulnerable, more likely to be repeat clients, and/or represent a substantial proportion of legal aid clients. For these individuals, legal aid plans have either developed or are partners in specialized services or other initiatives.

#### **Youth**

At least two plans (LAS and NBLASC) handle all youth under the *Youth Criminal Justice Act*, regardless of financial eligibility. This choice was made to streamline the system, as youth denied legal aid typically received court-appointed counsel, which slowed down the disposition of the matter and was expensive to the system. The decision to remove eligibility requirements for youth adds cost to the legal aid plans but is considered to have reduced costs of the youth criminal justice system.

A few plans have services that specifically target young offenders:

- ▶ LAA has YCDOs in Edmonton and Calgary that include lawyers, social workers, and youth workers. Both offices also have access to a psychologist through a pilot project with the Child and Adolescent Services Association. The social and youth workers assist by identifying risk factors, recommending community resources for the youth, and creating release plans. LAA is considering expanding this specialized approach to youth by including these services in the CRU locations.

Until recently, the YCDOs focused on core services (duty counsel, Brydges duty counsel, and full representation), but they have begun to take on a broader advocacy role for their clients that goes beyond legal representation. For example, they are working with government and community workers to develop wraparound programs for youth with a Fetal Alcohol Spectrum Disorder diagnosis; and they are partnering with the Edmonton Police Service on its new youth unit.

- ▶ NSLA does not have a specialized youth office but has a staff lawyer who is dedicated to handling youth criminal justice matters. In addition, the court support workers who work with duty counsel are available in youth court and provide a more holistic approach by helping youth address underlying needs through referrals to community services.

Some of the plans in the United States provide other models for youth criminal defence:

- ▶ The Massachusetts Public Counsel has a youth advocacy program that focuses on child welfare and delinquency. The program has lawyers who specialize in child welfare and youth defence, as well as social workers. The program is structured to disrupt the “school to prison pipeline.” With the high number of youth in the juvenile justice system failing in school and many adults in U.S. prisons functionally illiterate, the program is considered an early intervention for improving longer-term outcomes for the clients. While plans are still underway, the Massachusetts Public Counsel wants to train all lawyers who work with youth (specialists, other staff, and private bar) in education advocacy. These lawyers are then more effective advocates at expulsion hearings and for youth who qualify under U.S. laws for individualized education plans. By advocating for students, the Massachusetts Public Counsel hopes to increase the number of youth staying in school, reduce the number of unsupervised youth who end up in the juvenile justice system, and improve longer-term outcomes for youth.

The Massachusetts Public Counsel also uses an evidence-based framework called Positive Youth Development. By using a tested approach, they believe they can train lawyers and social workers in a more consistent and comprehensive way. In addition, they are better positioned to evaluate the effectiveness of their youth advocacy program.

- ▶ The San Francisco Public Defender’s Office is taking a similar approach. This office also pairs youth advocates who are social workers with lawyers. The youth advocates interview youth, prepare a needs assessment, and connect the youth to appropriate services. The lawyer can then offer the court a plan for the youth, which results in shorter time in custody — a result that benefits the system and the youth. The office also has a Legal Education Advocacy Program that includes an education lawyer and a social worker. The program is intensive, so the team can handle at most 60–80 cases at a time.

The program helps youth stay in school by advocating for their educational needs (e.g., special education plans) and by working with the school to address behavioural issues in a way that allows the youth to stay in school. The program also works with parents, too, so that they understand their rights, options, and responsibilities.

### **Mental health and addictions**

A high proportion of legal aid clients have mental health and/or addictions issues. Most plans provide specialized services for these clients through their participation in the problem-solving courts. Otherwise, plans tend to rely on their regular service delivery mechanisms to assist clients with mental health and addictions issues. Some plans have made adjustments. For example, in recognition of the additional time that clients with mental illness can require from counsel, LAO has also instituted a mental health block fee enhancement.

LAO has also begun a Mental Health Strategy (MHS) to improve the capacity of lawyers, frontline staff, and management to serve clients with mental health issues. The MHS is still in development but has included stakeholder consultations and the establishment of a Community Advisory Committee to guide the process. One aspect of the MHS is the development of a training program that will be offered to staff and per diem lawyers. The training will include how to recognize mental health issues and how to assist clients with mental health issues. The expectation is to make this training available to other plans in Canada.

### **Aboriginal persons**

Legal aid plans primarily work with Aboriginal court or community workers, offer staff and private bar cultural-sensitivity training, build awareness of and skills for preparing *Gladue* reports, and/or offer outreach into Aboriginal communities as methods to improve the effectiveness of service provision to Aboriginal people.

#### ***Aboriginal court or community workers***

The federal government funds an Aboriginal Courtwork Program that offers support to the criminal justice system through Aboriginal Courtworkers. The program is not uniform across the country. The employer of the court workers depends on the jurisdiction, the types of activities the court workers engage in vary, and the level of collaboration with and support of legal aid plans is not the same across the country. For example, Courtworkers are employed by the legal services clinics in Nunavut; they are employed by the provincial or territorial government in the Northwest Territories and Manitoba; and they work for independent Aboriginal delivery agencies under contract with the provincial or territorial governments in other jurisdictions. Only two jurisdictions do not have an Aboriginal Courtwork Program (New Brunswick and Prince Edward Island) (Department of Justice Canada, 2013b, p. 12).

While in most jurisdictions, the Aboriginal Courtworkers do not work directly for the legal aid plans, they support the work of legal aid in a variety of ways. In some jurisdictions, Courtworkers will help people apply for legal aid or will assist lawyers by arranging interviews with clients and witnesses and ensuring they attend court, and providing translations if needed. Some Aboriginal Courtworkers will interview clients. NLSB, where Courtworkers are also employees of the legal services clinics, is currently developing advanced training so that workers

can conduct bail hearings, speak to summary matters, and potentially handle sentencing and trials in Justice of the Peace courts. However, in other jurisdictions, legal aid engagement with Courtworkers is more by cross-referrals. A recent evaluation on the Aboriginal Courtwork Program noted that “The Program is designed and delivered differently across the jurisdictions, reflecting differences in program scope, the demand for services, the roles of the Courtworkers, and availability of other programs and resources” (Department of Justice Canada, 2013b, p. 9). The evaluation also found that reduced access to legal aid was placing increasing pressures on some Courtworkers and recommended reviewing their roles and responsibilities (Department of Justice Canada, 2013b, pp. 58-59).

### ***Outreach and training***

Some legal aid plans conduct their own form of outreach to the Aboriginal community. This ranges from legal aid offices located in Aboriginal and Inuit communities to outreach without a physical office presence. CSJ has legal aid centres with staff lawyers in the Nunavik Region, and LAA has a legal service centre at Siksika Nation. LAA is considering adding a social worker to the Siksika Office, which currently has a staff lawyer, legal services officer, and administrative support. Other legal aid plans conduct outreach to targeted communities, such as NSLA, which goes to seven First Nations communities for legal aid intake appointments, and NBLASC, which has made serving Aboriginal communities a priority for two legal counsel positions.

Several legal aid plans (LAO, LAA, NLLAC, and CSJ) offer cultural competency and sensitivity training to build capacity among staff and private bar lawyers in order to better serve Aboriginal and Inuit populations. Some plans (LAO, LSS, LAS, and CSJ) also offer specific training to build awareness and facilitate the use of *Gladue* reports. These reports are intended to provide the court with information on the Aboriginal offender and their community and to provide a plan that includes alternatives to prison. The information in the reports is to be taken into account in sentencing.<sup>12</sup> There is the perception that *Gladue* reports are underutilized, and one recent study explained the lack of clarity regarding who is responsible for collecting information on Aboriginal background for sentencing purposes (Department of Justice Canada, 2013c, pp. 10-11). Some legal aid plans have taken on a leadership role to encourage the use of *Gladue* reports.

- ▶ LAO has undertaken several measures to support *Gladue* submissions, including asking all certificate applicants to identify whether they are First Nation, Métis, or Inuit, providing a five-hour extension of legal aid certificate coverage to cover the costs of *Gladue* submissions, and including information on *Gladue* and programs and services that focus on diversion in its Duty Counsel Manual. LAO applies *Gladue* principles to sentencing and bail hearings, as under Ontario law, *Gladue* principles apply when an Aboriginal person’s liberty is at stake.
- ▶ LAS is offering training on *Gladue* reports developed by the British Columbia Justice Institute to its lawyers, as well as Aboriginal Courtworkers.

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<sup>12</sup> In *R. v. Gladue*, the Supreme Court of Canada held that “in sentencing an Aboriginal offender, the judge must consider: (a) the unique system or background factors which may have played a part in bringing the particular Aboriginal offender before the courts, and (b) the types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular Aboriginal heritage or connection.”



- ▶ LSS has a *Gladue* Report Disbursement Pilot Project to fund the preparation of *Gladue* reports. A study of the pilot project found that judges and counsel believe the reports assist in sentencing and reduce incarceration of Aboriginal offenders. A review of case outcomes demonstrated an impact in some cases, with offenders receiving less time in jail.

Other methods of addressing the needs of the Aboriginal community include: concerted efforts to hire Aboriginal lawyers (NSLA and LAO both have formal initiatives); panel standards for Aboriginal issues (LAO); and EDC and Elder support at First Nations Courts (LSS).

#### **4.2.4 Reintegration**

Some legal aid plans in the United States are incorporating reintegration or re-entry programs into their slate of programs and services. These programs are based on the belief that by assisting clients with reintegration, legal aid plans may help reduce recidivism and improve the economic and social outcomes for clients. The San Francisco Public Defender's Office offers several programs as part of its Re-entry Unit. The Clean Slate Program helps clients expunge their criminal records, when that option is available. The Children of Incarcerated Parents program discussed above is also intended to help incarcerated clients focus on their legal and treatment issues by facilitating meetings with their children while they are in prison and making any needed arrangements for their child. In general, the Re-entry Unit's social workers assess client and family needs and provide referrals.

While not a formal program, the Bronx Defender provides re-entry assistance, if requested. Clients are informed that they can utilize office resources after their case or their period of incarceration. The office has a full-time lawyer who specializes in employment and will assist clients who are trying to re-enter the workforce. The Bronx Defender also has developed an online resource called Re-entry.net, which provides materials for professionals, as well as clients, on consequences of criminal proceedings and potential issues related to re-entry.

### **4.3 Efficiency**

Efficiency considers methods to promote/increase the cost-effectiveness of legal aid (e.g., streamlining processes, reducing costs in some areas through use of new technology, use of non-lawyers or paraprofessionals).

#### **4.3.1 Knowledge management**

The criminal justice system is a complex system of rules involving multiple actors with defined roles but who also have large amounts of discretion. The criminal justice system interacts with the broader justice and social services systems in interdependent and sometimes conflicting ways, and its decisions have wide-ranging consequences.

Understanding complex systems, such as the criminal justice system, has led to a sub-discipline that is often referred to as knowledge management. In the legal profession, knowledge management is identified as a key way for law firms to reduce risk, improve outcomes for clients, avoid duplication of efforts, and streamline the provision of legal services (Parsons, 2004). Knowledge management includes the sharing of information within the legal unit (e.g., precedent

databases, Intranet services, opinions), as well as client relationship systems (e.g., shared system that allows the client to track progress and costs) (Susskind, 2010). Knowledge management is usually applied to the law firm setting, which works well for staff legal aid plans. Adapting and applying knowledge management to mixed models is undoubtedly more complicated.

There are at least two types of knowledge management for legal aid plans. One involves the sharing of knowledge about the client and their legal and non-legal needs. This has been discussed above and is addressed by the triage or intake processes used by LAO, LAA, and the Bronx Defender. Although each is quite different in approach, they all involve gathering pertinent information to stream or connect clients to appropriate services, and to share within the legal aid plan in order to maximize the effectiveness of the interactions with the client. Technological approaches for sharing client information, such as client or case management systems, are dealt with in Section 4.3.3.

The other type of knowledge management relates to sharing legal information to assist with managing the case. The study found several examples of this type of information sharing and support.

- ▶ Some plans offer access to legal specialists that lawyers (staff and private bar) who are representing legal aid clients can contact for advice. LAO LAW has staff members with subject matter expertise in criminal law, Aboriginal legal issues, family law, immigration and refugee law, correctional law, and mental health law. The Massachusetts Public Counsel has specialized units in immigration, civil consequences, and forensics. NSLA allows private bar lawyers handling legal aid cases to use its legal researcher for assistance on criminal law topics.
- ▶ LAO LAW also offers lawyers handling legal aid cases access to its online legal materials that include precedents, factums, general and issue-specific legal memoranda, and a forensic science database, among other resources. LAO LAW has also established memoranda of understanding with other legal aid plans (LAA and LAM) to access its database of legal memoranda and case law.
- ▶ LSS has lawyer e-services that include a database that can be used to search for experts.
- ▶ Massachusetts Public Counsel has a listserv that allows legal practitioners to discuss issues with each other. The listserv is also monitored by the specialized units so they can provide advice, as needed.
- ▶ The Massachusetts Public Counsel's forensics unit also maintains past transcripts of expert testimony used by the prosecution, which are shared with lawyers who will be cross-examining the same expert in their case.
- ▶ The San Francisco Public Defender's Office was awarded a U.S. Department of Justice grant to create a locally and nationally applicable checklist program. The checklists are to ensure competent representation and avoid errors. Their use is also expected to make the handling of a case more efficient, as well as support consistent training on quality. The program is based on the *Checklist Manifesto*, which promotes the use of checklists in the health care setting (Gawande, 2009). Currently, the San Francisco Public Defender's Office has developed over 40 checklists for a variety of scenarios (e.g., homicide cases, first 30 days; DNA cases; arson cases, first 30 days; preparing a DUI case).

- ▶ In addition, all legal aid plans in the study offer professional development opportunities, including in-house training. Some of the legal aid plans with mixed models offer these opportunities to the private bar as well.

As discussed above in Section 4.2.2 on holistic defence, the young Canadian lawyers interviewed expressed a desire for more specialist resources to be made available to legal aid lawyers, as well as more specific information to be gathered on clients at intake (e.g., mental health status; other health issues, such as addictions, Fetal Alcohol Spectrum Disorder, brain trauma). In addition, more sharing of legal resources, such as precedents and legal research, was also suggested.

### **4.3.2 Mix of counsel**

No studies have been conducted on when a staff model is most appropriate or the optimal mix of staff versus private bar for a mixed model. Some plans noted that having an appropriate mix of staff and private bar is needed to maintain costs. Given that legal aid tariffs are below market rates, there is a risk of the private bar withholding service. Having a strong complement of staff lawyers is thought to reduce or manage that risk. For some aspects of legal aid practice, staff lawyers are also considered to be more cost-effective than the private bar.

Plans that rely primarily on the staff model tend to be the smaller plans, often in jurisdictions with a small and dwindling number of private bar lawyers willing to take criminal legal aid cases. For these plans, maintaining at least a limited mixed model is important in order to manage conflicts and the volume of legal aid matters. Other smaller jurisdictions, where the private bar numbers are very small, have created “firewalls” between legal aid offices so that they can manage conflicts and represent all of the defendants in multi-defendant cases.

### **4.3.3 Use of technology**

The use of several forms of technology has been discussed in Section 4.1 (Accessibility), in particular, the use of call centres and online service options. In addition, several legal aid plans are moving to more integrated information management technology in order to improve efficiency and better support business planning. Two legal aid plans are in the process of either improving or developing this type of system (NLLAC and NBLASC). These integrated systems incorporate different business lines, as described below.

- ▶ LAO has developed Legal Aid Online, which includes certificate processing and billing information, allows for fast-track requests for modifications to certificates or additional hours, and enables the private bar to submit accounts for payment online. This online system is supported by the Lawyer Service Centre, which handles telephone inquiries from lawyers.
- ▶ LAM is developing an integrated system, which will eventually include all of the following: online applications (for counsel to submit applications); certificate information (counsel can accept or decline online); disclosure (will be scanned and made available electronically); and online billing.<sup>13</sup>

<sup>13</sup>

There are no plans for online applications for clients at this time.

- ▶ CSJ is creating an integrated system that will include application and cost-recovery information.
- ▶ LSS has a client management system that includes intake, case management, and billing.

In terms of other technology, some jurisdictions have video-bail technology that is being used. Responses of plans to this technology were mixed.

Young lawyers commented that the use of technology is an area where legal aid plans can generally improve. As the justice system becomes more automated and integrated, it is important that legal aid keep pace. Young lawyers believe legal aid plans are currently behind in their ability to handle electronic disclosure.

Internationally, the improved use of information technology is also considered a major innovation for legal aid plans. England/Wales, Scotland, and New Zealand, in particular, have made recent technological improvements. A review of these efforts shows that Canadian plans, in general, are not lagging in terms of their use of technology.

New Zealand is in the process of developing online processing for legal aid applications and has recently improved its information technology system for managing legal aid grants. New Zealand credits its new information technology systems for improving its ability to track costs with more specificity and conduct benchmarking. They can now determine average case cost and the cost of individual activities, which has enabled New Zealand to better forecast its costs and to change its payment system from hourly to a fixed-fee regime.

England/Wales have recently invested substantially in electronic case management infrastructure so that service providers can interact mostly through electronic systems. Currently, the new integrated system, which includes digitized evidence, and enables payment and billing electronically, is available for civil matters only, but the expectation is to move criminal legal aid online over the next three years. The digitization of evidence in England and Wales is in response to a major move by the police, Crown, and the courts to move away from paper files. Legal aid believes that this movement to digitized documents should increase efficiency in several ways. First, it reduces the adjournment of matters because the necessary documentation has not been received; second, it means that all criminal justice system actors receive the same information at the same time and do not have the administrative burden of sending materials to each other; and third, defence counsel can now search large volumes of documents easier. The Ministry of Justice in England/Wales is also planning on increasing the use of email or video hearings for first appearances.

Scotland also recently instituted an online application system and has almost completed moving all billing online as well. Legal aid in Scotland is also leading a “justice-wide” project to promote the use of video-conferencing technology for court proceedings, prison visits, and the provision of advice and attendance at police interviews. The use of video-technology is anticipated to reduce costs in terms of travel time billed to legal aid.

#### **4.3.4 Stronger business practices**

Legal aid plans have worked on developing their business practices, which have been aided by the improved information management technology discussed above. The benefits of strong business practices include minimizing risk, building a better business case for legal aid, and improving the efficiency of the legal aid system. Examples of the types of business practices being used by legal aid plans include the following:

- ▶ use of forecasting models so that the legal aid plans can identify costs and assess whether they will meet their budget targets; these models also help the legal aid plan respond quickly to fluctuations in demand and revenue. (LSS and CSJ)
- ▶ process mapping to find efficiencies and improvements (LAO)
- ▶ development of business plans (LAO)
- ▶ mechanisms to capture the supply of lawyers to handle legal aid matters (LSS and CSJ)
- ▶ training of management staff on financial and human resources issues (CSJ)
- ▶ enhanced financial investigative measures (LAM)
- ▶ development of complexity-weighted caseload performance tool, which supports more accurate business analysis (LAM)
- ▶ regular meetings of Chief Financial Office with managing lawyers (NSLA)
- ▶ improved tracking of staff lawyer time (NSLA)
- ▶ audits and new accounting standards to improve transparency and accountability (NSLA)
- ▶ strategic and other planning sessions (NSLA, LAS)
- ▶ a certificate management process for more accurate estimations of outstanding liabilities (NSLA)

#### **4.3.5 Alternative fee arrangements**

In the hourly world of private practice, alternative fee arrangements (AFAs) are still relatively new. In legal aid, the use of fixed or block tariffs for certain basic legal aid services is now quite common. However, there is recent interest in the other forms of AFAs, such as the use of a block contracting process, whereby a lawyer or firm would be awarded a set number of cases for a fixed amount that would be paid in regular installments. LAO is beginning a pilot project to explore this approach, which is anticipated to reduce administrative expenses. There are potential risks to the use of block contracting, as lawyers are incentivized to resolve matters quickly and choice of counsel is limited.

#### **4.3.6 Case management**

Targeting resources to manage areas with the highest risk to an organization is a common refrain in the law practice management and risk management literature. A major risk identified by legal aid plans are “big cases,” which constitute a small fraction of the legal aid plan’s certificates but can consume a much larger proportion of the annual budget. These cases are also a key source of delay in the criminal justice system. In addition, they are also often complex, high-profile matters that

need to be handled expertly to maintain confidence in the legal aid system. A study for the Ontario Attorney General suggested two key features of effective Big Case Management: higher fees for highly-qualified counsel and enhanced budget oversight (LeSage and Code, 2008). Several legal aid plans have instituted Big Case Management initiatives that have one or both of these key features.

- ▶ LAM’s Big Case Management defines big cases by the amount of expected fees but also by the type of case (e.g., homicide, multiple accused, gang-related, dangerous, or long-term offender). LAM establishes a case budget and uses case managers to monitor, review, and approve expenditures.
- ▶ LAA’s High Cost Cases are defined by the amount of cumulative expenditures, but these cases tend to fall into certain categories of offences (e.g., drug conspiracy, provincial fraud, murder, manslaughter). LAA has retained a senior criminal defence trial lawyer who assesses the defence strategy and provides recommendations to LAA on how to control expenditures.
- ▶ LSS uses senior members of the criminal bar to assess the reasonableness of the budgets that have been submitted by counsel and review billings under its Criminal Case Management (CCM) policy. LSS has an enhanced fee rate for senior counsel handling a CCM case. LSS will also pay an exceptional responsibility premium in those few cases where the Crown prosecutor is receiving a “Recognition of Exceptional Responsibilities” premium in accordance with their collective agreement. Recently, LSS entered into a Memorandum of Understanding with the Ministry of Justice, whereby if the costs of a case exceed \$175,000, the case is funded by the Ministry and not legal aid.
- ▶ CSJ has a mega-trial designation and under provincial law must ensure that services of a competent lawyer are provided. CSJ has a separate tariff of fees for this type of trial and a list of competent lawyers. This system has reduced the delays and costs of mega-trials in Quebec.
- ▶ LAO’s Big Case Management sets individual budgets rather than using the tariff system. For exceptional cases (above \$75,000), LAO uses a committee of senior criminal lawyers with experience defending large cases to provide budgetary recommendations. LAO also uses a separate, and higher, complex criminal case tariff rate for counsel handling these matters. LAO reports that this program has resulted in fewer resources being used, more cases being properly managed, and accounts paid more promptly. LAO is now expanding case management to mid-level criminal matters, where costs are anticipated to exceed \$8,000 but will remain under the Big Case Management threshold.
- ▶ NSLA’s Big Case Management protocol currently applies to private bar lawyers and will be applied to staff counsel starting in 2014–15. For cases identified through the protocol, there is active case management through setting a budget, creating a work plan, and monitoring of progress using the work plan. Budget setting and assessment of defence proposals examines 11 factors, including nature of the offense, relative complexity, nature of legal issues, involvement of experts, volume and complexity of disclosure.

#### 4.3.7 Use of non-lawyers

One method of increasing cost-efficiency in an organization is to delegate appropriate matters to less expensive staff and to ensure that all staff are working to their full scope of practice. The study found that legal aid plans are using paralegals, other paraprofessionals, law students, and articling students in various ways.

Most plans rely primarily on paraprofessional staff that are known by a variety of names, such as court workers, legal aid officers, legal aid workers, etc. They engage in a variety of tasks, which depends on the legal aid plan and even the offices within the legal aid plan. Some activities they might engage in include: conduct intake of applications; refer to appropriate services; assist lawyers with client questions, prepare court materials; interview clients; and interview sureties for bail. Among those plans with an EDC program, these staff are typically part of the EDC team.

Each jurisdiction in Canada has its own rules that govern the scope of practice for paralegals. Most plans found it challenging to use them effectively for criminal legal aid. Some plans had used them in a similar capacity to law students; they gathered information from the accused and helped prepare them for their court appearances. It was noted that some lawyers used paralegals to their full scope better than others (which viewed them more as secretaries). Some plans (NSLA and LAO) are looking into how to use paralegals more effectively. The young lawyers interviewed noted that some legal aid plans are experimenting with the greater use of paralegals. It was suggested that paralegals could help expand current coverage by providing duty counsel services in traffic court.

Some plans are using law students or articling students to address certain needs. LAM uses extra-provincial articling students for northern legal aid offices. This program is considered a success, as some articling students have continued to work in the northern region as private bar. Other plans like NLLAC, LSB-NWT, and NSLA use articling students to assist duty counsel. NBLASC has law students assist counsel with legal research. LAA allows law students who are registered with the Law Society of Alberta to be on the roster and take their own cases.

The young lawyers believe increasing the use of students and articling students would assist under-staffed legal aid plans. In particular, law students could be used as a resource for doing legal research.

### **4.3.8 Processes to manage system delays**

The study found several examples of how legal aid plans have focused efforts on addressing issues that are intended to reduce delays and increase efficiency.

#### **Applications**

Plans have worked to streamline application processes to make earlier decisions, which should result in lawyers becoming involved with the clients sooner. LAS and LAM consider client wait times to connect with counsel an important performance measure because it reduces the number of appearances and enables earlier disclosure. LAM has recently begun allowing private bar lawyers to accept or decline certificates through an online system, which is intended to accelerate the process of certificate issuance and acceptance.

Some plans have focused on improving the information on the application status available to the court. Both NLLAC and LAM found that many accused were making multiple appearances because they had either not yet applied for legal aid or did not know the status of their application. To reduce this inefficiency in the system, they instituted a process where the applicant gives legal aid permission to discuss the application status with the court. The legal aid plan prepares an annotated docket on legal aid application status for counsel. This process is believed to have reduced the number of appearances where accused have not applied/do not know the status of their application.

#### **Continuity of counsel**

Continuity of counsel is recognized as an issue that impacts the efficiency of the criminal justice system and, therefore, the cost-effectiveness of legal aid. The primary innovation related to continuity is the use of EDC, which assigns counsel to the same court on an ongoing basis so they can assist the same client on more than one appearance. Jurisdictions that do not have EDC or have circuit courts tend to experience difficulties with continuity of counsel. One plan (NLSB) has moved from a duty counsel model to an approach that assigns the lawyers from first appearances to those files that are likely to proceed to trial. This “linear file assignment” is intended to improve continuity of counsel and, thereby, reduce duplication of legal work and improve the consistency of the legal advice provided to clients.

#### **Choice of counsel**

Legal aid plans are moving to restrict choice of counsel or reduce changes of counsel in order to minimize duplication of work, reduce delays in the system, and ensure appropriate counsel is chosen for complex matters. Some jurisdictions restrict choice of counsel except for serious offences (e.g., maximum penalty if convicted is life imprisonment). Others allow clients to state a preference, but maintain the right to appoint counsel (LAA). Even in the situation of serious offences, some jurisdictions are moving to a process whereby they will consult with clients regarding choice of counsel to ensure that counsel with appropriate experience is chosen (LSB-NWT).

Some legal aid clients have difficulty with their assigned counsel and may cycle through a number of counsel on the same certificate. While their number may be small, they can create delays and costs to the legal aid system. In response, LAO recently undertook a pilot project to



reduce the number of requests on major criminal cases by having the case management office review the requests and discuss strategies for resolving the issues with the lawyer and client.

### **Early resolution**

The young lawyers interviewed believe that the system needs to consider what the barriers are to resolving matters and institute better processes to support early resolution. They noted that the ability to resolve matters early is very much dependent on other actors in the criminal justice system, particularly the Crown prosecutor. As a result, young lawyers pointed to several areas where Crown practices created delays and worked against early resolution:

- ▶ lack of file ownership for all but the most serious files
- ▶ unwillingness/inability of Crown to negotiate until trial day, which creates incentives for defence to set matters for trial
- ▶ lack of experience or confidence of Crown to resolve matters early
- ▶ failure to get timely disclosure from Crown, but also from police (e.g., receiving disclosure at first appearance or even later)

One suggestion made, based on positive experiences in some jurisdictions, was the institution of a Duty Crown, whose role is to work with duty counsel to resolve appropriate matters early. Another innovation that was perceived to be working in jurisdictions with circuit courts was having legal aid counsel and Crown prosecutors assigned to files so there is more continuity. It was reported that this approach allows legal aid counsel and the Crown prosecutor to become more familiar with each other, building the necessary trust and cooperation to help resolve appropriate matters sooner. Another approach that was working in one location involved partnering with the court liaison officers to get earlier access to disclosure. Finally, one suggested innovation, which is not currently in use, involved the creation of a disclosure centre or a disclosure liaison person to handle disclosure management. This entity/individual could be part of the Crown, police, or an independent party through the law society.

The study found other examples of legal aid plan efforts to reduce delays that involve agreements with other actors in the system. In particular, the NLSB and the Public Prosecution Service of Canada have agreed to increase efforts to provide disclosure at the first court appearance. NLLAC and the Crown have entered into a formal agreement under which the Crown's position is provided earlier.

LSS has made two recommendations related directly to early resolution processes. While the concept of EDC noted above under continuity of counsel is considered the best approach in high-volume locations, LSS suggests the use of early resolution referrals in locations with lower volume. This delivery method allows ad hoc duty counsel to retain non-complex matters. Under current LSS policy, counsel cannot retain referrals under conflict of interest provisions. This policy would be changed to enable smaller locations to benefit from a delivery method similar to EDC. Another suggestion by LSS is to create a disposition court and provide counsel with an early resolution tariff for their attendance at the court (LSS, 2012, pp. 27-28).

### 4.3.9 Systems approach

This section considers efforts underway to improve efficiency from the perspective of cross-sectoral approaches and criminal justice system-wide approaches. The efforts are either spearheaded by or involve legal aid plans. They involve broader and/or more regular collaboration and reflect the view that a more systemic approach is required as the issues are shared and their resolution cannot be achieved without joint action.

#### Cross-sectoral

The study found few examples of formal cross-sectoral approaches outside of the therapeutic court setting. Legal aid plans tend to engage with other sectors through developing networks of referrals, as opposed to efforts to address system issues, based on the information available to the study.

- ▶ LAO's MHS (discussed in Section 4.2.3) is one example. The strategy is still being developed but involves committees of mental health experts and justice professionals.
- ▶ In Quebec, representatives from the legal aid centres are participating in roundtables, primarily related to mental health and justice across various regions in the province. Legal aid lawyers are involved to mainly address issues relative to the criminal and penal aspects of mental health. Several stakeholders are involved in the roundtables, including the Ministry of Health and Social Services, the Barreau du Québec, judges, the Office des personnes handicapées du Québec, and the Ministry of Justice.
- ▶ LAA is involved in the Heavy Users of Service (HUOS), which is a cross-sectoral, collaborative approach to addressing the needs of heavy service users of police, health care, social agencies, and legal aid. HUOS meets to address the needs of particular clients, so client consent to share information is necessary. This is a very recent initiative, and currently there are nine individuals who have consented.

#### Criminal justice system

Criminal justice inefficiencies arise from a variety of factors and the need for a system-wide response is recognized (Dandurand, 2009). Both the recent British Columbia Justice Reform Initiative and the Ontario Justice on Target (JOT) strategy point to changes by all key justice stakeholders in order to improve the system.

Through its JOT strategy, the Ontario Ministry of the Attorney General (MAG) aims to address delays in criminal court by using an evidence-based approach to increase the effectiveness of the province's criminal courts. The strategy uses a target number of appearances and a target number of days until resolution for three types of cases, including less complex matters (e.g., break and enter, theft, mischief), more complex (e.g., homicide, sexual assault, gang-related charges), and cases that involve both provincial and federal charges. The JOT strategy involves numerous initiatives that are meant to improve the province's ability to meet the established targets. These initiatives include changes to the way Crown prosecutors' cases are managed and offices are structured, increasing the availability of plea courts, and maximizing the use of video-conferencing for pleas or private consultations between defence counsel and in-custody clients (MAG, 2013). LAO has participated through its efforts to streamline the application process through being available in courthouses, and the development of the SOAP and SFET (see

Sections 4.1.1 and 4.1.3). LAO also worked with the MAG and its partners to develop performance measures for the JOT strategy.

The British Columbia Justice Reform Initiative created an action plan for justice system improvements after extensive public consultations. The action plan focuses on increasing the transparency and accountability of the justice system through the use of evidence-based approaches. The White Paper emphasizes the need to measure impacts and evaluate reforms in order to assess what has worked (BC Ministry of Justice, 2013). To be able to achieve the reforms requires actions by the judiciary, Crown, police, corrections, legal aid, and other stakeholders (BC Ministry of Justice, 2012). The action plan included some of the recommendations made by LSS in its submission, in particular the use of EDC (see Section 4.3.8 on Early Resolution).

In addition to these major initiatives, several legal aid plans have ongoing, collaborative relationships with criminal justice stakeholders that meet periodically to discuss overarching issues, identify problems, and work out solutions (e.g., LSS, NLLAC, LAM, NLSB, and LAO). For example, Manitoba Justice has created an Innovation Team that includes LAM and the Crown. Nunavut has a trial efficiency committee that includes the judiciary, the Crown, and NLSB. These stakeholders are also collaborating around court scheduling. In some jurisdictions, collaboration or consultations on system issues occur, but less regularly.

The young lawyers interviewed suggested several innovations that would improve the efficiency of the system, but cannot be achieved solely by legal aid and require collaboration among criminal justice system actors:

- ▶ The court system needs to share information to ensure that family court and criminal court are not making conflicting or duplicative orders.
- ▶ The criminal justice system is clogged by breaches. It was suggested that these types of administrative offences be decriminalized.
- ▶ The courts should use telephone or video-conferencing for simple adjournments rather than having to attend court (both in urban and rural centres).
- ▶ The court should improve scheduling so that counsel are not waiting for hours for their cases to be called.

The above discussion focuses on the approach to collaboration primarily at the provincial level. Canada also has a collaborative approach involving the federal, provincial/territorial, and legal aid plans through the PWG. A recent evaluation found that members considered the PWG to be a useful forum for networking and sharing information, although there was a desire for more discussions of implications for legal aid of certain policies under consideration (Department of Justice Canada, 2012). In England and Wales, where the Ministry of Justice is responsible for the criminal justice system, criminal law, and legal aid, there is a more formal consultative approach on legislation, as bills must undergo an impact assessment process, which includes the impact on legal aid.

## 4.4 Accountability

### 4.4.1 Performance measurement

There is growing understanding of the importance of performance measurement for legal aid and the justice system. The Canadian and American Bar Associations and the Australian government have all recently commissioned studies related to performance measurement (Beeman, 2012; Canadian Bar Association, 2013; and Curran, 2012). The studies found that the justice system and indigent defence have been slow to embrace empirical performance measures, which has resulted in the lack of an evidence base to support the development of best practices, the spread of innovative approaches, and the business case for legal aid. As Beeman wrote: “If you are doing something innovative, measure it to protect it” (Beeman, 2012, p. 25).

The current study found that some legal aid plans are further along with using performance measurement and evaluation to determine effectiveness and efficiency. That being said, there is still little performance data. This is due to many reasons. Legal aid plans struggle with how to measure their work within their own system. For example, determining the unit of measure is complicated (e.g., counting certificates versus legal matters/cases); recording accurate duty counsel data in the courtroom environment is difficult; and even if data are captured in information technology systems, resource constraints limit analysis and reporting. In addition, justice data, while important for measuring outcomes, are often not available or of variable quality, and, finally, there are not integrated measures across legal aid and the criminal justice system to enable a broader system-wide understanding of how their performances intersect and influence each other.

The study did not conduct a comprehensive assessment of performance measures in use by legal aid plans, but the following provides examples of the variety of measures and approaches being used.

- ▶ LAA has created a performance monitoring framework, which includes measures on client outcome, client satisfaction, staff development, financial accountability, and operational outcomes. LAA is also tracking outcomes for first appearances handled by duty counsel.
- ▶ LSS has a performance management system that includes surveys with stakeholders (clients, lawyers, staff, and the public) and financial targets (budget to actual expenditures). LSS has contracted with outside consultants to evaluate several of its programs and pilot projects.
- ▶ LAO has a performance measurement project, as well as a new internal audit and program evaluation unit. Staff were provided training in performance measurement. To measure its performance, LAO tracks indicators across several business lines: the CSC (e.g., call volume, wait time); the EDC program (e.g., clients served, number of assists, dispositive outcomes); and staff counsel (e.g., percentage of time providing direct service to clients). LAO also conducts annual surveys of its stakeholders using the Common Measurement Tool.

- ▶ LAM’s creation of the “complexity-weighted caseload” tool has allowed it to begin making cost comparisons with the private bar. In addition, LAM is measuring the length of time between issuing the certificate and its acceptance by counsel, which is an efficiency measure.
- ▶ NSLA and the Nova Scotia government have established benchmarks and targets for youth justice, which include time to first appearance and case processing times (arrest to disposition).

Internationally, some legal aid plans have developed performance measures with targets that are aligned with their strategic objectives. These key performance indicators (KPIs) are reported to their Ministry of Justice and published online. In England/Wales, the KPIs relate to financial management and assurance, operational performance (e.g., processing times for bills and applications), response to complaints, and improving staff engagement. Australia has recently been active in developing KPIs both federally and at the legal aid commission-level. The 2010 National Partnership Agreement (NPA) for Legal Assistance Services has a civil law focus, given the constitutional division of authority related to civil and criminal law (with the latter largely within state jurisdiction). Although not related to criminal legal aid, the NPA is of interest as an effort to develop performance targets and KPIs across a federal legal aid system. In addition, Australia has begun work on building an evidence base for the civil justice system, which will involve data collection of all key stakeholders. This work is still underway, but is considered a bottom-up effort that begins with determining metrics and assessing what data are available (Canadian Bar Association, 2013, pp. 14-17).

In Scotland, the publically-available information does not define its “headline” indicators, but, of particular interest is the integration of KPIs across the criminal justice system. The Scottish National and Local Criminal Justice Boards have access to a secure, web-based information management system that includes over 34 KPIs that cover all stages of the criminal justice process (from charge to disposition). Data are provided by all eight police forces, legal aid, the Crown, the courts, and the prisons service. The National and Local Criminal Justice Boards can review the data to see snapshots of system-wide performance and to identify pressure points (Scottish Government, 2009).

Overall, a recent study provides the following set of best practices for developing a robust performance measurement system:

- ▶ “invest in a flexible case management system and take the time to identify meaningful measures to track and report on
- ▶ find partners with whom to collaborate, such as academic institutions and criminal justice coordinating councils
- ▶ get the training and information needed to understand research basics: what are meaningful “inputs, outputs and outcomes”? If possible, invest in research staff; their work can sometimes pay for itself through programmatic savings achieved
- ▶ reach out to other public defender agencies that are farther down the road to learn from their experience” (Beeman, 2012, p.28).

#### 4.4.2 Quality control

Performance measures consider quality of service provision by the legal aid plan. Another dimension of accountability is the assurance of the quality of legal aid service provision by counsel.

In Canada, quality control appears to be handled mostly through roster standards and annual performance reviews for staff counsel. All legal aid plans have roster or panel standards that set minimum requirements that counsel must meet in order to handle legal aid matters. Some (often larger) plans tend to have different sets of panel standards, depending on the type of legal aid work (e.g., criminal, major case, family). LAO also requires certificate lawyers to complete an annual self-report each year in order to maintain their standing. The most recent report of LAO notes that 95% of lawyers are complying, which LAO infers means that the lawyers take the panel standards and reporting requirements seriously.

Several plans offer some form of formal mentoring. LAO has qualified senior lawyers to serve as mentors to more junior counsel. This program is expanding to enable junior counsel to second chair to assist with cases in the Big Case Management Program. LAO is also exploring opportunities to offer this mentoring on other matters to enable junior counsel to gain experience so they can transition to Big Case Management work. NSLA offers mentoring to new staff and supports mentors with training. LAA also offers one-on-one mentoring or online mentoring (via email advice within 48 hours by a senior counsel who specializes in that area of law).

Internationally, quality assurance took a variety of forms but involved greater assessment of individual lawyers than appears to occur in Canada.

- ▶ In New Zealand, everyone who applies to handle legal aid matters must undergo a vetting process that requires submission of work samples, information about their service delivery system, and at least two references. The government has created a quality assurance framework that applies to all legal aid providers, which essentially establishes panel standards, as well as practice standards for lawyers. The Ministry of Justice carries out quality assurance checks and audits to review the performance of legal aid providers. Lawyers are chosen for audits based on their risk profile, which includes legal aid earnings, number of legal aid cases, number of complaints, or other concerns.
- ▶ England/Wales use quality standards established by the Law Society, as well as by legal aid (called Specialist Quality Mark). These standards involve areas such as access to service, seamless service, operational management, and meeting client needs and essentially ensure that the service provider has processes in place to manage its staff and organization appropriately. In addition to these standards, legal aid uses independent peer review by experienced legal aid practitioners to assess a random sample of provider case files, as well as audits of legal aid providers.
- ▶ Scotland has a criminal quality assurance scheme where reviews are administered by a Criminal Quality Assurance Committee that appoints peer reviewers from a panel of experienced and practicing criminal solicitors. The reviews are based on the Inadequate Professional Services standard, which asks reviewers not to second-guess a peer's judgement but instead call into question situations where "no reasonable solicitor would

have conducted the case in the way demonstrated by the contents of the file” (Scottish Legal Aid Board, 2013).

- ▶ The Massachusetts Public Counsel has established a certification program for private bar attorneys handling legal aid matters. The process includes initial certification, and then recertification is required after four or five years. The certification requirements depend on the type of case (e.g., murder, superior court, district court, youth, or appeals). For example, the minimum requirements for murder cases include “five years of criminal litigation experience and lead counsel in at least ten jury trials of serious and complex cases within the last five years, at least five of which have been life felony indictments, in which the cases resulted in a verdict, decision or hung jury” (Committee for Public Counsel Services, n.d.). The Massachusetts Public Counsel has also published detailed performance standards that are included in its Assigned Counsel Manual. The standards are similar to a detailed checklist of the stages of various kinds of cases (e.g., murder, superior court, district court). Periodic performance reviews are conducted of attorney’s performances on cases (Committee for Public Counsel Services, 2011).

## 5.0 Approaches to change

Change management literature rarely addresses the justice sector (either law firms or organizations/agencies in the public sector). Justice actors are not known for being innovative or early adopters of new approaches, a view also held by several interviewees of this study. The change management literature identifies many of the same drivers of innovation and change as the interviewees did. These innovation drivers include changing client demands, available new technology; financial crises; and government decisions (new laws, regulations, policies) (Kuipers, Higgs, Kickert, Tummers, Grandia, Van der Voet, 2014, p. 15). These external drivers of change are often part of larger shifts (e.g., the economic crisis of 2008) that affect many organizations. For legal aid, the drivers of innovation included a financial imperative (as discussed in Section 3.0), availability of new technology (e.g., call centres, online billing), and law reforms or procedural changes that affect legal aid's work.

Interviewees pointed to several barriers to innovation. The barrier most often mentioned was funding, as new initiatives require additional funding, at least initially, until efficiencies are realized. Because innovations require resource (money, human) commitments, interviewees pointed to the need to have a strong evidence-base for the innovation. However, performance and other data to support innovations are often lacking, it was noted. While legal aid plans may track certain measures, obtaining robust performance data often requires data from other justice stakeholders, which may not be available.

Another barrier cited was the culture of the legal profession, which is grounded in the traditional practice of law and its focus on lawyer autonomy, legal processes, adversarial roles, and solicitor–client privilege. These cultural aspects can, on occasion, create resistance to change that involves greater oversight or management of a lawyer's practice; is client-centered, requiring lawyers to consider a client's non-legal needs, as well as legal needs outside of criminal law; promotes collaboration with other justice actors to address critical system-wide pressures; and requires information-sharing with a wider range of stakeholders. Some of these barriers are not exclusive to legal aid and, in fact, exist with many criminal justice actors, which can reduce the capacity to engage in system-wide innovation.

Based on interviews, the approach taken to managing change is intuitive and depends on the type of change. However, a few lessons learned were provided by interviewees. Legal aid plans pointed to the importance of leadership to drive innovation forward and not let other actors set legal aid's agenda. At the same time, interviewees noted the importance of consultation, collaboration, and transparency when making innovations. Interviewees also emphasized that agendas to improve efficiency and effectiveness of legal aid must not lose sight of the indigent person who is receiving legal aid; innovation agendas can become about processes, technology, and standards, and the client and their needs gets lost or overlooked. These perceptions align with some of the main elements of effective change management identified in the literature, which include transformational leadership and consensus of the need for change (Kotter, 1996).

Based on the literature and interviews, it is clear that legal aid plans can innovate in some areas without the involvement of other justice actors (e.g., Crown, court, corrections). For example, legal aid plans can unilaterally use more robust business practices or create online options for clients and lawyers to interact with legal aid. However, legal aid also operates in an environment



that is complex and affected by the actions taken by other stakeholders, as well as broader social policy decisions.

This is true of many public policy issues today. For this reason, there is an increasing emphasis on approaches to innovation that involve cross-sectoral groups of stakeholders consulting to determine the innovations needed and then cooperating in their implementation. This method is intended to increase buy-in but also reduce inefficiencies of conflicting approaches or duplicating efforts. These approaches are often called social innovation or systemic innovation (Grimm, Fox, Baines, and Albertson, 2013).<sup>14</sup> There are some examples in the criminal justice sector but the approaches are either relatively new or have received little attention in the academic or professional literature.

Criminal Justice Coordinating Councils exist in several states and counties in the United States. They began in the 1970s but then entered a period of decline. There is a recent emergence and recognition of their potential, although there are few rigorous studies of their success (Nugent-Borakove and Beeman, 2013). Membership usually includes key criminal justice stakeholders (court, prosecutor, corrections, defence counsel, police, victims services) and representatives from other key sectors (e.g., health, mental health, education), although the exact composition depends on the jurisdiction. These councils consider issues from a system-perspective and attempt to find system-level changes to address the identified problems. The Justice Management Institute has now created a network of Criminal Justice Coordinating Councils to encourage the sharing of innovations and best practices across jurisdictions (Justice Management Institute, n.d.).

Another example of how to manage change is justice reinvestment, which is defined as “a systematic and collaborative method of decision-making that identifies data-driven approaches to reducing spending in the criminal justice system and redirecting the savings to criminal justice strategies proven to decrease crime and maintain public safety” (Lachman, Neusteter, Davies, and La Vigne, 2013). The model relies heavily on interagency planning and coordination across stakeholders. It considers criminal justice population drivers, and the resulting strategies can include any situation that drives criminal justice system costs (e.g., time from arrest to case disposition due to continuations; revocation of supervision; insufficient community supervision). While the focus of justice reinvestment tends to be on corrections, the costs and savings can span several agencies. A key component is the tracking of costs and savings across the relevant actors so that the innovations have an evidence-base on which to measure performance.

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<sup>14</sup> A new and creative approach for engaging in social innovation is Change Lab or Design Lab. The concept incorporates a number of disciplines, including group psychology, design thinking, and computer modeling. It was developed to address complex social issues. The approach brings together a variety of stakeholders to identify a problem and come to a common understanding of it. This serves as a platform for creating innovative solutions that are cross-sectoral. The Change Labs are iterative and can occur over months or even years (Social Innovation Generation, 2012).

## 6.0 Federal role

The study asked interviewees to comment on what should be the federal role in supporting the development and implementation of innovations/best practices and how the federal government could help to sustain accessible, efficient, and cost-effective criminal legal aid within its current level of funding. While funding levels remain a primary concern, interviewees identified several other roles for the federal government in supporting legal aid.

- ▶ **Having a vision:** The federal government can serve a leadership role by having a clearly-articulated vision about Canadian justice and the role of criminal legal aid. This suggestion incorporates an element of strategic planning in the sense of developing something akin to a vision statement that defines the purpose and the core values of the provision of criminal legal aid. The vision should be unifying and goal-oriented.
- ▶ **Promoting a culture of measurement:** Understanding what is working and what is not in the criminal justice system requires performance measurement. Without a professional culture that believes in the importance of evidence-based decision making and the critical role that performance measurement plays, the criminal justice system will not improve its ability to manage its many challenges. The federal government can play a role in promoting and facilitating the growth of performance measurement.
- ▶ **Serving an advocacy/leadership role:** Many of the issues confronting legal aid are inextricably linked to other areas of the criminal justice system. The federal government can serve a leadership role in advocating for and facilitating fora in which criminal justice stakeholders can engage in system-wide problem-solving.
- ▶ **Encouraging an interdisciplinary approach to legal aid:** The federal government can encourage and facilitate bringing an interdisciplinary perspective to criminal justice and legal aid issues. The legal profession (judges, Crown, defence counsel) often relies on itself to identify problems and solve them; however, different perspectives and approaches could bring new and innovative ideas.
- ▶ **Conducting research:** The federal government could establish and implement a research agenda on criminal justice system and legal aid issues. Studies like the current one are an example of the type of work the federal government could do. Other examples included policy analysis on the effects of legislation on the legal aid and criminal justice system.
- ▶ **Facilitating information sharing:** The federal government can assist with information sharing across legal aid plans. The PWG is certainly one forum for this but information sharing can and should also occur with other criminal justice stakeholders.
- ▶ **Considering the effects of policy and legislation on legal aid:** When developing policies and legislation, the federal government should consider their effects on legal aid. The impact on legal aid is not exclusively related to criminal law policies and legislation; other areas of the law (e.g., immigration law) can have substantial effects on criminal legal aid.

## 7.0 Summary

The study scanned innovations/best practices currently being undertaken by legal aid plans in Canada and selected plans internationally. To summarize, these best/practices and innovations represent a shift in the delivery of legal aid from the traditional legal service model to a more client-centred approach that also responds to economic exigencies through rigorous business practices and adoption of technological solutions. Table 3 outlines what the study found in terms of innovations/best practices in legal aid delivery by comparing it to the previous, more traditional approach to legal aid. Some of the innovations/best practices are longer-standing ones, but they appear to be more widely adopted and recognized as best practices.

<b>Table 3: Trends in legal aid service delivery</b>	
<b>From</b>	<b>To</b>
Limited entry points and channels	<ul style="list-style-type: none"> <li>• No wrong door (multiple entry points and channels)</li> </ul>
More circumscribed application process	<ul style="list-style-type: none"> <li>• Make the most of the first encounter with client (triage systems, early identification of client legal and non-legal needs)</li> </ul>
Certificate-based service	<ul style="list-style-type: none"> <li>• Unbundled services (legal information and referrals, summary advice, duty counsel, EDC)</li> </ul>
Assist only those eligible	<ul style="list-style-type: none"> <li>• Provide some level of service in the most economical manner to everyone who contacts legal aid (e.g., legal information and referrals provided through call centres, legal aid, or court workers)</li> </ul>
Traditional practice model focused on legal representation	<ul style="list-style-type: none"> <li>• Partnership in therapeutic and problem-solving courts</li> <li>• Use of multi-disciplinary teams, including social workers</li> <li>• Holistic defence</li> <li>• Identification of unique client needs/issues through specialized services (e.g., youth, Aboriginal, mental health), use of <i>Gladue</i> reports)</li> </ul>
Individualized legal aid practice	<ul style="list-style-type: none"> <li>• Adoption of knowledge management to share legal information and support legal aid counsel (e.g., online or telephone advice service for lawyers, databases with precedents and other materials, checklists for handling legal matters)</li> </ul>
More limited use of technology	<ul style="list-style-type: none"> <li>• Greater use of technology and more integrated technology (e.g., to handle intake, certificate information, case management, billing)</li> <li>• Use systems to gather data to track costs and conduct benchmarking</li> <li>• Greater use of video-technology for court proceedings, prison visits to reduce costs (e.g., travel expenses and time)</li> <li>• Move to digitization of documents (this is limited in practice, but is seen as a way to facilitate earlier provision of disclosure and court documents, which in turn will reduce adjournments and promote early resolution)</li> </ul>
Focus on legal practice	<ul style="list-style-type: none"> <li>• Greater emphasis on business practices (e.g., forecasting models for cost and demand, process mapping)</li> <li>• Increased use of methods for quality control of performance (e.g., performance reviews, peer assessments, checklists)</li> <li>• Evidence-based approach through greater use of performance measurement</li> </ul>
Silo approach	<ul style="list-style-type: none"> <li>• Greater consultation across criminal justice stakeholders (e.g., agreements to provide disclosure earlier, assign Crown and duty counsel to files, regular meetings to discuss issue of concern)</li> <li>• Collaboration with other sectors (e.g., mental health strategy)</li> </ul>

## References

- BC Office of the Provincial Health Officer. (2013). *Health, crime, and doing time: Potential impacts of the safe streets and communities act (former Bill C-10) on the health and well-being of Aboriginal people in BC*. Special report, March 2013. Retrieved April 1, 2014, from <http://www.health.gov.bc.ca/pho/pdf/health-crime-2013.pdf>.
- BC Ministry of Justice. (2012). *White paper on justice reform part one: A modern, transparent justice system*. Retrieved March 30, 2014, from <http://www.ag.gov.bc.ca/public/WhitePaperOne.pdf>.
- BC Ministry of Justice. (2013). *White paper on justice reform part two: A timely, balanced justice system*. Retrieved March 30, 2014, from <http://www.ag.gov.bc.ca/public/WhitePaperTwo.pdf>.
- Beeman, M. (2012). *Using data to sustain and improve public defense programs*. Retrieved March 28, 2014, from [http://texaswcl.tamu.edu/reports/2012\\_JMI\\_Using\\_Data\\_in\\_Public\\_Defense.pdf](http://texaswcl.tamu.edu/reports/2012_JMI_Using_Data_in_Public_Defense.pdf).
- Buckley, M. (2010). *Moving forward on legal aid: Research on needs and innovative approaches*. Report for the Canadian Bar Association, June 2010. Retrieved March 26, 2014, from <http://www.cba.org/CBA/Advocacy/PDF/CBA%20Legal%20Aid%20Renewal%20Paper.pdf>.
- Canadian Bar Association. (2014). *Legal aid in Canada*. Retrieved April 1, 2014, from [https://www.cba.org/CBA/Advocacy/Additional\\_Information/Legal\\_Aid\\_in\\_Canada.aspx](https://www.cba.org/CBA/Advocacy/Additional_Information/Legal_Aid_in_Canada.aspx).
- Canadian Bar Association. (2013). *Access to justice metrics: Envisioning equal justice*. Retrieved March 28, 2014, from [http://www.cba.org/CBA/Access/PDF/Access\\_to\\_Justice\\_Metrics.pdf](http://www.cba.org/CBA/Access/PDF/Access_to_Justice_Metrics.pdf).
- Canadian Bar Association. (2006). *Canada's crisis in access to justice*. Canadian Bar Association Submission to the United Nations Committee on Economic, Social, and Cultural Rights on the consideration of its review of Canada's fourth and fifth reports on the implementation of the *International Covenant on Economic, Social, and Cultural Rights*. Retrieved March 26, 2014, from <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/canadianbarassociation.pdf>.
- Committee for Public Counsel Services. (2011). *Assigned counsel manual: Policies and procedures*. Chapter IV. Criminal: Performance standards and complaint procedures. Retrieved April 9, 2014, from [http://www.publiccounsel.net/private\\_counsel\\_manual/CURRENT\\_MANUAL\\_2012/MANUAL\\_Chap4CriminalStandards.pdf](http://www.publiccounsel.net/private_counsel_manual/CURRENT_MANUAL_2012/MANUAL_Chap4CriminalStandards.pdf).
- Committee for Public Counsel Services. (n.d.) *Murder cases*. Retrieved April 9, 2014, from [http://www.publiccounsel.net/certification\\_requirements/criminal\\_cases/murder\\_cases.html](http://www.publiccounsel.net/certification_requirements/criminal_cases/murder_cases.html).
- Csete, J. and Cohen, J. (2010). *Health benefits of legal services for criminalized populations: The case of people who use drugs, sex workers and sexual and gender minorities*. *Journal of Law, Medicine & Ethics*. 38(4): 816-831.
- Curran, L. (2012). *A Literature Review: Examining the literature on how to measure the 'successful outcomes': Quality, effectiveness and efficiency of legal assistance services*. Retrieved March 31, 2014, from <http://predoc.org/download/docs-112282/112282.doc>.

- Dandurand, Y. (2009). *Addressing inefficiencies in the criminal justice process: A preliminary review*. International Centre for Criminal Law Reform and Criminal Justice Policy. Report prepared for the BC Justice Efficiencies Project Criminal Justice Reform Secretariat, June 2009. Retrieved March 30, 2014, from <http://icclr.law.ubc.ca/sites/icclr.law.ubc.ca/files/publications/pdfs/InefficienciesPreliminaryReport.pdf>.
- Department of Justice Canada. (2013a). *The final report on early case consideration of the steering committee on justice efficiencies and access to the justice system*. Retrieved March 30, 2014, from <http://www.justice.gc.ca/eng/rp-pr/csj-sjc/esc-cde/ecc-epd/toc-tdm.html>.
- Department of Justice Canada. (2013b). *Aboriginal courtwork program evaluation final report*. Retrieved February 13, 2014, from <http://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/13/acp-paa/acp-paa.pdf>.
- Department of Justice Canada. (2013c). *Gladue practices in the provinces and territories*. Retrieved March 5, 2014, from [http://www.justice.gc.ca/eng/rp-pr/csj-sjc/ccs-ajc/rr12\\_11/rr12\\_11.pdf](http://www.justice.gc.ca/eng/rp-pr/csj-sjc/ccs-ajc/rr12_11/rr12_11.pdf).
- Department of Justice Canada. (2012). *Legal aid program evaluation: Final report*. Office of Strategic Planning and Performance Measurement, Evaluation Division. Retrieved March 30, 2014, from <http://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/12/lap-paj/lap-paj.pdf>.
- Gawande, A. (2009). *Checklist manifesto: How to get things right*. London: Profile Books.
- Honourable James M. Flaherty, Minister of Finance. (2013). *Jobs Growth and Long-Term Prosperity. Economic Action Plan 2013*. Canada's Economic Action Plan, #eap13. Retrieved March 30, 2014, from <http://www.budget.gc.ca/2013/doc/plan/budget2013-eng.pdf>.
- Justice Management Institute. (n.d.). *Criminal Justice Coordinating Councils*. Retrieved April 2, 2014, from <http://www.jmijustice.org/resources/CJCC>.
- Kernaghan, K. (2010). *International innovations in public sector external service delivery*. Retrieved March 15, 2014, from <http://www.iccs-isac.org/en/pubs/FinalReport-June7-2010-FrontSection.pdf>.
- Kotter, J.P. (1996). *A force for change*. (2<sup>nd</sup> ed.). New York: Macmillan.
- Kuipers B., Higgs M., Kickert W., Tummers L.G., Grandia J., Van der Voet, J. (2014). *The management of change in public organizations: A literature review*. Public Administration 92(1): 1-20.
- Lachman, P., Neusteter, S.R., Davies, E., and LaVigne, N.G. (2013). *The criminal justice planner's toolkit for justice reinvestment at the local level*. The Urban Institute Justice Policy Center. Retrieved April 2, 2014 from <http://www.urban.org/UploadedPDF/412931-The-Criminal-Justice-Planners-Toolkit-for-Justice-Reinvestment-at-the-Local-Level.pdf>.
- Lamoureux, S. (2006). *The puzzle of Canadian legal aid*. Simon Fraser University. Retrieved March 30, 2014 from <http://summit.sfu.ca/item/7040>.
- LeSage, P. and Code, M. (2008). *Report of the review of large and complex criminal case procedures*. Report submitted to the Honourable Chris Bentley, Attorney General of Ontario, November 2008. Retrieved March 30, 2014 from [http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/lesage\\_code/lesage\\_code\\_report\\_en.pdf](http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/lesage_code/lesage_code_report_en.pdf).

- LSS. (2012). *Making justice work: Improving access and outcomes for British Columbians*. Retrieved October 22, 2013, from <http://www.lss.bc.ca/assets/aboutUs/reports/submissions/makingJusticeWork.pdf>.
- MAG. (2013). *Justice on Target*. Retrieved March 30, 2014, from <http://www.attorneygeneral.jus.gov.on.ca/english/jot/default.asp>.
- Martin, D. (2002). *A seamless approach to service delivery in legal aid: Fulfilling a promise or maintaining a myth?* Department of Justice Canada, Research and Statistics Division – Legal Aid Research Series. Retrieved March 27, 2014 from [http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr01\\_la20-rr01\\_aj20/rr01\\_la20.pdf](http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr01_la20-rr01_aj20/rr01_la20.pdf).
- Matthews, S. (2012). *Making the case for the economic value of legal aid: Supplemental briefing note*. The Canadian Bar Association, British Columbia Branch. Retrieved March 27, 2014 from [http://www.weneedlegalaid.com/wp-content/uploads/2011/10/Economic\\_Value\\_of\\_Legal\\_Aid\\_-\\_Briefing\\_Note1.pdf](http://www.weneedlegalaid.com/wp-content/uploads/2011/10/Economic_Value_of_Legal_Aid_-_Briefing_Note1.pdf).
- Mitchell, O., Wilson, B., Eggers, A., and MacKenzie, D. (2012). Assessing the effectiveness of drug courts on recidivism: A meta-analytic review of traditional and non-traditional drug courts. *Journal of Criminal Justice*, 40 (2012): 60-71.
- National Center for State Courts. (2013). *A community court grows in Brooklyn: A comprehensive evaluation of the Red Hook Community Justice Center. Final Report*. Retrieved April 9, 2014 from <http://www.courtinnovation.org/research/community-court-grows-brooklyn-comprehensive-evaluation-red-hook-community-justice-center-f>.
- Northwest Territories Justice. (2012). *Technical report – Analysis of federal Bill C-10, Safe Streets and Communities Act: Impacts on the NWT Department of Justice*. May 2012. Retrieved April 2, 2014 from <http://www.justice.gov.nt.ca/WhatsNew/documents/BillC-10TechnicalReportwithAppendixtabledMay292012.pdf>.
- Nugent-Borakove, M. E., and Beeman, M. (2013). *Fostering and sustaining criminal justice system reform: The potential of Criminal Justice Coordinating Councils*. The Justice Management Institute. Retrieved April 2, 2014 from <http://69.195.124.207/~jmijust1/wp-content/uploads/2014/04/Fostering-and-Sustaining-CJ-Reform.pdf>.
- Parsons, M. (2004). *Effective knowledge management for law firms*. New York: Oxford University Press.
- Public Safety Canada. (2010). The effectiveness of drug treatment courts. *Research Summary* 15(2). Retrieved April 9, 2014 from <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ffctvns-crts/ffctvns-crts-eng.pdf>.
- Scottish Government. (2009). *Safer and stronger, summary justice reform: System performance, monitoring and evaluation*. Retrieved on March 31, 2014, from <http://www.scotland.gov.uk/Publications/2009/07/10110349/7>.
- Scottish Legal Aid Board. (2013). *Criminal Legal Assistance Handbook*. Retrieved March 5, 2014, from <http://www.slab.org.uk/handbooks/Criminal%20handbook%20master%20copy/wwhelp/wwhelp1/jsp/html/wwhelp.htm#href=Part%20I%20Registration,%20compliance,%20quality/I%203%20Quality%20assurance.html>.

- Social Innovation Generation. (2012). *Labs: Designing the future*. Retrieved April 4, 2014 from [http://www.marsdd.com/wp-content/uploads/2012/02/MaRSReport-Labs-designing-the-future\\_2012.pdf](http://www.marsdd.com/wp-content/uploads/2012/02/MaRSReport-Labs-designing-the-future_2012.pdf).
- Statistics Canada. (2013a). *Legal aid in Canada: Resource and caseload statistics*. Retrieved March 27, 2013 from <http://www.statcan.gc.ca/pub/85f0015x/2012000/part-partie1-eng.htm>.
- Statistics Canada. (2013b). *Legal aid plan expenditures, by type of expenditure, \*Terminated\* annual*. Retrieved March 27, 2014 from <http://www5.statcan.gc.ca/cansim/a26?lang=eng&retrLang=eng&id=2580002&paSer=&pattern=&stByVal=1&p1=1&p2=38&tabMode=dataTable&csid=> .
- Statistics Canada. (2013c). *Legal aid plan revenues, by type of revenue, annual*. Retrieved March 27, 2014 from <http://www5.statcan.gc.ca/cansim/a26?lang=eng&retrLang=eng&id=2580001&paSer=&pattern=&stByVal=1&p1=1&p2=38&tabMode=dataTable&csid=> .
- Statistics Canada. (2013d). *Total legal aid applications by type of criminal and civil matter*. Retrieved March 27, 2014, from <http://www.statcan.gc.ca/pub/85f0015x/2012000/t019-eng.htm>.
- Susskind, R. (2010). *The end of lawyers? Rethinking the nature of legal services*. Oxford: Oxford University Press.

## **Appendix A – Document and literature review template**



**Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present**

**Note: We will consider both efficiency and access to justice. Efficiency means using practices to promote/increase cost effectiveness (e.g., streamlining processes, reducing costs in some area through use of new technology, use of non-lawyers, enabling people to assist themselves for simple matters, etc.). Access to justice focuses on increasing scope, accessibility, and quality of criminal legal aid services.**

Organization	Service delivery			Operations				System approach	
	PLEI/self-help	Application process	Legal service provision	Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure	Partnerships	Law reform
List legal aid plan	Public legal education (informational materials) and self-help materials or aids (JUST those for criminal law)	The focus here is not on best practices in streamlining application process or making more cost-effective for legal aid but is about access to justice – making application process easier/more accessible for clients.	This includes any efficiency or access to justice improvements. Things like: expanded duty counsel; special law offices for youth and indigenous peoples; video bail hearings; use of court workers; and greater use of online services or call centres. Anything that involves the direct delivery of legal services to clients.	The roster is the list of private lawyers who will handle legal aid matters on certificates. This category includes anything involving the management of the roster – e.g., new ideas for recruitment/retention; quality control of the lawyers' work; billing/payment of lawyers.	Some legal aid plans use staff counsel/paralegals instead of or in addition to private lawyers. This category includes anything involving the management of staff, including (but not limited to) quality control of their work; distribution of workload; use of paralegals; new processes and technology to help legal staff be more efficient, etc.	This is a catch-all for any other operational best practices. Some examples are: streamlining application process to achieve legal aid plan efficiencies; IT improvements; and streamlining/improving process of billing clients (if applicable).	This includes how the legal aid plan is organized. Some plans may have gone through a reorganization to improve their functioning.	This category focuses on collaborations with external partners to improve/streamline the criminal justice system.	This category will contain information on legal aid plan submissions re: criminal justice reforms (e.g., legislation, policy) and how the reforms affect the legal aid plans.

**For each entry in all of the columns, we will describe each best practice/innovation and then provide evidence of success/impact, if available.**

**Appendix B – Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present**

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Alberta (LAA)		
Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
<p><b>Alberta Law Line</b> The Law Line program provides free, province-wide telephone based information aimed at helping Albertans overcome barriers to access such as delay, lack of awareness or understanding of the legal system, and affordability. The program uses trained non-lawyers (called Legal Resource Officers) to provide legal information and referrals. If eligible, clients may receive legal advice and limited representation by staff lawyers. In FY 2009/10 Law Line began using an online intake form for its services. In FY 2009-2010, 17% of Law Line calls were related to criminal matters (LAA, 2010, p. 12).</p> <p>In April 2010, Alberta Law Line amalgamated with LAA's Edmonton Legal Services Centre (LAA, 2010, p. 12).</p> <p><b>Speakers Bureau</b> LAA's Speakers Bureau is a volunteer community service where staff volunteer to speak to community groups, support groups, and other agencies to educate people and answer questions about Alberta's legal aid system (LAA, 2009a, p. 24)</p> <p><b>Online resources</b> LAA's website provides an online dictionary of legal terms, access to various forms, a Q&amp;A site specifically for criminal law matters, and a "My Legal Aid Bill" site, which explains expectations for legal aid repayment and the roles and responsibilities of clients and their legal aid lawyer (LAA, n.db)</p>	<p>See Legal Services Centres under "Legal service provision."</p>	<p><b>Legal Services Centres (LSCs)</b> LSCs were implemented in 2010 with the goal of reducing the cost of specific legal services while maintaining (or increasing) the number of clients served, and ultimately provide better client outcomes. In about one-fifth of new matters, the LSCs are considering the use of alternatives to full legal representation on a certificate, such as brief services, limited scope certificates, Family Settlement Services (for family matters only), and the Criminal Resolution Unit (LAA, 2012a, p. 13)</p> <p>LSCs provide a range of client services, including legal information, legal advice, access to early resolution programs, and full representation (LAA, 2013a, p. 14). As noted under PLEI/self-help, the Alberta Law Line has been amalgamated with the Edmonton Legal Services Centre. For youth and adult criminal matters, coverage is provided for all indictable offences and summary conviction offenses where there is a likelihood of incarceration or loss of means to earn a livelihood, or other special circumstance (LAA, 2011, p. 14).</p> <p>In FY 2011-2012, LSC management undertook an initiative to ensure the same quality of services across the province. The initiative focused on best practices in interviewing clients and using early resolution options, and the quality of legal information and referrals provided (LAA, 2012a, p. 13).</p> <p>In 2013, LAA reported that it received feedback from its clients that its phone system was difficult to understand and involved long wait times. In response, LAA revised the phone system (by "rescheduling" and "rewording" —details are not provided) (LAA, 2013a, p. 14).</p> <p><b>Evidence of success/impact:</b> LAA reporting indicates that between Q2 and Q4 of FY 2012-2013 wait times decreased from 5 minutes to 1.5 minutes. During the same period, calls-answered increased from 69% to 88%.</p> <p><b>Legal Service Officer (LSO)</b> LAA's legal services officer (LSO) provides clients with an initial assessment of legal needs and then directs clients to the appropriate stream of legal services (LAA, 2012a, p. 12). LSOs are available in LAA's 11 Legal Service Centres, in courthouses, correction or remand centres, and over the phone.</p> <p>If a client is eligible, the LSO will develop a service plan which may include the following:</p> <ul style="list-style-type: none"> <li>• information, resources, and referrals</li> <li>• legal advice and/or assessment of legal merit</li> <li>• brief services</li> <li>• Criminal Resolution Unit services</li> <li>• limited scope services</li> <li>• full representation (LAA, 2012a, p. 12)</li> </ul> <p><b>Brydges Duty Counsel Service</b> LAA provides access to 24 hour free telephone legal advice to individuals under arrest, in custody, or under active investigation who need immediate advice on charter rights and criminal law. Translation services are available in 110 languages through the line (LAA, 2013a, p. 15).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Alberta (LAA)		
Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
		<p>Brydges service is contracted to an external service provider who handles all Brydges calls, except those involving youth in Calgary or Edmonton who are detained under the <i>Youth Criminal Justice Act</i>. These calls are handled by the Youth Criminal Defence Offices (see below) (LAA, 2009a, p. 22).</p> <p>In 2013, LAA reported that the assigned service provider for the Brydges service telephone system upgraded its infrastructure to use a feature called call stacking, which places calls in a holding pattern. This, along with “improved messaging” reduced the number of issues related to delays in reaching a lawyer on the Brydges line (LAA, 2013a, p. 15).</p> <p><b>Youth Criminal Defence Office (YCDO)</b> LAA uses YCDOs in Calgary and Edmonton to provide legal services and youth worker advocacy on a daily basis inside and outside the Youth Justice Court system. Assistance includes immediate legal advice, Brydges services, making applications for judicial interim release, seeking withdrawal of charges, conduct of trials, entry of guilty pleas, speaking to a sentence, and conviction and sentence appeals (LAA, 2012a, p. 16).</p> <p>YCDOs are operated under the supervision of a senior counsel, who is supported by two associate senior counsels, who are responsible for day-to-day activities in the Edmonton and Calgary offices. LAA staff lawyers provide legal assistance to clients (LAA, n.dg), while social and youth workers are used to identify risk factors, create custom case/release plans, help youth navigate and complete the Extrajudicial Sanctions Program, recommend / advocate resources, and provide transportation (LAA, 2013a, p. 17). Whenever possible, YCDO staff advocate using community rather than custodial resources to promote rehabilitation and dealing with problems contributing to criminality (LAA, 2008, p. 23).</p> <p>The YCDO is becoming increasingly involved in advocacy work. LAA notes that YCDOs have been instrumental in developing conferencing projects under s.19 of the <i>Youth Criminal Justice Act</i> for youth diagnosed with FASD. These conferencing projects involve government and community organizations working together to develop wraparound services for youth with an FASD diagnosis (LAA, 2013a, p. 17). YCDO staff work with stakeholders as board members and advisors. They also provide presentations to stakeholders on the <i>Youth Criminal Justice Act</i> (LAA, 2012a, p. 16). Recently, YCDO has worked with the Edmonton Police Service’s new youth unit initiative, which involves the active monitoring and managing of the 50 most dangerous youth offenders. The YCDO youth worker will become involved prior to the police laying charges for breaches as an alternative to re-criminalizing the youth.</p> <p><b>Youth criminal justice</b> LAA’s eligibility requirements for youth criminal matters are unclear because multiple sources report different information. But most recently, LAA’s 2012/13 to 2014/15 Business Plan indicates “[a]ll youth charged with an offence under the Youth Criminal Justice Act...will be provided with legal representation,” either through the YCDO or roster lawyers (LAA, 2012b, p. 13).</p> <p>LAA’s website on “Eligibility” indicates that legal aid is “most often” provided for youth facing charges laid under the <i>Youth Criminal Justice Act</i> (under substantive eligibility) (LAA, n.da).</p> <p>LAA 2010, annual report indicates the net income of young persons or their parents are considered when determining financial eligibility. If a young person is found financially ineligible for legal aid, but desires counsel and is unable to retain one, counsel can be accessed through the Court Ordered Counsel Program,</p>

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Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
		<p>which is administered by LAA (LAA, 2010, p. 22). The 2009 review of Legal Aid Alberta indicates LAA is the only legal aid plan in Canada which is required to totally fund court-ordered counsel (LAA, 2009b, p. 115).</p> <p><b>Criminal Resolution Unit (CRU)</b> <i>(formerly called Expanded Duty Counsel)</i>                      LAA's CRU provides early resolution for lower level criminal offences in an effort to reduce the burden on clients and the justice system (LAA, 2012a, pp. 3, 13). Prior to the creation of the CRU, LAA roster lawyers handled level 1 offenses (LAA, 2013a, p. 17).</p> <p>CRU counsel order disclosure, meet with the client, assess whether there is a viable defence, and provide advice. Where the individual desires LAA to handle the charges by a guilty plea and speaking to the sentence, the CRU will handle the matter. If the client wants to proceed to trial, they are referred to LAA to make an application for a certificate. The CRU counsel have the mandate to handle as much of the matter at first appearance as possible. LAA reports that the resolution rate and the number of bail hearings for CRU counsel is substantially higher than for the private bar duty counsel. For matters where early resolution is not appropriate, the CRU model has enabled the client to obtain full representation more efficiently with fewer appearances.</p> <p>A CRU counsel is also assigned to the Drug Treatment Court in Edmonton. LAA reports the use of the CRU staff counsel is a benefit both to the client, because counsel attends weekly progress reports and is better able to speak to sentence, and to LAA as using staff counsel is less expensive than using the private bar.</p> <p>CRU counsel are also now handling domestic violence charges that have a limited potential to proceed to trial. If the matter does go to trial, CRU counsel will handle the trial. LAA has found that this approach is less expensive than having private counsel handle these matters.</p> <p>LAA has also begun including social workers as part of the CRU team. The social workers will handle those non-legal needs (e.g., treatment and housing) that could have an impact on sentencing. LAA believes that the involvement of the social worker will allow counsel to concentrate on the legal matters and will also support a better outcome for the client.</p> <p>In 2013, LAA's CRU pilot project became a fully operational program (LAA, 2013a, p. 17). At that time it had a staff of 19 criminal law lawyers and 2 full time legal assistants (LAA, 2013a, p. 17). The CRU began in two locations (Edmonton and Calgary) and expanded to three other centres (Red Deer, Lethbridge, and Westaskiwin) with two more offices planned. LAA is considering expanding the YCDO by including services for youth in the CRU offices outside of the centres where the YCDO currently operates.</p> <p><b>Evidence of success/impact:</b> LAA reports that the CRU project saves an estimated \$600,000 per year. In 2012, the CRU closed 2,501 files with 70% of files achieving full resolution. The remaining 30% of files were not appropriate for early resolution and were referred to the roster. LAA also indicates CRU staff lawyers are increasingly becoming preferred counsel for some clients (LAA, 2012a, p. 13). <b>NOTE:</b> An evaluation report on the CRU was expected for Fall 2012, but is currently not available online.</p> <p><b>Legal Services Centre at Siksika Nation</b>                      The Legal Services Centre at Siksika Nation is operated jointly by LAA and the Siksika Justice Department to provide legal aid services to the Siksika community. The centre handles criminal law matters (as well as</p>

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Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
		<p>family and civil law) and provides access to a staff lawyer, a legal services officer, and a legal / administrative support assistant (LAA, 2013a, p. 18). LAA is considering adding a social worker to the office. In 2013, LAA's Calgary Legal Services Centre worked with the Siksika legal services centre to implement LAA's new legal services centre model (LAA, 2013a, p. 19).</p> <p>Legal aid staff at the centre assist clients in their application for legal aid, provide PLEI sessions and advice clinics and sometimes act as neutral advisors during Siksika Tribunals and Judicial Dispute Resolution proceedings (LAA, 2012a, p. 17). In January of 2013, LAA collaborated with Siksika Justice to provide an expert-led two day training session on <i>Gladue</i> report writing (LAA, 2013b).</p> <p><b>Aboriginal awareness and sensitivity agenda</b> LAA is undertaking an organization-wide in-person training program that it also hopes to make available to private bar lawyers in Edmonton, which has the fastest growing urban Aboriginal population in Canada. The training program will be developed and provided by members of the Aboriginal community.</p> <p><b>Duty counsel</b> LAA reports that its duty counsel program continues to grow and includes the regular assignment of duty counsel to:</p> <ul style="list-style-type: none"> <li>• criminal court, both adult and youth;</li> <li>• drug treatment court; and</li> <li>• Mental Health Review Panel hearings (LAA, 2012a, p. 14).</li> </ul> <p><b>Red Deer walk-in legal clinic</b> LAA's Central Alberta Law Office provides youth criminal services within the judicial district of Red Deer. The office provides a walk-in legal clinic, which receives referrals from community organizations and court clerks (LAA, 2013a, p. 17). No further information is provided on this service.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Alberta (LAA)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Lawyer recruitment and retention</b> LAA reports that it relies heavily on its roster of private bar lawyers to deliver services through the certificate program. In 2013, LAA indicated that certificates issued to the private bar represented about 10% of the services provided to LAA clients, but made up 50% of LAA's expenses because they are the more costly full representation services (LAA, 2013a, p. 26). LAA also reported in 2013 that fewer private bar lawyers were willing to accept legal aid certificates at LAA's average hourly tariff rate (LAA, 2013a, p. 27).</p> <p>LAA is attempting to address these problems by focusing on recruiting, retention, and development of private bar lawyers. In FY 2012-2013, LAA created a new Director of Roster Management role, which was staffed by an experienced senior manager. LAA also indicates it has developed strategies to encourage lawyers to remain on its roster, but does not identify these strategies (LAA, 2013a, p. 27).</p> <p><b>Law students</b> LAA participated in the University of Alberta's pilot project for the Low Income Individual. The program includes a clinical placement of a law student within one of LAA programs in Edmonton or the Edmonton Community Legal Clinic. Students are selected through an application and interview process (LAA, 2012a, p. 17).</p> <p>LAA's website indicates law students who are registered on LAA's Roster can take their own cases, with no limit on the number of hours they can do on a lawyer's certificate (LAA, n.dd).</p> <p><b>Improved services for roster lawyers</b> LAA has implemented a number of services designed to enhance services for roster lawyers, including the following:</p> <ul style="list-style-type: none"> <li>• <b>e-Bill online</b> — provides roster lawyers and legal assistances an online program that makes billing for legal aid accounts easier (LAA, n.dc).</li> <li>• <b>Roster manager</b> — supports roster lawyers through answering questions about billing , providing orientation to LAA programs, addressing concerns related to legal files, and ensuring complaints are dealt with</li> </ul>	<p><b>Efforts to retain staff and roster lawyers</b> In FY 2008-2009, LAA conducted a survey targeting family, criminal and immigration law as well as staff and student lawyers. The survey was intended to identify lawyers needs (LAA, 2009a, p. 5). Results were not provided in the annual report.</p> <p><b>Staff training</b> In FY 2008-2009, LAA reported it developed a series of workshops for staff members, which involved topics on leadership, people management, job-specific information and performance management. Staff in-services were held to strengthen the abilities of the LAA workforce (LAA, 2009a, p. 6).</p>	<p><b>High cost/complex cases</b> LAA monitors the progress of high cost cases, which are defined as cases with expected cumulative expenditures in excess of \$25,000. In 2013, LAA reported that almost 90% of expenditures in high cost cases in each of the previous 5 years was for criminal adult matters related to drug conspiracy, provincial fraud, murder, and manslaughter cases (LAA, 2013a, p. 22).</p> <p>To mitigate the increasing costs of high cost cases, LAA retained an experienced criminal trial lawyer to act as a High Cost Case Manager. This individual is responsible for assessing counsel's defence strategy and providing recommendations to LAA on how to control expenditures on high cost cases (LAA, 2013a, p. 23).</p> <p>Prior to 2013, LAA reported using a Complex Case Review Committee, which considered requests for discretionary increases to lawyers' accounts based on exceptional circumstances (LAA, 2010, p. 9).</p> <p><b>Performance monitoring and evaluation</b> In FY 2011-2012, LAA began developing and implementing a framework to monitor service delivery. Performance measures will focus on client outcome, client satisfaction, staff development, financial accountability and operational outcomes.</p> <p>LAA indicates these measures will enable the organization to continually assess, adjust, and reprioritize its</p>	<p><b>2008 LAA needs assessment</b> A 2008 needs assessment made a number of suggestions relevant to LAA's criminal legal aid services, including the following:</p> <ul style="list-style-type: none"> <li>• Making improvements to the application and appeal processes, including using telephone, internet, and CCTV to receive applications and more even application of eligibility guidelines.</li> <li>• Increasing LAA visibility in the community to ensure both the public and service providers understand its services and coverage.</li> <li>• Expand the mixed delivery model to include more staff lawyers for duty counsel.</li> <li>• Consider methods to encourage private lawyers to do legal aid work, including offering a practicum (particularly in rural areas), using scholarships or forgiving student loans to encourage young lawyers to do legal aid; and for more established lawyers, the criminal tariff should be reviewed to minimize reverse incentives that can create delays in resolving criminal matters (PRA, 2008, pp. 55–57).</li> </ul> <p><b>2009 review of Legal Aid Alberta</b> In 2009, an extensive review of LAA's legal services was published, which explored the needs of low-income Albertans, what services LAA should be providing, and how legal aid services should be provided (LAA, 2009b). The report includes numerous recommendations/options for improving legal aid services, some of which deal specifically with matters of effectiveness and efficiency. These included the following:</p> <ul style="list-style-type: none"> <li>• Using performance monitoring to assess effectiveness and efficiency of services.</li> <li>• Implementing a quality assurance program.</li> <li>• Implementing cost-effectiveness measures through streamlined and improved business processes and improved purchasing practices through the expansion of preferred vendors and vendor discounts.</li> <li>• Block contracting — a lawyer or law firm is awarded a fixed number of cases or a fixed fee.</li> <li>• More effective collaboration through a client-focused model and sharing of innovative ideas among service</li> </ul>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Alberta (LAA)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>professionally (LAA, n.dc). LAA notes that it uses a Roster Committee to deal with complaints and concerns regarding the conduct of counsel (LAA, 2010, p. 9).</p> <ul style="list-style-type: none"> <li>• <b>Mentorship programming</b> — supports junior lawyers or other lawyers who need particular expertise through offering one-on-one mentoring or online mentoring (via email advice within a 48 hour time frame). The advice is provided by a senior counsel (10+ years experience) who specializes in the area of law (50% or more of their practice) in which they are providing advice (LAA, n.de).</li> <li>• <b>Travel Assist.</b> — provides 5 to 10% savings on travel costs (LAA, 2009b, p. 102). Flights and select hotels are directly billed to LAA, helping to reduce out of pocket expenses for roster lawyers (LAA, n.dc).</li> <li>• <b>Counsel Connection</b> — an online web community for lawyers involved in the LAA program, which provides access to tools and resources and news and events (LAA, n.dc). Details on the tools and resources are not provided on the publicly accessible section of the website.</li> <li>• A “<b>memorandum access</b>” with Legal Aid Ontario (LAA, 2009a, p. 5). Details are not provided on this memorandum.</li> </ul> <p><b>Lawyer recognition</b> Beginning in 2009, LAA began holding an annual Access to Justice Award event to recognize and celebrate lawyers who — by accepting legal aid cases — have helped make the legal system more accessible to Albertans in need. Traditionally, the LAA Access to Justice Award is presented to one private bar lawyer and one staff lawyer, who are chosen by a selection committee with representation from the Law Society of Alberta, the Canadian Bar Association, LAA, and the Alberta judiciary (LAA, n.df).</p> <p><b>Lawyer Appointing (Certificate) Program</b> In 2011, LAA implemented a new system of counsel appointment, which aimed to make such appointments more efficient and faire (LAA, 2012a, p. 13). Under this new system, all certificate-related issues are handled by a dedicated Certificate Management Team (LAA, 2011, p. 15).</p> <p>The Certificate Management Team tracks and bills certificate time and expenses using a simplified process</p>		<p>services and programs as needed (LAA, 2012b, p. 7).</p> <p>LAA reports that it is tracking outcomes for first appearances handled by duty counsel. It is also tracking the activities of the YCDO youth worker to determine whether youth with which they are involved commit fewer breaches.</p> <p>Similarly, LAA is evaluating its pilot projects to understand how to improve these services and potentially expand programming to other areas of the province (LAA, 2012b, p. 7).</p>	<p>providers.</p> <ul style="list-style-type: none"> <li>• Tariff restructuring (increase use of block fees, introduce tiered rates based on experience or complexity of legal matter, incentives to encourage early resolution).</li> <li>• Proactive monitoring and managing of high cost cases.</li> <li>• Provincial government supports, including provision of government-owned office space, government pricing and supply chain economies of scale, staff pensions and benefits, and funding for court-ordered counsel.</li> </ul> <p>The review of available documents did not indicate any changes or improvements in several of the above-noted areas since 2009. For performance monitoring, the 2009 report noted that three aspects should be covered: service delivery inputs and outputs; outcomes of the services from an individual client perspective; and impacts of types of services and supports on the clients and their outcomes. It was noted that performance monitoring requires substantial time and resources (LAA, 2009b, pp. 94–95).</p> <p><b>New service delivery model</b> In FY 2010-2011, LAA implemented a new service delivery model. The new model continues to use a mixed model of service delivery, but services are delivered through Legal Services Centres (LSC). The LSC model is intended to allow LAA to provide upfront assessments of clients’ legal needs, and then direct clients to the appropriate stream of legal services (LAA, 2011, p. 13).</p> <p>LAA describes the underlying philosophy of the new model as being “tailored to meet client needs” (LAA, 2011, p. 17), so full representation will not be the default option for service delivery. This approach embraces a wide range of unbundled legal services (described further under <b>Legal Services Centres</b> above) (LAA, 2011, p. 17).</p> <p>In 2011, LAA completed implementation of the new LSC service delivery model across all 11 regions (LAA, 2012a, p. 12).</p>



Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Alberta (LAA)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>that aims to lower costs, ensure appropriate appointing, and maintain a well-supported roster (LAA, 2011, p. 15).</p> <p><b>Removal of choice of counsel</b> In 2010, LAA removed choice of counsel for clients (LAA, 2011, p. 14). Prior to this, in most cases, LAA allowed clients to select a lawyer (LAA, 2010, p. 11).</p> <p>Beginning in 2010, clients could still state a preference for a certain lawyer, but LAA reserved the right to appoint a lawyer from its existing list of roster lawyers. LAA indicates the amendment was made in support of its new service delivery model, as a way of managing the quality and cost of services and ensuring timely appointment of counsel (LAA, 2011, p. 14).</p>			<p><b>Staff law office structure</b> LAA staff law offices (YCDO, CRU, Siksika, and the Family Law Offices) used to each have their own independent reporting structure to the Chief Executive Officer and operated independently. To encourage a more holistic approach to service delivery, these staff offices are now all reporting to the Vice President of Representational Services. For example, LAA has been able to expand social workers support to CRU by sharing this resource with the Family Law Offices.</p>

System approach	
Partnerships	Law reform
<p><b>Youth criminal justice partnerships</b> LAA's YCDO has served as advisor to a number of organizations, including the Canadian Bar Association's Mentor Program, the Youth Justice Roundtable, and Student Legal Assistance. The YCDO has also collaborated with the City of Edmonton, Edmonton Police Service, John Howard Society, and Big Brothers and Big Sisters to create a 24/7 Youth Worker Program in Edmonton (LAA, 2012a, p. 16).</p> <p><b>Heavy Users of Service (HUOS)</b> HUOS is in Edmonton and uses a cross-sectoral collaborative approach in addressing the needs of heavy service users of police, health care, social agencies, and legal aid. The organizations identify their top 50 service users and then work together to address the needs of service users who have consented to having their information shared among these agencies. The initiative is very recent and currently there are nine individuals that have consented.</p>	<p>No relevant activities were identified in available documentation.</p>

## Alberta Reference List

- LAA. (n.da). Eligibility. Retrieved November 26, 2013, from <http://www.legalaid.ab.ca/help/Pages/Eligibility.aspx>
- LAA. (n.db). Existing Clients. Retrieved November 26, 2013, from <http://www.legalaid.ab.ca/clients/Pages/default.aspx>
- LAA. (n.dc). Improvements at LAA. Retrieved November 5, 2013, from <http://www.legalaid.ab.ca/roster/Pages/Improvements.aspx>
- LAA. (n.dd). Join the Roster. Retrieved November 26, 2013, from <http://www.legalaid.ab.ca/roster/Pages/JointheRoster.aspx>
- LAA. (n.de). Join the Roster - Mentorship. Retrieved November 5, 2013, from <http://www.legalaid.ab.ca/roster/Pages/Mentorship.aspx>
- LAA. (n.df). Recognition. Retrieved November 26, 2013, from <http://www.legalaid.ab.ca/roster/Pages/Recognition.aspx>
- LAA. (n.dg). Youth Criminal Defence Office. Retrieved November 5, 2013, from <http://www.legalaid.ab.ca/about/programs/Pages/YCDO.aspx>
- LAA. (2008). 2008 Annual Report.
- LAA. (2009a). 2009 Annual Report.
- LAA. (2009b). 2009 Legal Aid Alberta Review November 19, 2009.
- LAA. (2010). 2010 Annual Report.
- LAA. (2011). 2011 Annual Report.
- LAA. (2012a). 2012 Annual Report.
- LAA. (2012b). Corporate Business Plan 2012/13 – 2014/15. Retrieved November 25, 2013, from <http://www.legalaid.ab.ca/media/Documents/LAA%20Corporate%20Business%20Plan%20%202012-13%20to%202014-15.pdf>
- LAA. (2013a). 2013 Annual Report.
- LAA. (2013b). Legal Aid Alberta and Siksika Justice bring in Gladue expert to make strides in improving justice for the Nation. Retrieved November 26, 2013, from <http://www.legalaid.ab.ca/media/Pages/default.aspx>
- PRA. (2008). Legal Aid Alberta Needs Assessment Final Report.

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Services Society (LSS) of British Columbia		
Service delivery		
PLEI/self-help	Application process	Legal service provision
<p><b>Public Legal Education and Information (PLEI) and intake</b> In 2012, LSS conducted a review of the accessibility of its PLEI material and intake services with the goal of improving accessibility (LSS, 2012a, p. 12). LSS has also undertaken initiatives to assist low literacy clients by simplifying the pre-application form and providing additional staff training (LSS, 2013a, p. 12).</p> <p><b>Defend yourself material</b> LSS provides a “Defending Yourself... Series” on its website, aimed at helping individuals defend themselves against charges of assault, breach of a court order, mischief, possession of an illegal drug, possession of property under \$5,000 obtained by crime, and theft under \$5,000. Other resources include: how to appeal a conviction, how to appeal a sentence, and being unable to pay a fine on time (LSS, 2013d).</p> <p><b>Evidence of success/impact:</b> The 2012 evaluation found that the pamphlet “Representing Yourself in a Criminal Trial” was “fairly easy” to understand. The evaluation also made recommendations to make the pamphlets more visible/accessible. Limited information exists on who uses these pamphlets (LSS, 2012i). Intake workers distribute them to those not eligible for referrals to counsel, and community partners, libraries, and others make them available in their offices and in courthouses to persons with criminal law problems. 27,700 criminal law publications were ordered from the LSS in 2012–13. LSS performance measures do not ask about the helpfulness of material, however, public opinion polling by LSS suggests fairly high levels of awareness of legal aid services for criminal law matters, ranging from 68% to 79% of respondents between 2009 and 2013 (Ipsos Reid, 2013a, p. 10). It is important to note that these results are based on a survey of the general population and should not be interpreted as a survey of awareness among those who most need access to self-help information.</p>	<p><b>Local agent model</b> The LSS began implementing a shift to a “local agent model” which uses private lawyers contracted by LSS to provide legal aid and community outreach. The model is aimed at reducing infrastructure costs while increasing the number of service points available (LSS, 2010a, p. 8).</p> <p><b>Evidence of success/impact:</b> 2012 – LSS reviewed its new local agent model and found that overall it had proven cost-effective while continuing to provide in-person intake services, therefore mitigating loss of services (LSS, 2012a, p. 12). The effect of the local agent model specifically on criminal legal aid is not clear from the available documentation.</p> <p><b>Expanded hours and expanded intake</b> LSS expanded operating hours at five local agent communities to enable Aboriginal clients to get legal information and apply for legal aid in person on reserve (LSS, 2012a, p. 12).</p> <p><b>Call centre</b> Legal aid intake services are available over the phone through a toll-free LSS Call Centre (LSS, 2012a, p. 3).</p> <p>LSS has a toll-free call centre line that prisoners can call from correctional facilities. This provides them with priority access to the call centre.</p>	<p><b>Enhanced Brydges Line</b> In Fiscal Year 2007-2008 LSS enhanced the Brydges Line service by establishing a roster of senior lawyers to provide additional in person advice to people accused of murder, attempted murder, or manslaughter. Brydges services provides brief emergency over-the-phone advice to clients who are arrested, detained, or under active investigation by police (LSS, 2008a, p. 20). LSS experience has been that this enhanced service was achieved at a very modest cost.</p> <p><b>Telephone advice counsel</b> LSS funded a two-year pilot that provided telephone advice to accused in custody at police lock-ups awaiting bail hearings, in the evenings, and on weekends and holidays (LSS, 2006). In 2007 LSS reported that demand for this service was lower than anticipated and funding for the project was reduced accordingly (LSS, 2007, p. 21). However, call volumes increased the following year (2008-2009) and the project was to be continued (LSS, 2009). No further information is available on this specific service, however, it is worth noting that in 2012, LSS responded to the withdrawal of criminal duty counsel services by lawyers across the province by implementing a phone-based service to maintain essential services to clients in custody for criminal matters (LSS, 2012a, p. 11).</p> <p><b>Evidence of success/impact:</b> A qualitative evaluation of the telephone advice counsel service in Fiscal Year 2007-2008 found that the advice line provided a valuable service and suggested that lower call volumes were related to prisoners’ lack of awareness (LSS, 2008a, p. 20). The evaluation report is not publically available.</p> <p><b>Aboriginal Community Legal Workers (ACLW)</b> In 2008, LSS initiated a three-year project to adapt or expand current programs to meet the needs of Aboriginal client (LSS, 2008a, p. 17). In 2012, LSS transitioned key Aboriginal service pilot projects into core operations, including ACLW who provide primarily non-criminal legal aid assistance (LSS, 2011b, p. 14).</p> <p><b>Aboriginal advice and duty counsel</b> In First Nations Court and some remote communities, LSS provides enhanced duty counsel services in two formats: i) duty counsel takes calls from clients between court dates to answer questions and give advice; and ii) counsel attends the day before court to meet with duty counsel clients.</p> <p><b>Expanded criminal duty counsel</b> In 2009, under the Integrated Criminal Services Project, LSS developed an expanded criminal duty counsel model to deal with four types of Category 1 offenses on a pilot basis. Offenses included breach of probation order, failure to appear, failure to comply with a recognizance, and breach of conditional sentence order (Focus Consultants, 2010, p. ii). The service provided clients with additional weekday access (Mondays) to advice as well as in-and-out of custody duty counsel</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Services Society (LSS) of British Columbia		
Service delivery		
PLEI/self-help	Application process	Legal service provision
<p>LSS is currently looking at methods to more effectively deliver information to the public by use of interactive online methods (e.g., live chats) or more individualized approaches (e.g., online decision trees) to enable people to better understand their situation and how to proceed. While the emphasis may be more on family law currently, these approaches could also work for criminal law.</p> <p><b>Mobile Website</b> LSS created a mobile website and quick response (QR) codes for its publications to improve access to legal information on its website (LSS, 2013a, p. 12).</p> <p><b>Community engagement</b> LSS uses community engagement as strategy for building awareness of and access to legal aid services. In 2012, this included expanding the LSS social media strategy to have a Facebook page for the general public and an Electronic Legal Aid News Blog for community workers (LSS, 2012a, p. 12). Community engagement is not a criminal-law specific issue.</p> <p><b>Awareness of legal aid services and resources among Aboriginal people</b> In 2012, LSS launched a promotional campaign targeted at Aboriginal people to raise awareness of legal aid services and resources. The ads ran in 59 communities around BC (LSS, 2012a, p. 13).</p> <p><b>Community Partnerships and referrals to PLEI and LIOWs</b> Launched in 2010, LSS' community partners program provides legal information and refers potential clients to the LSS website and legal information outreach workers (LIOWs) (LSS, 2013a, p. 15). The program uses a micro-contract approach in which LSS contracts with community agencies to assist potential legal aid clients with referrals to legal aid, as appropriate, and access to confidential computers and telephones for the</p>		<p>for the four charge categories listed above. Funding was cut in 2009, but then reinstated in April 2010 (LSS, 2010b).</p> <p><b>Evidence of success/impact:</b> The expanded criminal duty counsel (EDC) model pilot was evaluated in 2010. The evaluation found EDC offered a substantial service to clients, who mostly used the service for advice, adjournments, and guilty pleas. Stakeholders identified two ways in which the EDC contributed to effective use of court resources:</p> <ol style="list-style-type: none"> <li>1. EDC lawyers were able to provide fuller advice, which respondents felt had reduced the number of cases without merit going to trial. Some felt that in tariff-assisted cases, accused were encouraged to request a trial for strategic purposes (e.g., a witness' failure to appear might cause a case to collapse). Such strategies were deemed an unnecessary use of court resources.</li> <li>2. When trials are set for EDC cases, there tended to be more admissions of fact as a result of the degree of consultation the accused has had with the EDC lawyer. This resulted in reduced trial time (Focus Consultants, 2010, p. 10). Finally, the evaluation found that in general EDC services were delivered at a reasonable cost (Focus Consultants, 2010, pp. iii-iv).</li> </ol> <p><b>Elder support</b> LSS has introduced support for Aboriginal elders at First Nations Court (LSS, 2013a, p. 12). LSS helps coordinate and train advisory panels of Elders at First Nations courts (currently in three locations) and pays Elders who attend court as a member of the panel an honorarium for their time and to defray expenses associated with attending and participating in court.</p> <p><b>Gladue reports</b> LSS' Gladue Report Disbursement Pilot Project funds Gladue report court submissions. Gladue reports are meant to provide the court with comprehensive information on Aboriginal offenders, their community, and a plan that examines realistic and viable alternatives to prison (LSS, 2012b). The project responded to findings from a study conducted for LSS that documented unmet legal needs of Aboriginal people (Walkem, 2007).</p> <p><b>Evidence of success/impact:</b> In 2012, 66 Gladue reports were authorized (LSS, 2012a, p. 12). In 2013, LSS evaluated its Gladue pilot project and concluded the Gladue report program is both needed and valued by those in the criminal justice system and Aboriginal people receiving the reports (LSS, 2013f, pp. 3-4). Specifically, findings from a comparative analysis of Gladue reports and presentencing reports support the perceptions of interview respondents who indicate Gladue reports assisted judges' and lawyers' efforts to find and implement sentences that would reduce incarceration of Aboriginal offenders (LSS, 2013f, p. 4). Also, an analysis of case outcomes showed that Gladue reports had an impact</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Services Society (LSS) of British Columbia		
Service delivery		
PLEI/self-help	Application process	Legal service provision
<p>purpose of contacting LSS. Training on available legal aid services and when legal aid referrals are appropriate is provided by LSS. Although this program primarily is used for family and civil matters, some clients with criminal issues also receive referrals through this program.</p> <p><b>Evidence of success/impact:</b> A 2013 evaluation of LSS' Community Engagement (CE) partnership initiative found the initiative was making a difference for people in rural, remote, and Aboriginal communities across BC (LSS, 2013c, p. 3). The evaluation does not provide a specific analysis of services provided for criminal issues. However, it provides some data on the volume of criminal issues handled by the CE initiative.</p> <p>Criminal issues made up 14% of the overall types of legal issues handled by the Community Partner communities in the first year of operation — compared to family issues (29%), civil (20%), and CFS issues (18%) (LSS, 2013c, p. 12). Of the 54 respondents who completed a client survey, 10 (19%) were seeking help on criminal issues (LSS, 2013c, p. 18).</p> <p>Services for criminal issues were not identified as a notable legal need among the 57 community organizations who were asked about "legal needs in CP communities". Identified needs included legal support/services for family law (n=18 or 41%), more affordable lawyers/access to legal aid funding (n=16 or 37%), legal information/advocacy services (n=15 or 34%), and legal services for civil law issues (n=8 or 18%) (LSS, 2013c, p. 21).</p>		<p>in many cases, with some offenders receiving less time in jail than they would have without a Gladue report. The reports also helped judges develop restorative justice-based sentences (including culturally appropriate, community-based options). Finally, the evaluation found that there were tangible benefits to clients, with some noting the therapeutic and personal benefits of telling their story in a non-judgemental environment where they were heard and valued (LSS, 2013f, p. 3).</p> <p><b>Video bail hearings</b> LSS is a partner in the BC Ministry of Justice's Bail Reform Project, which aims to make bail hearings more effective and allow bail hearings to be heard outside regular court hearings (BC Ministry of Justice, n.da). The reform project launched in Fiscal Year 2008-2009 and involved the implementation of video conferencing technology, which would enable 24/7 access to judicial justices for bail hearings via video link (or telephone). The project was to continue until 2010-2011 (LSS, 2010a, p. 15), but as of 2012, LSS indicates video conferencing was still being used in the Burnaby Justice Centre. LSS provides referrals and duty counsel for video bail hearings (LSS, 2012h).</p> <p><b>Evidence of success/impact:</b> An independent evaluation of the bail reform pilot found that videoconferencing was a successful method for conducting interviews and bail hearings with incarcerated accused (Malatest, 2010, p. iii). The LSS reports that the use of video and tele-bail has the potential to create justice system savings of as much as \$260,000 per 1,000 clients in rural and remote locations where transportation costs for LSS, Crown counsel, sheriffs are high (LSS, 2012g, p. 39).</p> <p><b>Community Advocate Support Line (CASL)</b> LSS provides contact information for the Community Advocate Support Line (CASL). CASL was formerly delivered by LSS, but is now delivered by the Community Legal Assistance Society. The service provides summary legal advice for advocates who help clients with legal issues. CASL mostly deals with family law, income security, and housing (LSS, 2013b)</p> <p><b>Evidence of success/impact:</b> A 2009 evaluation of the service indicates that in 2007, 43 of the 775 cases handled by CASL (which at the time was run by LSS) were related to criminal matters. The evaluation indicates the CASL service was successful in reducing the amount of time that advocates spent waiting on the phone; had a significant role in providing legal assistance to advocates; increased legal expertise of advocates who used the service; and thus improved the standard of service of advocates who used the service. However, very few (6%) of the cases handled by CASL were criminal matters (LSS, 2008b).</p> <p><b>Use of client satisfaction as a performance measure</b> LSS' performance measures consider the proportion of clients that are satisfied with LSS support to help them participate in resolving their legal issues.</p>

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Service delivery			
PLEI/self-help	Application process	Legal service provision	
		<p><b>Evidence of success/impact:</b> In 2011, 59% of clients surveyed were satisfied (LSS, 2011b, p. 15). No further data is available on this measure.</p> <p><b>Supporting Community Court</b> LSS is a partner of the Vancouver Downtown Community Court (DCC) which is a criminal justice reform project undertaken by British Columbia to 1) improve the timeliness of the court process; 2) take a problem-solving approach to crime by working with health and social services partners to address underlying health and social problems; and 3) remain connected to the local community through public forums and meetings with local community groups, individuals and business organizations (BC Ministry of Justice, n.db).</p> <p>LSS hired the lead defence counsel for DCC and maintains duty counsel at the court (LSS, 2013g). LSS also uses LIOWs to assist Community Court clients, including helping clients find legal information and self-help resources on the internet and referring clients to other legal services. LIOWs also speak to community groups about LSS services, (LSS, 2013h). LIOW services are provided in Vancouver and Terrace.</p> <p><b>Evidence of success/impact:</b> Anecdotal evidence suggests LIOWs are efficient and effective (LSS, 2011a).</p> <p><b>Prison law services</b> Legal representation may be provided for prisoners facing internal disciplinary hearings, involuntary transfers to higher security, detention hearings at the point of statutory release, segregation, and parole suspension or revocation.</p>	
Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Services Society (LSS) of British Columbia			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Bursaries</b> LSS provides bursaries for professional development conferences to criminal lawyers who take legal aid referrals (LSS, 2013a, p. 13). LSS helped fund 64 legal aid lawyers to attend National Criminal Law Program Conference in Victoria (LSS, 2012c)</p> <p><b>Results:</b> LSS' survey of lawyer satisfaction found that, just under half (48%) rated the bursaries project as good or very good (LSS, 2013a, p. 15) .</p> <p><b>Lawyer recognition</b> To encourage lawyer engagement, the LSS has hosted lawyer recognition events (LSS, 2013a, p.</p>	<p>No relevant activities were identified in available documentation.</p>	<p><b>Intranet upgrade</b> LSS has upgraded its intranet to improve internal communications (LSS, 2013a, p. 19).</p> <p><b>Upgraded client management system</b> In 2012, LSS began designing its client management system (CMS), which will involve a review of intake, case management, and lawyer billing processes to determine efficiencies and effectiveness (LSS, 2012a, p. 7). A Request for Proposals (RFP) for potential developers was released in late 2012 (LSS, 2012e).</p> <p><b>Upgraded case management system</b> Through its ISIS project, LSS is replacing its case</p>	<p><b>LSS restructuring</b> LSS developed a new service delivery model in an effort to reduce infrastructure costs. Implementation of this model led to a 40% workforce reduction, replacement of five regional centres with seven local agent offices, the elimination of civil law services, and withdrawal of most services from the Nanaimo Justice Access Centre (LSS, 2010c, pp. 9–10). LSS' restructuring enabled LSS to reallocate about \$1.5 million towards services, allowing them to expand the criminal duty counsel programs (McKimm, 2010, p. 700).</p> <p><b>Employee engagement</b> LSS indicated employee engagement is a “fundamental pillar” in its ability to deliver effective and efficient legal aid</p>

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Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>19).</p> <p><b>Simplified billing</b> In 2010, LSS restructured criminal tariffs to “simplify lawyer billing and other administrative functions.” LSS also now uses electronic authorizations for disbursements to streamline this process (LSS, 2013a, p. 19).</p> <p><b>Evidence of success/impact:</b> LSS reports administrative savings from the simplified tariff, because more bills were submitted correctly, thereby reducing the need for manual processing. Lawyer response was less positive. The 2013 Tariff Lawyer Satisfaction survey was completed by 373 lawyers, of which about 175 (or 47%) were LSS lawyers whose cases were mostly criminal matters. 45% of all survey respondents said they were taking the same number of referrals under the simplified tariff, while 26% indicated they were taking less; 47% felt compensation under the simplified tariff is worse than it was, while 22% indicated it was the same as it was before the simplified tariff.</p> <p><b>New lawyer commitment to legal aid:</b> LSS measures number of new lawyers taking more than three referrals in their first 6 months.</p> <p><b>Evidence of success/impact:</b> LSS reports that in Fiscal Year 2008-2009 there were 67 new lawyers taking more than three referrals within their first 6 months (LSS, 2010a, p. 13). This number peaked in Fiscal Year 2011-2012 at 86 lawyers (LSS, 2012a) and has since dropped to 64 lawyers (LSS, 2013a, p. 11).</p> <p><b>Gladue Report disbursements</b> The LSS’ Gladue Report Disbursement Pilot project funds Gladue reporting for pre-sentence reports, bail hearings and sentence appeals (LSS, 2012b). The process is initiated by lawyers, who must submit a request form to the LSS Case Management Section. LSS then assigns a report writer from a roster of LSS-approved writers who</p>		<p>management technology with an integrated system that will include all business lines. The project is projected to be completed in 2014 (LSS, 2013a, 2013i).</p> <p><b>LSS Lawyer e-services</b> LSS Lawyer e-services provides lawyers who represent legal aid clients with a secure website to access electronic billing and information services, including lawyer profile, e-billing, and search for experts (LSS, 2013e). E-authorizations system allows lawyers to make disbursement requests faster than paper-based system and lawyers can check status of requests; the system also has checks against improperly filled fields (LSS, 2012e).</p> <p><b>Performance management</b> LSS has a performance management system that includes surveys with stakeholders (clients, lawyers, staff, public) and financial targets (budget to actual expenditures) (LSS, 2013i).</p> <p><b>Monitoring</b> LSS actively monitors the financial impact of changes in the criminal law (LSS, 2013a, p. 19).</p> <p><b>Cost monitoring</b> Is used by LSS, along with forecasting models, to determine if the organization will meet its budget targets (LSS, 2013i).</p> <p><b>Demand management</b> LSS has a Demand Management Committee (DMC) that monitors volume and costs (LSS, 2013a, p. 19). The committee is composed of a “cross-divisional” team that provides regular reporting and analysis of key operating data in an effort to help LSS respond quickly and effectively to fluctuations in demand and revenue (LSS, 2011b, p. 21).</p> <p><b>Dashboard</b> LSS uses a lawyer supply dashboard to monitor supply issues (LSS, 2012a, p. 11).</p>	<p>services (LSS, 2012a). LSS began developing an employment engagement strategy in Fiscal Year 2009–2010 (LSS, 2010a) and, in 2012, established a cross-departmental Employee Engagement Working Group to implement LSS employee engagement initiatives. As of 2013, employee engagement-related activities have included upgrading the LSS intranet to improve internal communication and holding regular meetings between staff and management (LSS, 2013a, p. 19).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Services Society (LSS) of British Columbia			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>meet established criteria. Alternatively, lawyers may choose a report writer via a list of experts available through LSS' e-services. The report takes a minimum of eight weeks to complete. The report writer submits their invoice to the lawyer for payment and the lawyer is responsible for paying the writer (LSS, 2012b).</p> <p>LSS does not typically compensate tariff lawyers for dealing with Gladue reports. However, if counsel requires significant extra preparation time to address the issues covered in the Gladue report, they may request extra legal fees, which need to be justified with time sheets and the specific circumstances of the case (LSS, 2012b).</p> <p><b>Evidence of success/impact:</b> Results from LSS's 2013 Tariff Lawyer Satisfaction Survey indicates 52% of tariff lawyers rated the Gladue Report Disbursement initiative as good or very good (Ipsos Reid, 2013b, p. 60). The report notes that long-term tariff lawyers (with over 20 years of legal aid experience) were the least likely to give a positive evaluation of the Gladue Report Disbursement (Ipsos Reid, 2013b, p. 61).</p>		<p>No further information is provided on this monitoring tool.</p> <p><b>Training</b> LSS has offered training to LSS staff and local agents, including their staff, on literacy issues, cultural differences and working with difficult clients (LSS, 2013a, p. 13). A province-wide training conference is hosted in Vancouver annually.</p> <p><b>Limits on expenditures</b> As part of LSS's Memorandum of Understanding (MOU) with the BC Government, there are three types of criminal cases with limits on expenditures.</p> <p><b>Funding for large criminal cases</b> LSS's Memorandum of Understanding (MOU) states that when an individual's case costs exceed \$175,000, the case is funded by the Ministry of Justice (MOJ), not legal aid. While LSS continues to manage these cases, it fully recovers costs in excess of \$175,000 from government. This is done to ensure that the cost of large cases does not draw upon the funding for legal aid which is used to provide services for BC's neediest people facing family, criminal, immigration, and child protection problems.</p> <p><b>Large case management</b> The BC attorney general asked LSS for advice on justice reform (LSS, 2012d) and LSS responded with recommendations to improve the justice system for large case management. Specifically, LSS indicates large criminal cases — which are growing in number, complexity and expense — consume a disproportionate share of justice system resources and are a key source of system delays and rising costs. LSS notes that its lauded case management program for large trials (described below) applies only to defence. System-wide efficiency requires all parties work together on an integrated management solution that will reduce trial costs.</p>	



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Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
		<p>As part of its own approach to large case management, LSS has established a new department dedicated to managing large cases and associated costs (LSS, 2012a, p. 7).</p> <p>This involved LSS consolidating its Strategic Case Management Program and Large Case Management into a single Criminal Case Management (CCM) policy, which is intended to ensure clarity, consistency, and transparency in administration of long and complex criminal cases (LSS, 2012c).</p> <p><b>Evidence of success/impact:</b> LSS' approach for large case management has been praised in a number of key reports, including the BC Ministry of Finance's <i>Review of the Provincial Justice System</i>, LeSage and Code's <i>Report of the Review of Large and Complex Criminal Case Procedures</i> in Ontario and Professor Stephen Toope's report on BC's public service indemnity policy (LSS, 2012g, p. 16).</p>	
Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Services Society (LSS) of British Columbia			
System approach			
Partnerships		Law reform	
<p><b>Training for community intermediaries</b> In 2012, LSS conducted training for community intermediaries on LSS services, legal issues, and legal resources. 500 participants attended six conferences. One conference was repeated twice due to demand; also, in 2011, as part of its community engagement efforts, LSS hosted four regional conferences to gather information about barriers to accessing legal aid and how to overcome these barriers (LSS, 2011b, p. 18) (LSS, 2012a, p. 13).</p> <p><b>Access Pro Bono partnership</b> LSS partnered with Access Pro Bono's legal advice program, allowing LSS to refer clients who were denied legal aid to access up to 30 minutes of free legal aid advice (LSS, 2012f). Likewise, Access Pro Bono is allowed to schedule appointments for clients to apply for legal aid (LSS, 2013a).</p> <p><b>Justice Access Centres</b> LSS worked with justice system partners on the Justice Access Centre (JAC) and Downtown Community Court projects, which are piloting the integrated justice model (LSS, 2009, p. 9). Although the JAC do not handle criminal matters, the integrated nature of the project is worth noting, as LSS describes this work as "ground breaking" (LSS, 2010c, p. 9). JACs are a collaborative project with the BC Ministry of the Attorney General aimed at testing how the provision of a range of family and civil justice services in one location will impact client outcomes. The JAC also identifies and refers clients to services that can address their related non-legal issues (LSS, 2009, p. 17).</p>		<p>LSS has been particularly involved in law reform initiatives in recent years. Its submissions set out what LSS considers to be best practices for legal aid and law reform efforts.</p> <p>In 2010, the Public Commission on Legal Aid was launched to consider the future of legal aid. LSS made a submission to the Commission that included several recommendations. Many recommendations addressed issues beyond those specific to criminal legal aid. Key recommendations included the need for sustainable but flexible funding so that LSS can respond to fluctuations in demand; the importance of collaboration among various government ministries and agencies to provide integrated services; support for telephone- and Internet-based legal information and advice systems; the need to enhance lawyer capacity to respond to cases of increasing complexity; support for public legal information and outreach; the need for provincial and federal justice stakeholders to collaborate on how to address large criminal case costs; the importance of research to assess client outcomes so legal aid delivery can be evidence-based; and the need for all law reform initiatives to recognize the importance of understanding their impact on legal aid. It was noted that a "simple procedural change that adds one additional court appearance to each criminal case can increase legal aid costs by as much as</p>	

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System approach	
Partnerships	Law reform
<p>It should be noted that as part of its restructuring process (noted under the Organizational Structure column), LSS scaled back its work on integrated services because funding levels were inadequate to sustain the integrated approach (LSS, 2010c, p. 9).</p> <p><b>Other integrated services</b> LSS provides enhanced duty counsel services at the Sheway Drop-in Centre in Vancouver's downtown eastside and the Fir Square Combined Care Unit at BC Women's Hospital. Duty counsel at these locations provide legal advice and information to women with infants and pregnant women facing child protection, family, and/or criminal issues (LSS, 2011b, p. 7). LSS indicates that these programs are intended to provide help to women at an early stage, before their legal problems worsen (LSS, 2012a, p. 15).</p> <p><b>Delivery of PLEI through community agencies</b> Although not a specific criminal legal aid service, LSS contracts with community agencies to provide information on LSS services and PLEI. Community organizations include band offices, women's shelters, BC Women's Hospital, drop-in centres, and organizations in underserved rural, remote, and Aboriginal communities (LSS, 2012a, pp. 3, 15).</p> <p><b>LSS/ Law Foundation Research Trust Fund</b> LSS has partnered with the BC Law Foundation to establish a research fund to examine the efficiency and effectiveness of legal aid and access to justice programs. To date, a number of different research areas have been supported including the CBA Equal Justice Conference, Professor Julie MacFarlane's research on unrepresented litigants, and Professor Yvon Dandurand's overview of areas where legal aid adds economic value.</p>	<p>\$1 million" (LSS, 2010c, pp. 20–23).</p> <p>LSS reiterated many of the above recommendations in its submission, <i>Making Justice Work</i>, which was provided in response to a request of the Attorney General for the BC Justice Reform Initiative (LSS, 2012g). The report included the following recommendations for reform:</p> <ol style="list-style-type: none"> <li>1) Legal aid should use expanded criminal duty counsel, where specific lawyers are assigned to the same court on an ongoing basis and can handle non-complex matters for a set time. This model is expected to reduce the number of court appearances and would be even more cost-effective if expanded duty counsel have the support of non-lawyers to handle administrative and client support. Expanded duty counsel would assist in handling the increasing number of administrative offences, such as breach of conditions or probation. This model is considered to work best in high-volume locations.</li> <li>2) Legal aid should use early resolution referrals in locations with lower volume. This delivery method allows ad hoc duty counsel to retain non-complex matters. Under current LSS policy, counsel cannot retain referrals under conflict of interest provisions. This policy would be changed to enable smaller locations to benefit from a delivery method similar to expanded duty counsel.</li> <li>3) The creation of a disposition court and early resolution tariff would encourage those accused who are interested in accessing treatment or other incentives that the court provides to resolve their cases early.</li> <li>4) Exploring the use of non-lawyer service providers, such as legal information outreach workers and paralegals, could increase access to legal services, as well as provide cost savings for legal aid.</li> <li>5) As Aboriginal people are disproportionately represented in the justice system, legal aid should enhance Aboriginal services to ensure they are culturally-sensitive. LSS has undertaken several initiatives in this area (see Legal Services Provision).</li> <li>6) The justice system stakeholders should explore the expansion of specialized courts, such as drug treatment courts, domestic violence courts, First Nations Courts, and Gladue Sentencing Court, as they have been shown to result in fewer breaches, fewer trials that collapse, and/or better outcomes.</li> <li>7) The justice system stakeholders should consider how to use telephone and video technology better for bail hearings (LSS, 2012g, pp. 24–39).</li> </ol> <p><b>Evidence of potential impact:</b> Economic analysis of LSS criminal law reforms suggests it will result in savings to the broader justice system through a reduction in court appearances and earlier resolution of cases. For example, a 27% reduction in the number of court appearances could save the justice system \$158,000 per 1,000 cases. A 70% reduction could save \$420,000 per 1,000 cases.</p>

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System approach	
Partnerships	Law reform
	<p>These benefits are dependent on legal aid counsel and Crown providing similar continuity of counsel so matters can be handled expeditiously (LSS, 2012g, p. 27).</p> <p><b>Preparing for legislative changes</b> LSS is developing plans on how to update policies, processes, and services to ensure they align with anticipated legislative changes to criminal law (LSS, 2012a, p. 20).</p> <p><b>Provincial and national collaborations related to law reform</b> LSS has been a long term participant in provincial and national initiatives such as the BC Justice Summits, BC Law Society Task Forces, BC's Justice Review Task Force, the Reinventing Criminal Justice symposium (sponsored by DoJ and CACP), and the National Action Committee on Access to Justice (under the aegis of the CJSCC). The CEO is an active member of the International Legal Aid Group and is an executive member and a past chair of the Association of Legal Aid Plans of Canada.</p>

## British Columbia Reference List

- BC Ministry of Justice. (n.da). Criminal Justice Reform Projects: Bail Reform Project. Retrieved November 19, 2013, from [http://www.criminaljusticereform.gov.bc.ca/en/justice\\_reform\\_projects/bail\\_reform/](http://www.criminaljusticereform.gov.bc.ca/en/justice_reform_projects/bail_reform/)
- BC Ministry of Justice. (n.db). The Community Court's Story. Retrieved November 19, 2013, from [http://www.criminaljusticereform.gov.bc.ca/en/justice\\_reform\\_projects/community\\_court/story/index.html](http://www.criminaljusticereform.gov.bc.ca/en/justice_reform_projects/community_court/story/index.html)
- Focus Consultants. (2010). Evaluation of the Expanded Duty Counsel Project: Final Report.
- Ipsos Reid. (2013a). LSS 2013 Public Opinion Poll. Retrieved November 7, 2013, from [http://www.lss.bc.ca/assets/aboutUs/reports/legalAid/lssPublicOpinionPoll04\\_13.pdf](http://www.lss.bc.ca/assets/aboutUs/reports/legalAid/lssPublicOpinionPoll04_13.pdf)
- Ipsos Reid. (2013b). LSS 2013 Tariff Lawyer Satisfaction Survey.
- LSS. (2006). Annual Service Plan Report 2005/2006. Retrieved November 19, 2013, from [http://www.lss.bc.ca/assets/aboutUs/reports/annualReports/annualServicePlanReport\\_2005.pdf](http://www.lss.bc.ca/assets/aboutUs/reports/annualReports/annualServicePlanReport_2005.pdf)
- LSS. (2007). Annual Service Plan Report 2006/2007. Retrieved November 19, 2013, from [http://www.legalaid.bc.ca/assets/aboutUs/reports/annualReports/annualServicePlanReport\\_2006.pdf](http://www.legalaid.bc.ca/assets/aboutUs/reports/annualReports/annualServicePlanReport_2006.pdf)
- LSS. (2008a). Annual Service Plan Report 2007/2008.
- LSS. (2008b). Community Advocate Support Line Evaluation Poverty Law Services Project—File # P6600603.
- LSS. (2009). Annual Service Plan Report 2008/2009.
- LSS. (2010a). Annual Service Plan Report 2009/2010.
- LSS. (2010b). Legal Aid Funding and the Law Society of BC Mayland Mckimm, QC, Chair, the Legal Services Society Speech to the Law Society of BC Benchers, April 23, 2010.
- LSS. (2010c). Submission to the Public Commission on Legal Aid.
- LSS. (2011a). Access to Justice – What the People Want Mayland Mckimm, QC, Chair, the Legal Services Society Speech to the Law Society of BC Benchers, March 4, 2011.
- LSS. (2011b). Annual Service Plan Report 2010/2011.
- LSS. (2012a). Annual Service Plan Report 2011/2012.

- LSS. (2012b). Gladue Report Disbursement Pilot: Information for lawyers. Retrieved November 19, 2013, from <http://www.lss.bc.ca/assets/lawyers/practiceResources/gladueReportDisbursementPilot.pdf>
- LSS. (2012c). Legal Aid BC Update - August 20, 2012.
- LSS. (2012d). Legal Aid BC Update - December 20, 2012.
- LSS. (2012e). Legal Aid BC Update - October 22, 2012.
- LSS. (2012f). Legal Aid Update - May 7, 2012.
- LSS. (2012g). Making Justice Work: Improving Access and Outcomes for British Columbians.
- LSS. (2012h). News Release - Making Justice Work - Improving Access and Outcomes for British Columbians - August 30, 2012.
- LSS. (2012i). Public Legal Education and Information Resources Accessibility Initiative.
- LSS. (2013a). Annual Service Plan Report 2012/2013.
- LSS. (2013b). Community Advocate Support Line: Retrieved November 6, 2013, from [http://www.lss.bc.ca/community\\_workers/CommunityAdvocatesSupportLine.php](http://www.lss.bc.ca/community_workers/CommunityAdvocatesSupportLine.php)
- LSS. (2013c). Community Engagement Evaluation - Final Report. Retrieved November 19, 2013, from <http://www.legalaid.bc.ca/assets/aboutUs/reports/communityEngagement/communityEngagementEvaluation2013.pdf>
- LSS. (2013d). Crimes & Offences Publications. Retrieved November 4, 2013, from <http://www.lss.bc.ca/publications/subject.php?sub=9>
- LSS. (2013e). E-services. Retrieved November 4, 2013, from <http://www.lss.bc.ca/lawyers/eservices.php>
- LSS. (2013f). Gladue Report Disbursement: Final Evaluation Report.
- LSS. (2013g). Legal Aid Brief: Downtown Community Court. Retrieved November 19, 2013, from [http://www.lss.bc.ca/lab/2013\\_february.php](http://www.lss.bc.ca/lab/2013_february.php)
- LSS. (2013h). Legal information outreach workers: Legal aid BC. Retrieved November 7, 2013, from [http://www.legalaid.bc.ca/legal\\_aid/legalInformationOutreachWorkers.php](http://www.legalaid.bc.ca/legal_aid/legalInformationOutreachWorkers.php)
- LSS. (2013i). Service Plan 2013/14 - 2015/16.

Malatest. (2010). Evaluation of the Bail Reform Pilot Project Peace Region and Surrey - Final Evaluation Report. Retrieved November 19, 2013, from [http://www.criminaljusticereform.gov.bc.ca/en/justice\\_reform\\_projects/bail\\_reform/docs/brp\\_evaluation.pdf](http://www.criminaljusticereform.gov.bc.ca/en/justice_reform_projects/bail_reform/docs/brp_evaluation.pdf)

McKimm, M. (2010). The Future of Legal Aid. *The Advocate*, 68(5).

Walkem, A. (2007). Building Bridges: Improving Legal Services for Aboriginal Peoples.

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Aid Manitoba (LAM)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
No relevant activities were identified in available documentation.	<p><b>Application centre</b> LAM opened a new application centre in July 2009 to provide service to applicants accused in criminal cases. The centre provides general and specific information on legal aid eligibility and assists clients with the application process (LAM, 2009b).</p> <p><b>Application form changes</b> In 2009 LAM modified application form questions to include check boxes in an effort to make the form more intuitive, faster, and straightforward (LAM, 2010b).</p> <p><b>On-demand interpreters for applications</b> LAM has an agreement with CanTalk Canada to provide on-demand interpretation at application/intake offices. This is done to help facilitate the application process (LAM, 2013).</p> <p><b>Restructuring application process</b> LAM reported that the application process took approximately two months and with changes to the process, that wait is now 3-5 days. The changes included revising the Area Director's Manual so that directors in charge of the application process had clear guidelines on what to consider when processing applications (see <i>Other administration</i> for additional information). In addition, the roles of clerks and administrative officers who were processing applications were redefined. These changes created efficiencies that led to the reduction in the time for processing applications. This, in turn, has benefited the court system by reducing the two-month delay before the individual has legal aid, which means fewer court appearances and remands.</p> <p><b>Improving information on application process at court</b> To reduce the number of instances where individuals come to court stating they have not heard from legal aid, LAM has instituted a new process where that information is available to counsel. Applicants must now sign a consent and release form that allows LAM to advise the court of the status of the application. In addition, for the administrative courts, LAM receives the docket in advance so it can determine which individuals have applications pending and counsel can, therefore, inform the court of the application's status.</p> <p><b>Private Bar Online (PB Online)</b> Since September, 2013, LAM has been testing a new internet based certificate system that will allow private bar lawyers to create an online account with LAM that they can use to accept or decline certificates offered to them. The system is expected to simplify and accelerate the process of certificate issuance and acceptance. The service will create an electronic copy of the disclosure received in the application process. Paper copies will no longer be retained. In addition, when disclosure is received from the Crown, LAM can scan that information into Private Bar Online and deliver the materials to the private bar and staff lawyers electronically. LAM anticipates that by April 1, 2014, all certificates and associated documents will be delivered through Private Bar Online. LAM is also currently working on two additional phases of Private Bar Online. The next two phases will enable the private bar to submit bills and applications electronically (LAM, 2013).</p>	<p><b>Full service duty counsel (FSDC)</b> LAM incorporated FSDC as a permanent process in 2007. Through FSDC, lawyers and articling students provide clients advice and information and sometimes speak for them in court, but do not become involved in trials (LAM, n.da, 2009a). Full service duty counsel is offered throughout the province, except Winnipeg where the use of pre-trial coordinator courts makes it difficult to implement FSDC.</p> <p><b>Evidence of success/impact:</b> LAM indicates the FSDC process positively contributes to earlier settlements, a more comprehensive range of services for child protection respondents, and improved service quality (LAM, 2007).</p> <p><b>Domestic Violence Full Service Duty Counsel (DV FSDC)</b> LAM indicates the Attorney General of Manitoba's Zero Tolerance policy issued in 1983 had a profound impact on the volume of spousal abuse cases in the criminal justice system. LAM indicates this policy directs police to lay charges in virtually all cases and provides less discretion for prosecution. In 2009, LAM began a pilot project in Winnipeg aimed at reducing the number of unrepresented accused in domestic violence cases (LAM, 2009c). The project involves LAM issuing staff lawyer certificates to represent financially eligible clients charged with domestic violence matters. Historically LAM only provided limited duty counsel coverage for domestic violence matters (LAM, 2010a). The DV FSDC is restricted to financially eligible persons whose applications would be refused due to insufficient likelihood of jail (LAM, 2009c).</p> <p><b>Plain language communication</b> In 2008, LAM began to review all client correspondence using plain language guidelines. Revised client communications were anticipated to make it easier for clients to access legal aid and understand the services provided (LAM, 2008b, p. 10).</p> <p><b>On-call automated system for after-hours custody calls</b> In 2012-13, LAM introduced an automated system for after-hours custody calls. Police and RCMP have one telephone number to provide accused for LAM. Staff counsel, private bar lawyers, and articling students answer calls on a rotation system. LAM reports that this system is cost-effective (40% reduction in cost from previous call centre model) and has improved service as accused now reach a lawyer or articling study within two minutes.</p> <p><b>On-demand interpreters for custody calls</b> LAM has an agreement with CanTalk Canada to provide on-demand interpretation for custody calls. No special advance arrangements are necessary (LAM, 2013).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Aid Manitoba (LAM)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Attorney salary and assessment</b> LAM developed a process to properly assess senior attorneys seeking promotion to the BB4 category. The BB4 category was introduced in the as a new salary schedule classification in the Legal Aid Lawyers' Association 2006-2010 collective agreement (LAM, 2010a).</p> <p><b>Increase remuneration for private bar</b> LAM implemented changes to make certain legal aid work more attractive for private bar counsel, including increased remuneration rates for Brydges On-call and Weekend Bail Court (LAM, 2008b).</p> <p><b>MoU on LAO research services</b> LAM established an Memorandum of Understanding with Legal Aid Ontario (LAO) for legal research services to assist private bar counsel working on legal aid certificates (LAM, 2008b, p. 10). The LAO memos help lawyers prepare cases for legal aid clients by providing detailed research on common legal issues. There are over 300 criminal law memos; up to 2 memos can be requested per active legal aid certificate (by staff or private bar) (LAM, 2008a).</p>	<p><b>Preserving dual model delivery</b> About 60% of criminal legal aid is provided by the private bar. In 2010, LAM made a number of changes to preserve the viability of LAM's dual model delivery system and ensure more equitable distribution of work in the following ways:</p> <ol style="list-style-type: none"> <li>1. Eliminating choice of counsel for Youth Criminal Justice Act (YCJA) s.25 (right to council) appointments where parents are found to be financially ineligible. Choice of counsel will not be honoured in cases where financially ineligible clients are seeking private bar representation.</li> <li>2. Introducing administrative policy limiting appointments of alternative lawyers in change of counsel requests; if possible, all private bar initiated change of counsel requests will be issued to staff lawyers.</li> <li>3. Encouraging earlier client contact by staff lawyers. If financial eligibility of client has been reasonably established, LAM will allow staff lawyers to immediately initiate client contact before a certificate issues.</li> <li>4. Expanding the staff lawyer's responsibility on select duty counsel circuits that have traditionally had a strong private bar lawyer presence. This was done to encourage diversity in choice of counsel for clients in rural circuits and more evenly distribute work between staff and private bar lawyers (LAM, 2010a, pp. 4, 10).</li> <li>5. Diverting stand alone breach of probation charges to staff lawyers. This change was made in 2013</li> </ol> <p><b>Articling students</b> In 2010, LAM was recruiting extra-provincial articling students for northern community offices (LAM, 2010a).</p> <p><b>Evidence of success/impact:</b> LAM achieved a sufficient core of young lawyers (private and staff) taking on legal aid work in northern centres to allow LAM to stop using contracts with Winnipeg counsel</p>	<p><b>Performance management</b> In 2009, LAM implemented a set of statistical tools that included a base statistical measure of a legal matter, which allows LAM to better assess the cost of certain types of legal matters (e.g., break and enter, murder). This type of analysis was not possible when records were kept by certificate only as multiple legal matters could be included in one certificate.</p> <p>In addition, the "Complexity Weighted Caseload performance tool" electronically tracks staff lawyer billings for case closings, drop-in, duty counsel, and outreach using the private bar tariff of fee. Staff lawyers will receive credit reflecting the complexity of their work (LAM, 2009a). The tool enables LAM to assign work more fairly based on case complexity (LAM, 2010a), make more accurate cost comparisons with the private bar, and decide whether to issue certificates to private bar or staff lawyers based on cost (LAM, 2012, p. 7). LAM also measures length of time between issuing and the staff lawyer accepting a certificate. If four days lapses, the senior manager is notified. Staff and private bar are also expected to bill within 60 days. Both measures ensure efficient movement of certificates through the legal aid system.</p> <p>In addition to the statistical measures, staff lawyers are evaluated based on core competencies, which includes feedback from other stakeholders.</p> <p><b>Big Case Management (BCM)</b> The BCM program was introduced in Manitoba in 2004 and was designed to manage unusually complex and lengthy cases (LAM, 2006, p. 8). Through the BCM program, lengthy and complex cases are funded through a case budget. Case managers are used to monitor, review, and approve expenditures within this budget in an effort to control case costs. A big case is one that exceeds the limits of a standard criminal certificate and fee costs are anticipated to exceed \$5,000 (LAM, 2004). Matters that will involve mandatory</p>	<p><b>Reorganization of law centres</b> The 2004 Perozzo report recommended relying more on staff lawyers than private bar, especially when conducting more complex criminal trials (Government of Manitoba, 2004; LAM, 2012). The <i>Legal Aid Manitoba Act</i> was amended in 2005 so that LAM lawyers are not automatically conflicted out of representing co-accused. In Fiscal Year 2011-12, LAM reorganized its Winnipeg-based community law centres, creating smaller community-based criminal law centres to more effectively rely on staff lawyers to represent multiple criminal/youth co-accused. Four of these criminal law centres were established in Winnipeg. LAM also established a Winnipeg Application Centre and Winnipeg Criminal Duty Counsel Office, which operates independently of the community law centres and removes the conflict which flowed from duty counsel lawyers situated in community law centres (LAM, 2012, p. 7).</p> <p><b>Performance review and evaluation guidelines</b> Guidelines for annual performance review and evaluation of LAM's management council members and core activities were established to provide useful feedback and stimulate discussion on improving efficiency, accountability, and decision making (LAM, 2010a).</p>



Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Aid Manitoba (LAM)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
	<p>(LAM, 2010a). LAM also reported that some of the articling students have stayed in the locations for a couple of years as members of the private bar.</p> <p><b>Law student volunteers</b> LAM also provides services through the University Law Centre, which uses 50 to 100 2<sup>nd</sup> and 3<sup>rd</sup> year law students on a volunteer basis. Students are supervised by LAM staff lawyers and are involved in cases involving criminal code offenses that are not likely to end in jail time (LAM, n.db).</p> <p><b>Paralegals</b> For criminal law matters, paralegals provide application status information to courts and take applications. The <i>Legal Profession Act</i> governs how paralegals can be used. Currently, they cannot make representations in criminal court on behalf of clients.</p>	<p>BCM include homicides and other high-profile cases, complex multi-accused cases, gang-related cases, dangerous or long-term offender cases, as well as other types of cases (LAM, 2004). LAM provides a BCM form online for council to apply for the BCM process (LAM, 2010b).</p> <p><b>Simplifying certification and billing process</b> In 2009, LAM changed the way it tracked and reported on certificate matters. The new approach allows counsel to bill legal matters separately after disposition, as long as they were not jointly disposed of with other legal matters on the client's certificate, LAM indicates that counting the number of legal matters issued instead of number of certificates would simplify certificate issuance and the billing process. Furthermore, this data can be combined with the complexity weighting data (see above) allowing LAM to perform accurate and comprehensive business analysis (LAM, 2010a, p. 11).</p> <p><b>Improving accountability and efficiency</b> In 2010, LAM has undertaken a number of changes aimed at improving accountability and efficiency. This included revising the Area Director's Manual, which involved implementing application expiry dates, enhanced financial investigative measures, improved data tracking methods, revised policies on legal matter compensation, and choice and change of counsel requests (LAM, 2010a).</p> <p><b>Continuous Quality Improvement</b> The LAM uses a Continue Quality Improvement process to build on its Area Director's Manual: Part of this process involves collecting feedback from stakeholders, including private bar counsel (LAM, 2010b).</p> <p><b>Team building training</b> LAM is implementing team building training for line supervisors. Staff members are instructed with current management practices and strategies, with the goal that staff will acquire the tools needed to operate more autonomously. This will allow</p>	

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Aid Manitoba (LAM)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
		<p>offices/units to function more efficiently, stay within budget, and minimize human resource issues (LAM, 2010a).</p> <p><b>Using client characteristics to inform program planning</b>            In 2013, LAM added fields to its application allowing individuals to self-identify as an Aboriginal Person, Visible Minority, or Person with a Disability. LAM indicates this data may be beneficial in assessing programs and requesting additional funding. These changes also added a question under the “Criminal and Youth Cases Only” section to identify applicant’s parole/probation officer or mental health worker (LAM, 2013).</p>	
System approach			
Partnerships		Law reform	
<p><b>Stakeholder meetings</b>            In 2013, LAM began quarterly meetings with the criminal Defence Lawyers Association, the Manitoba Bar Association, the Legal Aid Lawyers Association, and Justice Innovations at Manitoba Justice. Legal aid issues that impact the justice system are discussed at these meetings, including issues that impact the private bar and changes to the legal aid process.</p> <p><b>Justice Innovations</b>            Manitoba Justice has created the Innovation Team, which has the mandate of improving the efficiency of the justice system in terms of the time it takes for cases to move through the system. The Innovation Team works with LAM and Prosecutions to discuss issues affecting the system, attempt to find collaborative ways to deal with those matters, and work on methods of increasing the efficiency of the system.</p>		<p>No relevant activities were identified in available documentation.</p>	

## Manitoba Reference List

- Government of Manitoba. (2004). Legislative Electronic Publications -- Criminal Legal Aid Changes Recommended. Retrieved November 7, 2013, from <http://www.gov.mb.ca/chc/press/top/2004/05/2004-05-27-01.html>
- LAM. (n.da). Legal Aid Manitoba Dictionary - Duty Counsel. Retrieved November 18, 2013, from <http://www.legalaid.mb.ca/>
- LAM. (n.db). University Law Centre. Retrieved November 4, 2013, from <http://www.legalaid.mb.ca/>
- LAM. (2004). Legal Aid Practice Directive #1-2004. Retrieved November 18, 2013, from <http://www.legalaid.mb.ca/pdf/notices2004.pdf>
- LAM. (2006). Thirty Fourth Annual Report - March 31, 2006. Retrieved November 18, 2013, from [http://www.legalaid.mb.ca/pdf/2006\\_annual\\_report.pdf](http://www.legalaid.mb.ca/pdf/2006_annual_report.pdf)
- LAM. (2007). Thirty Fifth Annual Report - March 31, 2007. Retrieved November 18, 2013, from [http://www.legalaid.mb.ca/pdf/2007\\_annual\\_report.pdf](http://www.legalaid.mb.ca/pdf/2007_annual_report.pdf)
- LAM. (2008a). Notices to the profession: 2008. Retrieved November 4, 2013, from <http://www.legalaid.mb.ca/pdf/notices2008en.pdf>
- LAM. (2008b). Thirty Sixth Annual Report - March 31, 2008.
- LAM. (2009a). Annual report 2008/09.
- LAM. (2009b). Enhancing Legal Aid Application Services. Retrieved November 4, 2013, from [http://www.legalaid.mb.ca/pdf/PR\\_New\\_Application\\_Centre.pdf](http://www.legalaid.mb.ca/pdf/PR_New_Application_Centre.pdf)
- LAM. (2009c). Notices to profession: Fiscal Year 2009-2010. Retrieved November 4, 2013, from [http://www.legalaid.mb.ca/pdf/NoticesFY2009\\_2010EN.pdf](http://www.legalaid.mb.ca/pdf/NoticesFY2009_2010EN.pdf)
- LAM. (2010a). Annual report - March 31, 2010. Retrieved November 4, 2013, from [http://www.legalaid.mb.ca/pdf/2010\\_annual\\_report.pdf](http://www.legalaid.mb.ca/pdf/2010_annual_report.pdf)
- LAM. (2010b). Notices to profession: Fiscal Year 2010-2011. Retrieved November 4, 2013, from <http://www.legalaid.mb.ca/pdf/notices2010en.pdf>
- LAM. (2011). Notices to profession: Fiscal Year 2011-2012. Retrieved November 4, 2013, from <http://www.legalaid.mb.ca/pdf/notices2011en.pdf>
- LAM. (2012). Annual report 2011/2012. Retrieved November 4, 2013, from [http://www.legalaid.mb.ca/pdf/2012\\_annual\\_report.pdf](http://www.legalaid.mb.ca/pdf/2012_annual_report.pdf)
- LAM. (2013). Notices to profession: Fiscal Year 2013-2014. Retrieved November 4, 2013, from <http://www.legalaid.mb.ca/pdf/notices2013en.pdf>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — New Brunswick Legal Aid Services Commission (NBLASC)		
Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
<p><b>Links to PLEI materials</b> NBLASC website provides online access to PLEI resources specifically for criminal law issues. This information is provided through links to the Public Legal Education and Information Service of New Brunswick (PLEIS-NB) website. This site includes information on how legal aid works; how to defend yourself in provincial court; knowing your rights when questioned, detained or arrested; and mental health and the criminal justice process (NBLASC, 2012b).</p>	<p><b>Handling all <i>Youth Criminal Justice Act (YCJA)</i> charges</b> Beginning in June of 2011, all young offenders charged with an offence were granted a legal aid certificate, without consideration of the likelihood of incarceration, prior legal aid use, or the young offender's financial criteria (NBLASC, 2013, p. 10). Prior to this, young offenders who were denied legal aid representation usually received Court Appointed counsel, which added time and cost to the justice system as a whole due to the administrative process of obtaining court-appointed counsel. The Commission reports that while the policy change to accept all <i>YCJA</i> charges has added costs for NBLASC, "the overall savings to the justice system makes this a worthwhile initiative" (NBLASC, 2012a, p. 5).</p> <p><b>Intake eligibility project</b> To respond to recommendations of the 2007 review of legal aid in New Brunswick, NBLASC will undertake a review of its intake process and eligibility criteria in the spring of 2014. This review will consider recommendations related to implementing sliding scales with staged client contributions, which consider family size and exceptional expenses related to an accused's disability (Hughes &amp; MacKinnon, 2007, pp. 2–5); and the streamlining of the intake process. The report notes that at the time NBLASC had "excessively" complex and unarticulated eligibility criteria, which slowed the eligibility decision making process, causing unacceptable delays (Hughes &amp; MacKinnon, 2007, p. 22).</p>	<p><b>Bilingualism</b> NBLASC uses a linguistic profile to guide recruitment of lawyers so that services are offered in both official languages. As of 2013, 58% of staff members were bilingual. Services— including applications and referrals— are offered in both official languages at NBLASC's 11 offices. (NBLASC, 2013, pp. 3–4)</p> <p><b>Use of senior criminal defence duty counsel</b> NBLASC assigns duty counsel lawyers to criminal and youth courts to advise accused who are without counsel and face eligible charges. The Commission indicates that it emphasizes the use of senior experienced duty counsel so that part or all aspects of a case may be addressed and — because there is no financial criteria for duty counsel — more clients can be seen (NBLASC, 2013, pp. 7–8). NBLASC notes that a balance is needed in the use of senior staff to ensure that they are available for more complex matters.</p> <p><b>Evidence of success/impact:</b> NBLASC indicates the use of staff criminal duty counsel provides fuller service earlier in the justice process, offers increased court coverage, and reduces court delays (NBLASC, 2013, p. 19).</p> <p><b>Duty counsel service for higher needs clients</b> The 2007 review of legal aid in New Brunswick recommended that NBLASC provide additional training for duty counsel working with special or high-needs defendants. The report suggested that there may be potential for community partnerships with service organizations that assist defendants with mental health issues, substance abuse issues, First Nations individuals, and linguistic minorities. These community organizations believe they could assist NBLASC if they were made aware that one of their clients was in the court system (Hughes &amp; MacKinnon, 2007, p. 19).</p> <p><b>Duty counsel in Mental Health Court</b> Currently, NBLASC reports that duty counsel work with an interdisciplinary team of professionals at the Mental Health Court in Saint John. Duty counsel also represent individuals who have periodic reviews conducted by the provincial Mental Health Review Boards (NBLASC, 2013, p. 9)</p> <p><b>Duty counsel in Domestic Violence Court</b> NBLASC indicates currently duty counsel is provided at the Domestic Violence Court, which addresses offenses such as violence, theft, and stalking in cases involving an intimate relationship (NBLASC, 2013, p. 9).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — New Brunswick Legal Aid Services Commission (NBLASC)		
Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
		<p><b>High cost criminal cases</b>                      The 2007 review of legal aid in New Brunswick recommended that budgetary flexibility be granted to the Commission in complex cases where a proper defence causes budgetary overrun (Hughes &amp; MacKinnon, 2007, pp. 2–5). The report suggests one way of doing this could be to give the board the ability to draw up to 5% of additional budget in a particular year, which is done in other jurisdictions (Hughes &amp; MacKinnon, 2007, p. 30). No further information was found on whether this recommendation was implemented.</p> <p>NBLASC reporting indicates that on an annual basis legal counsel is provided to a limited number of exceptional cases with costs that exceed \$5,000. In such cases, counsel is assigned based on the both the nature and duration of the case (NBLASC, 2013, p. 19).</p> <p><b>Recommended innovative services</b>                      The 2007 review of legal aid in New Brunswick recommended NBLASC provide innovative and extended services, including the following:</p> <ul style="list-style-type: none"> <li>• Establishing a court worker program in consultation with First Nations groups. Such services could facilitate Aboriginal access to justice and provide a better understanding of the justice system for those involved (Hughes &amp; MacKinnon, 2007, p. 19).</li> <li>• Providing extended duty counsel services to provincial courts of specialized jurisdiction (e.g., mental health court, domestic violence court) (Hughes &amp; MacKinnon, 2007, pp. 2–5).</li> </ul> <p>In FY 2009-2010, NBLASC announced two legal counsel positions that have serving Aboriginal communities as a priority (NBLASC, 2010, p. 5). NBLASC has also worked on extended duty counsel services to the specialized courts.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — New Brunswick Legal Aid Services Commission (NBLASC)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Private bar use</b> As of FY 2012-2013, NBLASC maintained a staff of 18 criminal lawyers. The Commission has access to over 107 private bar lawyers for cases where there is a conflict of interest or specialized skills are required, or where workload requires (NBLASC, 2013, p. A1b-1).</p> <p>Recent data on the Commission's criminal defence legal aid caseload show a substantial shift towards using staff counsel for criminal legal aid cases. Between FYs 2011-2012 and 2012-2013, there was a 46% increase in staff counsel's case load (from 1,211 cases to 1,773 cases), which coincided with a 48% decrease in private counsel cases (from 1,035 cases to 529 cases) (NBLASC, 2013, p. 11). NBLASC is primarily a staff model.</p> <p><b>Detainee counsel — Evidence of success/impact:</b> In FY 2012-13, NBLASC reported that reliance on private counsel for detainee services increased the availability of staff lawyers for court scheduling, and resulted in a reduction of the overall expense of trial services (NBLASC, 2013, p. 7).</p>	<p><b>Performance management</b> In FY 2012-2013, NBLASC implemented a performance management system to measure employee performance and reward employees based on their performance. As part of this process, employee roles were clarified and clear expectations were established (NBLASC, 2013, p. 5). NBLASC continues to work on developing and improving its performance management system; one method is by incorporating quantitative measures of performance.</p> <p><b>Evidence of success/impact:</b> Performance management and better use of support staff enabled the Commission to increase its criminal staff caseload to 70% of all cases in 2012-2013 (compared 54% in 2011-2012), which led to an approximated 50% decrease in Commission expenditures on criminal private bar lawyers compared to the previous fiscal year (NBLASC, 2013, p. 5).</p>	<p><b>Management of legal aid</b> The 2007 review of legal aid in New Brunswick also recommended the following changes in the management of legal aid cases :</p> <ul style="list-style-type: none"> <li>• Develop and use proper information management. The report indicate NBLASC was developing an IT-based case management system, and it recommended that such a system be utilized to provide clients of legal aid with the ability to obtain information on the status of their application and their case (Hughes &amp; MacKinnon, 2007, p. 27).</li> <li>• Manage and limit file loads for duty counsel to allow for additional preparation time, which will help ensure guilty pleas are sound and not rushed (Hughes &amp; MacKinnon, 2007, p. 18).</li> <li>• Extend legal aid to summary conviction offences where imprisonment or other restraints on liberty are likely outcomes (Hughes &amp; MacKinnon, 2007, pp. 2-5). The report notes that the sentencing increase from 6 to 18 months for summary convictions of sexual assault is a clear indication that serious matters are being addressed summarily. (Hughes &amp; MacKinnon, 2007, p. 23). NBLASC considers eligibility on a case-by-case basis and does not deny legal aid simply on the basis that the matter is a summary offence.</li> </ul> <p><b>Aligning strategic priorities with provincial government's 2006 Charter for Change</b> NBLASC identified five strategic priorities to govern the development of the Commission over a three to five year period. These included the following:</p> <ul style="list-style-type: none"> <li>• Conducting a comprehensive legislative review of the foundation legislation for NBLASC "to enable a fully functional governance and management that are responsive to the government's mandate for legal aid."</li> <li>• Streamlining the service delivery system to ensure that consistency and continuity of services and benefits are maximized for both staff and private bar components.</li> <li>• Developing a performance management system that</li> </ul>	<p><b>NLSA office expansion</b> The number of NBLASC offices increased from eight in FY 2009-2010 to eleven offices in FY 2012-2013 (NBLASC, 2010, p. 4, 2013, pp. 3-4).</p> <p><b>Reorganization of head office</b> In 2011, NBLASC reorganized its head office's processes and personnel, which involved a reduction in higher-level corporate staff, and contributed to a 50% decrease in head office expenditures (NBLASC, 2012a, p. 19).</p> <p><b>Organization</b> The 2007 review of legal aid in New Brunswick recommended that the Commission's governance structure and practices should be made a top priority. Furthermore, the Commission's board and Minister should agree on the skill profile required for the Commission's director. As well, board members should have a range of skills, including legal training, clinical law experience, financial expertise, advocacy expertise, and general business experience (Hughes &amp; MacKinnon, 2007, pp. 2-5). Documentation does not indicate whether these recommendations were implemented.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — New Brunswick Legal Aid Services Commission (NBLASC)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
		focuses on client services and budgetary results. <ul style="list-style-type: none"> <li>• Seeking partnerships at the community, provincial, and federal levels to promote affordable and accessible legal advice.</li> <li>• Increase public awareness of NBLASC's services and community presence (NBLASC, 2010, p. A1c).</li> </ul>	
System approach			
Partnerships		Law reform	
<b>Student clinics</b> The 2007 review of legal aid in New Brunswick recommended the establishment of student clinics, which would be a collaboration between the New Brunswick Department of Justice, Law Society of New Brunswick, New Brunswick Law Foundation, and the universities of New Brunswick and Moncton (Hughes & MacKinnon, 2007, pp. 2–5). Although a clinic has not been established, NBLASC has used law students to assist staff counsel with case research.		No relevant activities were identified in available documentation.	
<b>Specialized courts</b> NBLASC works in partnership with the court, Crown, and counselling services for both the Mental Health Court and the Domestic Violence Court (see <i>Legal Service Provision</i> for more details).			

**New Brunswick Reference List**

Hughes, J., & MacKinnon, E. (2007). If There Were Legal Aid in New Brunswick...a Review of Legal Aid Services in New Brunswick. Retrieved from <http://www.gnb.ca/0062/pdf/5071%20eng%20report.pdf>

NBLASC. (2010). Annual Report 2009-2010.

NBLASC. (2012a). Annual Report 2011-2012.

NBLASC. (2012b). Resources Available from Public Legal Education and Information Service of New Brunswick. Retrieved November 5, 2013, from <http://www.legalaid.nb.ca/en/resources>

NBLASC. (2013). Annual Report 2012-2013.



Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Newfoundland and Labrador Legal Aid Commission (NLLAC) <sup>1</sup>		
Service delivery		
PLEI/self-help	Application process	Legal service provision
<p><b>Information on legal aid services</b> The 2006 Lamer Report, which investigated the administration of justice in three murder cases, recommended “a simple pamphlet should be made available to explain the legal aid program to laypersons” (Lamer, 2006, pp. 51, 326). This recommendation stemmed from Lamer’s finding that there had been delays and confusion over the legal aid certificate process, which could have been avoided had the defendant been properly informed (after his lawyer withdrew from the case) that his legal aid certificate entitled him to another lawyer on the same terms of the issued certificate (Lamer, 2006, pp. 49–51).</p> <p>In FY 2007–2008, in response to the Lamer Inquiry recommendation, NLLAC created a pamphlet on NLLAC’s legal aid program (NLLAC, 2011b, pp. 5–6).</p> <p><b>Task Force on Criminal Justice Efficiencies</b> (see <i>Organizational Structure for details on the task force</i>) The Task Force issued their report in February 2008, which made a number of recommendations regarding legal aid. The report indicates that approximately half of all individuals accused of crime use legal aid services, so it is important they have access to information on the application process. The report recommended that NLLAC review and revise legal aid materials used by police to ensure persons charged with an offence have early access to accurate information on legal aid services (NLDoJ, 2008, pp. 1, 5–6). The report also recommended legal aid information sheets be provided to the courts (NLDoJ, 2008, p. 17).</p>	<p><b>Ensuring judges have information on legal aid application status</b> The 2008 report by the Task Force on Criminal Justice Efficiencies (see <i>organizational structure for task force details</i>) made specific recommendations on how NLLAC could take a more proactive role in assisting applicants in the legal aid application process and ensure applicants apply for legal aid in a timely fashion (NLDoJ, 2008, p. 11). Specifically, the report recommended the following:</p> <ul style="list-style-type: none"> <li>• NLLAC provide information sessions for judges to ensure court staff understand and can help facilitate the legal aid application process (NLDoJ, 2008, p. 17)</li> <li>• Ensure judges have appropriate access to information on a person’s legal aid application. This would require a consent/waiver form to be added to the application package (NLDoJ, 2008, p. 17).</li> </ul> <p>NLLAC now has individuals applying for legal aid sign a form allowing counsel to discuss the status of their application with the court. NLLAC prepares an annotated docket with this information so that the court can be informed. According to NLLAC, this has reduced the number of appearances where accused have not yet applied for legal aid.</p> <p>NLLAC also established an agreement with the Department of Human Resources, Labour, and Employment (HRLE) that would provide confirmation of an applicant’s benefits, which would allow for immediate determination of financial eligibility, eliminating the need for applicants who receive HRLE benefits to provide proof of income and expenses. This initiative was intended to reduce application time (NLLAC, 2011b, pp. 5, 12).</p> <p><b>Revised eligibility guidelines</b> In FY 2010–2011 NLLAC reported that it revised financial eligibility guidelines (NLLAC, 2011b, p. 12). The new guidelines ensure more consistency in how the guidelines are applied and lead to faster processing of applications as the guidelines are clearer and, therefore, easier to apply.</p> <p><b>NLLAC website</b> NLLAC’s website provides access to a downloadable application form, which can be filled out and mailed or dropped off at an area office (NLLAC, n.da). Various other downloadable forms are provided, including appeal forms and an application form to change solicitor (NLLAC, n.db).</p>	<p><b>Aboriginal Project</b> NLLAC operates an Aboriginal Project intended to facilitate working with Aboriginal communities with the goal of improving the quality of legal services provided to Aboriginal people who encounter the law.</p> <p>NLLAC participated in community workshops providing legal expertise, which fed into the creation of three Aboriginal language legal terminology documents (for criminal law) in Inuktitut and two dialects of Innu (NLDoJ, 2007, p. v).</p> <p>The Legal Aid Commission works through community liaison workers in four Aboriginal communities (NLLAC, 2011b, p. 2). Community liaison workers assist with applications for legal aid, arrange appointments for lawyers to meet with clients and witnesses on court circuits, and provide translation during meetings with lawyers, clients, or witnesses.</p> <p><b>Evidence of success/impact:</b> In FY 2008–2009, the demand for a community liaison worker in the Aboriginal community of Sheshashiu was so strong that NNLSA made the position full time (NLLAC, 2011a, p. 10).</p> <p><b>Addressing recommendations from the Aboriginal Justice Report</b> NLLAC has undertaken a number of initiatives to implement recommendations from the 2005 Aboriginal Justice Report to improve and revise existing programming, including the following:</p> <ul style="list-style-type: none"> <li>• Assigning two lawyers to court circuit duty for six month periods, instead of using a rotating schedule. This was done to ensure continuity and build trust in the solicitor–client relationship. It also led to efficiencies, giving lawyers more time to become familiar with a case and its progress (NLLAC, 2011b, p. 15)</li> <li>• Addressing the challenge of recruitment in Labrador by actively recruiting law students willing to commit to legal aid practice in Labrador</li> <li>• New staff who will work with Aboriginal clients are provided training regarding Aboriginal culture and sensitivity (NLLAC, 2011b, pp. 15–16)</li> </ul> <p><b>Mental health court</b> (see <i>Partnerships</i>)</p> <p><b>Client Service Officer (CSO)</b> NLLAC uses a CSO to coordinate and facilitate all of the legal aid commission’s communications with persons incarcerated anywhere in the provincial or federal prison systems, or held in a medical institution (NLLAC,</p>

<sup>1</sup> In June of 2013 Newfoundland and Labrador’s Minister of Justice announced that an external review of the province’s legal aid system was being undertaken. The review planned to examine staff workloads, service delivery challenges, the use of private counsel, and NLLAC’s current administrative model. The review was being conducted to ensure “residents have appropriate access to justice” (NLDoJ, 2013). The review is now complete but has not been released to the public.

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Newfoundland and Labrador Legal Aid Commission (NLLAC) <sup>1</sup>		
Service delivery		
PLEI/self-help	Application process	Legal service provision
		<p>2011b, p. 2).</p> <p>This position was implemented in FY 2007–2008 in an effort to minimize barriers and increase efficiency (NLLAC, 2011b, p. 5), as well as respond to recommendations made in the Lamer Report regarding the accessibility of legal aid for prisoners who are incarcerated outside Newfoundland and Labrador. These recommendations stemmed from Lamer’s finding that delays in communication and complexities in the legal aid application process contributed to an almost eight-month delay in processing the legal aid application for Ronald Dalton, who at the time was incarcerated in New Brunswick (Lamer, 2006, p. 45).</p> <p>NLLAC’s Client Service Officer provides access to legal aid applications, reviews applications, and helps resolve any issues encountered in the legal aid process by facilitating communication between NLLAC and incarcerated applicants (NLLAC, 2011b, pp. 5, 12). CSO also meets with prison officials and inmates to collection information on how to better serve this population (NLLAC, 2011b, p. 9).</p> <p><b>Evidence of success/impact:</b> NLLAC reports that the CSO has reduced the time taken to assign counsel because the CSO reviews applications, allowing the counsel to be assigned sooner (NLLAC, 2011b, p. 12)</p> <p><b>Duty counsel</b> NLLAC provides duty counsel service to people on their first appearance before a provincial or youth court judge (NLLAC, 2012, p. 6)</p> <p>The 2008 report by the Task Force on Criminal Justice Efficiencies recommended that NLLAC Use paralegals and articling students to assistant duty counsel (NLDoJ, 2008, p. 17). Articling students are assisting duty counsel with gathering information from the accused and helping prepare them for their court appearance. NLLAC employed 6 paralegals, but funding for this program ended in 2013. The paralegals also assisted with gathering information and assisting people in preparing for court. Their loss has not affected core services but has reduced the amount of assistance accused receive in preparing for court. Rural offices, in particular, made greater use of the paralegals.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Newfoundland and Labrador Legal Aid Commission (NLLAC)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>No relevant activities were identified in available documentation. Approximately 98% of legal aid in Newfoundland and Labrador is handled by staff counsel.</p>	<p><b>Training and instruction</b> In FY 2008–2009, NLLAC formed an Education Committee to assist in the coordination of training opportunities for staff lawyers and support staff. An orientation package was developed to ensure new lawyers and support staff acquired knowledge needed for their work (NLLAC, 2011b, p. 17). Other training opportunities include annual criminal law conferences and legal education seminars conducted by the Law Society of Newfoundland (NLLAC, 2011b, p. 18).</p> <p>Staff lawyers who act as principals for articling students formed a committee to ensure that articling students receive appropriate training and NLLAC receives feedback on the performance of each student (NLLAC, 2011b, p. 17).</p> <p>In FY 2009–2010, senior lawyers responsible for criminal law prepared an extensive manual of materials for use of staff lawyers, standards for practice, and precedent material, which were to be used by staff lawyers and support staff (NLLAC, 2011b, pp. 17–18).</p> <p><b>Monitoring quality</b> In FY 2009–2010, senior lawyers implemented a program that audits files handled by staff lawyers in each area office to ensure high-quality work is done (NLLAC, 2011b, p. 17). Files are audited against practice standards that were developed by NLLAC senior lawyers (NLLAC, 2011b, pp. 17–18). Files are reviewed by area directors and their files, in turn, are reviewed by the provincial director's office. Files are randomly selected from lists generated by the case management system based on various criteria (10-15 files are reviewed per counsel).</p> <p><b>Evaluation process for staff</b> In FY 2010–2011, NLLAC conducted staff training sessions on a new evaluation process, which included specific sessions for management on implementing the new evaluation process (NLLAC, 2011b, p. 17). The process includes annual reviews of all employees based on competencies developed for the various</p>	<p><b>Implementing Lamer Inquiry recommendations</b> In FY 2007–2008, in response to the recommendations stemming from the Lamer Inquiry Report — which investigated the administration of justice in three murder cases — NLLAC implemented a number of new measures, including the following</p> <ul style="list-style-type: none"> <li>• Appointed a senior counsel to monitor files and ensure legal services are provided in a timely fashion</li> <li>• Modified the “claw back” mechanism to allow the provincial director to use discretion in establishing claw-back amounts of private fees paid</li> <li>• Providing a second counsel to assist in long and complex trials</li> <li>• Copying clients on NLLAC correspondence</li> <li>• To ensure NLLAC is conscious of perceived injustice in the treatment of clients, and are proactive in seeking a resolution, a supervisory staff was hired and commission members with criminal law experience were appointed (NLLAC, 2011b, pp. 5–6)</li> </ul> <p><b>Legal aid information management</b> By March 2014, NLLAC plans to implement enhancements to its legal aid management information system (LAMIS) (NLLAC, 2011c, p. 8). NLLAC has an enhancements committee that is identifying needs. The current system is considered outdated and not user-friendly.</p>	<p><b>New administrative structure</b> In FY 2007–2008, NLLAC implemented a new administrative structure involving two deputy directors, with one focusing on administrative matters and the other on legal matters. As well, a senior criminal lawyer was appointed (NLLAC, 2011b, p. 5).</p> <p>As part of this new structure, new administrative policies were developed and implemented, and senior and middle management were providing training and skill development to enhance their management role. Several manuals and guidelines, including a performance development program, were developed (NLLAC, 2011b, p. 9).</p> <p><b>Evidence of impact/success:</b> A study by NLLAC's management committee indicated changes implemented in the new administrative structure were beneficial to the commission and its clients. Specifically, the new requirement for management and supervisors to review the work of staff lawyers increased the quality and efficiency of service (NLLAC, 2011b, p. 10).</p> <p><b>Task Force on Criminal Justice Efficiencies</b> In 2007, Newfoundland and Labrador's Minister of Justice requested the formation of a Task Force on Criminal Justice Efficiencies, which was mandated to examine the operation of the criminal justice system in Newfoundland and Labrador, focusing specifically on the processing of cases in the Provincial Court in St. John's. The Task Force was also requested to make recommendations on increasing efficiency and reducing delay (NLDoJ, 2008, p. 5).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Newfoundland and Labrador Legal Aid Commission (NLLAC)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
	<p>categories of staff.</p> <p><b>Task Force on Criminal Justice Efficiencies</b> (see <i>Organizational Structure for details on the task force</i>)</p> <p>The Task Force issued their report in February 2008. The report made a number of recommendations directly relevant to NLLAC's management of legal staff. These include the following:</p> <ul style="list-style-type: none"> <li>• NLLAC managers taking steps to ensure staff who are selected for a specific case are selected in a timely fashion and have the required knowledge to bring the case to an early and just conclusion (NLDoJ, 2008, pp. 2, 12, 17). NLLAC report that staff are being selected in a timely fashion and with appropriate experience.</li> <li>• Implementing practices that encourage early plea discussions between the Crown and defence, which will bring efficiencies and time savings to the justice system by avoiding unnecessary use of court time (NLDoJ, 2008, p. 11). There is now a formal agreement with the Crown under which the Crown's position is provided earlier; this process encourages earlier guilty pleas.</li> </ul>		<p>The Task Force's recommendations regarding NLLAC have been included under the appropriate columns in this table.</p>
System approach			
Partnerships		Law reform	
<p><b>Mental health</b></p> <p>NLLAC works in collaboration with Eastern Health to improve and more efficiently deliver legal services to people with mental health problems. Persons with mental health issues are able to obtain legal representation (criminal or civil) in the St. John's mental health court and at the mental health review board. Eastern Health provides two social workers and two LPNs to the Mental Health Court while NLLAC provides two staff lawyers, two paralegals, and office space (NLLAC, 2011b, pp. 2, 8). An evaluation was conducted of the Mental Health Court, which found that the court had a positive impact on client's lives from reduced recidivism to improved quality of life. The report is not publicly available.</p> <p><b>Justice committees</b></p> <p>NL has two regular committees that meet periodically to discuss overarching issues, identify problems, and work out solutions. One involves stakeholders in the courts system (senior managers of Court Services, director of Public Prosecutions, senior Crown, and NLLAC). The other committee involves criminal justice officials across more sectors, including police, senior Crown, private bar, NLLAC, and the judiciary.</p>		<p><b>Accessing youth offender docket</b></p> <p>The 2008 report by the Task Force on Criminal Justice Efficiencies (see <i>organizational structure for task force details</i>) found that NLLAC did not have access to the youth offenders docket because of a legislative prohibition against publication of names and identity. The report recommended that It would help if this information was available in advance and NLLAC had access to the information online. The report notes that such an accommodation would require an amendment to the <i>Youth Criminal Justice Act</i> (NLDoJ, 2008, p. 17), but this position is a matter of interpretation. The <i>Act</i> allows the provincial justice minister to grant access and other government offices have access.</p>	

## Newfoundland and Labrador Reference List

- Lamer, A. (2006). The Lamer Commission of Inquiry Pertaining to the Cases of: Ronald Dalton, Gregory Parsons, Randy Druken. Retrieved November 25, 2013, from <http://www.justice.gov.nl.ca/just/publications/lamerreport.pdf>
- NLDoJ. (2007). Maligatsait UKausingit (Pilukâttet Maligatsangit) Inuttitut Legal Terms (Criminal Law).
- NLDoJ. (2008). Report of the Task Force on Criminal Justice Efficiencies. Retrieved December 5, 2013, from [http://www.justice.gov.nl.ca/just/publications/report\\_on\\_criminal\\_justice\\_efficiencies.pdf](http://www.justice.gov.nl.ca/just/publications/report_on_criminal_justice_efficiencies.pdf)
- NLDoJ. (2013). Ministers Announce Details on External Reviews of Sheriff's Office and Legal Aid. Retrieved December 5, 2013, from <http://www.releases.gov.nl.ca/releases/2013/just/0613n04.htm>
- NLLAC. (n.da). Application. Retrieved November 5, 2013, from <http://www.legalaid.nl.ca/application.html>
- NLLAC. (n.db). Forms. Retrieved November 5, 2013, from <http://www.legalaid.nl.ca/forms.html>
- NLLAC. (2011a). Annual Activity Report 2008-2009 (retabled). Retrieved November 5, 2013, from [http://www.justice.gov.nl.ca/just/publications/LegalAid\\_AnnualReport\\_2008-09\\_ReTable\\_June%202011.pdf](http://www.justice.gov.nl.ca/just/publications/LegalAid_AnnualReport_2008-09_ReTable_June%202011.pdf)
- NLLAC. (2011b). Annual Activity Report 2010-2011. Retrieved November 5, 2013, from [http://www.justice.gov.nl.ca/just/publications/2010-2011/Legal\\_Aid\\_Annual%20Report%202010-2011.pdf](http://www.justice.gov.nl.ca/just/publications/2010-2011/Legal_Aid_Annual%20Report%202010-2011.pdf)
- NLLAC. (2011c). Three Year Activity Plan 2011-2014. Retrieved November 5, 2013, from [http://www.justice.gov.nl.ca/just/publications/LegalAidActivityPlan2011-14\\_Signed.pdf](http://www.justice.gov.nl.ca/just/publications/LegalAidActivityPlan2011-14_Signed.pdf)
- NLLAC. (2012). Annual Activity Report 2011-12. Retrieved December 5, 2013, from [http://www.justice.gov.nl.ca/just/publications/2011-2012/Legal\\_Aid\\_Commission\\_AnnualReport2011-12.pdf](http://www.justice.gov.nl.ca/just/publications/2011-2012/Legal_Aid_Commission_AnnualReport2011-12.pdf)

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Nova Scotia Legal Aid (NSLA)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
<p>NSLA’s website provides access to the following:</p> <ul style="list-style-type: none"> <li>Information on accessing duty counsel when arrested, detained, or in court (NSLA, 2010b)</li> <li>A link to the “Access Legal Help NS” website, which provides information and guidance for individuals who do not qualify for legal aid.</li> <li>A link to the Legal Information Society of Nova Scotia, which provides resources and articles on legal matters, including criminal charges, and a lawyer referral service</li> </ul> <p>NSLA will also be increasing criminal-focused PLEI on its website in late 2014. A criminal lawyer will be doing this in addition to maintaining his caseload.</p> <p>In FY 2013/14, NSLA has increased its summary advice services. For individuals who are charged with offences that are not covered by legal aid, NLSA will provide one hour of summary legal advice by a staff lawyer. In the last year, NSLA has increased this service for criminal and family by almost 40%. This means almost 40% more summary services to Nova Scotians.</p>	<p><b>Eligibility</b> NSLA reports it has taken steps to improve understanding of eligibility requirements for full service. This included re-education of staff on the legislative parameters of discretion and reinforcing a service mandate that is responsive and respectful. The organization indicates the longer term focus will be on eligibility levels, which should be clear and fair, and perhaps more fully incorporate use of contribution agreements for the working poor who are currently unrepresented, underrepresented, and do not make Robotham applications. The organization suggests that volume should not be controlled by unchanging and unfair eligibility levels (NSLA, 2011, p. 13).</p> <p><b>Other initiatives</b> NSLA has focused on ensuring that wait times are accessible (two to six weeks, depending on the matter), and later in 2014, will look at development of online application processes. In 2013-14, NSLA has also focused on prioritizing certain matters for intake (using a triage approach).</p>	<p><b>Court Support Workers (CSW)</b> CSWs are described as an integral part of the Expanded Duty Counsel team in Halifax and Sydney (Currie &amp; Hudson, 2013). CSWs are responsible for assembling background case and client information, identifying related non-legal needs, arranging sureties, and making arrangements for housing and addictions treatment in connection with bail and sentencing conditions (Currie &amp; Hudson, 2013).</p> <p>CSWs are present in court daily, can help accused navigate the court system, and also help facilitate applications and the quick transfer of a client from duty counsel to full service (Currie &amp; Hudson, 2013).</p> <p>The court support workers, in addition to providing triage services for Enhanced Duty Counsel lawyers, also provide social justice help (holistic, practical assistance). They help navigate accused to community resources to address underlying issues.</p> <p><b>Enhanced Duty Counsel (EDC)</b> NSLA has implemented an Enhanced Duty Counsel for criminal matters. EDCs are assigned to the same courthouses on a continuous basis, enabling them to see the same clients more than once. NSLA provides seven experienced staff lawyers to provide EDC in Halifax and Sydney for in custody and non-custody accused, in both adult and youth courts. NSLA also has plans to expand EDC within current resources, to cover small towns and rural areas (Currie &amp; Hudson, 2013). EDC services are not subject to financial eligibility criteria (NSLA, 2013, p. 2).</p> <p>The goals of the EDC are as follows:</p> <ol style="list-style-type: none"> <li>Achieve early resolution, where appropriate, so that resolutions are achieved earlier, and prior to a written application for full legal aid (Currie &amp; Hudson, 2013)</li> <li>Facilitate quicker access to a full-service office, when necessary</li> <li>Use court support workers to help accused access community resources for underlying issues (NSLA, 2012, p. 4).</li> </ol> <p><b>Evidence of success/impact:</b> Currie and Hudson report that a preliminary analysis of quantitative data from NSLA’s management information system indicates that expanded duty counsel in Nova Scotia is providing significant early stage service and early resolution (Currie &amp; Hudson, 2013).</p> <p>Specifically, the authors note the following and a 2013 NSLA analysis confirmed they following trends:</p> <ul style="list-style-type: none"> <li>Overall, 20% of all charges against in-custody accused were resolved by sentence at the duty counsel stage. Half of these cases were resolved at the first appearance and 31% were resolved at the second appearance. Rate of early resolution were higher in urban centres with 35% of all charges against in-</li> </ul>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Nova Scotia Legal Aid (NSLA)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
		<p>custody accused resolved at the duty counsel stage in Sydney, and 31% in Halifax.</p> <ul style="list-style-type: none"> <li>• Among non-custody clients, 14% of all matters were resolved by sentence, 10% by stays or withdrawals, and 5% by diversion. For non-custody accused, 78% of charges resolved by sentence were done so at the first appearance. Another 15% were resolved at the second appearance (Currie &amp; Hudson, 2013).</li> </ul> <p>The authors indicate EDC services have increased access to justice, in that about 51% of the out-of-custody accused and 27% of in-custody accused who were served by EDC would not likely have been eligible for legal aid (Currie &amp; Hudson, 2013).</p> <p>Another key benefit of the EDC – as emphasized by a Nova Scotia area senior prosecutor – is that EDCs helps reduce the number of unrepresented accused (Currie &amp; Hudson, 2013). A chief judge who was interviewed for Currie and Hudson’s report noted that reducing the number of unrepresented accused helped reduce difficulties in managing the court process (Currie &amp; Hudson, 2013).</p> <p>Finally, NSLA indicates its EDC program had “gained recognition across Canada,” prompting a site visit by Legal Aid Ontario and positive reference in a report to the Attorney General of British Columbia (NSLA, 2013, p. 2).</p> <p>NSLA is changing from a block contract position with a private firm to provide cells coverage in the Dartmouth courts to a staffed position in Dartmouth, as its experience has shown staff duty counsel achieve higher rates of early resolution and are, therefore, more cost-effective.</p> <p><b>First Nations</b> NSLA reported in FY 2012–2013 that it was increasing its Aboriginal outreach by providing services into two more Aboriginal communities. Prior to this NSLA, had provided in-community or near-community services to four other Aboriginal communities (NSLA, 2013, p. 4). Since these reports, another community has been added. Outreach now occurs in seven Aboriginal communities. Legal aid intake and appointments are among the services provided in these communities (NSLA, 2012, p. 4). Reporting does not specify whether these services are provided by lawyers or other legal aid workers. NSLA has also increased its proportion of aboriginal lawyers within current resources and numbers and has increased professional and cultural competency of staff vis-à-vis aboriginal issues and in 2014/15 will begin tracking if applicants self identify as aboriginal.</p> <p><b>Criminal Appeals and Special Cases Project</b> In FY 2011–2012, NSLA reported it was operating a one-person Criminal Appeals Project, which “achieves effectiveness and efficiencies based on the economies of specialization.” The service provides objective merit assessment and timely support to other staff lawyers who are handling their own appeals (NSLA, 2012, p. 3). This is</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Nova Scotia Legal Aid (NSLA)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
		<p>within current resources. This is a shift of positions and not an additional position. Previously, NSLA issued certificates to the private bar lawyer who handled the underlying case to give an opinion on the appeal. The new approach is considered more efficient and objective.</p> <p><b>Big Case Management</b> NSLA reports that it has begun a Big Case Management (BCM) initiative to help it address increases in the number of big cases it is handling (NSLA, 2012, p. 3). The BCM protocol began in the fall of 2012. It applies to private bar lawyers who take certificates and will be applied to staff lawyers in next fiscal year. The goal is to ensure that cases which could cost more than \$20,000 (or \$50,000 for matters involving multiple accused) are identified early and have heightened and ongoing management. It helps ensure that these criminal cases are managed effectively while balancing the priorities related to these cases. The protocol sets out how big cases should be identified, provides active upfront case management by way of setting budgets and work plans and then ensures ongoing case management with regular billing, comparison to work plan. Budget setting and assessment of defense proposals examines 11 factors such as nature of the offense, relative complexity, nature of legal issues, involvement of experts, volume and complexity of disclosure. The protocol helps ensure fair flexible and accountable management of expenditures and applies a reasonable person of modest means test: would a reasonable person of modest means expend the funds for the work if paying a lawyer.</p> <p><b>Mental Health</b> NSLA reports that it is a key partner in the Mental Health Court in Dartmouth and provides representation for reviews at the Criminal Code Review Board (NSLA, 2011, p. 12). One full-time lawyer is assigned to the Court. She also helps develop other legal aid lawyers' capacity to handle clients with mental health issues. She does this by answering questions from individual lawyers and by presenting at in house professional development sessions such as at the annual general meeting (AGM) and webinars. The NSLA 2013 AGM focussed on recognizing and responding better to clients with mental health struggles. The mental health-focused lawyer will provide outreach to the community through a community health centre in addition to her daily caseload work. In recognition of the fact that there is the need for preventative focus to decrease the intersections with the criminal justice system, outreach services will include the provision of one-on-one summary advice on social justice issues.</p> <p><b>Youth Justice</b> In 2005, the Nova Scotia government commissioned a report (under the Public Inquiries Act) that examined the circumstances relating to the release of a youth from custody, whose subsequent criminal actions caused the death of Theresa McEvoy (Nunn, 2006).</p>



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Service delivery		
PLEI/self-help	Application process	Legal service provision
		<p>The resulting Nuun report was released in 2006 and made 34 recommendations across nine theme areas. Most relevant to legal aid was the recommendation for the province of Nova Scotia to reduce front-end delays in the administration of youth criminal justice so that youth facing new charges for a serious crime or facing other pending charges would appear in youth court by the next scheduled appearance date or within one week of arrest (Nunn, 2006, pp. 283–284).</p> <p>To reduce overall delays in the youth criminal justice system, the report recommended consulting with justice partners (including defence lawyers) to determine the cause of delays and then changing procedures or practices that were contributing to these delays. The report also recommended setting targets for the length of youth cases from arrest to final disposition and publishing progress against these targets on a biannual basis (Nunn, 2006, pp. 283–284).</p> <p>The Nova Scotia government agreed with both of the above recommendations and formed a working group to find ways to make the court process flow more efficiently (NSDoJ, 2007, p. 16). In FY 2007–2008, NSLA reported that, as part of its response to ensuring improved timelines in the youth justice system, it expanded its staff by one lawyer, who was dedicated to providing legal representation to youth court clients (NSLA, 2008, p. 11).</p> <p>In FY 2012–2013, the Nova Scotia Department of Justice reported serious charges were taking an average of nine days to appear in youth court, which is two days more than the target set by the Nunn report recommendation.</p> <p>For youth case processing times, a target of 98 days was set (NSDoJ, 2013, p. 2). As of FY 2012–2013, average case processing times for single charge cases was 91 days (up from 76 days the previous fiscal year) and 116 days for multiple charge cases (note: these results exclude all restorative justice cases, which take considerably longer to process) (NSDoJ, 2013, p. 4). It should be noted that the Department of Justice measures processing time as the time from first appearance to final disposition (NSDoJ, 2013, p. 2), not from the time of arrest to final disposition (as recommended by the Nunn report).</p> <p>NLSA has responded by working with the court to ensure that NLSA is contacted should a youth appear without a lawyer. NLSA prioritizes these calls and immediately schedules an appointment with the youth. Managing lawyers ensure that front-line staff are aware of the seven-day window for serious and pending charges and, if contacted by youth, will make best efforts to get a lawyer involved. Overall, wait times are kept within a tight target of 2-4 weeks with priority for giving appointments prior to next court date. Managing lawyers reinforce the need for defence to have early resolution discussions and to be aware of court target dates for pre-sentence reports and assessments. If courts have a designated youth court arraignment time, NSLA offices will attempt to have staff present to navigate youth to the full service office if they appear unrepresented. The Halifax Regional</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Nova Scotia Legal Aid (NSLA)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
		<p>Municipality youth office which deals with the highest volume now meets off site with clients/ applicants in the youth group home.</p> <p>NLSA also responds with youth clients by email or text to remind them of appointments and court dates.</p> <p>To encourage early resolution, NLSA and the Crown focus on scheduling early resolution conferences. NLSA also ensures probation reports are current.</p> <p>As NSLA is one system player in the issue of youth case processing times, it works with the other system participants and internally to be responsive. Teleconference meetings are held with management and then managing lawyers with office staff. The issue is intentionally revisited at least twice per year. A letter from the executive director to the province in the fall of 2013 outlined seven steps that NSLA has undertaken. There are however systemic issues for which NSLA is working with other justice system participants. For example cases may be exceeding the target date due to the definition of a 'case'. The processing time for a case is counted from the date it first appears in court until final disposition. The 'case' however may include any additional charges, if that additional charge appears in court at the same time as any of the original charge court dates. The first charge may be resolved before the second charge but the 'case' is counted as one. Also clinical assessment preparation times, including s 34 YCJA referrals, are taking longer than the window.</p> <p><b>Social Justice Initiative</b>            NSLA has within current resources undertaken a Social Justice Initiative. This means providing help (advice) and sometimes representation to Nova Scotians who experience issues with Income Assistance, EI, CPP Disability and Landlord tenant. NSLA recognizes that there is a clear connection between issues of income and housing insecurity and intersection with criminal justice systems. The initiative recognizes that criminal, family, and social justice issues are intertwined. As part of this initiative, NSLA will be providing assistance with other issues related to housing and income security. For example, as part of this initiative, NLSA criminal lawyers have received training from the social security tribunal so they can provide their clients with information to help address their non-criminal law needs.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Nova Scotia Legal Aid (NSLA)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Commission standards for criminal law</b> Implemented in FY 2012–2013, these standards require minimum levels of professional development, experience, and/or mentorship before a private bar lawyer can be issued a legal aid certificate (NSLA, 2013, p. 4).</p> <p><b>Certificate management</b> The certificate management process was established to give NLSA a better estimation of its outstanding liabilities. In FY 2009–2010, NSLA reported that it was heightening the management of its certificate budget. A reduced certificate budget was established for each of the 16 NSLA offices without affecting service delivery. As part of this process, a numerical tracking report was developed to communicate with managing lawyers. In addition, procedures were developed for issuing certificates, disbursement approvals, and managing of older outstanding certificates (NSLA, 2010c, pp. 10–12). The Chief Financial Officer of NSLA meets with the managing lawyers and their support staff twice a year to reinforce goals and strategize with respect to certificate management. Reports on the certificate budget are sent monthly to each NLSA office.</p> <p><b>Maintaining engagement of private bar</b> NLSA tries to provide “wrap-around services” to the private bar by inviting lawyers to attend NLSA seminars or in house training as well as by letting them use the one NLSA librarian/researcher to assist with research for briefs requested by the court.</p> <p><b>Website recruitment</b> NSLA's provides an online contact form directed towards practicing, insured lawyers in Nova Scotia who are interested in joining the roster for after-hours telephone duty counsel or who would like to request more information (NSLA, 2010a).</p>	<p><b>Articling students</b> NSLA expanded its visibility in the Schulich School of Law by participating in orientation week, providing students with an opportunity to work at the Criminal Law Clinic and Dalhousie Legal Aid Clinic, and provided teaching support and involvement in lectures (NSLA, 2013, p. 4).</p> <p>In the past, NSLA's articling program has also focused upon recruiting “indigenous Black and Mi'kmaq “ students and those with French language experience and concern for social justice issues (NSLA, 2010c, p. 10).</p> <p>In 2008, NSLA noted that law students were being recruited more frequently by law firms while still in their second year. In response, NSLA began recruiting students from the second year for articling positions (NSLA, 2008, p. 10).</p> <p>To those students chosen, NSLA offered summer employment for twelve weeks in the summer. Summer placements are part of the NSLA's strategy to fill clerk positions (NSLA, 2008, p. 10).</p> <p><b>Paralegals</b> In an effort to increase efficiencies, NSLA is increasing the use of paralegals (NSLA, 2012, p. 3). No further details are provided on this initiative.</p> <p><b>Mentoring under senior lawyers</b> NSLA is replacing senior retiring lawyers with more junior lawyers (NSLA, 2012, p. 3). New staff are mentored by senior staff prior to their departure (NSLA, 2011, p. 12).</p> <p>To help prepare senior lawyers for their role as mentor, NSLA provides management training for managing lawyers, which focuses on mentoring new employees, setting clear expectations, and balancing office management responsibilities, along with providing direct legal service (NSLA, 2010c, p. 12).</p>	<p><b>Racial Diversity Committee and cultural competency</b> NSLA formed a Racial Diversity Committee to help the organization increase its First Nations and African Nova Scotian cultural competency (through focussed professional development); and, to attract staff that better reflects the cultural diversity of NSLA's clients (NSLA, 2013, p. 4). NLSA has increased its lawyers who are Aboriginal or African Canadian to 10% of its total staff by way of filling retirements or other vacancies.</p> <p>NLSA's most recent Annual General Meeting focused on cultural competency training (related to First Nations and recent immigrants).</p> <p>NLSA is also developing its own Aboriginal justice initiative, which will be announced in April 2014.</p> <p><b>Financial management and improved accounting of resources</b> In FY 2012–2013, NSLA reported a new financial management focus, which included implementation of an audit finance committee, adopting new accounting standards, and changes to the Management Information Systems Coordinator position, from a “help desk” role to part of overall system management (NSLA, 2013, p. 5).</p> <p>The same year, NSLA also reported that its staff was “fully invested” in a process aimed at improving accounting for NSLA time and resources. These efforts have provided management with critical information that can be used to better direct the organization toward its identified priorities (NSLA, 2013, p. 1).</p> <p>Each month staff lawyers receive a context report, which shows their hours worked, number of applications, number of files opened and closed, and number of active files. NLSA has established targets for lawyers in these areas.</p> <p>NLSA also provides managing lawyers with a demand resource report which looks at the number of lawyers in each office and the number of applications to ensure that resources are appropriately allocated across offices.</p>	<p>No relevant activities were identified in available documentation.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Nova Scotia Legal Aid (NSLA)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
	<p><b>Managing duty counsel</b> In FY 2010–2011, NSLA reported it was increasing management of duty counsel through the use of in-house professional development and revamping the organization's case management system (NSLA, 2011, p. 9). NSLA duty counsel includes telephone duty counsel, which the organization reported was facing challenges in the context of the Supreme Court of Canada trilogy of decisions on access to Brydges duty counsel (NSLA, 2011, p. 9).</p> <p><b>Professional development</b> NSLA provides professional development through in-house training including webinars and approval for continuing legal education seminars, such as the those offered through the National Criminal Law Program (NSLA, 2009, p. 9, 2010c, p. 11). Each staff lawyer has access to a fund for outside conferences such as the national criminal law conference. This year the amount is \$500, which does not cover the costs. The amount can be banked for one year.</p> <p>Regionally-based in-house professional development is provided for both staff and private lawyers who take certificates or may be interested in taking certificates (NSLA, 2010c, p. 11). In FY 2008–2009, NSLA invited lawyers from legal aid plans in the other Maritime provinces (NSLA, 2009, p. 9).</p> <p>As part of an in-house professional development session in FY 2009–2010, participants revamped a criminal duty counsel manual, making it a procedural and substantive law document (NSLA, 2010c, p. 11).</p> <p><b>Performance management</b> In FY 2009–2010, NSLA developed performance management criteria for staff lawyers, which includes providing office managers and staff lawyers monthly numbers showing opened and closed files (NSLA, 2010c, p. 12).</p>	<p><b>Strategic planning</b> In FY 2012–2013, NSLA undertook a strategic planning exercise, with the assistance of Legal Aid Ontario. NSLA staff were involved in creating a plan that would guide the organization forward over a three-year period. Implementation of the strategic plan is planned for FY 2013–2014 (NSLA, 2013, p. 1).</p> <p><b>Evaluation</b> In FY 2010–2011, NSLA was the subject of an evaluation with a report to the Minister of Justice that considered the challenges related to ever-increasing demand for legal aid services and the province's need to balance its finances (NSLA, 2011). The Executive Director of NSLA states that the evaluation assessment of NSLA was favourable.</p> <p><b>Internal communication</b> In FY 2009–2010, NSLA reported it was undertaking an initiative to improve communication between executive and office staff. Communication is conducted through “one-on-one meetings” to increase communication flow from “the trenches” regarding pressures and overarching policy and budget issues (NSLA, 2010c, p. 12).</p> <p><b>REACH concept</b> The executive director of NSLA uses a “REACH” concept to define how legal aid could be improved, which hints at perceived best practices: R – Research — more value for money research showing the investment in legal aid makes fiscal sense E – Expanded — eligibility criteria for full service to include the working poor A – Advocacy — a role for legal to speak on access to justice for vulnerable Canadians C – Coverage — value coverage beyond criminal into equal service dollars for family and poverty law legal aid H – Holistic — client-centered services, with legal aid workers being present where clients need them and utilizing technology to provide more accessible help (NSLA, 2013)</p>	

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Nova Scotia Legal Aid (NSLA)	
System approach	
Partnerships	Law reform
<p><b>Collaborative initiatives</b>  NSLA collaborates with the Department of Justice and Nova Scotia Barristers' Society on access to justice initiatives (reporting does not identify these initiatives). NSLA also works with the Legal Information Society of Nova Scotia and Dalhousie Legal Aid through grants, individual representation, and participation in fundraisers by NSLA staff (NSLA, 2011, p. 13). In the fall of 2013, NSLA worked with the Nova Scotia Barristers' Society to develop Legal Aid Criminal Law Standards (see Managing Roster for more details) (NSBS, 2013, p. 21).</p> <p>NSLA staff also undertake pro bono work for non-profit community organizations that offer supportive services to NSLA clientele, including Elizabeth Fry, Restorative Justice, Immigrant Services and Integration Services, Veith House, and Nova Institution for Federally Sentenced Women (NSLA, 2011, p. 13).</p> <p>NSLA is involved with the Nova Scotia Department of Justice, judiciary, court services, and prosecutions on collaborative work to increase access to justice by focusing on systemic changes, such as decreased court processing times (adult and youth), the incorporation differential responses based on types of cases and accused, and videoconferencing and e-disclosure initiatives.</p> <p><b>Bilingualism</b>  NSLA has partnered with the Nova Scotia Department of Justice in preparing a common French language services plan for the justice system (NSLA, 2009, pp. 9–10). The goal of the project is to offer legal aid clients a reasonable level of legal aid services in French.</p> <p>NSLA works with L'Association des juristes d'expression française de La Nouvelle-Écosse to ensure it receives input from the French-speaking community (NSLA, 2009, pp. 9–10). Also, as part of this project, NSLA has sent staff to the Université de Moncton Law School to entice fully bilingual graduates to work for NSLA as articulated clerks. The organization has also provided additional French-language legal terminology training to its bilingual staff through the Université Sainte-Anne (NSLA, 2009, pp. 9–10).</p>	<p>No relevant activities were identified in available documentation.</p>

## Nova Scotia Reference List

- Currie, A., & Hudson, K. (2013). Not Just a Substitute for Full Service: Expanded Duty Counsel in Nova Scotia | Legal aid plans of Canada / Régimes d'aide juridique du Canada. Retrieved November 22, 2013, from <http://alap-araj.ca/2013/02/not-just-a-substitute-for-full-service-expanded-duty-counsel-in-nova-scotia/>
- NSBS. (2013). Access to Justice. *The Society Record*, 31(2). Retrieved from <http://www.nslegalaid.ca/publications/NSLA%20Why%20You%20Should%20Care%20NSBS%20Society%20Record%20Fall%202013.pdf>
- NSDoJ. (2007). Helping Kids, Protecting Communities Response to the Nunn Commission. Retrieved December 3, 2013, from [http://novascotia.ca/just/nunn\\_commission/\\_docs/NunnResponse.pdf](http://novascotia.ca/just/nunn_commission/_docs/NunnResponse.pdf)
- NSDoJ. (2013). Case Processing in Nova Scotia Youth Court, 2008-09 to 2012-13. Retrieved December 3, 2013, from [http://novascotia.ca/just/nunn\\_commission/\\_docs/Nunn\\_Update\\_20130626.pdf](http://novascotia.ca/just/nunn_commission/_docs/Nunn_Update_20130626.pdf)
- NSLA. (2008). Legal Aid Commission Thirty-First Annual Report 2007/2008.
- NSLA. (2009). Nova Scotia Legal Aid Commission Thirty-Second Annual Report 2008/2009.
- NSLA. (2010a). After Hours Telephone Duty Counsel (and fillable online form for lawyers). Retrieved November 5, 2013, from <http://www.nslegalaid.ca/afterhours.php>
- NSLA. (2010b). FAQs. Retrieved November 5, 2013, from <http://www.nslegalaid.ca/faq.php>
- NSLA. (2010c). Nova Scotia Legal Aid Commission Thirty-Third Annual Report 2009/2010.
- NSLA. (2011). Nova Scotia Legal Aid Commission Thirty-Fourth Annual Report 2010/2011. Retrieved November 5, 2013, from <http://www.nslegalaid.ca/publications/Annual%20Report%202010%202011.pdf>
- NSLA. (2012). Nova Scotia Legal Aid Commission Thirty-Fifth Annual Report 2011/2012. Retrieved November 5, 2013, from <http://www.nslegalaid.ca/publications/Annual%20Report%202011%202012.pdf>
- NSLA. (2013). Nova Scotia Legal Aid Commission 2012/2013 Annual Report. Retrieved November 5, 2013, from <http://www.nslegalaid.ca/publications/Annual%20Report%202012%202013.pdf>
- Nunn, M. (2006). Spiralling Out of Control: Lessons Learned From a Boy in Trouble - Report of the Nuun Commission of Inquiry. Retrieved November 22, 2013, from [http://novascotia.ca/just/nunn\\_commission/\\_docs/Report\\_Nunn\\_Final.pdf](http://novascotia.ca/just/nunn_commission/_docs/Report_Nunn_Final.pdf)

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Services Board of Nunavut (NLSB)		
Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
<p><b>PLEI</b> Although NLSB does not currently have a functioning website, The Canadian Bar Association reports that the NLSB provides public legal education and information through a variety of methods including pamphlets, town hall meetings, radio, and newspapers (CBA, 2013b, p. 18). Recently, NLSB staff members were involved in establishing a mock trial program to introduce grade nine students to the justice system (CBA, 2013a).</p> <p>NLSB is currently working with the Law Society to develop a catalogue of PLEI presentations. These presentations will be used by court workers and lawyers in communities throughout Nunavut. Lawyers traveling on circuit are now arriving earlier in communities to enable them to do PLEI presentations and build relationships with local organizations.</p>	<p>No relevant activities were identified in available documentation.</p>	<p><b>Inuit court worker program</b> The Canadian Bar Association (CBA) indicates that NLSB runs an Inuit court worker program with representatives in 16 (out of 26) communities (CBA, 2013b, p. 19). The CBA notes that court workers in Nunavut perform a similar role as those in Northwest Territories (CBA, 2013b, p. 19). Justice Canada explains that Nunavut court worker services are provided through the NLSB clinics and the workers are not employees of the territorial government, as they are in NWT (Justice Canada, 2013). An inherent strength of Inuit court workers is their ability to speak Inuktitut or Innuinaqtun, as well as English.</p> <p>NLSB has recently been enhancing its Inuit court worker program. Two new court workers have been recently hired and basic training has been provided to all court workers. In 2014, NLSB will soon begin enhanced training, so that court workers can conduct bail hearings, speak to summary matters, and potentially even handle sentencing and trials in Justice of the Peace court for summary matters. The enhanced training will be tailored to the individual court workers desires and strengths (as not all court workers want to conduct bail hearings, etc.). Retention and recruitment has improved lately because NLSB is engaged with court workers on a more continual basis.</p> <p><b>Legal clinics</b> NLSB operates three clinics located in Iqaluit, Cambridge Bay, and Rankin Inlet. The clinics provide criminal law services (CBA, 2013b, p. 22). The territory has only one courthouse, located in Iqaluit (CBA, 2013a).</p>

Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>A 2007 Justice Canada report on the Nunavut Court of Justice indicates widespread perceptions among key informants and community respondents that there are too few defence lawyers practising in Nunavut. Respondents indicated that due to the low numbers of private bar lawyers, more funding was needed for additional legal aid staff positions (Justice Canada, 2007, p. 40).</p>	<p><b>Improved efficiency of circuit court</b> In 2007 Justice Canada noted increased consistency in the assignment of legal aid defence counsel to the same court circuits, which provided a stronger incentive to quicker settlement. This was interpreted by lawyers (both defence and prosecution) as improving the efficiency of court circuits (Justice Canada, 2007, p. 22).</p> <p><b>Linear file assignment</b> This approach moves away from the duty counsel model and assigns the lawyer from the first appearance to the file if it is likely to proceed to trial. This continuity of counsel results in less redundancy in legal work that was created by changes in counsel, as well as, less confusion for the client as the legal advice provided is more consistent.</p> <p><b>Professional development</b> NLSB has used Iqaluit's movie theatre to entice local lawyers to watch the Canadian Bar Association's "Skilled Lawyer Series." Lawyers are treated to a first-run film for participating (CBA, 2013a).</p>	<p>NLSB conducted a strategic organizational review in 2012/13.</p>	<p>The CBA refers to a 2009 Government of Nunavut study that consulted 2,100 residents on the effectiveness of the territory's programs and services (this report could not be found online).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Services Board of Nunavut (NLSB)	
System approach	
Partnerships	Law reform
<p>The small legal community allows NLSB to work closely with the court, the Public Prosecution Service of Canada (PPSC), social service agencies, and other stakeholders. These partners are reported to have led to improvements in the functioning of the system.</p> <p><b>Improved court scheduling</b> In particular, the court works closely with NLSB and the PPSC to develop and improve court schedules. According to the NLSAB, this collaboration has led to more efficient use of court time.</p> <p><b>More productive first appearances</b> NLSB, the RCMP, and the PPSC have also agreed to earlier disclosure. Instead of getting disclosure at the second appearance or later, efforts are made to provide disclosure for the first appearance. In addition, the RCMP is providing a pamphlet to those arrested, which directs individuals who want assistance to come to the legal aid offices. This has resulted in accused contacting NLSB earlier, which means that disclosure is received earlier, instructions are given earlier, and legal advice can be provided earlier. According to NLSB, these innovations have made first appearances more productive.</p> <p><b>Trial efficiency committee</b> This committee is comprised of the senior judge, the chief federal crown, and the Chief Operations Officer of NLSB and considers reasons for trial delays and how to reduce delays.</p> <p><b>Social service partnerships</b> NLSB reports informal and close working relationships with social service agencies, including mental health and addictions, which it credits with enabling NLSB to refer clients to appropriate services.</p>	<p>No relevant activities were identified in available documentation.</p>



**Nunavut Reference List**

CBA. (2013a). CBA National Magazine - The wolf & the sheep. Retrieved November 27, 2013, from <http://www.nationalmagazine.ca/Articles/July-August-2013/The-wolf-the-sheep.aspx>

CBA. (2013b). Future Directions for Legal Aid Delivery.

Justice Canada. (2007). The Nunavut Court of Justice Formative Evaluation Final Report.

Justice Canada. (2013). Aboriginal Courtwork Program. Retrieved December 3, 2013, from <http://www.justice.gc.ca/eng/fund-fina/gov-gouv/acp-apc/index.html>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Services Board of the Northwest Territories (LSB-NWT)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
<p><b>Public legal education</b> LSB-NWT is responsible for public legal education and information in the NWT. Court workers provide public legal education by providing clients with information and guidance on the court system and delivering legal education in school classes and community justice committees (LSB-NWT, 2013, p. 6).</p> <p>In 2010, LSB-NWT produced and distributed booklets providing advice on charges and arrests (LSB-NWT, 2011, p. 7). These booklets can also be accessed through LSB's website (GNWT Justice, 2013). The website also provides access to a legal dictionary.</p> <p>Most public legal education in NWT is provided informally by lawyers and Community Court Workers at the court house and when on circuit.</p>	<p><b>Application by phone</b> Applications are taken by court workers either in person or over the phone. Eligible applicants are assigned defence counsel (LSB-NWT, 2013, p. 10).</p>	<p><b>Aboriginal court worker program</b> Since 1978, the federal government has funded NWT's Aboriginal Court Worker Program through the Access to Justice Service Agreements. In NWT court workers are employees of the territorial government (Justice Canada, 2013).</p> <p>In NWT, workers under this program are called Community Court Workers (GNWT Justice, n.d). The primary responsibility of these court workers is to help clients apply for legal aid and ensure applications and supporting documentation are provided to the legal aid office. Court workers may also do the following:</p> <ul style="list-style-type: none"> <li>• Provide general information and referrals to services inside and outside the justice system</li> <li>• Act as a liaison between clients, lawyers, and the justice system (particularly in remote communities)</li> <li>• Represent individuals without a lawyer in a Justice of the Peace Court</li> <li>• Assist legal counsel in Territorial and Youth Justice court by ensuring clients and witnesses attend court, providing translation, and interviewing clients (LSB-NWT, 2013, p. 6).</li> </ul> <p><b>Evidence of success/impact:</b> Justice Canada's 2011 Northwest Territories Client survey asked respondents about the Aboriginal Court Worker Program; all clients indicated they were either satisfied or very satisfied with the information they received from the court worker. Ninety-five percent of clients indicated they had legal representation in court (LSB-NWT, 2013, p. 7). Court worker numbers have decreased over the last three years from 11 to 7 (LSB-NWT, 2010, p. 7, 2013, p. 6). The decline is a response to the decreased demand for services in some locations.</p> <p><b>Presumed eligibility</b> LSB-NWT uses presumed eligibility only in criminal matters. Presumed eligibility provides assistance with preliminary or straightforward matters that duty counsel can deal with in a summary matter. This includes guilty pleas and non-complex sentencing hearings. If a lawyer determines the matter requires a preliminary inquiry, trial, or more complex sentencing, the client is directed to apply for legal aid to have a lawyer appointed (LSB-NWT, 2013, p. 8).</p> <p><b>Brydges services</b> In FY 2007–08, LSB began contracting Brydges services to a single lawyer, rather than assigning lawyers on a weekly basis. The service provides people in custody telephone access to a lawyer 24 hours a day, 365 days a year (LSB-NWT, 2008, p. 3).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Services Board of the Northwest Territories (LSB-NWT)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Legal Aid Panel</b> Approved legal aid applicants are assigned a private bar lawyer from the LSB's Legal Aid Panel. Work is assigned on a rotating basis to ensure fairness and equality. Lawyers in communities other than Yellowknife area are given priority for legal aid assignments in their community and surrounding area to improve economic efficiency and support the local bar (LSB-NWT, 2013, p. 11). The number of private bar lawyers taking criminal legal aid is declining. While this has led LSB-NWT to move further to a staff model, in order to keep private bar lawyers engaged, the LSB-NWT ensures that matters are assigned to them. Maintaining the private bar involvement in criminal legal aid is considered important for handling conflicts.</p> <p><b>Choice of counsel</b> Generally, applicants are not allowed to choose their lawyer. However, choice of counsel (who must be on the Legal Aid Panel) is provided for applicants who are charged with offences for which the maximum penalty, if convicted, is life imprisonment. This, however, does not apply to applicants facing criminal code charges of break and enter or charges under the <i>Controlled Drugs &amp; Substances Act</i>, where life imprisonment is the maximum sentence (LSB-NWT, 2013, p. 11). However, under the new <i>Legal Services Act</i> (adopted in 2012 but not yet in force), the choice of counsel provision is changing. The LSB-NWT will consult with the accused regarding choice of counsel for these serious matters to help ensure counsel with appropriate experience is chosen.</p> <p><b>Articling students</b> LSB indicates it continued to assist in the development of the NWT bar by providing articling positions to law graduates, including Aboriginal law students. The LSB is hopeful that these articling positions will help young lawyers establish law practices in their home communities (LSB-NWT, 2010, p. 3).</p>	<p><b>Increase in staff lawyers</b> Territorial funding in FYs 2010–2011 and 2011–2012 allowed the LSB to add three lawyers to its complement of staff lawyers, which now stands at 14, of which seven are staff defence counsel.</p> <p><b>Court worker training</b> Court workers attended a two-day training session in Yellowknife. The session was developed and delivered by legal aid staff (LSB-NWT, 2013, p. 6). The training included criminal law issues and how to identify and work with clients who have Fetal Alcohol Spectrum Disorder.</p>	No relevant activities were identified in available documentation.	No relevant activities were identified in available documentation.
System approach			
Partnerships		Law reform	
The LSB-NWT is a partner in the Domestic Violence Court (DVC). LSB-NWT lawyers are on the DVC committee, which also includes judiciary, Crown, probation, and support and counselling services.		No relevant activities were identified in available documentation.	

## Northwest Territories Reference List

GNWT Justice. (n.d). Department of Justice - Legal Aid - Community Court Workers. Retrieved December 3, 2013, from [http://www.justice.gov.nt.ca/legalaid/LegalAid\\_courtWorkers.shtml](http://www.justice.gov.nt.ca/legalaid/LegalAid_courtWorkers.shtml)

GNWT Justice. (2013). What To Do When You Get Arrested. Retrieved November 27, 2013, from <http://www.justice.gov.nt.ca/legalaid/WhatToDoWhenYouGetArrested.shtml>

Justice Canada. (2013). Aboriginal Courtwork Program. Retrieved December 3, 2013, from <http://www.justice.gc.ca/eng/fund-fina/gov-gouv/acp-apc/index.html>

LSB-NWT. (2008). 2007/2008 Report of the Legal Services Board of the NWT.

LSB-NWT. (2010). 2009/2010 Report of the Legal Services Board of the NWT.

LSB-NWT. (2011). 2010/2011 Report of the Legal Services Board of the NWT.

LSB-NWT. (2013). 2012/2013 Report of the Legal Services Board of the NWT.

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Ontario (LAO)		
Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
<p><b>LawFacts.ca</b> In December 2011, LAO launched a new online criminal law information service called LawFacts.ca. The service provides information on the criminal legal process and gives practical information about first appearances, bail, and diversion, and provides access to a legal dictionary and database of common forms and checklists to help clients prepare for their specific legal matters (LAO, n.da, 2012b, pp. 5, 13).</p> <p><b>LAO website</b> LAO's website was redesigned in FY 2011–2012 in an effort to provide more information about LAO and enable clients to find information so they can advance their legal issues (LAO, 2012b, p. 6).</p> <p><b>Young Person's Division Program hotline</b> LAO provides a toll-free hotline for young people accused of a non-violent crime which provides automated information on the criminal justice system and explains the use of extra-judicial sanction programs, which can help youth avoid charges or incarceration.</p> <p>The service also provides the option to leave a message for a LAO duty counsel, who will return the call and provide up to 20 minutes of free summary legal advice (LAO, 2013o).</p> <p><b>Evidence of success/impact:</b> In 2012, 348 people called the hotline, mostly young people and parents unfamiliar with the court system.</p>	<p><b>Multiple points of entry</b> Legal aid certificates are issued to financially eligible clients by LAO staff in district offices, or court locations, and through the Client Service Centre (LAO, 2011a, p. 15).</p> <p><b>Simplified Online Application Portal (SOAP)</b> The SOAP pilot project aimed to provide easier access to legal aid for clients who clearly met LAO's eligibility requirements, while also making efficient and effective use of LAO resources. The process involves an online application form and financial eligibility test.</p> <p>The SOAP project was piloted in Toronto and then implemented in 2009 in 51 of LAO's area offices and 17 Justice on Target (JOT) sites (see Partnerships for description of JOT). The same year, the program was expanded to allow for "criminal in custody" applications (LAO, 2009b, p. 11).</p> <p><b>Evidence of success/impact:</b> Online applications have increased dramatically since the service was first introduced, with 12,552 applications being received in FY 2008–2009 and 48,482 applications being received in FY 2010–2011 (LAO, 2010a, p. 14, 2011a, p. 16). LAO does not specify how many of these applications were for criminal matters. In 2010, LAO reported that SOAP had reduced average application processing times by 62% (LAO, 2010b).</p>	<p><b>Duty counsel and enhanced duty counsel</b> LAO uses both staff and private practice lawyers to provide criminal duty counsel. Duty counsels are provided in most Ontario courthouses, including 30 remote and fly-in locations. They are responsible for providing front-line advice, information and representation to individuals who would otherwise be unrepresented and unassisted in the legal system (LAO, 2010a, p. 14).</p> <p>In FY 2011–2012 LAO reported it was standardizing the range and quality of duty counsel services across the province by creating a baseline of services. To ensure duty counsel were used most effectively, LAO began shifting work on transactional services (e.g., taking applications for legal aid) and non-dispositive services (e.g., adjournment) to court-based non-lawyer staff (LAO, 2012b, p. 13).</p> <p>In 2009 LAO began developing an enhanced duty counsel program for criminal law (LAO, 2009b, p. 11). The program uses a combination of staff and private bar lawyers to represent clients who do not have a lawyer at court (LAO, 2012b, p. 5).</p> <p>Enhanced duty counsel provides dispositive services to help a case progress towards resolution. LAO offers the following criminal dispositive services:</p> <ul style="list-style-type: none"> <li>• Trials (in very limited circumstances);</li> <li>• withdrawal of all charges;</li> <li>• guilty pleas/speaking to a sentence;</li> <li>• judicial interim release proceedings;</li> <li>• diversion/extra-judicial sanctions; and</li> <li>• peace bonds/recognizance, order hearings, sentence reviews and appeals de novo (LAO, 2013a, p. 2).</li> </ul>

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	<p><b>Area committees</b> LAO uses area committees, composed of lawyers and community representatives, across the province to hear appeals from decisions of area directors who have refused or cancelled a legal aid certificate. In FY 2011–2012 LAO reported it had improved processes and tools for area committees to ensure more efficient, consistent and high-quality outcomes (details are not provided). Area committee members are selected based on their expertise and appeal work experience (LAO, 2012b, p. 11). Specialized committees are formed for serious criminal matters, such as large expensive criminal cases or appeals (LAO, 2012b, p. 11).</p> <p><b>Group applications and test case committee</b> LAO uses a committee to review group applications for legal aid (where a group of people have a common interest in a legal matter), applications for representation at coroners' inquests, and test cases involving the Charter of Rights and Freedoms. LAO indicates that the committee plays an important role, as these types of cases often raise complex or new legal issues and therefore require specific expertise to assess the strengths and weaknesses of the legal matter and its potential impact on low-income Ontarians (LAO, 2012b, p. 11).</p> <p>In 2013-2014, LAO commenced a "test case review" which is anticipated to produce recommendations for strengthening LAO's support of test case work.</p> <p><b>Simplified Financial Eligibility Test (SFET)</b> Beginning in December of 2009, LAO began piloting a new approach to income-based testing, which was intended to clarify eligibility for clients and accelerate decision making.</p> <p>Phase II of the project (beginning February 2011) incorporated the following three important changes to the process:</p> <ul style="list-style-type: none"> <li>• Family-size income levels were adjusted to approximate results of the existing financial eligibility test.</li> <li>• A simplified process of applying the SFET was developed to eliminate the need to use the old eligibility test as a backup test.</li> <li>• A simplified process for contribution agreements was created that uses standardized monthly payments based on family income (LAO, 2011a, p. 14).</li> </ul>	<p>In addition to providing court-based services, enhanced duty counsel work at community-based social services hubs (on a part-time basis) to provide summary legal advice and information for people charged with a criminal offence (LAO, 2013j).</p> <p>As of February 2013, enhanced duty counsel was provided in the Greater Toronto Area and in Barrie (LAO, 2013j).</p> <p><b>Evidence of success/impact:</b> LAO notes that as duty counsel have begun to play an enhanced role in the delivery of LAO services, costs for duty counsel are increasing. For example, the cost of duty counsel for criminal matters increased by approximately \$2.9 million during FY 2010–2011 (LAO, 2011a, p. 17). Although these costs are increasing, LAO's expectation is that over time there will be a reduction in the percent of adjournments, allowing duty counsel to focus on "more substantive outcomes for LAO's clients" (no further description provided) (LAO, 2011a, p. 17). LAO's recent analysis of duty counsel services ("Legal Aid Criminal Law Services Analysis – Presentation to Executive Management Committee", February 4, 2014) demonstrates that, in contrast to overall duty counsel services, dispositive services (services that move a case forward), and more specifically resolution services (services that complete a case), increased significantly in FY 2009-2010, with some decline in the past 18 months. The most significant change was found to be an increase in cases where duty counsel obtained a withdrawal and/or diversion, indicating an increase in successful case resolutions by duty counsel.</p> <p>In FY 2010–2011, LAO reported that 98% of clients (n-size not provided) who used duty counsel services felt they had been "well served," 49% of clients who used duty counsel services said they would have self represented if not for LAO's services (LAO, 2011a, p. 21).</p> <p><b>Resolution duty counsel</b> LAO indicates that it provides resolution duty counsel service in London, Ontario for criminal matters. The service involves senior legal aid lawyers meeting accused persons and then meeting with Crown attorneys to settle appropriate cases outside the courtroom (LAO, 2013i).</p> <p>A resolution meeting may occur if:</p> <ul style="list-style-type: none"> <li>• a client wants to know what the Crown would ask for as a</li> </ul>

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	<p><b>Evidence of success/impact:</b> LAO conducted an evaluation of Phase I of the SFET and in FY 2010–2011 indicated it was planning a risk-based external evaluation for Phase II of the project (LAO, 2011a, p. 14). Reports for these evaluations are not available on LAO's website.</p> <p>However, in a separate document, LAO indicates that preliminary analysis of the SFET pilot found that more applicants with very low incomes were now eligible for free certificates and that the associated reduction in contribution agreements represented a potential savings in the cost of collections (LAO, 2012b, p. 14). The SFET has also enabled LAO to handle applications at the courthouse and by telephone through the Client Service Centre. LAO has found that the costs incurred by covering the small percentage of individuals who might not otherwise qualify for legal aid is offset by the cost savings obtained from the more streamlined administration of the SFET.</p> <p><b>Client Service Centre (CSC)</b> The CSC provides many levels of support to LAO clients, including assistance with legal aid applications. It is discussed in more detail under “Legal service provision.”</p> <p><b>Improved accessibility for disabled clients</b> LAO reported in September 2013 that it was on track to meet the goals and timelines for the Accessibility for Ontarians with Disabilities Act. Activities have included ensuring legal aid material is provided in accessible formats (such as large font, Braille, audio), working to comply with building requirements, and implementing mandatory accessibility training for LAO staff and managers (LAO, 2013k).</p> <p><b>Video/phone application</b> LAO indicates in-custody clients may apply by video or phone from correctional institutions (LAO, 2012h). No further information is provided on this service.</p>	<p>penalty if the accused pleads guilty;</p> <ul style="list-style-type: none"> <li>• a client would like the Crown to agree to have bail conditions changed;</li> <li>• the defence or duty counsel feels the Crown may consider diversion or withdrawing charges altogether;</li> <li>• a client, defence or duty counsel feels information was missing from the client's disclosure and wants to discuss this with the Crown (LAO, n.dc).</li> </ul> <p><b>Evidence of success/impact:</b> LAO explains that this approach allows clients to move forward with their matter and avoid multiple visits to court. This in turn saves court resources and associated costs (LAO, 2013l).</p> <p><b>LAO in the Courthouse</b> As of March 2011, LAO had established onsite legal aid offices in 55 criminal court locations (LAO, 2011a). The “LAO in the Courthouse” program was implemented as part of the Ontario governments JOT initiative (see JOT under Partnerships) (LAO, 2009b, p. 11) and aims to provide low-income Ontarians with legal aid help when and where they need it. LAO courthouse staff can provide information on legal aid services, take legal aid applications, and provide referrals (LAO, 2011c).</p> <p><b>Evidence of success/impact:</b> In FY 2011–2012, LAO reported over 45,000 clients were served at LAO courthouse-based sites, more than double the number served in Q3 of the previous fiscal year (LAO, 2011a, p. 12). Also, 88% of initial applications at courthouse sites received same-day decisions (LAO, 2011a, p. 13).</p> <p><b>Big case management</b> In 2010, LAO integrated its Big Case Management department, Protocol Case Unit and Major Case Management Offices into a single department, Big Case Management (BCM) (LAO, 2012b, p. 17).</p> <p>LAO uses a committee of experienced criminal lawyers to provide budgetary recommendations on big criminal cases that are anticipated to cost more than \$75,000. LAO indicates this Exceptions Committee plays an integral part of the organization's big case management program (LAO, 2012b, p. 11).</p> <p><b>Evidence of success/impact:</b> In FY 2011-2012, LAO streamlined its identification and intake processes and overall</p>

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		<p>management of big cases, which resulted in fewer resources being used, more cases being properly managed, and accounts being paid more promptly (LAO, 2012b, p. 17). More specifically, BCM managed 489 new certificates, 42% of which were homicides, and was under budget by \$3.5 million. The Exceptions Committee considered 46 big cases (i.e., cases expected to exceed \$75,000).</p> <p><b>Mid-level Case Management (Criminal)</b>            In FY 2012-2013, LAO introduced mid-level case management for costly, complex criminal law matters anticipated to cost more than \$8,000 but less than the Big Case Management Program thresholds of \$20,000 for non-homicide cases and \$30,000 for homicides. Mid-level case management is available for certificates issued on or after November 26, 2012. It is intended to support high-quality service by ensuring adequate resources and providing lawyers with cost certainty and predictability (LAO, n.db).</p> <p><b>Lawyer-client conflict management</b>            In 2013, LAO announced a 90-day pilot project that aimed to reduce the number of cases involving client requests to change lawyers. In major criminal cases such requests — which traditionally were granted — led to substantial increases in case costs. LAO expects this new process will reduce the number of lawyer change requests and help such cases be resolved faster (LAO, 2013f).</p> <p>Under the project, LAO's case management office reviews requests to change lawyers for cases involving homicide or expenditures over \$20,000. Following the review, LAO's case manager discusses matters with the client and their lawyer and develops a strategy to resolve the issues (LAO, 2013f).</p> <p><b>Client Service Centre (CSC)</b>            Introduced in 2009, LAO's CSC provides multiple levels of support in 120 languages, including 18 Aboriginal languages and dialects using simultaneous interpreting services (LAO, 2011a). Translation services are also provided via a third party (LAO, 2013e).</p> <p>Levels of legal support available through the CSC include the following:</p> <ul style="list-style-type: none"> <li>• Level 1 - provides general information on legal and financial eligibility criteria, explains the application process, updates</li> </ul>



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		<p>client profiles, provides information on other programs or agencies, and refers clients to more appropriate services, such as duty counsel. Service standards require level 1 calls to be answered within 3 minutes (LAO, 2012b, p. 19).</p> <ul style="list-style-type: none"> <li>• Level 2 - provides triage support for Summary Legal Advice, handles complex client applications that require a full assessment, and provides urgent service for domestic violence clients. Service standards require level 2 calls to be answered within 15 minutes (LAO, 2012b, p. 19).</li> <li>• Level 3 - provides Summary Legal Advice (SLA) to eligible clients. SLA may include determining a client’s legal options, assessing risks and benefits, identifying reasonable and unreasonable claims under the law, and interpreting statute and case law relevant to the client’s situation (LAO, 2012b, p. 19). There is a limit of 20 minutes for summary legal advice on criminal matters (LAO, 2012b, p. 13), which may include information on the bail process, first appearance procedures, accessing a pre-trial, diversion, guilty pleas, sentencing, peace bonds and certificate eligibility issues (LAO, 2013c).</li> </ul> <p><b>Evidence of success/impact:</b> In FY 2010–2011, LAO noted an 8% decrease in the total number of legal aid certificates issued, and attributed this to “providing clients with services through alternative methods.” During this period there were 4,831 less criminal law certificates issued, representing the largest absolute decrease among LAO’s four legal areas (criminal, family, immigration and refugee, and other civil) (LAO, 2011a, p. 15). Also, in FY 2010-2011, LAO indicates there was a 15% decrease in criminal law certificate applications taken (LAO, 2011a, p. 15). Finally, LAO notes that the average criminal law certificate cost decreased from \$1,551 in 2011 to \$1,311 in 2012 (LAO, 2011a, p. 16, 2012b, p. 17).</p> <p>LAO reports that in FY 2011–2012 the CSC’s Level 3 representatives dealt with 37,600 calls. 29% of these calls were for criminal matters. 51% of all Level 3 calls were immediately resolved, with the remainder being triaged to certificate, duty counsel, or local service programs (LAO, 2012b, p. 19). (note: report does not provide percentage of Level 3 calls involving criminal matters that were immediately resolved)</p> <p>In February 2012, LAO reported reaching a landmark of assisting 10,000 clients through its Summary Legal Advice service (LAO, 2012a). (note: proportion of criminal-specific SLA services is not specified)</p>

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		<p><b>Student Legal Aid Services Societies (SLASS)</b> SLASS are funded by LAO and delivered by volunteer law students at Ontario's six law schools. Students provide public legal education and legal advice on minor criminal matters and other non-criminal matters (LAO, 2012b, p. 20)</p> <p><b>Aboriginal Justice Strategy (AJS)</b> LAO's Aboriginal Justice Strategy aims to address the following four overarching areas affecting Aboriginal people:</p> <ul style="list-style-type: none"> <li>• "barriers to accessing justice</li> <li>• lack of Aboriginal representation within LAO and LAO's Advisory Services</li> <li>• lack of Aboriginal legal representation or legal representation that is appropriately informed on the unique needs of Aboriginal clients</li> <li>• improving service on Aboriginal-specific legal issues and addressing the role of LAO in participating or supporting Aboriginal specific or driven processes" (LAO, 2011b, p. 2)</li> </ul> <p>Achievements under the AJS include the following:</p> <ul style="list-style-type: none"> <li>• all certificate applicants are asked whether they are First Nations, Métis, or Inuit (LAO, 2009a)</li> <li>• creation and distribution of a brochure for clients explaining the importance of informing their lawyer about their Aboriginal status (LAO, 2009a)</li> <li>• provision of a five hour extension of legal aid certificate coverage for Gladue submissions (LAO, 2009a)</li> <li>• provision of Aboriginal cultural competency training across LAO's clinics and provincial offices (LAO, 2009a)</li> <li>• development of panel standards for Aboriginal specific legal issues (LAO, 2009c)</li> <li>• Aboriginal services were made a priority by incorporating AJS initiatives into the performance contracts of executive and managerial staff (LAO, 2009c)</li> <li>• A First Nation lawyer and an AJS Project Manager were hired (LAO, 2009c)</li> <li>• LAO LAW resources reviewed by Métis lawyer (LAO, 2009c)</li> </ul> <p>The original five-year mandate of the AJS was renewed by LAO's Board of Directors in 2013. The second phase of the strategy will focus on:</p> <ul style="list-style-type: none"> <li>• Expanding access to Gladue services</li> <li>• Engaging locally to make service improvements and build</li> </ul>

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Service delivery		
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision
		<p>relationships with Aboriginal communities</p> <ul style="list-style-type: none"> <li>• Ensuring sustainability of service improvements</li> <li>• Updating and improving LAO’s knowledge of Aboriginal legal needs</li> <li>• Responding to the crisis in the North</li> </ul> <p><b>Collaboration with Aboriginal Court Workers</b>                      LAO works with Aboriginal Court Workers in locations where Gladue reports are available. In addition, where pre- or post-resolution diversion programs are available, staff or private bar lawyers will work with Aboriginal Court Workers to help ensure that clients meet the requirements under the diversion programs.</p> <p><b>Mental Health Strategy</b>                      In July of 2012, LAO reported having a mental health block fee enhancement that provided additional funding to criminal lawyers whose clients have mental health issues. At that time, LAO reported that it was continuing to develop a mental health strategy that would improve legal aid services for clients with mental health issues (LAO, 2012g).</p> <p>The Mental Health Strategy (MHS) will strengthen the capacity of lawyers, front-line workers, and management to better serve clients with mental illness. It is a multi-faceted, multi-year strategy that will improve access, increase capacity, and build on LAO’s current client services. The framework for the MHS was based on research and over 60 stakeholder consultations. The framework document was approved by LAO’s Board of Directors in April 2013. A Community Advisory Committee was established to guide the development of the strategy.</p> <p>A public consultation paper was released by LAO in December 2013. The consultation is ongoing as of February 2014. The Mental Health Strategy Consultation Paper is posted on LAO’s public website (LAO, 2013m).</p> <p>LAO is working with the Mental Health Commission of Canada to develop a training program that would be offered to frontline workers, staff and per diem. The training would cover how to recognize certain mental health issues and strategies for how to assist clients with mental health issues. The training will also be made available to other legal aid plans across Canada. Some plans are already involved in the development of the training.</p>

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		<p><b>Financial Eligibility Strategy</b> The Auditor General of Ontario's December 2011 report identified the low financial eligibility standard for legal aid as a problem. The report recommended that LAO conduct a study of its financial eligibility test and its impact on low-income Ontarians. In 2012, assisted by an expert academic committee and a statistical analysis carried out by an independent consultant, LAO completed its study. The study confirmed that financial eligibility for a legal aid certificate, which has not been adjusted since the mid-1990s, has eroded significantly. Approximately one million fewer Ontarians were eligible for certificate services in 2011 than in 1996, thus limiting LAO's ability to effectively carry out its statutory mandate of promoting access to justice to low-income Ontarians.</p> <p>In 2013, LAO began developing a strategy to expand financial eligibility for legal aid services and reverse the trend of years of erosion. The strategy, which is ongoing, focuses on developing initiatives and pilots that can leverage LAO's modernization and build over time. Projects will allow LAO to test assumptions and mitigate risk.</p> <p><b>Criminal Law Strategy (in early planning stages)</b> In FY 2013-2014, LAO began planning for the development of a comprehensive criminal law strategy to address a number of issues and priorities related to the design and delivery of criminal law services, including legal and financial eligibility, the needs of priority client groups, exploration of service delivery options and strengthening quality standards and supports.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Ontario (LAO)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Block Fees pilot project</b> LAO describes the block fees project as an "integral component of LAO's modernization plan" (LAO, 2012b, p. 5). The project pays a fixed fee rather than hourly rate for the resolution of standard criminal charges by either guilty plea, stay, or withdrawal of charges. The goal of the project is to promote earlier resolution of appropriate cases, reduce court appearances (thereby relieving pressure on the court system) and reduce the administration of billing (LAO, 2012b, p. 13).</p>	<p><b>Mixed model</b> LAO is moving to more of a mixed model. Currently, there are staff criminal lawyers located in regional offices where there is sufficient demand for staff lawyers to be cost-effective.</p> <p><b>Lawyer Workforce Strategy (LWS)</b> LAO developed the LWS in response to decreasing numbers of private bar lawyers participating in legal aid work. LAO argues that high tuition costs and larger student loans are encouraging law students</p>	<p><b>Clinic Information Management System (CIMS)</b> LAO expects its CIMS project will streamline administrative work and build on clinics' capacity to perform statistical reporting and develop clinic performance measures on service level data (LAO, 2012b, pp. 5, 15). As of June 2013 LAO was seeking proposals on developing the CIMS system (Merx, 2013) A proponent has been selected and development of CIMS is underway.</p>	<p><b>LAO Value Agenda</b> In 2007, LAO introduced a new strategic initiative aimed at improving productivity and/or reducing costs across all areas of service delivery. Referred to as "The Value Agenda," the initiative set a goal of achieving a 1% annual increase in productivity or savings over a period of five years (LAO, 2009b, p. 6).</p>

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Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>In FY 2011-2012, LAO launched Phase II of the project, which expanded the range of criminal charges included in the block fees to include all summary conviction offences, super-summary charges, and most indictable charges. Block fees were also introduced to cover certain proceedings, including bail hearings, bail reviews, judicial pre-trials and charter motions (LAO, 2012b, p. 13).</p> <p><b>Evidence of success/impact:</b> LAO reports that in FY 2011–2012, approximately 80% of criminal legal aid certificates were paid by block fees (LAO, 2012b, p. 13). LAO has begun to evaluate the block fees pilot project in FY 2013–2014 to examine the impact the project has had on legal aid clients, service providers, and on the criminal justice system in general (LAO, 2012b, p. 13). LAO has also begun to capture outcome information for certificates covered by block fees. Counsel handling matters covered by block fees are now required to enter outcome information into the online billing system.</p> <p><b>Lawyers services and payments improvements</b> The Lawyer Payments Department introduced several workflow and document management efficiencies. These innovations have improved workload management, and simplified access and paper reduction for staff and for lawyers using the lawyers billing portal (LAO, 2012b, p. 14).</p> <p><b>Evidence of success/impact:</b> While not necessarily attributable solely to the use of block fees, LAO reported in 2012 that it had processed over 90% of lawyer payments in under 60 days (LAO, 2012b, p. 6).</p> <p><b>New discretion guidelines</b> New discretion guidelines were announced by LAO, effective November 26, 2012 (LAO, 2012c). Following province-wide consultations with the bar earlier in 2012, LAO introduced the new guidelines to ensure greater compliance with the legislation, increase predictability for lawyers and assist LAO in providing faster and more consistent decisions on discretion. At the same time, LAO introduced its new mid-level case management program for complex criminal cases likely to exceed \$8,000 but unlikely to meet the thresholds for the Big Case Management Program.</p>	<p>to seek work in higher paying types of legal work and not criminal, family, or refugee law (LAO, 2010a, p. 43).</p> <p>LAO describes the LWS a “corporate talent management system,” which focuses on recruitment, development, and retention of lawyers. In addition to hiring new lawyers, the strategy recruits articling students and provide summer employment to law students. The strategy also plans to implement a talent management review panel, which would make decisions about lawyer development and delivery of relevant training programs in criminal law (LAO, 2012b, p. 15).</p> <p><b>Evidence of success/impact:</b> In 2012, LAO reported hiring 76 new lawyers and 51 new articling students who, over a 10 month period, were rotated to two or three other departments or locations within LAO to ensure they had an opportunity to experience a full range of experiences, including providing toll-free Summary Legal Advice, working as duty counsel, reviewing applications, conducting legal research on their client’s case, and representing clients at hearings (LAO, 2012e).</p> <p><b>Paralegals</b> LAO reports that in 2010 it developed a discussion paper on paralegals with the goal of improving paralegal effectiveness and reducing costs (LAO, 2010a, p. 11). LAO currently has a number of paralegals working in duty counsel offices and plans to introduce a pilot study that will involve existing staff who have paralegal licenses taking on a fuller paralegal role in some duty counsel offices. LAO is developing quality assurance strategies, operational supports and data collection tools to support evidence-based decisions about paralegals. At these pilot sites, the paralegals will work as part of an interdisciplinary team that also includes a lawyer and a legal aid worker (LAW).</p> <p>The role of LAWs varies from office to office, but generally LAWs in the criminal law context may be</p>	<p><b>Administrative Savings Plan</b> LAO undertook a joint initiative with its legal aid clinics to find \$5.5 million in administrative efficiencies by 2013–2014 (LAO, 2012b, p. 5).</p> <p><b>Evidence of success/impact:</b> LAO reports in FY 2011–2012 program efficiencies, along with administrative reduction, brought the organization’s operating deficit down from a forecasted \$3.5 million at the beginning of the fiscal year to \$1.3 million at the end of the fiscal year. This is significant given LAO’s FY 2009–2010 operating deficit reached \$27.6 million (LAO, 2012b, p. 6).</p> <p><b>Performance measurement and evaluation</b> In 2009, LAO launched a performance measurement project and created a new internal audit and program evaluation unit to help identify successes and provide a means for making more informed decisions about programming (LAO, 2009b). As part of this initiative, LAO senior managers and other staff across Ontario were provided standardized training in the principles of performance measurement (LAO, 2008a, p. 13).</p> <p>LAO’s also launched a “Q-Newsletter” in FY 2007–2008 to keep lawyers and area offices informed about the organization’s quality initiatives and help foster a “quality culture” (LAO, 2008b, p. 3).</p> <p>LAO is tracking numerous measures of program success. Some of these are listed below:</p> <ul style="list-style-type: none"> <li>• Client Service Centre: LAO monitors, analyzes, and reports on call volumes, wait times, talk time, and call abandonment rates. Results are reported in quarterly reports.</li> <li>• Enhanced duty counsel: LAO is conducting cost-benefit analysis for locations offering enhanced duty counsel to determine whether it is more cost effective to have staff duty counsel provide these services, or pay per diem rate to private bar lawyers (LAO, 2011a, p. 17). Additionally, LAO tracks clients served, duty counsel assists, final resolution services, and dispositive outcomes as a way of understanding the overall outcomes of enhanced duty counsel services.</li> </ul>	<p>The Value Agenda was organized around five strategic management principles:</p> <ul style="list-style-type: none"> <li>• Innovation – embrace new approaches to solving problems.</li> <li>• Measurement – implement a modern set of performance measurements tools to identify successes and inform decision making.</li> <li>• Prioritization – establish processes and criteria to enable LAO to prioritize programs and allocate resources accordingly.</li> <li>• Accountability – ensure adequate management and financial accountability systems are in place throughout the organization.</li> <li>• Coordination – improve coordination of services among programs and administrative functions (LAO, 2008a, p. 6).</li> </ul> <p>Outcomes for the Value Agenda included “Direct Savings” (funds that were not spent as a result of changes through the strategy) and “Service Improvements,” which include productivity gains that lead to more services for clients (LAO, 2008a, p. 10).</p> <p><b>Evidence of success/impact:</b> In 2009, LAO reports its total operational expenses were under budget by \$3.8 million, which matched the organization’s 1% Value Agenda target. (LAO, 2009b, p. 6).</p> <p><b>2008 review of legal aid in Ontario</b> A 2008 review of legal aid in Ontario focused on the “tools and capacities to maximize effective administration and good governance of the legal aid system” in Ontario (Trebilcock, 2008, p. i). The report’s conclusion emphasizes seven broad themes, which together, promote “a sustainable legal aid system that fulfills [the] collective commitment to the ideals of access to justice and the rule of law”</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Ontario (LAO)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Legal Aid Online</b> LAO provides lawyers access to its Legal Aid Online website, which provides secure online access to do the following:</p> <ul style="list-style-type: none"> <li>• receive real time notifications of certificate issuances (LAO, 2012h)</li> <li>• make fast-track requests for modifications to certificates, such as adding or changing charges and backdating to more closely align with the date the lawyer began representing their client (as opposed to the date the certificate was issued).(LAO, 2012i)</li> <li>• fast track requests for additional hours for matters involving Gladue principles or clients with mental health issues (LAO, 2012i)</li> <li>• submit duty counsel statements</li> <li>• update contact information</li> <li>• look up annual billing limits</li> <li>• submit accounts for payment and review status of submitted accounts and statements</li> <li>• forward electronic messages through web-based billing tools, allowing for faster resolution of certificate-related enquiries (LAO, 2013i).</li> </ul> <p>LAO indicates Legal Aid Online not only saves time, but also replaces the need to manually fill in forms and send them by fax or mail. Once submitted, LAO responds with a decision through an immediate email or text message (LAO, 2012i).</p> <p>LAO has also taken steps to ensure the online billing system is used appropriately. LAO's compliance division monitors the online billing portal, targeting areas of risk, and investigating suspicious billing patterns and profiles (LAO, 2012b, p. 15). In an effort to improve the online billing portal, LAO undertook a number of internal workflow and document management efficiencies that were intended to result in better workload management for staff across the organization and for service providers using the lawyers billing portal (LAO, 2012b, p. 14). In 2013-2014, LAO is focusing on improving panel lawyers' experience with the billing system by consulting on and developing ways of addressing identified "billing irritants".</p>	<p>responsible for client intake and triage (assessment and referral to appropriate services), assisting lawyers with client queries and preparation of court materials, interviewing clients, interviewing sureties for bail hearings, providing clients with procedural information, liaising and following up on client progress with internal and external service providers, including clinics and community agencies. They may also perform some set date and assignment court work.</p>	<ul style="list-style-type: none"> <li>• Division business plans and program performance measures: as part of its outcomes-based approach to business planning, LAO is developing business plans on a divisional level which are aligned with LAO's strategic goals and objectives. Town hall meetings and surveys were conducted across the province to gather staff feedback about the modernization initiative and this feedback was incorporated into the divisional business plans (LAO, 2012b, p. 15). Additional details about the LAO Modernization Strategy are under Organizational Structure.</li> <li>• Percentage of direct service provision: LAO tracks the percentage of LAO staff providing direct service to clients, reporting a shift from 22% to 56% during FY 2011–2012 (LAO, 2012b, p. 6).</li> <li>• Justice on Target (JOT): LAO is working with the Ontario Ministry of the Attorney General (MAG) to develop appropriate performance measures for the JOT, such as adjournment rates (LAO, 2011a, p. 12)</li> <li>• Common Measurement Tool: LAO conducts annual surveys of clients, certificate lawyers, duty counsel, and clinic staff to gather feedback on program strengths and weaknesses (LAO, 2008b, p. 2).</li> </ul> <p><b>Advisory committees</b> LAO is mandated by provincial law to work with a range of advisory committees drawn from community representatives and LAO board members. The committees provide advice and expertise to LAO's board of directors in specific areas of the law, including criminal law, but also touch on specific services issues, such as Aboriginal justice and French language services (LAO, 2012b, pp. 10–11).</p> <p>Committees may examine new legislation, demographic changes, client needs, or policy changes that affect client service. Results of these activities feed into LAO's business planning process (LAO, 2012b, pp. 10–11).</p> <p><b>Shift to lower cost services</b> In FY 2011–2012 LAO developed a strategy to shift resources from high cost per unit services (such as</p>	<p>(Trebilcock, 2008, p. 178). These themes include the following:</p> <ol style="list-style-type: none"> <li>1. Reforming the broader justice system to enable expansion of legal aid resources to facilitate more timely and more effective resolution of disputes.</li> <li>2. A significant increase in financial eligibility criteria. This issue was raised again in the Ontario Auditor General's December 2011 report (LAO, 2012b, p. 5).</li> <li>3. Provision of some range of legal aid service to all Ontario citizens on a non-means-tested basis, including summary forms of advice. The report argues providing assistance to middle-class Ontarians will increase the middle classes' stake in the wellbeing of the legal aid system.</li> <li>4. A focus on greater integration of legal aid services and a more holistic approach to client needs rather than the "silo approach" toward legal issues.</li> <li>5. LAO taking a more enterprising and innovative approach to service delivery and more strategic approach to maximizing the potential of existing services (e.g., greater use of electronic information systems and hotlines; one-stop forms of service provision; provision of range of legal assistance to all Ontarians).</li> <li>6. A significant increase in the legal aid tariff and salaries for staff lawyers.</li> <li>7. A substantial increase in funding for the legal aid system (Trebilcock, 2008, pp. 178–179).</li> </ol> <p><b>LAO Modernization Strategy</b> In January 2010, LAO began a significant restructuring process, which involved the following:</p> <ul style="list-style-type: none"> <li>• Restructuring LAO's traditional model of 51 independent offices into nine larger districts, with each of these districts having an area director responsible for</li> </ul>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Ontario (LAO)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Evidence of success/impact:</b> Between September 2011 and August 2012, 1,191 criminal lawyers submitted 20,000 requests and received LAO decision on changes to their legal aid certificates (LAO, 2012b, p. 14).</p> <p><b>Lawyer Service Centre</b> LAO provides a toll-free phone line for lawyers who do legal aid work and cannot find their answers on Legal Aid Online. The Lawyer Service Centre provides information on lawyer certificates, billing, tariff instructions, account and payment status, as well as many other topics (LAO, 2013h).</p> <p><b>Evidence of success/impact:</b> Between April 2012 and March 2013, LAO surveyed 1,309 lawyers about their experience with the Lawyer Service Centre. 93% of these lawyers felt the centre was very or somewhat effective. 63% of these lawyers contacted the Lawyer Service Centre three to five times throughout the fiscal year (LAO, 2013h).</p> <p><b>Lawyer management information systems</b> In 2008, LAO reported that it was using a Peoplesoft information management system to manage certificate lawyers and had developed a new system to enable more efficient management of duty counsel court and advice lawyer panel information. Prior to this duty counsel panel information was managed locally using spreadsheets. This initiative integrated the duty counsel panel data with the certificate lawyer profiles in Peoplesoft.</p> <p><b>Exploration of Alternative Fee Arrangements (AFAs)</b> In 2013-2014, LAO is exploring the potential use of service contracts as a way of paying private bar criminal lawyers for providing legal aid services. In this pilot program, LAO will move from payment for services based on hourly fees to payment in regular instalments, based on an agreement that the lawyer will manage a certain case load, including a particular range and mix of cases. The range of cases is determined based on the lawyer's practice over the past three- to five-year period, but has flexibility built in to address changes that may occur in the lawyer's practice during the course of the AFA agreement. The benefits of the AFA to LAO would include simplification, reduction in the number of transactions and security of supply. LAO is hoping to pilot the first AFA in criminal law before the end</p>		<p>certificates for individual and limited representation) to lower cost services, which provides legal services to more people at a lower cost per unit of service. Services in the latter category include web-based brief services, legal advice, and referrals (LAO, 2012b, p. 12).</p> <p>To support this strategy, LAO has been focusing on the use of duty counsel at courthouses and providing brief services and advice using web-based tools. Expected benefits of this approach include increased continuity of services to clients, less duplication of work, fewer court appearances, facilitation of earlier resolutions, and more efficiently run courts (LAO, 2012b, p. 12).</p> <p><b>Ethics Hotline</b> LAO's ethics hotline aims to reduce and deter incidents of wrong doing and ensure integrity of LAO's services. The hotline is available via phone or online 24/7 for staff, clients, service providers, and the public (LAO, 2012b, p. 14). The ethics hotline is operated by an independent firm to help ensure confidentiality and anonymity (LAO, 2012d).</p> <p><b>Evidence of success/impact:</b> LAO describes the hotline as a "compliance best practice" (LAO, 2012b, p. 14). In January 2012, 27 reports were made to the hotline, of which 13 were referred to LAO's complaints department and 14 to LAO's investigations unit (LAO, 2012d).</p> <p><b>LAO LAW — research and litigation support</b> LAO LAW provides research and litigation support for lawyers who represent legal aid clients. The service is staffed by lawyers with specific subject matter expertise. Areas of law covered by the service include criminal law, Aboriginal legal issues, family law, immigration and refugee law, correctional law and mental health law (LAO, 2012b, p. 20, 2013g).</p> <p>General and issue-specific memoranda are provided through LAO LAW's website. The service also provides case-specific research to Ontario lawyers in certificate cases (LAO, 2013g).</p>	<p>management and oversight of legal aid services.</p> <ul style="list-style-type: none"> <li>• Moving client services from area offices to courthouse locations (see Legal Aid in the Courthouse under Legal Service Provision) (LAO, 2011a, p. 5)</li> <li>• Offering a broader range of services in multiple languages through LAO's call centre (LAO, 2011a, p. 5).</li> </ul> <p>The goal of the strategy was to address revenue shortfalls through efficiency gains and reduce administrative costs while providing continued access to vital services (LAO, 2010a, p. 10).</p> <p><b>Evidence of success/impact:</b> In FY 2011-2012, Ontario's auditor general (AG) reported that LAO's multiyear reform strategy is "heading in the right direction" because it is striving to improve efficiency in service delivery. The AG's report also makes note of LAO's efforts to make appropriate levels of service available to larger numbers of people, while reserving costly legal representation for more serious and complex cases. The auditor indicates that this approach was "consistent with [LAO's] legislated mandate, recent studies of legal aid, and other reforms to make courts more efficient" (LAO, 2012b, p. 6).</p> <p><b>Consolidation of LAO operations</b> LAO streamlined its operational budget by \$1 million by moving all of LAO's operations into a single floor of a single building. LAO further streamlined rent expenses by moving LAO offices into local courthouses, which also saved litigants the stress of leaving the courthouse to apply for legal aid (Goar, 2013).</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Ontario (LAO)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>of the fiscal year.</p> <p><b>Forms</b> LAO provides convenient online access to a library of forms for lawyers (LAO, 2013d).</p> <p><b>Lawyer experience standards and professional development</b> LAO's Quality Services Office has worked with private bar lawyers to develop eight sets of panel standards for specific types of cases, including criminal, duty counsel (criminal), Extremely Serious Criminal Matters, and Gladue panels (LAO, 2013n). Existing panel standards are currently under review at LAO, and LAO will be working in consultation with the bar to strengthen and improve panel standards over the coming year.</p> <p>Lawyers who are new to an area of practice can be conditionally admitted to a panel, but must agree to acquire a necessary amount of experiences within a specified period of time. This experience can be acquired through continuing legal education and mentorship (LAO, 2013n). In 2011, LAO reported it was creating and filming high quality continuing education programs, which were made accessible on the LAO LAW website for a nominal charge (LAO, 2011d) (see LAO LAW under Other Administration)</p> <p>In January of 2011, it became mandatory for lawyers (staff and private) and paralegals to submit annual reports to the Law Society of Upper Canada regarding the completion of 12 hours of Continued Professional Development (CPD) including three hours in ethics, professionalism, and/or practice management (LAO, 2011d, p. 2).</p> <p>All LAO certificate lawyers are required to complete the annual self report to maintain their standing on LAO's panels (LAO, 2013n). Panel lawyers who do not self-report may be removed by area directors (LAO, 2008b, pp. 7–8).</p> <p><b>Evidence of success/impact:</b> In 2008, LAO reported 79% of panel lawyers self-reported on their compliance with panel standards. By 2009, 95% of LAO's panel lawyers responded. LAO interprets these results as demonstrating that panel lawyers take both the panel standards and reporting requirements seriously (LAO,</p>		<p>LAO describes its research and litigation support services as “a cost-effective, efficient service that saves duplication of effort across LAO’s 4,000 certificate lawyers and 77 community legal clinics, and ensures a high quality product” (LAO, 2012b, p. 20).</p> <p>It should be noted that legal aid plans in Alberta and Manitoba have indicated they also use LAO's research memoranda. It is not clear whether this research is provided to these other legal aid plans on a fee-for-service or other basis.</p> <p><b>Process mapping</b> In 2007–2008, LAO began using process mapping to make several improvements.</p> <ul style="list-style-type: none"> <li>• Lawyer Services and Payments' Paperless Project mapped paper flow process and identified opportunities for reducing costs of paper usage and productivity gains.</li> <li>• The process for approval of discretionary increases on civil and criminal accounts was mapped.</li> <li>• The Toronto Area Office intake/SOAP and filing/bring forward processes were mapped (LAO, 2008b, pp. 8–9).</li> </ul> <p>Additional results were not available in the documentation.</p>	



Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Ontario (LAO)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p>2008b, p. 8).</p> <p>Furthermore, the self-report mechanism has enabled LAO to keep up-to-date referral lists and analysis of lawyers who did not self-report provided important information about lawyers who had not been active for two to three years (LAO, 2008b, p. 8). No further details on what was learned about inactive lawyers were available in the documentation.</p> <p><b>Learning support for lawyers</b></p> <p>In 2008, LAO reported it had a library of 92 DVDs on continuing legal education aimed at lawyers delivering law services with panel standards (see above). LAO also provides a “Practical Tips” series on its website to further enhance lawyer knowledge (LAO, 2008b, p. 7).</p> <p>Learning opportunities are also provided through mentorships. Mentors are recruited from the private bar to help guide less experienced members of the panels. As of July 2008 LAO reported it had 44 criminal lawyers qualified for volunteer mentoring (LAO, 2008b, p. 7). In 2013-2014, LAO is developing a broader mentoring strategy. LAO has developed a proposal for providing more mentoring opportunities for new lawyers. Younger lawyers can gain experience working on cases in the Big Case Management (BCM) Program as “second chairs” who attend court and assist with the case during the trial. LAO is also exploring the idea of supporting “second chairs” on non-BCM matters, to allow younger lawyers to gain the experience they need to be able to transition to BCM work.</p> <p>LAO also sponsors criminal law seminars to help fill a gap created by the termination of substantive teaching of legal areas in the bar admission course (LAO, 2008b, p. 6).</p> <p>LAO staff lawyers have the opportunity to participate in regular (once per month) lunch and learn webinars that are organized by LAO, usually with the assistance of an external presenter (eg, private bar lawyer or judge). Webinars are offered on criminal law and family law topics, and can be counted towards the annual CPD requirement.</p>			

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Legal Aid Ontario (LAO)	
System approach	
Partnerships	Law reform
<p><b>LAO-MAG working group</b> LAO formed at high-level joint working group with the Ontario MAG. The working group has met on regular basis to discuss current issues, such as Big Case Management and LAO's participation in various studies and reviews. The working group helped create a Memorandum of Understanding on Protocol Cases (cases where courts order the provincial government to fund the defence of individuals who are not receiving legal aid (LAO, 2008a, p. 12).</p> <p><b>Legal Aid Ontario and Humber College</b> LAO partners with Humber College's four-year degree paralegal program to provide students with experience supporting criminal duty counsel at courthouses in three communities (LAO, 2012f).</p> <p><b>Justice on Target</b> The Ontario government's JOT strategy aims to address delays in criminal court by using an evidence-based approach to increasing the effectiveness of the province's criminal courts (MAG, 2013d). The strategy uses target number of appearances and target number of days until resolution for three types of cases, including less complex matters (e.g., break and enter, theft, mischief), more complex (e.g., homicide, sexual assault, gang-related charges), and cases that involve both provincial and federal charges (MAG, 2013b).</p> <p>The JOT involves numerous initiatives which are meant to improve the province's ability to meet the established targets. These initiatives include changes to the way Crown prosecutors' cases are managed and offices are structured, increasing the availability of plea courts, and maximizing the use of video conferencing for pleas or private consultations between defence counsel and in-custody clients (MAG, 2013c).</p> <p>LAO has launched a number of initiatives under the JOT, including the following:</p> <ul style="list-style-type: none"> <li>• LAO in the Courthouse (see description under Legal Service Provision)</li> <li>• Simplified Online Application Portal (SOAP) (see description under Application Process)</li> <li>• Simplified Financial Eligibility Test (SFET) (see description under Application Process) (LAO, 2013b)</li> </ul> <p>In addition to these changes, LAO participated in the development of the JOT's performance measures (LAO, 2011a, p. 12) and LAO's CEO serves on the JOT's Expert Advisory Panel (MAG, 2013a).</p>	<p>No relevant activities were identified in available documentation.</p> <p>Through its Group Applications and Test Case Committee (GATCC), LAO supports test case litigation in many areas of law, including criminal law. Supporting test cases can be a cost-effective way of providing access to justice to LAO's client base of low-income Ontarians and disadvantaged communities.</p>

## Ontario Reference List

- Goar, C. (2013). Legal Aid Ontario overwhelmed: Head of Legal Aid Ontario stretches every dollar but can't meet swelling need. *Toronto Star*. Retrieved from [http://www.thestar.com/opinion/commentary/2013/07/03/legal\\_aid\\_ontario\\_overwhelmed\\_goar.html](http://www.thestar.com/opinion/commentary/2013/07/03/legal_aid_ontario_overwhelmed_goar.html)
- LAO. (n.da). LawFacts.ca. Retrieved November 29, 2013, from <http://lawfacts.ca/legaltopics>
- LAO. (n.db). Mid-level Criminal Case Management. Retrieved April 9, 2014, from [http://www.legalaid.on.ca/en/info/midlevel\\_casemanagement.asp](http://www.legalaid.on.ca/en/info/midlevel_casemanagement.asp)
- LAO. (n.dc). What is a Crown pre-trial or a resolution meeting? Retrieved December 2, 2013, from <http://lawfacts.ca/node/56>
- LAO. (2008a). 2008 Annual Report.
- LAO. (2008b). The Quality Report 2007-08. Retrieved November 5, 2013, from <http://www.legalaid.on.ca/en/about/downloads/QSOAnnualReport2007-08.pdf>
- LAO. (2009a). 2008-09 initiatives achieved, more to come this year - September 16, 2009. Retrieved November 27, 2013, from [http://www.legalaid.on.ca/en/publications/report\\_aboriginalupdate\\_09sept.asp](http://www.legalaid.on.ca/en/publications/report_aboriginalupdate_09sept.asp)
- LAO. (2009b). 2009 Annual Report.
- LAO. (2009c). Aboriginal Justice Strategy Update - February 18, 2009. Retrieved November 27, 2013, from [http://www.legalaid.on.ca/en/publications/report\\_aboriginalupdate\\_09feb.asp](http://www.legalaid.on.ca/en/publications/report_aboriginalupdate_09feb.asp)
- LAO. (2010a). 2010 Annual Report.
- LAO. (2010b). More Efficient and Effective Options for Legal Aid in Toronto. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1003-12\\_torontooptions.asp](http://www.legalaid.on.ca/en/news/newsarchive/1003-12_torontooptions.asp)
- LAO. (2011a). 2010/11 Annual Report.
- LAO. (2011b). Aboriginal Justice Strategy - 2011-2012 Action Plan.
- LAO. (2011c). Fact Sheet: LAO in the Courthouse Helping clients in courthouses across Ontario. Retrieved December 2, 2013, from [http://www.legalaid.on.ca/en/about/downloads/factsheets/factsheet\\_LAOinthecourthouse.pdf](http://www.legalaid.on.ca/en/about/downloads/factsheets/factsheet_LAOinthecourthouse.pdf)
- LAO. (2011d). Q Newsletter - Spring 2011. *Q Newsletter*, 4(1). Retrieved from [http://www.legalaid.on.ca/en/news/newsletters/q-newsletter\\_v4i1.pdf](http://www.legalaid.on.ca/en/news/newsletters/q-newsletter_v4i1.pdf)
- LAO. (2012a). 10,000 Clients Served Through Telephone Summary Legal Advice. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1202-10\\_sladvice.asp](http://www.legalaid.on.ca/en/news/newsarchive/1202-10_sladvice.asp)

LAO. (2012b). 2011/12 Annual Report.

LAO. (2012c). Discretion guidelines. Retrieved April 9, 2014, from <http://www.legalaid.on.ca/en/info/discretion-guidelines.asp>

LAO. (2012d). LAO's Ethics Hotline Protecting Taxpayers. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1204-17\\_ethicshotline.asp](http://www.legalaid.on.ca/en/news/newsarchive/1204-17_ethicshotline.asp)

LAO. (2012e). Legal Aid Ontario is an increasingly welcoming workplace for articling students. Retrieved November 30, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1207-30\\_articlingstudents.asp](http://www.legalaid.on.ca/en/news/newsarchive/1207-30_articlingstudents.asp)

LAO. (2012f). Legal Aid Ontario Partners with Humber College to Support Paralegal Students. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1211-12\\_humberparalegals.asp](http://www.legalaid.on.ca/en/news/newsarchive/1211-12_humberparalegals.asp)

LAO. (2012g). New LAO Strategy to Improve Services for Clients with Mental Health Issues. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1207-27\\_mentalhealth.asp](http://www.legalaid.on.ca/en/news/newsarchive/1207-27_mentalhealth.asp)

LAO. (2012h). Quality Service: Client and Stakeholder Feedback Surveys. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/about/qso\\_cmtools.asp](http://www.legalaid.on.ca/en/about/qso_cmtools.asp)

LAO. (2012i). The verdict is in: amending certificates for criminal matters on Legal Aid Online saves time and effort. Retrieved November 30, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1211-15\\_amendingcertificates.asp](http://www.legalaid.on.ca/en/news/newsarchive/1211-15_amendingcertificates.asp)

LAO. (2013a). 2012/13 Q4 Legal Aid Ontario Quarterly Performance Overview.

LAO. (2013b). Client services improving thanks to LAO courthouse offices. Retrieved December 2, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1311-22\\_courthouseoffices.asp](http://www.legalaid.on.ca/en/news/newsarchive/1311-22_courthouseoffices.asp)

LAO. (2013c). Criminal summary legal advice. Retrieved November 29, 2013, from [http://www.legalaid.on.ca/en/getting/summarylegaladvice\\_criminal.asp](http://www.legalaid.on.ca/en/getting/summarylegaladvice_criminal.asp)

LAO. (2013d). Forms Library. Retrieved November 5, 2013, from <http://www.legalaid.on.ca/en/info/forms.asp>

LAO. (2013e). High-Quality Multilingual Interpretation Service Extended Through 2015. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1308-02\\_MCISextended.asp](http://www.legalaid.on.ca/en/news/newsarchive/1308-02_MCISextended.asp)

LAO. (2013f). LAO initiates pilot to support lawyer-client relationship in major criminal cases. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1306-11\\_pilottosupportlawyerclientrelationship.asp](http://www.legalaid.on.ca/en/news/newsarchive/1306-11_pilottosupportlawyerclientrelationship.asp)

LAO. (2013g). LAO LAW. Retrieved December 2, 2013, from <http://www.legalaid.on.ca/en/info/laolaw.asp>

LAO. (2013h). Lawyer Service Centre. Retrieved November 30, 2013, from <http://www.legalaid.on.ca/en/info/lawyerservicecentre.asp>

- LAO. (2013i). Legal Aid Online. Retrieved November 5, 2013, from <http://www.legalaid.on.ca/en/info/legalaidonline.asp>
- LAO. (2013j). Legal Aid Ontario Expands Duty Counsel Role. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1302-22\\_GTAedc.asp](http://www.legalaid.on.ca/en/news/newsarchive/1302-22_GTAedc.asp)
- LAO. (2013k). Legal Aid Ontario Is on Track to Ensure Accessibility to All Services. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1309-11\\_accessibility.asp](http://www.legalaid.on.ca/en/news/newsarchive/1309-11_accessibility.asp)
- LAO. (2013l). Legal Aid Service Resolving Local Court Cases Faster. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1301-31\\_fastercourtcases.asp](http://www.legalaid.on.ca/en/news/newsarchive/1301-31_fastercourtcases.asp)
- LAO. (2013m). Mental Health Strategy consultation paper. Retrieved April 9, 2014, from <http://www.legalaid.on.ca/en/policy/downloads/Mental%20Health%20Strategy%20consultation%20paper.pdf>
- LAO. (2013n). Panel Standards. Retrieved November 29, 2013, from [http://www.legalaid.on.ca/en/info/panel\\_standards.asp](http://www.legalaid.on.ca/en/info/panel_standards.asp)
- LAO. (2013o). Under 18? First-time offender? Call LAO's toll-free Young Person's Diversion Program hotline to learn your legal options. Retrieved November 5, 2013, from [http://www.legalaid.on.ca/en/news/newsarchive/1308-22\\_youngpersonshotline.asp](http://www.legalaid.on.ca/en/news/newsarchive/1308-22_youngpersonshotline.asp)
- MAG. (2013a). Advising the Justice on Target strategy - Ministry of the Attorney General. Retrieved December 2, 2013, from [http://www.attorneygeneral.jus.gov.on.ca/english/jot/advising\\_team.asp](http://www.attorneygeneral.jus.gov.on.ca/english/jot/advising_team.asp)
- MAG. (2013b). Benchmarks for Effective Criminal Courts - Ministry of the Attorney General. Retrieved December 2, 2013, from <http://www.attorneygeneral.jus.gov.on.ca/english/jot/benchmarks.asp>
- MAG. (2013c). JOT Initiatives - Ministry of the Attorney General. Retrieved December 2, 2013, from [http://www.attorneygeneral.jus.gov.on.ca/english/jot/jot\\_in\\_action.asp](http://www.attorneygeneral.jus.gov.on.ca/english/jot/jot_in_action.asp)
- MAG. (2013d). Justice on Target - Ministry of the Attorney General. Retrieved December 2, 2013, from <http://www.attorneygeneral.jus.gov.on.ca/english/jot/>
- Merx. (2013). Request for Proposal (RFP) Abstract: LAO RFP 2013-008: Clinic Information Management System (CIMS). Retrieved December 2, 2013, from [http://www.merx.com/English/SUPPLIER\\_Menu.Asp?WCE=Show&TAB=1&PORTAL=MERX&State=7&id=271297&src=osr&FED\\_ONLY=0&ACTION=&rowcount=&lastpage=&MoreResults=&PUBSORT=2&CLOSESORT=0&IS\\_SME=Y&hcode=A4Uc723A%2Bqs2EHBTlqSKcg%3D%3D](http://www.merx.com/English/SUPPLIER_Menu.Asp?WCE=Show&TAB=1&PORTAL=MERX&State=7&id=271297&src=osr&FED_ONLY=0&ACTION=&rowcount=&lastpage=&MoreResults=&PUBSORT=2&CLOSESORT=0&IS_SME=Y&hcode=A4Uc723A%2Bqs2EHBTlqSKcg%3D%3D)
- Trebilcock, M. (2008). Report of the Legal Aid Review 2008.

<b>Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Prince Edward Island Legal Aid Program</b>		
<b>Service delivery</b>		
<b>PEI/self-help</b>	<b>Application process</b>	<b>Legal service provision</b>
No relevant activities were identified in available documentation.	PEI Legal Aid Program uses a flexible means test that employs a scale based on income and family size, which is used as a guideline (DELJ, 2013, p. 2).	On April 1, 2010, PEI Legal Aid Program introduced after-hours telephone duty counsel, or Brydges duty counsel. The program is staffed by private bar and staff lawyers. Business hour calls are handled by staff lawyers and after-hours calls are forwarded to the cell phone carried by the duty lawyer (DELJ, 2013, p. 4).

<b>Operations</b>			
<b>Managing roster (if applicable)</b>	<b>Managing legal staff (if applicable)</b>	<b>Other administration</b>	<b>Organizational structure</b>
Approximately 20% of PEI's practicing lawyers accept occasional legal aid referrals (PEI OAG, 2010, p. 50).	<p>PEI legal aid services are delivered primarily through salaried staff lawyers. Private sector lawyers are used in cases where a staff lawyer is unavailable or more than one party in the dispute requires legal aid (PEI OAG, 2010, p. 50).</p> <p>In 2009–2010, PEI Legal Aid reported staff had to be reallocated to respond to pressures in the criminal legal aid program. These pressures were a result of heavy criminal case loads, staff sick leave, and difficulties in retaining private sector lawyers (PEI OAG, 2010, p. 50). There are 3.3 FTE criminal legal aid lawyers in PEI. The reallocation involved having a newly hired family legal aid lawyer temporarily handle criminal legal aid and use private lawyers to handle that lawyer's family law docket.</p>	No relevant activities were identified in available documentation.	<p>The PEI Legal Aid Program was restructured in 2004 (PEI OAG, 2010, p. 50). This restructuring did not impact criminal legal aid.</p> <p>PEI Legal Aid is administered by a director, who reports to the province's deputy attorney general on matters of policy, resources, and administration. PEI legal aid staff have autonomy similar to that of professional staff in programs administered by a legal aid commission (PEI OAG, 2010, p. 50).</p>

<b>System approach</b>	
<b>Partnerships</b>	<b>Law reform</b>
No relevant activities were identified in available documentation.	No relevant activities were identified in available documentation.

**Prince Edward Island Reference List**

DELJ. (2013). Annual Report April 1, 2012 to March 31, 2013.

PEI OAG. (2010). Annual Report For the Fiscal Year April 1, 2009 to March 31, 2010. Retrieved November 5, 2013, from [http://www.gov.pe.ca/photos/original/OAGPS\\_AR-09-10.pdf](http://www.gov.pe.ca/photos/original/OAGPS_AR-09-10.pdf)

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Commission des services juridiques (Quebec)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
<p><b>Conferences</b> As part of the « Rendez-vous avec la justice » week organized by the Ministry of Justice, Commission lawyers conducted two presentations on contributory legal aid at the Montreal courthouse, one for the general public and the other for elderly persons (CSJ, 2010a, p. 23). The Commission and the Centre communautaire juridique de Montréal participate in the “Salon Visez droit” which is organized by the Bar of Montréal. Legal aid counsel are present at the week-long event to participate in discussions on various legal matters.</p> <p><b>Briefs</b> In 2009-2010, the Commission, with the help of the Comité des communications du réseau de l'aide juridique, prepared and disseminated 19 briefs (short written texts) on various legal issues faced by clients (CSJ, 2010a, p. 23). In 2010-2011, 12 briefs were prepared and disseminated. The briefs touched on various subjects, such as criminal responsibility, court decisions on robbery, the arrest of youth, the right to an attorney, etc. Briefs are distributed by the regional legal aid centres to various organizations in their region and are also available on the Commission's website (CSJ, 2011, p. 26). In 2012-2013, 20 briefs were prepared and distributed.</p> <p><b>Checklists</b> In 2011-2012, the Commission and the regional legal aid centres distributed four checklists which provided specific and concise information to clients. The checklists are two to three page documents available on the Commission's website and in the legal aid centres (CSJ, 2012, p. 25). The checklists provide information on common law relationships, purchasing used cars, requests for legal aid services, eligibility for legal aid, and debts. As part of the “Rendez-vous avec la justice” week organized by the Ministry of Justice, the Commission distributed checklists while the regional legal aid centres offered activities to the public such as conferences, workshops, information kiosks, free consultations, etc. (CSJ, 2012, p. 25).</p>	<p><b>Checklist on financial eligibility</b> In 2011-2012, the Commission distributed a checklist entitled “L'aide juridique : une justice à coût \$ûr”. The checklist focuses on financial eligibility for legal aid, more specifically eligibility with a financial contribution (CSJ, 2012, p. 27). The goal of this initiative was to promote access to legal aid for disadvantaged people (CSJ, 2011, p. 38).</p> <p><b>Evidence of success/impact:</b> Over the 2011-2012 fiscal year, applications processed as part of the financial contribution component decreased from 14,205 files to 13,969, while the number of accepted applications increased from 7,969 to 8,001 (CSJ, 2012, p. 27).</p>	<p><b>Services provided to Aboriginal and Inuit populations</b> The Commission aims to provide criminal law services to Aboriginal and Inuit populations that are tailored to their traditions and cultural identity. To support this objective, the Commission has developed training and continuing education activities for lawyers (CSJ, 2013b, p. 8). For example, the Commission will be offering training and education activities on the Gladue decision during its annual meetings with criminal lawyers. The training will advise lawyers of the possibility to request a Gladue report, which considers the Aboriginal background of offenders and which judges are required to consider in sentencing.</p> <p><b>Mega-Trials Designations</b> The Act provides a framework for mandatory state financing of certain legal services and was sanctioned by the Government of Québec in June 2010. Under this law, the Commission is entrusted with the responsibility to ensure that the services of a competent lawyer from within the legal aid network or a lawyer in private practice are provided to an accused involved in a mega-trial. A tariff of fees adapted to this type of trial and the creation of a list of lawyers willing to accept this tariff has reduced the time needed for negotiating the fees of lawyers involved in a mega-trial. (CSJ, 2010b).</p> <p><b>Legal aid centre in the Nunavik region</b> One of the recommendations emanating from the “La justice en milieu autochtone” report, prepared by the Court of Québec and the Ministry of Justice in 2008, was the opening of legal aid centres in the Nunavik region – one in Kuujuaq and one in either Kuujuarapik or Puvirnituq – to improve service provision to Inuit populations in the region (Cour du Québec et le ministère de la Justice, 2008, p. 48).</p> <p><b>Evidence of success/impact:</b> The “bureau d'Aide juridique Baie d'Hudson” was established in Kuujuarapik and a legal aid office was established in Kuujuaq (CSJ, 2012, p. 96).</p> <p><b>Telephone help line</b> The telephone help line is guaranteed under the Act respecting legal aid (22F.1). The Commission is obligated to provide lawyer assistance through a toll free line to serve citizens of the province. The Centre communautaire juridique de Montréal is responsible for managing the service. There are eight lawyers who respond to</p>



Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Commission des services juridiques (Quebec)		
Service delivery		
PLEI/self-help	Application process	Legal service provision
		<p>calls across the province. This service is offered 24 hours a day. All individuals, regardless of their income level, have a right to consult one of the lawyers for legal advice if they have been arrested or are in custody. There has been an average of 30 000 calls per year since 2002.</p> <p><b>Specialized courts</b> Specialized courts have been established at the municipal court of Montréal. The « Programme d'accompagnement justice-santé mentale (PAJ-SM) » was launched as a pilot project and has become a permanent court. The Commission delegated one of its lawyers to permanently participate in this court. The lawyer is present every day to serve clients that appear before the court. There is a separate court room and the judge can decide not to preside and can communicate directly with the accused. A liaison officer and a team of three prosecutors have been set aside for the court. The municipal court of Québec is developing a similar pilot project. A court for elderly persons has also been established at the municipal court of Montréal. Legal aid lawyers are present at the court and were involved in its creation. A pilot project was also launched at the court of Québec called "Programme de traitement des toxicomanes à la cour du Québec (PTTQC)". If an accused has issues with addiction, they are referred to an organisation for support. Transition houses and criminologists are active participants in the program. The Commission was involved in the consultations and development of the projects.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Commission des services juridiques (Quebec)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Electronic billing &amp; direct deposit service</b> In the summer of 2011, the Commission ceased printing and mailing almost 84,000 payment notices for private lawyers and notaries. The Commission asked lawyers and notaries to submit all invoices electronically starting December 31<sup>st</sup>, 2011. The notices are accessible via the Commission's Intranet site. Moreover, the Commission offers a direct deposit payment service for lawyers and notaries (CSJ, 2012, p. 30).</p>	<p><b>Training for legal aid personnel</b> Since 2005, the Commission has been organizing training days for newly hired legal aid lawyers. Regional legal aid centres have put together a hospitality kit for new personnel (CSJ, 2012, p. 28). The Commission is offering training in all areas of the law, including criminal law, for new lawyers and criminal lawyers every two years. Training was offered in 2012 and the Commission is organizing training days for 2014. Training is also offered during annual meetings for legal aid managers.</p>	<p><b>Electronic communications</b> In 2008-2009, the Commission and the regional legal aid centres chose to use the Internet as their tool for electronic communications. Communications are done through a Virtual Private Network (VPN) used to transmit data (CSJ, 2009, p. 36). The Commission is also actively involved in social media such as Twitter and Facebook to disseminate information and briefs.</p>	<p>No relevant activities were identified in available documentation.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Commission des services juridiques (Quebec)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Evidence of success/impact:</b> By March 31, 2013, 3,949 lawyers and notaries were registered for electronic billing (CSJ, 2013a, p. 45). In 2012-2013, the number of lawyers and notaries using the direct deposit service increased from 913 to 1,791 (CSJ, 2013a, p. 46). As of 2013-2014, all private practice lawyers signed up to use the direct deposit service.</p>	<p><b>Evidence of success/impact:</b> In November 2008, more than 300 lawyers participated in two training days. The workshops involved discussions on the latest developments in civil, administrative, family, youth and criminal law (CSJ, 2009, p. 38). In November 2009, the Commission organized two training days for legal aid lawyers. More than 300 lawyers, representing approximately 80% of lawyers in the legal aid network, participated in the workshops. A total of 33 hours of the training were accredited by the Barreau du Québec (CSJ, 2010a, p. 28). In March 2011, 56 newly hired legal aid lawyers participated in a 4-day training session which provided them with a total of 23 hours of training accredited by the Barreau du Québec (CSJ, 2012, p. 28).</p> <p><b>Training for management</b> Legal aid managers participate in various training sessions to develop their skills. For example, training for managers responsible for financial services and training to improve human resources management were offered (CSJ, 2012, p. 29).</p> <p><b>Evidence of success/impact:</b> In 2009-2010, more than 70% of managers participated in some form of training (CSJ, 2010a, p. 27). More than 80% of managers participated in training activities in 2010-2011 and 2011-2012 (CSJ, 2011, p. 29) (CSJ, 2012, p. 29).</p> <p><b>Plan d'actualisation de répartition des effectifs (PARE)</b> The Commission continues to implement the Plan d'actualisation de répartition des effectifs (PARE) that was adopted in 2007-2008. The goal of the PARE is to ensure an efficient and even distribution of resources across the province to meet the legal aid needs of clients. The plan allows the Commission to oversee the changes in data and statistics related to client demands for legal aid services in the province (CSJ, 2012, p. 36). Eligibility threshold were increased by 15.3% as of January 2014. Following this increase, and to meet the increase in demand in legal aid services, the Commission has been monitoring potential impacts to</p>	<p><b>Processing of applications for legal aid and closing of legal aid cases</b> In March 2010, the Commission and the Comité sur les demandes d'aide juridique completed their revisions to the policy for processing legal aid applications and the policy for closing legal aid cases. These policies are essential tools for the seamless management of legal aid applications and for the consistent treatment of cases when closing files, whether it be for cases involving legal aid lawyers or private practice lawyers (CSJ, 2011, p. 32).</p> <p><b>Software for managing contributory legal aid service and the cost-recovery of legal aid costs</b> In 2011-2012, the Commission developed a program which will allow it to manage contributory legal aid cases as well as cost-recovery in these cases. The software is ready to be implemented in the legal aid network (CSJ, 2012, p. 32).</p> <p><b>Results:</b> The software is not yet ready to be implemented. The Commission is making efforts to integrate the software with its eligibility software program. The software is accessible to managers in the regional legal aid centres but is not yet available in the legal aid offices.</p>	

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Commission des services juridiques (Quebec)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
	<p>ensure the even distribution of staff.</p> <p><b>Evidence of success/impact:</b> Since April 2008, the Commission has allocated resources to four regional legal aid centres allowing them to meet the increased demand of services or to offer new services. Some regional legal aid centres have adopted measures for the redistribution of human resources to ensure an even distribution of points of legal aid services across the province and to meet the needs of clients (CSJ, 2012, p. 36).</p>		

System approach	
Partnerships	Law reform
<p><b>Roundtables</b></p> <p>Representatives from the legal aid centres are present and actively participating in various roundtables across various regions in the province, particularly roundtables touching on issues of mental health and justice. Legal aid lawyers are involved in roundtables to mainly address issues relating to the criminal and penal areas of mental health. Several stakeholders are involved in the roundtables, including the Ministry of Health and Social Services, the Barreau du Québec, judges, the Office des personnes handicapées du Québec, the Ministry of Justice, etc. Several other tables will be created throughout the province to make them more accessible in all regions of Québec.</p>	<p>No relevant activities were identified in available documentation.</p>

## Quebec Reference List

- Cour du Québec et le ministère de la Justice. (2008). *La justice en milieu autochtone*. Retrieved from <http://www.justice.gouv.qc.ca/francais/publications/rapports/pdf/autoch08.pdf>
- CSJ. (2009). *37e Rapport annuel de gestion: 2008-2009*. Retrieved from [http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C\\_pdf%5CRapport\\_annuel\\_2009.pdf](http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C_pdf%5CRapport_annuel_2009.pdf)
- CSJ. (2010a). *38e Rapport annuel de gestion: 2009-2010*. Retrieved from [http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C\\_pdf%5CRapport\\_annuel\\_2010.pdf](http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C_pdf%5CRapport_annuel_2010.pdf)
- CSJ. (2010b). Mégaprocès désignations. Retrieved December 12, 2013, from [http://www.csj.qc.ca/SiteComm/W2007Francais/Main\\_Fr\\_v4.asp](http://www.csj.qc.ca/SiteComm/W2007Francais/Main_Fr_v4.asp)
- CSJ. (2011). *39e Rapport annuel de gestion: 2010-2011*. Retrieved from [http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C\\_pdf%5CRapport\\_annuel\\_2011.pdf](http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C_pdf%5CRapport_annuel_2011.pdf)
- CSJ. (2012). *40e Rapport annuel de gestion: 2011-2012*. Retrieved from [http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C\\_pdf%5CRapport\\_annuel\\_2012.pdf](http://www.csj.qc.ca/SiteComm/W2007Francais/.%5C_pdf%5CRapport_annuel_2012.pdf)
- CSJ. (2013a). *41e Rapport annuel de gestion: 2012-2013*. Retrieved from [http://www.csj.qc.ca/SiteComm/W2007English/\\_pdf/RapportAnnuel2013.pdf](http://www.csj.qc.ca/SiteComm/W2007English/_pdf/RapportAnnuel2013.pdf)
- CSJ. (2013b). Plan d'action de développement durable 2009-2015. Retrieved from [http://www.csj.qc.ca/SiteComm/W2007English/\\_Pdf/Plan\\_dev\\_durable\\_2015.pdf](http://www.csj.qc.ca/SiteComm/W2007English/_Pdf/Plan_dev_durable_2015.pdf)

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Aid Saskatchewan (LAS)			
Service delivery			
PLEI/self-help	Application process		Legal service provision
<p><b>Alternative sources of legal help</b> For applicants who are denied legal aid, the LAS website provides phone numbers for the Public Legal Education Association of Saskatchewan (PLEA) and the Community Legal Assistance Service for Saskatoon Inner City (CLASSIC), (LAS, n.da).</p> <p><b>Online PLEI</b> The LAS PLEI site provides definitions of legal terminology and explanations of common criminal charges and related issues (LAS, n.db).</p> <p><b>Information on self representation</b> The LAS website also provides a link to the Saskatchewan Provincial Court's website which has resources for self-representation in criminal court (LAS, n.db).</p>	<p><b>Tracking client wait times</b> LAS uses performance measures that focus on issues of access, including waiting time for clients to connect with a lawyer for their first appointment, proximity of a physical access point, and eligibility to receive service. Reducing wait times to get a lawyer assigned is considered important because of the impact it will have on efficiency of the system, including reducing the number of appearances and enabling earlier disclosure by Crown and police.</p> <p><b>Evidence of success/impact:</b> Total average waiting times for criminal adults (across all LAS sites) declined from 2.8 weeks in 2008 to 2.6 weeks in 2013, although peaked at 3.5 weeks in 2011 (LAS, 2011, p. 9, 2013, p. 7). Total average waiting times for criminal youth (across all LAS sites) peaked in 2011 at 2.9 weeks, but otherwise remained steady at 2.4 weeks between 2008 and 2013 (LAS, 2011, p. 9, 2013, p. 7). LAS reported that data on wait times is anecdotal at this point in time.</p> <p><b>Handling all YCJA charges</b> In 2008, LAS assumed responsibility for all youth charged under the Youth Criminal Justice Act (YCJA) regardless of financial eligibility. LAS has been able to absorb this additional work, as the number of youth applications were not as great as anticipated. Youth intake is now faster than adult intake.</p>		<p><b>Gladue report training</b> LAS received money from the Law Foundation to train its lawyers with native court workers on Gladue investigations and reporting. The training, provided by trainers from BC, will use the curriculum offered by the BC Justice Institute. LAS is sending at least one lawyer from each office. Training will conclude by May 2014. LAS will conduct a pilot project to submit written Gladue reports and assess outcomes, for Aboriginal women and young adults (i.e., 19 years of age and older).</p>
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
<p><b>Limiting private bar appointments</b> LAS manages interoffice file transfers, especially private bar appointments, by thorough assessment of facts to determine whether a true conflict exists. Where possible, cases are referred to another LAS office instead of the private bar (LAS, 2009b, p. 17).</p>	<p><b>Professional development</b> The Law Society of Saskatchewan requires its members to receive a minimum level of professional development to maintain their status as practicing lawyers in Saskatchewan. In 2010, LAS became an accredited provider of continuing professional development (CPD) credits (LAS, 2012, p. 10). Professional development programs are produced and presented by LAS lawyers to their colleagues. LAS indicates that its internal professional development opportunities provide lawyers with economical access to professional development opportunities (LAS, 2013, p. 4). Topics include: fitness to stand trial; dangerous offender applications; arbitrary detention and right to counsel; long-term and dangerous offenders; reasonable expectations of privacy; and sentencing challenges. Professional development sessions are available to any practicing lawyer in Saskatchewan, including Crown prosecutors and private bar lawyers. Staff lawyers also attend professional development opportunities outside LAS (LAS, 2012, p. 10).</p>	<p><b>Information technology</b> LAS uses a Legal Aid Information Network (LAIN) to help devise ways to be more client-focused and improve service (LAS, 2013, p. 4). The system allows multiple users and offices to manage an electronic version of a client's case file. (LAS, 2011, p. 13) The system also allows LAS to trace client's experience through LAS' administrative and legal services. Using this system's reporting capabilities, LAS redefined its "abandoned" and closed file statuses into "client abandoned" and "discontinued". This information will feed into adjusting/implementing new processes (LAS, 2013, p. 8). For example, in 2011-2012, 903 application files out of 21,624 files received were discontinued (LAS, 2013, p. 8) (i.e. a client received administrative service, but did not receive legal service before losing contact with LAS). As a result of research to better understand the issues which lead these clients to sever their relationships with LAS before their cases were closed, LAS is changing its intake and appointments scheduling.</p>	<p><b>Planning</b> LAS is beginning a new round of strategic planning for 2014 – 2017 that will include review of its policies and processes.</p>

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present – Legal Aid Saskatchewan (LAS)			
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
	<p><b>Lawyer retention</b> LAS tracks rates of leaving and retiring of lawyers and admin staff as a way of monitoring employee wellness.</p> <p><b>Evidence of success/impact:</b> Data shows that between 2010-11 and 2012-13, LAS lost 14 lawyers, but in the end managed to increase its total number of lawyers by 1 (from 88 to 89) (LAS, 2013, p. 11). Between 2008-09 and 2010-11 LAS lost 12 lawyers, but increased its total number of lawyers from 84 to 88 (LAS, 2011, p. 12).</p>	<p><b>Emergent strategies</b> LAS uses “emergent strategies,” which are strategies that emerged from the day-to-day evolution of work done in each of its offices. For example, some offices use appointments for client eligibility assessment, while others allow walk-ins on a first-come/first-served basis. Each approach is an office-specific strategy created to serve their clients (LAS, 2012, p. 8).</p> <p><b>Low central administrative costs</b> LAS indicates 94% of its expenditures are directed to its service offices (LAS, 2012, p. 11).</p>	
System approach			
Partnerships		Law reform	
No relevant activities were identified in available documentation.		No relevant activities were identified in available documentation.	

## Saskatchewan Reference List

LAS. (n.da). Community Resources | Fact Sheets | Legal Aid General. Retrieved November 8, 2013, from [http://69.27.116.234/community\\_resources/factsheets/legal\\_aid\\_general.php](http://69.27.116.234/community_resources/factsheets/legal_aid_general.php)

LAS. (n.db). I need legal Help | Nature of Problem | Other options. Retrieved November 4, 2013, from [http://69.27.116.234/legal\\_help/nature\\_of\\_problem/other.php](http://69.27.116.234/legal_help/nature_of_problem/other.php)

LAS. (2009a). 2008 - 2009 Annual Report.

LAS. (2009b). 2009 - 2010 Annual Report.

LAS. (2011). 2010 - 2011 Annual Report. Retrieved November 4, 2013, from [http://69.27.116.234/community\\_resources/documents/LegalAid\\_2011\\_Annual\\_Report.pdf](http://69.27.116.234/community_resources/documents/LegalAid_2011_Annual_Report.pdf)

LAS. (2012). 2011 - 2012 Annual Report. Retrieved November 4, 2013, from [http://69.27.116.234/community\\_resources/documents/legalaidannualreportaug14th.pdf](http://69.27.116.234/community_resources/documents/legalaidannualreportaug14th.pdf)

LAS. (2013). 2012 - 2013 Annual Report. Retrieved November 4, 2013, from [http://69.27.116.234/community\\_resources/documents/LegalAidSaskatchewanAnnualReport2012-2013.pdf](http://69.27.116.234/community_resources/documents/LegalAidSaskatchewanAnnualReport2012-2013.pdf)

Compendium of best practices and innovations for improving efficiency and access to justice in criminal legal aid, 2007-08 to present — Yukon Legal Services Society (YLSS)			
Service delivery			
Public Legal Education and Information (PLEI)/self-help	Application process	Legal service provision	
<p><b>Online pamphlets</b> PLEI is provided in Yukon by the Yukon Public Legal Education Association. However, YLSS offers some PLEI. YLSS provides online access to a pamphlet explaining client's responsibility to legal aid and tips for working with their lawyer. Information is also provided on how to apply for legal aid and what to do if your application is rejected (YLSS, n.d).</p>	<p>Applications are taken in person and by telephone.</p>	<p><b>Aboriginal court worker program</b> Since 1978, the federal government has funded Yukon's Aboriginal Court Worker Program through the Access to Justice Service Agreements. (Justice Canada, 2013). The Aboriginal Court Worker Program assists Aboriginal individuals charged with a criminal offence to ensure they receive fair treatment. YLSS works with the Aboriginal Court Workers primarily through cross-referrals.</p> <p><b>Duty counsel</b> Duty counsel is provided for first appearances on criminal matters for adults and youth without consideration of financial eligibility (CBA, 2013, p. 22).</p> <p><b>Video-bail hearings</b> Yukon is just beginning to offer video-bail hearings.</p>	
Operations			
Managing roster (if applicable)	Managing legal staff (if applicable)	Other administration	Organizational structure
No relevant activities were identified in available documentation.	Conflicts are handled by creating silos between its offices so different offices can handle different accused in a case.	No relevant activities were identified in available documentation.	No relevant activities were identified in available documentation.
System approach			
Partnerships	Law reform		
YLSS participates as a partner in the Domestic Violence Court and the Community Wellness Court.	No relevant activities were identified in available documentation.		



**Yukon Reference List**

CBA. (2013). Future Directions for Legal Aid Delivery.

Justice Canada. (2013). Aboriginal Courtwork Program. Retrieved December 3, 2013, from <http://www.justice.gc.ca/eng/fund-fina/gov-gouv/acp-apc/index.html>

YLSS. (n.d). Brochure: Applying for Legal Aid - Your Questions Answered. Retrieved November 5, 2013, from [http://www.legalaid.yk.ca/pdfs/brochure\\_en.pdf](http://www.legalaid.yk.ca/pdfs/brochure_en.pdf)

**Appendix C – Criminal legal aid in Australia, New Zealand, England/Wales, and Scotland**

## **Overview of Australia's criminal legal aid system**

### **1.0 Structure / organization**

Australia's Commonwealth (federal) and state/territorial governments have different legal responsibilities under the Australian constitution. States and territories are responsible for laws and administration relating to the criminal justice system, while the Commonwealth government is responsible for national criminal matters, family law, migration, and certain civil law (ILAG, 2013). However, it is important to note that state and territorial courts are given federal jurisdiction to hear and determine summary and indictable offenses under national criminal laws. Australian federal courts do not usually hear criminal trials — though they may hear and determine appeals in criminal cases (Crowley, 2007, pp. 6–8)

Legal aid delivery is arranged somewhat similarly, with states and territories being responsible for the funding and administration of the legal aid system for criminal justice matters, with the exception of criminal matters involving Indigenous people, which are a Commonwealth responsibility (ILAG, 2013).

There are eight independent state/territory-level legal aid commissions (LACs) in Australia which provide access to legal services to the community and disadvantaged peoples in particular. Although LACs are the largest legal assistance organizations in Australia, legal assistance may also be provided by community legal centres, private practitioners, and legal services specifically for Australia's Aboriginal people and Torres Strait Islanders (mostly in Queensland) (NLA, 2013b).

Each state/territorial legal aid commission has a director and the directors from these organizations form the membership of the National Legal Aid (NLA) organization (NLA, n.d). The NLA's mission is to “promote leadership and management of a national system of legal aid through sharing resources, knowledge and systems that enhance best practice and value for money in the delivery of legal aid” (NLA, 2011a).

### **1.1 Influence of Australian legal aid model**

LAC Tasmania's director indicates Australia's legal aid model has influenced other nations to adopt a similar model. For example, after considering models from around the world the Japanese government decided to model its new legal aid system on Australia's. The South Korean government has also adopted the Australian model (LACT, 2013, p. 6) [no further details provided].

## 2.0 Funding arrangement

LACs are funded by both state/territorial governments and the Commonwealth government to provide a range of services, including legal advice (across most areas of the law), duty lawyer services, legal representation on grants (criminal, civil, family, and children's matters), family dispute resolution, legal education, legal and non-legal referrals, as well as law and policy reform (NLA, 2013b). Income is also provided through client contributions and statutory trust funds (NLA, 2013b).

Funding arrangements for LACs have changed over the past 30 years, with state and territorial governments having to fund more legal services for a broader range of laws in comparison to the Commonwealth government. During the 1980s state and territorial governments were given the responsibility for providing legal aid, with 55% of funding coming from the Commonwealth and 45% coming from the state/territorial government. This arrangement allowed LACs to determine their funding priorities (NLA, 2007). This changed in the 1990s when a new policy was introduced that reduced the scope of Commonwealth legal aid funding to matters falling under the *Family Law Act*. This left states/territories responsible for legal aid funding for all other areas of law (NLA, 2007, p. 2). NLA financial data illustrate the resulting funding trend. For example, in 2007–2008 about 37% (or \$192.8 million) of total funding for all legal commissions in Australia came from the state/territorial governments; this proportion had increased to 47% (or \$291.4 million) by 2013–2014. At the same time federal funding has remained steady at about 34% (of total LAC income) since 2007–2008 (NLA, 2013a). As of FY 2013–2014 federal funding totalled \$213.7 million, which is about \$8.5 million over the amount estimated for federal funding in the 2010 National Partnership Agreement for Legal Assistance Services, which is slated to end in June 2014 (Council of Australian Governments, 2010, p. 10).<sup>1</sup>

## 3.0 Access to justice in Australia

Access to justice has been a prominent theme over the past 15 years in Australian studies on justice reform, particularly in relation to the civil justice system. In some cases these studies have prompted Australian governments to implement changes aimed at improving justice system efficiency while lowering costs. For example, a 1994 study on use of alternative dispute resolution (ADR) prompted the Commonwealth government to begin encouraging the use of ADR as part of a national strategy to create a “simpler, cheaper and more accessible justice system” (AGD, 2009, p. 6). The idea of a lower cost and more accessible legal system was also the subject of a 1999 report, which again prompted the Commonwealth government in 2003 to more closely examine how to keep disputes out of court and ensure that disputes that reach court are resolved efficiently and economically (AGD, 2009, p. 7).

In 2008, the Victorian Law Commission released recommendations for reforming Victoria's justice system. The reforms aimed to make courts more accessible to minorities, make the law profession more efficient, accountable, and responsive to consumer needs and encouraged civil disputes be resolved earlier through the use of out-of-court dispute resolution and other low-level interventions (AGD, 2009, p. 7).

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<sup>1</sup> It is also worth noting that self-generated and trust fund-based incomes have decreased throughout this period (NLA, 2013a).

Access to justice continues to be a theme in Australian justice reform and in recent years LACs have become front-and-centre in national and state-level efforts to devise a justice system that is more inclusive, more effective, and more accountable. The following sections focus on two recent and related efforts: the 2009 *Strategic Framework for Access to Justice in the Federal Civil Justice System* and the resulting National Partnership Agreement for Legal Assistance Services.

### **3.1 Strategic Framework for Access to Justice in the Federal Civil Justice System (September 2009)**

In 2009, Australia's Attorney General released the *Strategic Framework for Access to Justice in the Federal Civil Justice System* which examined the importance and scope of access to justice issues in the Commonwealth civil justice system. The report identified a mismatch in the current demand and available supply of civil justice services and programs (AGD, 2009, pp. 7–8). Although the report focuses on the civil justice system, the report also emphasizes the connection between civil justice and criminal justice. Specifically, if the civil justice system (or family justice system) is able to provide effective early intervention services, this can help prevent civil (or family) issues from escalating to the criminal justice system; in short, early intervention through the civil justice system can decrease potential future demand (and associated costs) on the criminal justice system (AGD, 2009, pp. 82, 141–142, 144).

However, the report notes funding cuts during the last decade have generally led LACs to scale back resources for civil law matters and focus primarily on family and criminal law matters. The report cites a 78% reduction in legal aid for civil law matters since 1995–1996 (AGD, 2009, p. 120). As a result, the report argues that a shift toward early intervention through the civil justice system will require a proportionate shift in government resources for early intervention services through the civil justice system (AGD, 2009, p. 121).

The report proposes a strategic framework aimed at guiding efforts to reform the justice system. This framework outlined the principles for access to justice policy as well as the methods for achieving these principles in practice (AGD, 2009, p. 61). The framework was intended to serve as a tool for policy makers, helping them improve access to justice outcomes (AGD, 2009, p. 8).

The tables below summarize the Framework's principles and methodology. While there are some similarities between the principles and methodologies outlined below, the Framework does not identify which principles are tied to which methodologies.

## Overview of Australia's Criminal Legal Aid System

<b>Table 1: Access to justice principles</b>	
<b>Accessibility</b>	Justice initiatives should reduce the complexity of the justice system. This includes using mechanisms to help people understand how relevant aspects of the justice system, such as laws and rights, are applicable to them
<b>Appropriateness</b>	The justice system should be structured to create incentives that encourage people to resolve disputes at the most appropriate level, keeping in mind that legal issues may be symptomatic of broader non-legal issues. The justice system needs to have the capacity to direct attention to these underlying issues.
<b>Equity</b>	The justice system should be fair and accessible to all, including those facing financial or other type of disadvantage. Access to the justice system should not be dependent on the capacity to afford private legal representation.
<b>Efficiency</b>	The justice system should use the most efficient way possible to deliver outcomes, realizing that sometimes the greatest efficiency can be found through a formal dispute resolution process and early assistance to prevent disputes from escalating. The cost of these alternative mechanisms should be proportionate to the issues of the dispute.
<b>Effectiveness</b>	Justice initiatives should consider a system-wide perspective instead of an institutional-based perspective. All interacting elements of the justice system should be directed towards preventing and resolving disputes, delivering fair and appropriate outcomes, and upholding the rule of law, while also considering the best outcomes for users of the justice system.
Source: (AGD, 2009, pp. 62–63; Allen Consulting Group, 2012, p. 5)	

<b>Table 2: Access to justice methodology</b>	
<b>Information</b>	Providing information and ensuring people can reach that information when they need it, to avoid "referral fatigue."
<b>Action</b>	Intervening early to prevent legal problems from occurring and escalating.
<b>Triage</b>	Enabling matters to be directed to the most appropriate destination for resolution, irrespective of how people make contact with the system.
<b>Outcomes</b>	The traditional adversarial system is no longer relevant or sustainable for most disputes. Both non-court and court-based pathways should be available to pursue fair and equitable outcomes. When court is involved, it should be accessible, fair, affordable, and simple.
<b>Proportionate cost</b>	The cost of and method of resolving disputes are proportionate to the issues.
<b>Resilience</b>	Equip people with the basic skills necessary to resolve their own issues, including accessing appropriate information and support services.
<b>Inclusion</b>	Legal issues are often symptomatic of broader problems in people's lives and the justice system needs to have the capacity to direct attention to these core issues and what individuals need to do to address them.
Source: (AGD, 2009, pp. 62–63)	

Of specific relevance to this report, the Framework called for an integrated national approach to providing legal assistance services through a national coordination group. The Framework states that the Commonwealth government should ensure legal assistance programs provide greater priority to prevention and early intervention services, expand dispute resolution services and services for self representation, and address issues affecting access to services in regional, rural, and remote areas of Australia (AGD, 2009, p. 139).

A few months after the release of the Framework, PricewaterhouseCoopers (PwC) released its study *Legal Aid Funding: Current Challenges and the Opportunities of Cooperative Federalism* which was prepared at the request of the Australian Bar Association, Law Counsel of Australia, the Law Institute of Victoria, and the Victorian Bar Council (PwC, 2009, p. 1). The study examined legal aid within the context of cooperative federalism, which at the time was a new approach to Commonwealth–state relations based on partnerships instead of “combative and defensive

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negotiations” (PwC, 2009, p. 8). The study recommended a block funding arrangement under a national partnership agreement serve as the funding model for legal aid (PwC, 2009, pp. 78, 81).

The end result of these recommendations was the development and signing of the National Partnership Agreement for Legal Assistance Services in 2010, which is discussed in detail below.

### **3.2 National Partnership Agreement for Legal Assistance Services (June 2010)**

#### **3.2.1 Overview**

In June of 2010, the Commonwealth and state/territorial governments<sup>2</sup> signed the National Partnership Agreement for Legal Assistance Services (NPA) which had the overall objective of facilitating reform of the legal assistance sector and providing greater access to justice for disadvantaged Australians through legal assistance services (Council of Australian Governments, 2010). To meet these objectives, the Commonwealth agreed to provide the states/territories with approximately \$800 million over a four year period beginning July 2010 and ending in June of 2014 (Council of Australian Governments, 2010, p. 10).

The table below further highlights the key objective, outputs, and intended outcomes of the NPA.

<b>Objective</b>	<b>Outputs</b>	<b>Outcomes</b>
“A national system of legal assistance that is integrated, efficient and cost-effective, and focused on providing services for disadvantaged Australians in accordance with the access to justice principles of accessibility, appropriateness, equity, efficiency and effectiveness”	Increased delivery of preventative, early intervention, and dispute resolution services by legal assistance providers	Earlier resolution of legal problems for disadvantaged Australians — avoiding the need for litigation
	Comprehensive legal information services with seamless referral for preventative and early intervention legal assistance in each state and territory	More appropriate targeting of legal assistance services to people who experience or are at risk of experiencing social exclusion  Increased collaboration among legal assistance providers
	Delivery of efficient and cost-effective legal aid services consistent with principles of justice by LACs	Strategic national response to critical challenges and pressures to legal assistance sector

Source: (Council of Australian Governments, 2010, pp. 4–5)

The NPA set out the requirements for state and territorial LACs<sup>3</sup> to deliver Commonwealth funded services according to specific service priorities (Council of Australian Governments, 2010, p. 2, A–

<sup>2</sup> The legal aid commissions themselves were not a signatory partner to the Agreement (Legal Aid ACT, 2013, p. 21).

<sup>3</sup> The NPA’s reforms were intended to take a holistic approach to legal service funding, and therefore applied not only to legal aid commissions, but also community legal centres, Indigenous legal services, and family violence prevention legal services. However the Commonwealth maintained separate agreements with these organizations (Council of Australian Governments, 2010, p. 2).

14). The NPA lists service priorities for Commonwealth family, civil, and criminal law matters; the latter including cases in which a grant of legal aid was being provided to assist a person facing a Commonwealth criminal offense, who was either a child or a person who, if convicted, was likely to receive a sentence involving imprisonment (Council of Australian Governments, 2010, p. A–14). The agreement also allowed commissions to apply for reimbursement of “one-off costs” associated with providing assistance for a particular Commonwealth criminal law matter. The NPA is not overly clear on this point, but this allowance may be limited only to “expensive cases” (Council of Australian Governments, 2010, p. A–14).

The NPA also includes a service priority for legal aid applicants who face special circumstances, including language or literacy problems; intellectual, psychiatric, or physical disability; geographic remoteness; or any other situation where a person would be at risk of social exclusion (Council of Australian Governments, 2010, p. A–14). Presumably this priority applies across all areas of law, but it is unclear whether it also transcends regular Commonwealth–state/territory legal jurisdiction (i.e., the priority would apply equally to disadvantaged individuals applying for legal aid for state criminal law matters).

Finally, underlying all of the NPA’s service priorities are three<sup>4</sup> general principles (ostensibly influenced by the Access to Justice Framework) which apply to all Commonwealth areas of law, *and* in some cases expand the scope of the NPA into state/territorial legal jurisdiction. These general principles included the following:

- ▶ Considering in all cases what other services (legal and non-legal) may be relevant to an individual’s needs and the appropriateness of any referral.
- ▶ Providing services focused on resolution of a matter through prevention, early intervention, or dispute resolution rather than litigation.
- ▶ Considering all preventative and early intervention legal education, information, advice, assistance, and advocacy services a Commonwealth legal aid service priority, regardless of whether the matter falls under federal or state/territory law (Council of Australian Governments, 2010, p. A–13).

### **3.2.2 Performance measurement**

Another key aspect of the NPA was development of benchmarks and key performance indicators, which were to be used by LACs in their biannual reports to the federal government (Council of Australian Governments, 2010, p. 6). However, documentation is not clear on how the NPA’s identified performance targets should be or have been applied to the LACs.

The NPA states that “[a]ll Parties agree to the national performance benchmarks demonstrated against the performance indicators...” (Council of Australian Governments, 2010, p. 5) (these indicators are outlined below), but more recent reporting by the Legal Aid Commission of the Australian Capital Territory (Legal Aid ACT) indicates that because the NPA’s benchmarks are national-level benchmarks, individual commissions are not necessarily expected to achieve the NPA performance

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<sup>4</sup> There are in fact five principles listed, but one of these principles is specific to family law and the other simply clarifies that the listing of priorities under each area of law does not follow any hierarchical order (Council of Australian Governments, 2010, p. A–13).



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targets (Legal Aid ACT, 2013, p. 21). A different perspective is offered by the New South Wales' (NSW) Department of the Attorney General and Justice, who indicates "[t]he key performance indicators in the NPA require Legal Aid NSW to achieve, over the life of the NPA, a 25 per cent increase in total services, and a 30 per cent increase in advice and minor assistance services." (NSW-AGJ, 2012, p. 14). Regardless of how the identified targets apply to the LACs, the Legal Services Commission of South Australia points out that Commonwealth (and state) reporting obligations are a necessary part of the funding arrangement (LSC, n.d., p. 3)

The performance indicators and benchmarks outlined in the NPA are summarized in the table below.

<b>Indicator</b>	<b>Benchmark</b>
Number of successful legal aid service outcomes delivered by LACs	<ul style="list-style-type: none"> <li>• Less than 20% of legal aid grant recipients returning for a grant of legal aid for the same matter within a two year period</li> <li>• 10% increase in number of successful outcomes over four years</li> <li>• Client satisfaction</li> </ul>
Number of early intervention services delivered by LACs	<ul style="list-style-type: none"> <li>• Demonstrate a 30% increase in the number of early intervention services being delivered</li> </ul>
Total number of services delivered by LACs	<ul style="list-style-type: none"> <li>• Demonstrate a 25% increase in the total number of services delivered by legal aid commissions</li> </ul>
Develop and implement an Information and Referral Strategy to provide greater access to information and seamless referral between LACs and other legal and non-legal services for preventative and early intervention services.	<ul style="list-style-type: none"> <li>• Client satisfaction</li> <li>• Number of referral arrangements identified and implemented</li> <li>• Number of referrals in which initial contact was made by the referring organization on behalf of the client (called a warm referral)</li> </ul>
Number of duty services, dispute resolution services, and grants of aids in Commonwealth family, civil, and criminal law matters delivered by LACs	<ul style="list-style-type: none"> <li>• A maximum variance of 10% from 2009–2010 baseline</li> </ul>

Source: (Council of Australian Governments, 2010, p. 5)

These indicators and benchmarks were further developed by Allen Consulting Group in 2012 during the development of the NPA's evaluation framework. The evaluation of the NPA has not been publically released yet, but below are some samples of reporting from NSW Legal Aid and Victoria Legal Aid (VLA) demonstrating how LACs have been reporting on their commitments under the NPA. As the figures below show, the number of NPA indicators commissions report against can vary state-to-state, with NSW Legal Aid reporting on three indicators and VLA reporting on nine different indicators. Legal Aid ACT does not report on any of the NPA indicators (Legal Aid ACT, 2013).

### New South Wales Legal Aid Reporting against Commonwealth benchmarks

Performance indicator	Performance benchmark	Service count 2009–2010	Service count 2012–2013	Comment
Number of early intervention services delivered*	30% increase in the number of early intervention services	59,927	93,225	Between 2009–2010 and 2012–2013 there was a 55.6% increase in early intervention services
Total number of services delivered <sup>^</sup>	25% increase in the total number of services delivered	3,182,398	6,278,713	Between 2009–2010 and 2012–2013 there was a 97.3% increase in total services
Total services excluding website page views and State criminal law <sup>^*</sup>	25% increase in the total number of services delivered	1,167,735	1,524,119	Between 2009–2010 and 2012–2013 there was a 30.5% increase in total services, excluding website page views and State criminal law

\* State criminal law services have been excluded from these counts because they are not early intervention in character.

<sup>^</sup> Because of a change in the methodology for counting website page views, the 2009–2010 website page views figure has been revised downward since it was originally reported.

**Figure 1**  
(Legal Aid NSW, 2013a, p. 7)

### Victoria Legal Aid “Our Performance – Fast Figures”

Clients	2012–13	2011–12	% change
Unique clients*	86,861	91,079	4.6% down
<b>Preventative services</b>			
Information calls to VLA	81,790	76,129	7.4% up
Matters dealt with <small>NPA</small>	89,463	81,708	9.5% up
Matters referred externally** <small>NPA</small>	71,337	43,997	62.1% up
Publications distributed <small>NPA</small>	615,568	688,813	10.6% down
Community legal education participants <small>NPA</small>	12,770	11,434	11.7% up
Community legal education sessions <small>NPA</small>	350	295	18.6% up
Visits to our website	1,061,423	879,807	20.6% up
<b>Early intervention services</b>			
Legal advice, minor assistance and advocacy*** <small>NPA</small>	51,598	55,255	6.6% down
<b>Family dispute resolution services (Roundtable Dispute Management)</b>			
Number of conferences	1,217	1,033	17.8% up
<b>Duty lawyer services</b>			
In-house duty lawyer services <small>NPA</small>	58,581	68,047	13.9% down
Private practitioner duty lawyer services <small>NPA</small>	6,722	7,123	5.6% down
<b>Casework under grants of legal assistance</b>			
Grants of legal assistance <small>NPA</small>	39,782	44,641	10.9% down
Clients receiving government benefits	65%	65%	–
Clients with no income	31%	30%	1% up
In-house grants of legal assistance	10,227	11,840	13.6% down
Private practitioner grants of legal assistance	29,072	32,301	10.0% down
Community legal centre grants of legal assistance	483	500	3.4% down

NPA Legal aid services provided under the National Partnership Agreement on Legal Assistance Services to achieve the objectives and outcomes of the agreement.

**Figure 2**  
(VLA, 2013a, p. 1)

### 3.3 Implementation of the NPA

As mentioned earlier, the evaluation of the NPA has not yet been publically released. The evaluation is examining the costs of accessing justice services and securing legal representation and the resulting economic and social impacts of these costs on both the access and quality of justice (Legal Aid NSW, 2013a, p. 7). In the absence of this evaluation, reports from the various LACs were used to gain some insight into the implementation of the NPA and any discernable impacts.

Reporting by the Legal Aid ACT suggests that some LACs have been frustrated by the additional administrative burdens introduced by NPA reporting. Legal Aid ACT notes that although the NPA has had some positive impacts on the commission's operations [details are not provided] (Legal Aid ACT, 2013, p. 8) and has encouraged coordination and collaboration between legal assistance services (Legal Aid ACT, 2012, p. 3), the overall impact of the agreement has ranged from negative to uncertain (Legal Aid ACT, 2012, p. 3, 2013, p. 8). Legal Aid ACT is particularly concerned about the significant amount of additional administrative burden imposed by the NPA's reporting requirements, which require LACs and the Commonwealth to develop and implement a nationally consistent reporting format (Legal Aid ACT, 2012, p. 3, 2013, p. 8)<sup>5</sup>. LAC Tasmania indicates the NLA has twice raised with the Commonwealth the need for data collection requirements to reflect the operational needs of the organization collecting it, so that data collection remains practically useful and not unnecessarily burdensome (LACT, 2013, p. 8).

Legal Aid ACT also speculates about some of the potential forthcoming recommendations from Allen Consulting's review of the NPA. Specifically, the commission is concerned that recommendations on LAC data collection and reporting practices may result on LACs being required to make further extensive modifications to databases, reporting systems, and associated businesses processes, which will have substantial costs. LAC Tasmania shares this view (LACT, 2013, p. 9). Legal Aid ACT argues additional resources will be needed to enable such changes without adversely affecting LAC service delivery (Legal Aid ACT, 2013, p. 45), while LAC Tasmania reports that the Commonwealth has indicated it would "seek to provide the necessary funds" to implement such changes (LACT, 2013, p. 9).

Legal Aid ACT also appears to have been frustrated by inconsistent NPA funding arrangements among Australia's states and territories. Legal Aid ACT notes that unlike some LACs, the ACT's NPA funding has remained at 2009 funding levels due to changes in the funding formula for distributing NLA funds (Legal Aid ACT, 2013, p. 21). Legal Aid Western Australia (LAWA) also raises the issue of a problematic NPA funding model, which has resulted in "an inequitable distribution of legal aid funding across the nation." LAWA indicates that the Commonwealth has not disclosed its funding formula, which has frustrated efforts to understanding how funding decisions were determined (LAWA, 2013, p. 40).

Legal Aid ACT and LAWA provide no further details on these funding formula issues, but it is worth noting that Legal Aid ACT receives the second lowest amount of grant funding out of all the states and territories involved in the NPA (receiving approximately \$5 million from the Commonwealth government and \$5.8 million from the ACT government) (NLA, 2013a). The ACT is also the second least populous state/territory in Australia and is geographically the smallest (ABS, 2013; Geoscience Australia, 2010). Western Australia on the other hand is the

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<sup>5</sup> LAC Tasmania's director notes that Aboriginal legal services and community legal centres are also part of this data standardization project. (LACT, 2013, p. 8).

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fourth most populous state/territory in Australia and receives the fourth largest share of Commonwealth funding, but LAWA argues that on a *per capita basis*, Western Australia<sup>6</sup> actually receives the second lowest level of funding out of all the states and territories (ABS, 2013; LAWA, 2013, p. 40; NLA, 2013a).

Other LACs appear to be more positive (or at least neutral) towards the NPA's implementation. While Legal Aid ACT reports that its 2008–2012 strategic objectives were already aligned with the goals of the NPA, VLA reports that the NPA strongly informed that organization's strategic directions, which includes: access and inclusion, relationships and collaboration, and organizational responsiveness. Annual reporting also shows that the VLA is going to greater lengths than the ACT to identify how they are meeting NPA objectives (using a system of icons in their annual reporting to identify activities or outputs that correspond to NPA objectives) (VLA, 2013a, p. ii).<sup>7</sup> Although supportive of the NPA's overall goals, the VLA has also indicated the objectives and outcomes of the Agreement are “aspirational rather than easily practicalised” (VLA, 2013c, p. 7).

Like VLA, Legal Aid NSW's annual reports also clearly acknowledge the organization's NPA-related efforts and credits the Agreement with expanding the reach of NSW Legal Aid services into rural and regional areas (though provides few details on this expansion) (Legal Aid NSW, 2013a, pp. 2, 5). In FY 2012–2013 Legal Aid NSW reported achieving a 31% increase in total services since FY 2009–2010 (exceeding the NPA benchmark of 25%). The organization argues that if it includes web page views as a service, it had achieved a 97% increase in service since 2009–2010 (Legal Aid NSW, 2013a, p. 7).<sup>8</sup> According to Legal Aid Queensland, counting unique web page views are in line with NPA counting rules for service delivery (LAQ, 2013, p. 16).

### **4.0 Overview of LAC activities**

The following sections have been organized according to four overarching themes that were observed among Canadian legal aid plans, including accessibility, effectiveness, efficiency, and accountability. In many cases the activities of Australian LACs fit well into these categories and in many cases activities fit across multiple categories. For simplicity sake, each activity is listed under a single category.

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<sup>6</sup> Western Australia is fourth largest in terms of population, but is the largest state geographically, being roughly the size of British Columbia, Yukon, and Northwest Territories combined (ABS, 2013; Geoscience Australia, 2010; NLA, 2013a; Stats Can, 2011). LAWA indicates the sparseness of the state's population adds to the cost of delivering legal assistance services (LAWA, 2013, p. 40).

<sup>7</sup> Examples of VLA's NPA reporting on criminal law services includes reporting a 15% increase (to 18,016) in phone calls dealing with criminal law matters and a doubling in the number of referrals made to external agencies, which was the result of a new triage system being implemented. At the same time, the VLA reports a 10% decrease in legal advice, minor assistance, and advocacy services (VLA, 2013a, p. 46). The report does not provide an explanation for the decrease in these early intervention services for criminal matters or connect this decrease to the massive increase in external referrals.

<sup>8</sup> Legal Aid NSW also reports a 56% increase in early intervention services, which exceeds the NPA benchmark of a 30% increase (Legal Aid NSW, 2013a, p. 7). However this figure excludes matters involving state criminal law (Legal Aid NSW, 2013a, p. 7), which make up the bulk of criminal matters in Australian law. Therefore, it is unclear how well these figures represent NSW Legal Aid's overall impact on criminal legal aid.

## **4.1 Accessibility**

In addition to implementing the NPA's "warm referrals" concept<sup>9</sup> (Council of Australian Governments, 2010, p. 6) — LACs have undertaken a number of other activities aimed at improving the accessibility of legal services.

### **4.1.1 Electronic application systems**

Numerous LACs in Australia have implemented electronic grant application systems, which can streamline the application process and provide multiple client entry points to the legal aid system. Legal Aid NSW indicates its system allows clients to apply for a legal aid grant at the legal aid office or through a private lawyer. If clients prefer, paper-based grant applications are also available (Legal Aid NSW, 2013a, pp. 12, 32).

Legal Aid ACT has also implemented an eGrants system, which it describes as being one part of ongoing efforts to develop a more integrated and efficient administrative data system that is less resource intensive. The system collects all the information necessary to determine an applicant's eligibility and the extent of legal services to be provided. The eGrants system was introduced in 2010 alongside an electronic invoicing system for private legal practitioners. In 2011, the system was adapted to accept applications for extensions of assistance. Most recently, Legal Aid ACT has begun implementing an eGrants system online, which is expected to provide a more efficient, straightforward, and user-friendly approach to grants management (Legal Aid ACT, 2013, p. 7). Based on available documentation, it is unclear if the public can apply for legal aid using the eGrants system.

LAWA has also implemented an online system for electronic submission of legal aid applications and requests for extensions by legal professionals. LAWA indicates the electronic system uses a simplified means test and also allows users to check on the progress of their application. Overall, the system is stated to provide faster application turnaround (LAWA, 2011).

LAWA is also working on integrating the other administrative processes into legal practitioners' mobile technology. LAWA notes that a priority during FY 2013–14 will be the development of electronic forms and templates that can be used to quickly and easily record and store client information. Data collected through these forms will feed into LAWA's case management systems across the agency (LAWA, 2013, p. 26).

### **4.1.2 Coordinating with community legal services**

The NPA required states and territories to establish a forum that promoted more coordinated and targeted legal assistance service delivery. The NPA states that such forums were to include representatives from the Commonwealth (Council of Australian Governments, 2010, p. 7). Documentation shows that many LACs in Australia have implemented forums to improve coordination of legal assistance services within their state/territory and many of these forums include memberships from community legal clinics, Aboriginal legal services, and Commonwealth representatives.

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<sup>9</sup> "Warm referrals" are used by organizations when they cannot provide the services needed by the client. Rather than immediately sending the individual to another organization, the initial organization will make contact with a more appropriate service on behalf of the client.

## Overview of Australia's Criminal Legal Aid System

Table 5 below provides details on the various forums that have been implemented.

<b>Table 5: Legal assistance forums</b>		
<b>Forum</b>	<b>Membership</b>	<b>Goals, activities, outcomes</b>
NSW's Cooperative Legal Service Delivery (CLSD)	Legal Aid NSW regional offices, community legal centres, Aboriginal legal service (NSW/ACT), Aboriginal justice groups and working parties, LawAccess NSW, local courts, and pro bono legal services. These services link with tenancy, domestic violence, youth, disability and financial counselling services, neighbourhood and settlement services, health services, and regional Legal Information Access Centres based in local libraries (Legal Aid NSW, 2013a, pp. 36–37).	Launched in 2005, the CLSD predates the NPA requirement for a legal services forum. The program aims to improve access to legal services in regional areas of NSW by drawing on the collective resources and know-how of local services, both legal and non-legal, to address locally identified needs and gaps, and promote access to legal assistance and information about legal rights and legal services (Legal Aid NSW, 2013a, pp. 36–37). For example, some of the community legal education programs offered under this program addressed supporting “dual diagnosis” <sup>10</sup> clients facing criminal charges and training volunteers to support people with an intellectual disability who must navigate the court system (Legal Aid NSW, 2012d).  An independent evaluation of the CLSD in 2013 found the program receives strong local level support by a diverse range of stakeholders. It also noted that networking, information sharing, and referral pathways between services have increased as a result of CLSD activity in all regions, which suggests “an improvement in the ability and capacity of participating agencies to assist disadvantaged clients in their legal needs” (Legal Aid NSW, 2013a, p. 37).
Western Australia's Jurisdictional Forum	Community Legal Centres Association of WA, the Aboriginal Legal Service of WA, Aboriginal Family Law Services, and the State and Commonwealth Attorney-General's Departments” (LAWA, 2013, p. 40)	Not available
Victorian Legal Assistance Forum (VLAF)	Involves Victorian Aboriginal legal service providers, community legal centres, and a number of other legal organizations (VLA, 2013a, pp. 77–78)	VLAF meets to plan and advocate for increased access to legal services for socially and economically disadvantaged Victorians and develop a more responsive service delivery model (VLA, 2013a, pp. 77–78).
ACT Legal Assistance Forum	Prior to the NPA establishing a goal for seamless referrals between legal services, Legal Aid ACT had already established an aimed at improving cooperation between the commission and other ACT legal services, including those for Aboriginal people (Legal Aid ACT, 2012, p. 3).	Legal Aid ACT reports this forum has been successful in improving communication between members and improving arrangements for referrals (Legal Aid ACT, 2012, p. 3).
South Australia Legal Assistance Forum (SALAF)	Community legal centres, Aboriginal legal services, the Law Society, JusticeNet SA, university law school advice clinics and state and Commonwealth governments (LSC, n.d., p. 8)	Not available

### 4.2 Effectiveness

The following section discusses LAC activities that have the potential to improve the effectiveness of the Australian legal aid system.

<sup>10</sup>

Individuals with a mental illness and co-occurring developmental disability.

#### **4.2.1 Specialized service delivery**

Australian LACs have integrated legal aid services for specific at-risk populations, including children and youth, people with mental health issues, Aboriginal Australians, and people with drug problems.

##### **Children and youth services**

A number of LACs in Australia provide specialized legal services for children and youth involved in criminal matters. NSW Legal Aid's Children's Legal Service (CLS) provides advice and representation (based on eligibility) to children and youth under 18 involved in criminal cases. Specialized CLS duty counsel are available in five local or children's courts in NSW (Legal Aid NSW, 2013b).

Legal Aid ACT also require youth under 18 to apply for legal aid grants. Youth may also be referred to the Youth Law Centre (YLC) in Canberra, which provides free specialized legal services for young people (12–25 years old). This service is operated by Legal Aid ACT in partnership with the Australian National University and provides legal advice, information, and referrals, but does not provide legal representation (though on occasion YLC staff may accompany youth to court) (Legal Aid ACT, 2013, pp. 31–32). LAQ provides a team of specialists for children and young people in the juvenile justice system (LAQ, 2013, p. 23).

LAWA also uses a team of lawyers specializing in juvenile justice issues. These lawyers are used to represent youth in court when charged with a criminal offense, but also provide legal advice over the phone; provide in-person legal advice, and make visits to youth in detention or remand (LAWA, 2010).

Some LACs have also made substantial efforts to deliver community outreach, awareness and education campaigns targeting youth crime issues. For example, five LACs (including Legal Aid ACT and Victoria Legal Aid) and two interstate community legal centres collaborated on creating the *Below the Belt* online app for youth (VLA, 2013b). The app is aimed at informing youth about laws in relation to sexual consent, sending erotic pictures (sexting), and cyberbullying (Legal Aid ACT, n.da). Victoria Legal Aid has also co-developed a tool with a similar purpose, targeting young people with mild intellectual disabilities (VLA, 2013a, p. 18).

Legal Aid NSW has involved itself in developing an innovative online crime prevention film project called BURN. BURN is described as a “gritty crime drama’ depicting how high-risk group behaviour can quickly spiral out of control. The website provides a number of interactive features, giving background on the legal rights and types of crime that were depicted in the film, as well as teacher resources. The website includes workshops for youth workers and provides resources on cyberbullying and sexting (Legal Aid NSW, 2013b)

##### **Mental health services**

A number of Australian LACs provide services specifically aimed at helping individuals who have mental health issues and are facing criminal charges. One organization — LAC Tasmania — indicates mental health services are among its top priorities (LACT, 2013, p. 3). LAC Tasmania provides assistance in guardianship tribunals involving mental health and also criminal law matters that have been complicated by mental health issues (LACT, 2013, p. 3). Legal Aid Queensland

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reports that it operates a mental health unit that provides advice and representation for people charged with criminal offences and have been referred to mental health court (LAQ, 2013, p. 23).

LAWA has recently partnered with the state government's Mental Health Commission to deliver the Mental Health START (Specialized Treatment and Referral Team) Court pilot, which diverts people with mental illness into individual treatment and support plans, which will provide a longer term support network that can help individuals manage their mental health and make positive changes (LAWA, 2013, p. 26). Potential participants are referred to the START Court, where they are screened and then may voluntarily follow through with therapeutic programs aimed at addressing their mental health issues and offending behaviour (Government of Western Australia, 2013).

Legal Aid NSW has developed a mental health service called the Client Assessment and Referral Service (CARS). The service helps identify how clients' psychosocial difficulties may be impacting their legal problems. An assessment is written for court and the clients can be referred to appropriate services for assistance (Legal Aid NSW, 2013a, p. 26). The reports are written under Section 32 of the *Mental Health (Forensic Provisions) Act*, which provides a diversion option for people who are facing criminal charges and also have a mental illness, intellectual disability, or acquired brain injury (Legal Aid NSW, 2013a, p. 26). An evaluation of the CARS project found "overwhelming evidence to support the provision of intensive case management for diversionary measures under section 32"<sup>11</sup> (Legal Aid NSW, 2013a, p. 26). The evaluation also underscored the importance of proactive case management in collaboration with clients, their family and other professionals and the importance of using referral follow ups to ensure clients are receiving the help they need from community-based service providers (Legal Aid NSW, 2013a, p. 26).

### **Aboriginal Australians**

Every state and territory in Australia has its own Aboriginal and Torres Strait Islander Legal Service (ATSILS), which provides culturally competent legal assistance services in criminal, family, and civil law and undertakes community legal education and law reform activities. As mentioned earlier, many of Australia's LACs coordinate services with these ATSILS providers through their legal assistance forums, which are a required component of the NPA.

Some LACs appear to work more closely with their local ATSILS. LAQ for example, reports that it provides funding to support ATSILS to provide duty lawyer services in two communities and provides grants for ATSILS clients involved in criminal law and other matters. LAQ also operates an Indigenous Information Hotline which gives Aboriginal and Torres Strait Islander callers priority so they can access legal information and advice (LAQ, 2013, p. 27).

LAWA is also involved in providing services directly to Aboriginal and Torres Islanders. LAWA reports that it increased its duty lawyer service in response to the withdrawal of services by the Aboriginal legal service in Western Australia (LAWA, 2013, p. 26).

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<sup>11</sup> The evaluation found that 85% of clients completed their order and after 12 months 62% had not re-offended (Legal Aid NSW, 2013a, p. 26).



**Drug court**

Some Australian LACs provide specialized services for clients facing drug charges. Legal Aid NSW runs a drug court program that provides defendants with an alternative to jail if they undertake a 12 month treatment or rehabilitation program. To participate, defendants must plead guilty (Legal Aid NSW, 2012c). Legal Aid Queensland indicates that it is continuing to provide legal assistance and representation for drug dependant defendants in the mainstream criminal justice system following the closure of five drug courts in that state (LAQ, 2013, p. 24).

#### **4.2.2 Appropriate and proportionate service delivery (triage, brief advice, expanded duty counsel)**

VLA is implementing a few projects that are aimed at improving and prioritizing access to legal aid services. For example, VLA has implemented a targeted duty law service for adult summary crimes, which helps ensure people facing the most serious charges are given priority for service. VLA reports that the project has allowed duty lawyers to dedicate more time to clients in custody, spend more time with those facing the most serious charges, and assist those clients with complex needs (VLA, 2013a, pp. 26–27).

VLA has also implemented a Client Access and Triage Project (CATP), which is aimed at reducing “referral roundabout” by providing information and advice in appropriate matters within a single call. The project was developed to provide easier access to services, identify and prioritize people most in need, and ensure the appropriateness of referrals.

The CATP project was undertaken as part of Victoria’s obligations under the NPA to increase provision of early intervention services (VLA, 2013b). As part of this initiative, VLA worked with a local youth justice centre to improve advice services and developed a “post-admission legal health check” for youth detainees. As part of its effort to help youth break cycles of reoccurring criminal activity, VLA also provides a general assessment of all outstanding legal issues young people may have, to ensure outstanding issues can be addressed prior to the young person’s release into the community (VLA, 2013a, p. 43).

#### **4.2.3 Advocacy**

In 2011, the NLA made plans to form working groups to monitor research and proposed legislation (NLA, 2011b, pp. 4–5). These working groups would examine proposed legislative reforms in specific areas of practice and then report back to the NLA director’s meeting and make recommendations as appropriate. Few details are known on how (or if) these NLA plans were implemented and it is unclear how the impending Commonwealth funding cuts to the policy reform arms of LACs (World News Australia Radio, 2013) will affect these plans.

Regardless of the NLA’s plans, annual reporting from the LACs show some legal aid commissions have done a lot of work in this area. For example, as part of the NSW government’s law reform commission process (which provides the state government with policy advice on specific legal issues raised by the state’s attorney general), consultations are conducted with legal experts, which allow these stakeholders to make a formal submissions to the law reform commission regarding the law in question. These submissions are then considered in the commission’s recommendations to the government (NSW-LRC, 2013).

Since 2010, Legal Aid NSW has made approximately 53 submissions regarding criminal law reform. The organization has also produced many submissions concerning civil and family law (Legal Aid NSW, 2014a). Examples of criminal law submissions include discussion on reforming the criminal justice system to encourage appropriate early guilty pleas (Legal Aid NSW, 2013e, 2014b); inquiring into the value of a “justice reinvestment approach” to criminal justice in Australia (Legal Aid NSW, 2013d); and providing commentary on the need for and direction of bail reform (Legal Aid NSW, 2011a, 2012b)

In FY 2012–2013 alone VLA submitted a total of 25 law reform or legal policy submissions (VLA, 2013a, p. 32). Among these was a policy submission on the Victorian Parliamentary inquiry into sexting (VLA, 2013a, p. 32). The aim of the submission was to ensure that young people caught sexting are not unfairly subject to criminal offenses designed to target adults involved in creating or disseminating child pornography. The VLA reports that the state law reform committee adopted all of VLA’s recommendations (VLA, 2013a, p. 32).

LAQ also makes formal expert submissions on government policy and law reform issues. In 2012–13, LAQ put forward submissions on five topics, including a criminal law amendment bill and a document titled *Blueprint for the Future of Youth Justice* (LAQ, 2013, p. 32). The outcome of these submissions is not discussed.

### **4.3 Efficiency**

Numerous LACs have used technology to improve the efficiency of legal aid operations. Efficiencies have also been found by implementing non-technological means to manage system delays. These approaches are discussed in the sections below.

#### **4.3.1 Increased use of technology**

All of the Australian LACs provide access to a free telephone legal helpline, though the extent of services and complexity of the system varies regionally. Generally, the helplines are used as a first point of contact with clients to provide basic legal information or advice.

The Northern Territory LAC indicates it developed a helpline and call centre as part of its obligations under the NPA (NTLAC, 2013, p. 21). This refers the NPA’s intention to improve linkages between LACs and other appropriate legal and non-legal services and improve the accuracy and effectiveness of referral practices (Council of Australian Governments, 2010, p. 6). The NPA also refers to “warm referrals,” when initial contact is made by the referring organization on behalf of the client (Council of Australian Governments, 2010, p. 6).

VLA reports that its phone system has made it easier and cheaper for people to contact legal aid. As a result, demand for the service has increased and VLA has had to increase staffing levels to cope with this demand, while also delivering more complex advice and “warm referrals” to VLA legal staff or other agencies (VLA, 2013b). Perhaps an unintended consequence — this increase in call volume and call complexity has resulted in longer call and handling times and more calls going unanswered (VLA, 2013b).

Other LAC annual reports also show a strong demand for telephone help lines. Northern Territory LAC notes that after launching its helpline service, there was a 44% increase in calls

compared to the previous fiscal year (NTLAC, 2013, p. 21). LAWA reports that 2012–2013 alone it received 73,890 calls from the public (LAWA, 2013, p. 35).

It is important to note that many of these calls may not be related to criminal matters. NSW Legal Aid reports that most of its calls are about debt, family law, parenting arrangements, property settlements, domestic violence orders, wills, neighbours, and car accidents (Legal Aid NSW, 2012a, p. 31). However, given the early intervention priorities of the NPA and the focus on civil issues before they escalate to criminal issues, these types of calls (and this type of service) seem to be exactly what the NPA intended to create.

### **Other technological innovation**

LAQ indicates it provides free legal advice and minor assistance through phone but also via video conferencing through its Prison Advice Service. LAQ indicates video conferencing has help achieve significant savings in travel time and costs (LAQ, 2013, p. 19).

## **4.3.2 Managing system delays**

### **Choice of counsel**

Legal Aid ACT reports that clients who have qualified for legal aid may ask for a particular lawyer from private practice or from the commission, but if a situation arises in which in-house lawyers have special expertise in a specific matter, Legal Aid ACT may appoint its own in-house lawyer to represent the case (Legal Aid ACT, 2013, p. 18). Similarly, the Legal Services Commission of South Australia allows clients to nominate private practitioners as their solicitor of choice if the commission determines the choice is appropriate. Otherwise, the commission will choose a suitable practitioner from among its staff lawyers or from private practice (LSC, n.d., p. 68).

Also relevant to choice of counsel, LAQ notes that it manages the cost of providing criminal representation in complex and high-cost cases by using in-house legal staff (LAQ, 2013, p. 23). This strategy thus affects clients' choice of counsel (i.e., private lawyers are not available for these cases). VLA reports that it is examining the potential for using in-house lawyers in all major trials, except in cases where staff capacity or conflict of interest preclude such an arrangement (VLA, 2014, p. 13).

### **Incentives**

Victoria Legal Aid is conducting consultations to investigate improving the quality of criminal trials. Among the options being considered is an additional payment for solicitors who can resolve cases through negotiation at or before preliminary hearings (VLA, 2014, p. 10).

## **4.3.3 Mixed model**

Mixed model service delivery is the norm among Australian LACs, but each commission varies in the amount it uses private lawyers to deliver legal aid services. For example, in 2012–2013, about 43% of Legal Aid NSW's case and duty services were provided by private lawyers (Legal Aid NSW, 2013a, p. 10), while about 55% all legal aid grants through Legal Aid ACT used

private lawyers (Legal Aid ACT, 2013, p. 22). Data from LAC Tasmania (LACT) shows that use of private lawyers can also vary depending on the area of law. In 2012–2013, LACT used private lawyers in 45% of criminal matters, 63% of family matters, and 57% of civil matters (LACT, 2013, p. 10). Data from VLA shows use of private practitioners may also vary depending on the type of service. In 2012–2013, only 10% of duty counsel matters were handled by private lawyers, while 73% of legal aid case work was handled by private lawyers (VLA, 2013a, p. 1).

In contrast to these examples, LAQ uses a service delivery model that allocates 80% of all legal aid matters to private lawyers (LAQ, 2013, p. 13) while the NTLAC historically has used private lawyers in less than one third of its approved legal aid applications (NTLAC, 2013, p. 32). NTLAC indicates it only uses private lawyers when applications are received from private practitioners, the commission is in conflict, or lacks in-house capacity (NTLAC, 2013, p. 23).

#### **4.3.4 Mentoring**

VLA indicates that it has a statutory obligation to provide opportunities for law students to obtain experience in legal aid work. Work placements are provided to law students who previously observed and participated in legal advice clinics and duty lawyer services (VLA, 2013a, p. 76). Legal Aid ACT also operates a work experience and student placement program (Legal Aid ACT, 2013, p. 143). LAWA reports that it works with members of the private bar to mentor junior staff lawyers. For example, members of the private bar will act as instructing solicitors in major criminal matters, such as murder and armed robbery trials (LAWA, 2013, p. 26).

Mentorships are also encouraged by recognizing lawyers who volunteer their time to mentor in-house lawyers. The Legal Services Commission of South Australia reports lawyers who mentor in-house criminal lawyers are eligible to receive the South Australian Law Society's Justice Award (LSC, n.d., p. 7).

#### **4.3.5 Business practices**

VLA provides a number of examples of how that organization is using systematic program review to manage change and instil greater organizational accountability. VLA indicates it is implementing a financial performance model to measure the cost and value of VLA's advocacy work across all areas of legal practice (VLA, 2013a, p. 30). It is also investigating fee restructuring reforms that would organize fees and approvals around phases of a criminal case rather than certain court events (VLA, 2014, p. 10).

### **4.4 Accountability**

Accountability and transparency are key issues being addressed across all the Australian LACs. Systematic program review and performance measurement have been some of the more common approaches taken by Australian LACs. These are discussed below.

#### **4.4.1 Performance measurement**

As indicated earlier, the NPA set out a number of indicators focused on evaluating delivery of the Agreement's intended reforms to the legal aid sector (see intended outcomes in Table 3

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above). However, documentation is unclear on how the NPA's identified performance targets apply to the LACs. Also worth noting, LACs vary on how many of these indicators they report on in their annual reports (see Figure 1 and Figure 2 above), making it unclear whether reporting on all the NPA performance measures is mandatory.

There are however other performance measurement activities underway in Australia. Currently, the NLA website provides public access to a range of LAC statistics. The site does not explain the purpose for posting these statistics or how they were compiled and most of these statistics are not relevant to the performance indicators included in the NPA. However, it is notable that the NLA's data includes a measure for duty counsel service (see Table 6 below). The NLA has expressed frustration with the NPA evaluation framework for failing to recognize duty services as an LAC output that is in line with the *Strategic Framework for Access to Justice* (NLA, 2012, p. 3).

<b>Measure</b>	<b>Description</b>
<b>Applications – received</b>	Count of all new applications by law type and jurisdiction.
<b>Applications – status</b>	Count of applications approved, refused, pending, withdrawn by law type, and jurisdiction.
<b>Applications – monthly trends</b>	Statistics on month to month change in application status.
<b>Practitioner type</b>	Approved cases by law type.
<b>Duty lawyer</b>	Count of duty appearances (in-house and assigned) by law type, jurisdiction. Count is based on individuals assisted, not sessions.
<b>Legal advice</b>	Count of legal advice occasions of service, by law type, jurisdiction.
<b>Demographics</b>	Includes age, gender, and Aboriginal status of applicants, by law type and jurisdiction.

Source: (NLA, 2014)

Other observers have also been critical of the NPA's proposed measurements. In 2012, Curran Consulting — working with Legal Aid ACT — argued the NPA's performance measures focused too much on quantity and overlooked the quality of legal aid services. The author states that measurements of legal services need to be realistic, relevant and fair, and therefore should clearly define how overall goals (such as the NPA's broad ideas of holism, social inclusion, and greater service coordination) would translate into practice (Curran Consulting, 2012, p. 9).

Following numerous criticisms of the NPA's performance measures<sup>12</sup> Curran Consulting suggests an approach that would “reconcile the aims and objectives of the NPA and the realities of what legal aid services provide (and can provide) with a realistic measurement of matters within a legal aid service's ability to control” (Curran Consulting, 2012, p. 13). The researcher lists a number of legal service outcomes and qualities that are demonstrated by these outcomes. These are listed in the table below. Note that the qualities listed in the second column were integrated into the questions and statements in various surveys, interviews, and focus groups that were conducted with Legal Aid ACT staff as part of a trial run of the research methodology (Curran Consulting, 2012, pp. 25–28).

<sup>12</sup> Criticisms include the NPA's outputs not mentioning the quality of legal services and overlooking the effect of legal services. Also, Curran Consulting argues that many of the NPA's outcomes are actually indicators of something else that could be measured more broadly. For example, the NPA never defines “seamless referral,” so it is unclear when “seamless referral” has occurred (Curran Consulting, 2012, pp. 11–13).

<b>Table 7: Curran Consulting alternative to NPA measures</b>	
<b>Outcomes</b>	<b>Qualities demonstrated by outcomes</b>
A good client interview	Holistic, joined---up, quality, problem identification, empowerment, good practice, early intervention, prevention, responsiveness, client centred, ADR, targeting, expertise.
Clients with chaotic lifestyles attend interviews, appointments, and court dates	Early intervention, prevention, empowerment, client centred, Holistic, targeting.
As appropriate, sentences are minimized or unsubstantiated charges are dropped	Rule of law, efficiency, good practice, expertise.
Clients are better able to plan and organize their legal affairs	Early intervention, prevention, empowerment, quality, good practice, client centred.
Improvement in the client's interaction with the legal system	Early intervention, prevention, empowerment, client centred.
Consideration of issues before a court or tribunal enhanced because the lawyer asked questions/raised issues and brought the client's story before the court	Rule of law, quality, voice, flexibility, good practice, client centred, responsiveness, ADR, expertise.
Client is better able to understand their legal position and the options open to them	Early intervention, prevention, empowerment, good practice, quality.
A process is undergone in which the client is listened to, respected and given fearless advice of their legal position	Quality, client centred.
Relationships and trust building with other legal and non-legal support agencies enabling client referral and support	Early intervention, prevention, Holistic, joined---up, good practice, quality.
Holding of authority to account	Early Intervention, prevention, Holistic, joined---up, good practice, quality.
A holistic service delivered to the client through collaboration, networking, community legal education, and joined-up services	Good practice, client centred, problem identification, collaboration, prevention, early intervention, Holistic, joined---up.
Source: (Curran Consulting, 2012, p. 27)	

#### **4.4.2 Lawyer guidelines and standards**

Some LACs in Australia have undertaken the development of guidelines or standards for lawyer practice to help ensure legal aid services are delivered in a consistent and high quality manner. For example, Legal Aid ACT recently developed Criminal Law Practice Standards, which established the principles for client responsibilities, briefing counsel in Supreme Court matters, sentencing, Supreme Court appeals, and duty counsel services (Legal Aid ACT, n.db).

VLA has also developed a number of practice standards, covering more general areas such as case work, duty counsel, and legal advice (VLA, 2013a, p. 75). One example of such standard is VLA's implementation of "coordinated briefing" for lawyers involved in criminal trials. This practice helps identify and build up junior counsel trial experience and ensure briefing practices are equitable to all barristers, including women and Indigenous peoples (VLA, 2013a, p. 30).

VLA is also examining the potential for using systematic review of case data to identify cases with anomalous features, such as a case being resolved on or after date listed for trial, the jury being discharged, an appeal for conviction being allowed, concerns being raised by the trial judge or prosecutor, and the trial duration estimate being under by 30% or more (VLA, 2014, p. 14). VLA would seek explanation of the anomalies from the practitioners involved. Unsatisfactory

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explanations could result in a warning, non-payment, or removal from the commission's panel of private lawyers (VLA, 2014, p. 14).

LAQ has developed best practice guidelines specifically for in-house and private lawyers who provide legal aid services to Indigenous peoples, so that services are provided in culturally appropriate ways (LAQ, 2013, p. 27). LAQ has also developed a handbook for duty lawyers that includes sections on representing clients with mental health issues, intellectual disability, or cognitive impairment (LAQ, 2013, p. 29).

However, not all guidelines are meant to address quality and not all guidelines are accepted by the wider justice system. An example of this is VLA's guideline that allowed instructing solicitors to be present for only two half days of a criminal trial, whereas previously they were funded for the whole trial. However, the intended cost savings were never fully realized because two Supreme Court judges ended up staying trials because instructors were not available for the full duration of the trial. Not long after VLA introduced a revised guideline allowing instructing solicitors to attend every day of the trial (VLA, 2013a, p. 43, 2014, p. 12).

Even prior to the creation of the NPA in 2010, performance measurement was a well-established activity among Australian LACs. Larger LACs such as Legal Aid NSW began reporting against their own key performance indicators (KPIs) in 2004–2005 (Legal Aid NSW, 2006, p. 3). These KPIs focused on three overarching areas of performance and included specific measures and annual targets (discussed in table below). These performance areas and many of the associated measures were still in place as of FY 2012–2013. In addition to these KPI, Legal Aid NSW developed a set of service delivery targets in FY 2008–2009 and began reporting on these targets in 2009–2010 (outlined in table below). The organization developed these service recommendations following recommendations from an earlier performance audit by NSW's Auditor General (Legal Aid NSW, 2009, p. 3).

<b>Community awareness of legal rights and responsibility</b>	The goal of this KPI is to provide accurate, timely, and helpful advice and ensure the community has access to information and advice. In FY 2005–2006 performance measures included client satisfaction rating, average wait times for advice appointments, and number of community members accessing various services, including advice, community legal education, and number of internet pages accessed (Legal Aid NSW, 2006, p. 3). Most of these measures had an associated target. By 2012–2013 most of these measures were still being used by Legal Aid NSW; some new measures were added (or clarified), including the number of information services provided and the number of publications distributed (Legal Aid NSW, 2013a, p. 6).
<b>Accessibility to legal aid</b>	The goal of this KPI is to provide socially and economically disadvantaged people appropriate legal service. It includes a measure of the means test income limit as a percent of the national minimum weekly wage and the percent of local court sittings serviced by duty counsel (Legal Aid NSW, 2006, p. 3).
<b>Representation service standards</b>	The goal of this KPI is to provide legal representation according to law and best practices. Measures include the percent of "satisfactory comprehensive in-house file reviews," number of commission lawyers with specialist accreditation, and number of commission lawyers attending in-house and mandatory continuing education sessions (Legal Aid NSW, 2006, p. 3).

<b>Table 9: Legal Aid NSW key performance indicators and service delivery targets</b>				
<b>Service delivery targets</b>	Each service delivery includes the targeted and actual performance			
	<ul style="list-style-type: none"> <li>• # of legal advice services provided</li> <li>• # of information services provided</li> </ul>	<ul style="list-style-type: none"> <li>• # of in-house and assigned duty services provided</li> <li>• # of family dispute resolution conferences</li> </ul>	<ul style="list-style-type: none"> <li>• # of community legal education sessions</li> <li>• # of outreach advice services</li> </ul>	<ul style="list-style-type: none"> <li>• # of locations with regular outreach</li> <li>• # of locations with regular outreach for Aboriginal communities</li> </ul>

Smaller LACs have also engaged in various levels of performance measurement activity. NTLAC has been reporting on targeted performance indicators since at least 2000–2001, including counts per 1,000 head of population for legal advice provided, duty lawyer services, applications (received, approved, refused), and telephone legal information. These measures were still in place in FY 2012–2013 (NTLAC, 2005, p. 22, 2013, p. 33). However the performance indicators do not appear to be part of overarching organizational goals, as seen with Legal Aid NSW. The LACT has been reporting annual performance data since at least 2006 — some of these statistics are the same as those reported by NTLAC — but LACT does not include performance targets or overarching organizational goals (LACT, 2006, p. 25, 2013, p. 24).

#### **4.4.3 Other research**

Legal Aid NSW has been very active in conducting research to guide and support its practices. The organization has undertaken (or contracted out) research projects that have examined a wide range of issues relating to criminal law and the legal aid system. Some examples include examining the provision of advice, minor assistance, and outreach in criminal law matters (Forell, Ramsey, McDonald, Williams, & Law and Justice Foundation of New South Wales, 2013); analysing criminality among Legal NSW's highest users (Legal Aid NSW, 2013c); and reporting on the growing criminalization of children living in out-of-home care (Legal Aid NSW, 2011b).

Legal Aid NSW also conducts and publishes client satisfaction surveys and undertakes studies to examine the efficiency and effectiveness of services. Legal Aid NSW provides links to its annual client satisfaction reports on its website. These surveys examine how clients are referred to legal aid and the accessibility of and potential barriers to legal aid, and analyses of legal aid wait times, types of assistance, information provided, and referrals made (Tavner Research, 2013).

Other studies have examined more specific elements of Legal Aid NSW's services to assess their efficiency and effectiveness. For example, the 2008 assessment of the organization's Client Assessment and Referral Service, which provided Legal Aid NSW in-depth and professional assessments of individuals with mental illness, developmental disabilities, and brain injuries to understand the relationship between the individual's history and the individual's criminal behaviour (Legal Aid NSW, 2008) The review found that while the service was regarded as invaluable by internal and external stakeholders, demand for CARS reports exceeded the capacity of the program. The review made several recommendations to improve service delivery, including implementing a new information and referral database and creating three new positions focused on mental health, Aboriginal clients, and children (Legal Aid NSW, 2008, pp. vii–viii).



**Reference list:**

- ABS. (2013). 3101.0 - Australian Demographic Statistics, Jun 2013. Retrieved February 4, 2014, from <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0/>
- AGD. (2009). A Strategic Framework for Access to Justice in the Federal Civil Justice System (full report). Retrieved February 5, 2014, from <http://www.ag.gov.au/LegalSystem/Documents/A%20Strategic%20Framework%20for%20Access%20to%20Justice%20in%20the%20Federal%20Civil%20Justice%20System.pdf>
- Allen Consulting Group. (2012). Review of the National Partnership Agreement on Legal Assistance Services: Final Evaluation Framework.
- Council of Australian Governments. (2010). National Partnership Agreement on Legal Assistance Services.
- Crowley, L. (2007). The Basics of Commonwealth Crime. Retrieved January 30, 2014, from [http://www.criminalcle.net.au/attachments/Basics\\_of\\_Commonwealth\\_Crime.pdf](http://www.criminalcle.net.au/attachments/Basics_of_Commonwealth_Crime.pdf)
- Curran Consulting. (2012). We Can See There's a Light at the End of the Tunnel Now: Demonstrating and Ensuring Quality Services to Clients. Retrieved February 7, 2014, from [http://www.legalaidact.org.au/pdf/Light\\_at\\_the\\_end\\_of\\_the\\_Tunnel\\_Legal\\_Aid\\_Services\\_Quality\\_and\\_Outcomes.pdf](http://www.legalaidact.org.au/pdf/Light_at_the_end_of_the_Tunnel_Legal_Aid_Services_Quality_and_Outcomes.pdf)
- Forell, S., Ramsey, S., McDonald, H. M., Williams, S., & Law and Justice Foundation of New South Wales. (2013). *Review of Legal Aid NSW Outreach Legal Services. Law and Justice Foundation of New South Wales: Statistical Overview of Services, 2010-2012.*
- Geoscience Australia. (2010). Area of Australia - States and Territories - Geoscience Australia. Retrieved February 7, 2014, from <http://www.ga.gov.au/education/geoscience-basics/dimensions/area-of-australia-states-and-territories.html>
- Government of Western Australia. (2013). New Start for People with Mental Illness.
- ILAG. (2013). National Report - Australia's Legal Assistance System. Retrieved from [http://www.ilagnet.org/jscripts/tiny\\_mce/plugins/filemanager/files/The\\_Hague\\_2013/National\\_Report/Australia\\_National\\_Report.pdf](http://www.ilagnet.org/jscripts/tiny_mce/plugins/filemanager/files/The_Hague_2013/National_Report/Australia_National_Report.pdf)
- LACT. (2006). Annual Report 2006. Retrieved February 18, 2014, from <http://www.legalaid.tas.gov.au/Publications/AnnualReport0506/2006%20Annual%20Report.pdf>
- LACT. (2013). Annual Report 2012-2013. Retrieved February 10, 2014, from <http://www.legalaid.tas.gov.au/Publications/AnnualReport1213/2012-2013%20Annual%20Report.pdf>
- LAQ. (2013). Annual Report 2012-2013. Retrieved February 3, 2014, from <http://www.legalaid.qld.gov.au/publications/Reports/annual-report/Documents/laq-annual-report-2013.pdf>
- LAWA. (2010). Specialist units and services - Youth law team. Retrieved February 7, 2014, from <http://www.legalaid.wa.gov.au/LegalAidServices/specialist/Pages/Youthlaw.aspx>

## *Overview of Australia's Criminal Legal Aid System*

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- LAWA. (2011). Information for Lawyers - Grants Online. Retrieved February 7, 2014, from <http://www.legalaid.wa.gov.au/InformationForLawyers/Pages/GrantsOnline.aspx>
- LAWA. (2013). Annual Report 2012-2013. Retrieved February 7, 2014, from <http://www.legalaid.wa.gov.au/LegalAidServices/About/Documents/Annual%20Report%202012-13.pdf>
- Legal Aid ACT. (n.da). Below the Belt. Retrieved January 31, 2014, from [http://legalaidact.org.au/below\\_the\\_belt/](http://legalaidact.org.au/below_the_belt/)
- Legal Aid ACT. (n.db). Legal Aid ACT: Practice Standards.
- Legal Aid ACT. (2012). Annual Report 2011-12.
- Legal Aid ACT. (2013). Annual Report 2012-2013.
- Legal Aid NSW. (2006). 2005-2006 Annual Report. Retrieved February 12, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0004/9364/Annual-report-2005-2006.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0004/9364/Annual-report-2005-2006.pdf)
- Legal Aid NSW. (2008). Client Assessment and Referral (CAR) Review. Retrieved January 30, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0020/5438/CARS.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0020/5438/CARS.pdf)
- Legal Aid NSW. (2009). Annual Report 2008-2009. Retrieved February 13, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0004/6466/Annual-report-2008-2009.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0004/6466/Annual-report-2008-2009.pdf)
- Legal Aid NSW. (2011a). Bail Law Reform, July 2011 - Legal Aid NSW. Retrieved January 30, 2014, from <http://www.legalaid.nsw.gov.au/what-we-do/law-reform/crime/bail-law-reform,-july-2011>
- Legal Aid NSW. (2011b). The Drift from Care to Crime: a Legal Aid NSW issues paper. Retrieved January 30, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0019/18118/The-Drift-from-Care-to-Crime-a-Legal-Aid-NSW-issues-paper.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0019/18118/The-Drift-from-Care-to-Crime-a-Legal-Aid-NSW-issues-paper.pdf)
- Legal Aid NSW. (2012a). *Annual Reports 2009-2010 to 2011-2012*.
- Legal Aid NSW. (2012b). Bail Enforcement Conduct Directions. Retrieved January 30, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0016/14119/Submission-Bail-Enforcement-Conduct-Directions-NSW-DAGJ-July-2012.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0016/14119/Submission-Bail-Enforcement-Conduct-Directions-NSW-DAGJ-July-2012.pdf)
- Legal Aid NSW. (2012c). Drug Court - Legal Aid NSW. Retrieved January 30, 2014, from <http://www.legalaid.nsw.gov.au/what-we-do/criminal-law/adult-drug-and-alcohol-court>
- Legal Aid NSW. (2012d). Evaluation of the Cooperative Legal Services Delivery Program. Retrieved January 30, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0012/15240/Evaluation-CLSD-Final-Report-August-2012.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0012/15240/Evaluation-CLSD-Final-Report-August-2012.pdf)
- Legal Aid NSW. (2013a). Annual Report 2012-2013. Retrieved January 29, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0011/17966/Annual-Report-2012-2013.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0011/17966/Annual-Report-2012-2013.pdf)
- Legal Aid NSW. (2013b). Children's Legal Service - Legal Aid NSW. Retrieved January 30, 2014, from <http://www.legalaid.nsw.gov.au/what-we-do/criminal-law/children-and-young-people>

## *Overview of Australia's Criminal Legal Aid System*

---

- Legal Aid NSW. (2013c). High Service Users at Legal Aid NSW: Profiling the 50 Highest Users of Legal Aid Services.
- Legal Aid NSW. (2013d). Inquiry into the Value of a Justice Reinvestment Approach to Criminal Justice in Australia.
- Legal Aid NSW. (2013e). Law Reform Commission of NSW Identification of Appropriate Early Pleas of Guilty in Indictable Matters Preliminary Submission. Retrieved January 30, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0011/18200/pegp04\\_legal-aid-nsw\\_preliminary-submissionx.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0011/18200/pegp04_legal-aid-nsw_preliminary-submissionx.pdf)
- Legal Aid NSW. (2014a). Law reform - Legal Aid NSW. Retrieved January 30, 2014, from <http://www.legalaid.nsw.gov.au/what-we-do/law-reform>
- Legal Aid NSW. (2014b). Response to Consultation Paper 15 Encouraging Appropriate Early Guilty Pleas: Models for Discussion. Retrieved January 30, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0005/18464/Legal-Aid-NSW-LRC-Early-Pleas.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0005/18464/Legal-Aid-NSW-LRC-Early-Pleas.pdf)
- LSC. (n.d.). 35th Annual Report 2012-2013. Retrieved February 4, 2014, from [http://www.lsc.sa.gov.au/resources/LSC%20AR35th\\_complete2.pdf](http://www.lsc.sa.gov.au/resources/LSC%20AR35th_complete2.pdf)
- NLA. (n.d.). About Us » National Legal Aid. Retrieved January 27, 2014, from <http://www.nationallegalaid.org/about-us/>
- NLA. (2007). A New National Policy for Legal Aid in Australia. Retrieved from <http://www.nationallegalaid.org/assets/General-Policies-and-Papers/NLA-Policy-11-07.pdf>
- NLA. (2011a). Policy & Position Statement November 2011.
- NLA. (2011b). Strategic Plan 2011-2013.
- NLA. (2012). National Legal Aid Submission on the Draft Evaluation Framework.
- NLA. (2013a). Finance » National Legal Aid. Retrieved January 27, 2014, from <http://www.nationallegalaid.org/home/finance/>
- NLA. (2013b). Key Facts: Legal Australia-wide Survey: Legal need in Australia. Retrieved January 27, 2014, from <http://www.nationallegalaid.org/assets/LAW-Survey/Key-Facts.pdf>
- NLA. (2014). About NLA Statistics. Retrieved January 27, 2014, from <http://laxextra.legalaid.nsw.gov.au/NLAReports/About.aspx>
- NSW-AGJ. (2012). Review of the Delivery of Legal Assistance Services to the NSW Community. Retrieved February 13, 2014, from [http://www.lpclrd.lawlink.nsw.gov.au/agdbasev7wr/lpclrd/documents/pdf/delivery\\_of\\_legal\\_assistance\\_services\\_report\\_final.pdf](http://www.lpclrd.lawlink.nsw.gov.au/agdbasev7wr/lpclrd/documents/pdf/delivery_of_legal_assistance_services_report_final.pdf)
- NSW-LRC. (2013). What we do - Law Reform Commission New South Wales. Retrieved January 30, 2014, from [http://www.lawreform.lawlink.nsw.gov.au/lrc/lrc\\_whatwedo.html](http://www.lawreform.lawlink.nsw.gov.au/lrc/lrc_whatwedo.html)
- NTLAC. (2005). Annual Report 2005 - 2006. Retrieved February 12, 2014, from [http://www.ntlac.nt.gov.au/left\\_menucontent/DocAnnualReport/2004\\_2005\\_AnnualReport.pdf](http://www.ntlac.nt.gov.au/left_menucontent/DocAnnualReport/2004_2005_AnnualReport.pdf)

## *Overview of Australia's Criminal Legal Aid System*

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- NTLAC. (2013). Annual Report 2012-2013. Retrieved February 3, 2014, from [http://www.ntlac.nt.gov.au/left\\_menucontent/DocAnnualReport/2012\\_2013\\_AnnualReport.pdf](http://www.ntlac.nt.gov.au/left_menucontent/DocAnnualReport/2012_2013_AnnualReport.pdf)
- PwC. (2009). Legal Aid Funding: Current Challenges and the Opportunities of Cooperative Federalism - Final Report. Retrieved November 22, 2013, from <http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/fmsdownload099f.pdf>
- Stats Can. (2011). Population and dwelling counts, for Canada, provinces and territories, 2011 and 2006 censuses. Retrieved February 7, 2014, from <http://www12.statcan.gc.ca/census-recensement/2011/dp-pd/hltfst/pd-pl/Table-Tableau.cfm?LANG=Eng&T=101&SR=1&S=9&O=A>
- Tavner Research. (2013). Report: Legal Aid NSW Client Satisfaction Survey 2013. Retrieved January 30, 2014, from [http://www.legalaid.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0006/16539/Legal-Aid-NSW-Client-Satisfaction-Survey-2013.pdf](http://www.legalaid.nsw.gov.au/__data/assets/pdf_file/0006/16539/Legal-Aid-NSW-Client-Satisfaction-Survey-2013.pdf)
- VLA. (2013a). Eighteenth Statutory Annual Report 2012-13. Retrieved January 31, 2014, from [http://ar2013.vla.vic.gov.au/sites/default/files/ar\\_2012\\_13.pdf](http://ar2013.vla.vic.gov.au/sites/default/files/ar_2012_13.pdf)
- VLA. (2013b). Preventative services for all Victorians | Annual report 2013. Retrieved January 31, 2014, from <http://ar2013.vla.vic.gov.au/preventative-services-all-victorians>
- VLA. (2013c). Review of the National Partnership Agreement – an Opportunity to Iron Out the Creases.
- VLA. (2014). Delivering High Quality Criminal Trials Consultation and Options Paper. Retrieved January 31, 2014, from [http://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-delivering\\_high\\_quality\\_criminal\\_trials\\_consultation\\_paper.pdf](http://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-delivering_high_quality_criminal_trials_consultation_paper.pdf)
- World News Australia Radio. (2013). Indigenous Australians hit hard by legal aid cuts | SBS News. Retrieved January 27, 2014, from <http://www.sbs.com.au/news/article/2013/12/18/indigenous-australians-hit-hard-legal-aid-cuts>

## Overview of criminal legal aid in New Zealand

For people in custody or facing criminal charges, the Ministry of Justice provides these initial services:

- ▶ They may speak to a lawyer for free through Police Detention Legal Assistance.
- ▶ The duty lawyer service can help them on their first day at court if they are charged with a criminal offence.
- ▶ They may be eligible for a lawyer through legal aid (Ministry of Justice, New Zealand, n.dy).

### 1.0 Structure / organization

As a unitary state, New Zealand has a single Parliament and does not have provinces or states with subordinate legislative or executive authority. The Government of New Zealand is responsible for legislation, criminal justice, and social services, including legal aid.

**Ministry of Justice.** The Ministry of Justice of the Government of New Zealand has been responsible for providing legal aid since 2011. A new *Legal Services Act* took effect on 1 July 2011, replacing the *Legal Services Act* of 2000. The new legislation undertook a comprehensive overhaul of the legal aid system. One of the most significant changes under the *Legal Services Act* 2011 was the transfer of legal aid functions to the Ministry of Justice. Formerly, legal aid had been administered by the Legal Services Agency (LSA), an independent crown entity. The same staff continued to be employed in the legal aid offices (McCreadie, 2011b). Under the Ministry of Justice, legal aid is part of the Legal Services and Treaty Group (Ministry of Justice, New Zealand, n.da)

**Legal Services Commissioner.** A Deputy Secretary heads the Legal Services and Treaty Group and is also the Legal Services Commissioner who oversees the legal aid system (Ministry of Justice, New Zealand, n.da). The Commissioner is an independent statutory officer who is responsible for decisions that must be made independent of government direction. The responsibilities of the Commissioner include decisions on whether or not to grant legal aid and overseeing the work of Public Defence Service lawyers (McCreadie, 2011b).

**Model of service: public-private mix.** The original constitution of the legal aid system was based on employing private lawyers paid for by the government. Since 2004 and the introduction of the Public Defence Service (see below), New Zealand has employed a public-private mix for providing legal aid.

Private lawyers can provide legal aid services if they are approved and receive a contract for services. Currently, all approved legal aid lawyers are offered contracts (Ministry of Justice, New Zealand, n.dh). The contracts include the types of legal aid services the lawyer can provide, set the quality of services and remedies for breaches, and establish agreements regarding administrative processes and quality audits. Since 2011 the legal aid system has employed a quality framework which governs approval, contract and practice standards, monitoring and audit, and complaints and performance review of legal aid providers (Ministry of Justice, New Zealand, n.do).

## *Overview of New Zealand's Legal Aid System*

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Lawyers apply to the Ministry of Justice for approval as legal aid providers and must demonstrate that they have the relevant skills, experience, and business systems to effectively represent their clients. In criminal law, there are different categories of approval depending on the seriousness of the offense and the lawyer's level of experience. Lawyers are approved for a defined duration, usually 2 to 5 years.

Lawyers can apply to be either a lead provider or a supervised provider. A supervised provider must be employed as a lawyer or have appropriate systems in place for supervision of work (Ministry of Justice, New Zealand, n.dc).

### **2.0 New Zealand Legal Aid Review (2009)**

The Government of New Zealand recently undertook a comprehensive review of the legal aid system in response to rapidly inflating costs and doubts about the consistency in the quality of legal. Dame Margaret Bazley's chaired the review and issued her report, *Transforming the Legal Aid System*, in 2009 (Bazley, 2009).

***Findings of the 2009 review.*** The review pointed to a number of issues that were causing system-wide failings in the legal aid system:

- ▶ the strong operational focus of the Legal Services Agency
- ▶ poor relationships between the New Zealand Law Society and the LSA, and other key stakeholders
- ▶ reluctance by the LSA to exercise its statutory discretions, particularly in relation to lawyers
- ▶ cumbersome administrative procedures originating from the *Legal Services Act*, which seemed to be, at times, overly protective of the market share of the lawyers who provide legal aid services and was contributing to high administrative costs
- ▶ inflexible procurement provisions in the Act, which prevented the LSA from procuring services in the most efficient way possible
- ▶ insufficient management of high-cost cases
- ▶ variable quality legal aid services, resulting from ineffective barriers to entering the legal aid system
- ▶ over-reliance on complaints as an indicator of lawyers who are failing to perform, which was considered to have resulted in failure to hold lawyers accountable for poor performance
- ▶ a high number of repeat clients, including some clients who manipulate the system to their own ends, for instance, by engineering the dismissal of their lawyers to prolong proceedings or engineering grounds for an appeal against conviction (Bazley, 2009, pp. vi – xii).

The key recommendation of the review was that the functions of the LSA should be moved within the Ministry of Justice (Bazley, 2009, p. vii).

Since the legal aid review in 2009 the Government of New Zealand has taken steps to respond to most of the recommendations in the report.

### **3.0 Current directions of legal aid**

#### **3.1 Accessibility**

**Regional legal aid offices.** The national office of the Ministry of Justice is in Wellington. There are eleven legal aid regional offices, located in Whangarei, Auckland, Waitakere, Manukau, Hamilton, Rotorua, New Plymouth, Napier, Wellington, Christchurch, and Dunedin (Ministry of Justice, New Zealand, n.dg). Regional legal aid offices help people to apply for criminal legal aid (Ministry of Justice, New Zealand, n.db).

**Future Court Services Program.** Since 2011 the Ministry of Justice has undertaken a Future Court Services program to improve the way the courts system operates. Under this program, the Criminal Procedure (Simplification) Project aims to reform, streamline, and simplify the criminal court process and associated legislation to allow better use of technology and ensure that criminal procedures can adapt to future developments in technology, criminal law, and practice (Ministry of Justice, New Zealand, n.dy). Further elements of Future Court Services are outlined below under other headings.

**Legal advice.** The Ministry of Justice has been working to improve access to legal information and initial legal advice so that people can avoid legal problems or resolve those problems themselves. The Ministry of Justice contracts services from 24 community law centres across New Zealand. Community law centres aim to help people avoid legal problems and resolve these problems early so that, when possible, they do not escalate to the courts. They provide legal information and education, legal advice, and assistance focused on early resolution of legal problems. When necessary, they provide legal representation for people who cannot afford it (Ministry of Justice, New Zealand, n.dk). Most community law centres employ lawyers and paralegals or community workers, and sometimes also volunteer lawyers or law students (Ministry of Justice, New Zealand, n.de).

Community Law Centres provide information on a variety of legal topics. While they primarily work in the areas of family and civil law, they also assist with criminal matters. For instance, their Community Law Manual includes a chapter on Criminal Court Proceedings (Community Law, 2014). Information services provided by Community Law Centres include:

- ▶ providing information for clients who visit or contact the community law centre;
- ▶ distributing law-related information to people outside of the centre;
- ▶ providing information directly to individuals, or by way of broadcast or publications;
- ▶ referring people to other organisations to obtain specialist information or assistance (Ministry of Justice, New Zealand, n.dk).

### 3.2 Effectiveness

**Public Defence Service.** The Public Defence Service (PDS) began as a pilot in the Auckland and Manukau courts in 2004. Before that point, all legal aid was delivered by private lawyers approved and contracted by the Ministry of Justice (Ogier & Tait, 2008, p. 1). The PDS employs salaried criminal lawyers to defend people facing criminal charges who are eligible for legal aid. It also oversees the duty lawyer service in the courts where it operates. It is established in the busiest courts of New Zealand, where there are enough criminal legal aid cases to support both the PDS and private sector criminal law practices. This provides choice and allows benchmarking of quality and cost.

The PDS was originally piloted with several objectives:

- ▶ to provide high-quality, consistent, independent, and value-for-money services;
- ▶ to improve system flexibility and provide opportunities to test different approaches to meeting cultural and other needs of clients;
- ▶ to improve understanding of issues facing private practice lawyers when providing legal services to the public;
- ▶ to provide opportunities to test new and innovative approaches to management of legal services, and to encourage the development of areas of expertise (Ogier & Tait, 2008, pp. 5–6).

The PDS now operates at all criminal courts in the Auckland region, Wellington, Hamilton, Tauranga, Hawke's Bay, Christchurch, and Dunedin (Ministry of Justice, New Zealand, n.ds). PDS offices are open in Auckland, Manukau (also serving Papakura and Pukekohe courts), Waitakere, North Shore, Hamilton, Tauranga, Hawkes Bay, Wellington (also serving Porirua and Lower Hutt courts), Dunedin, and Christchurch (Ministry of Justice, New Zealand, n.df). The PDS is now New Zealand's largest criminal law practice (Ministry of Justice, New Zealand, n.da). The PDS employed about 170 staff in December 2012; there are plans to expand it to 190. At present the PDS handles about half of criminal legal aid cases in the courts where it operates (Ministry of Justice, New Zealand, n.dt). Overall, the PDS handles about one third of New Zealand's criminal defence cases (Ministry of Justice, New Zealand, n.du).

In recent years the Ministry of Justice has expanded the Public Defence Service from the Auckland and Manukau courts to the busiest courts throughout New Zealand. John Hansen, who chaired the board of the LSA while it was brought into the Ministry of Justice, said in 2011 that the Public Defence Service was "one of the most significant and innovatively laid developments in New Zealand" (Hansen, 2011). Hansen cites independent studies that showed the PDS generated greater client satisfaction and had a guilty plea rate equivalent to the private profession, but delivered services 16% more cheaply. He also notes that the PDS earned praise and was recognized as having brought an improvement in quality over much of the private bar (Hansen, 2011).



**Duty lawyer service.** The Ministry of Justice maintains duty lawyers at all courts, who provide free legal help to people who have been charged with an offence and do not have their own lawyer. Duty lawyers can tell a person charged with an offence about their legal situation, options, and in some cases represent them on the first day of their case—for instance, asking for a case to be remanded, offering a plea in mitigation, or apply for bail. Duty lawyers also help people to apply for criminal legal aid (Ministry of Justice, New Zealand, n.dq).

**Improving stakeholder relationships.** An important direction in legal aid reform has been building stronger links between legal aid and key stakeholders, including the judiciary, the legal profession, and community law centres (Hansen, 2011).

### 3.3 Efficiency

**Fixed fees for criminal cases.** In an effort to manage legal aid expenditure, fixed fees were introduced in 2011 for criminal legal aid. A fixed fees payment regime was introduced for 95% of criminal legal aid grants, covering all categories of criminal legal aid proceedings as well as appeal and Parole Board cases. Only a small number of complex and high-cost cases remain under the former regime of guideline hours and hourly rates (McCreadie, 2011a).

The Ministry of Justice has established fixed fee schedules for each category of legal aid proceedings. Instead of being paid by the hour, providers are paid a fixed amount for completion of specific activities. Fees do not vary on the basis of the provider's experience level. Fee rates were established based on existing payments and the Legal Aid budget, and are applied to relatively standard and predictable legal aid activities (McCreadie, 2011a; Ministry of Justice, New Zealand, n.dx).

If a case is unusually complex, providers may seek a grant amendment by demonstrating why the fixed fees are inadequate for the work required. The Ministry of Justice expects that fixed fee payments might sometimes be higher or lower than previous payments at hourly rates for the work involved and that providers would accept that these 'unders and overs' would balance out, and only seek an amendment to the fixed fees for unusually complex cases (McCreadie, 2011a). If an amendment is granted, the grant is transferred to complex case management or high cost case management. When the fixed fee system was introduced in 2011, the Ministry of Justice expected only to amend 5% of grants. Grants under complex case management are administered under guideline hours and guideline hourly rates, plus disbursements, as before the 2011 legislation.

A new invoicing system was also established for the fixed fee regime. Providers claim fixed fees for work completed and standard disbursements by completing a standard invoice with the fees printed on it. The provider ticks the fees to claim, signs the invoice, and submits it (McCreadie, 2011a). Legal aid providers are required to invoice within three months of when the services were provided (McCreadie, 2011b).

The fixed fee system has received some criticism. The Law Society of New Zealand, the Criminal Bar Association, and Justice Andrew Tipping, for instance, claimed that it leaves the legal aid system underfunded and will undermine the attempt to improve its quality (Gay, 2012). One lawyer in 2013 said that it is now harder to make a living from criminal defence work and that other parts of his firm subsidize this (Ellingham, 2013). The Criminal Bar Association

## *Overview of New Zealand's Legal Aid System*

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sought a judicial review of the changes to the legal aid system. The Court of Appeal found in 2013 that although the fixed fees policy was not unreasonable and that cutting costs was a lawful purpose of the act, the new legal aid system was unlawful. The Government of New Zealand has filed leave to appeal the decision in the Supreme Court (New Zealand Herald, 2013a).

***Case management.*** The government also introduced a new case management system for the most expensive criminal cases (McCreadie, 2011a). Under this system, legal aid lawyers must provide estimates of the likely costs of their work (Ministry of Justice, New Zealand, n.dx).

***Electronic and streamlined administration.*** The Ministry of Justice has been moving toward electronic communication with legal aid clients and providers. Part of the Future Court Services program is an electronic operating model which will replace paper court records and case files with electronic court records and case management. An audio-visual links project is also installing conferencing technology so that people can participate remotely in court proceedings, saving time and money for court participants (Ministry of Justice, New Zealand, n.dy). Improvements are being made to the way legal aid services are delivered, including developing online processing of legal aid grant applications (Ministry of Justice, New Zealand, n.dp). Streamlining of the legal aid granting processes is intended to reduce the time lawyers and clients spend dealing with administrative matters. It aims to simplify many applications and reduce the time spent recovering debt for some lower cost cases. It is intended to apply to summary criminal legal aid grants, which account for over 90% of applications (Ministry of Justice, New Zealand, n.dr).

***Debt recovery and user fees.*** The Ministry of Justice also stepped up efforts to recover outstanding legal aid debt. In 2012, about \$35 million of outstanding debt since 2006 was unsecured or not subject to a repayment plan (Ministry of Justice, New Zealand, n.dm). The segmentation and workflow management project of Future Court Services aims to improve the collection of fines and reparation by allowing the Ministry to focus enforcement actions on those who are not willing or likely to pay their fines (Ministry of Justice, New Zealand, n.dm).

The Legal Assistance (Sustainability) Amendment Bill in 2011 also introduced interest of 8% on legal aid debts and a user charge of \$50 for some family and civil legal aid applications. The user charge creates an incentive for people to resolve minor family and civil disputes between themselves rather than through the courts (Ministry of Justice, New Zealand, n.dw).

***Assignment of legal aid providers.*** An electronic system is used to assign cases to legal aid providers on a rotational basis. The system assigns cases based on the number of assignments each provider has received in order to allocate cases impartially. There are several situations when the rotational system is not applied. Clients facing charges which carry a maximum penalty of 10 years imprisonment or more can nominate a preferred lawyer, either in private practice or from the PDS. Another exception is when a new case is opened for a client already receiving legal aid. In that case they will normally be assigned to the lawyer already handling their other case, so that the client has continuity of representation (Ministry of Justice, New Zealand, n.di)

### **3.4 Accountability**

***A centralised complaints management process.*** In recent years a more robust complaints procedure and enhanced audit process has been put in place over legal aid. A Complaints Officer was appointed to act as the central point for all complaints from lawyers, courts, and the general public. A process was also established for the Complaints Officer to exchange information with the New Zealand Law Society. Under this accountability regime, a number of high-profile legal aid providers had contracts cancelled or withdrew voluntarily from them. Audits have since identified a number of practices that have been referred to the Law Society or the police (Hansen, 2011).

***Reconsiderations and reviews.*** The Legal Aid Review Panel was replaced by an independent Legal Aid Tribunal. Legal Aid Clients who wish to review a legal aid decision must first ask for a “reconsideration” within twenty working days from the date of the decision. The review process has changed so that now only legal aid clients can seek reconsideration or review. Disputes about invoices, rather than being grounds for review and a court process, are now expected to be resolved directly with the ministry (McCreadie, 2011b).

***Measurement and audits.*** The Ministry of Justice carries out quality assurance checks to review the performance of legal aid providers. These checks allow the Ministry to identify lawyers who may not be complying with their obligations. The Ministry also conducts regular audits of legal aid providers to review the quality and value of the services they provide. The Ministry selects providers for audits based on assessing their risk profile, which is compiled based on their level of legal aid earnings, number of legal aid cases, whether complaints have been received, and whether there are any other concerns about them. The Ministry conducts about 60 regular audits each year (Ministry of Justice, New Zealand, n.dv).

The Ministry of Justice has also evaluated the Public Defence Service three times since its pilot in 2004: in 2008, 2009, and 2011. For these evaluations several indicators were used:

- ▶ client experience;
- ▶ cost effectiveness (average cost per case);
- ▶ outcomes for clients (overall conviction rates);
- ▶ case flow through courts (number of defended hearings and jury trials) (Ministry of Justice, New Zealand, n.dj).

***Quality Assurance Framework.*** In 2011 the Government of New Zealand applied a new quality assurance framework to all legal aid providers. This framework exists to ensure that:

- ▶ service is consistent across the whole country
- ▶ all clients receive an acceptable standard of service
- ▶ everyone can have confidence in the quality of services provided by legal aid providers
- ▶ there is clear guidance and transparency for the profession
- ▶ all legal aid providers meet required standards of experience and competence, and have the systems in place to meet their clients’ needs
- ▶ all legal aid providers meet minimum standards of client service
- ▶ checks and balances are in place so that problems can be addressed (Ministry of Justice, New Zealand, n.do).

## *Overview of New Zealand's Legal Aid System*

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The quality assurance framework was put in place in response to the 2009 legal aid review (Bazley, 2009). Prior to 2011, any lawyer approved by the Law Society of New Zealand could be granted a contract to provide legal aid (Hansen, 2011). Bazley identified widespread abuses of this system by a significant number of legal aid providers, such as abuse of the preferred lawyer system, the duty solicitor system in criminal courts, and the unnecessary inflation of hearing time (Hansen, 2011). In order to ensure the quality and cost-effectiveness of legal aid, all lawyers who apply to be legal aid providers now need to meet criteria set out in the Legal Services (Quality Assurance) Regulations 2011.

Applicants must provide work samples, information about their service delivery systems, and at least two references. The quality assurance framework also takes into account professional development plans, continuing legal education, and mentoring (Hansen, 2011). Selection committees consider the applications and the Secretary for Justice is responsible for final decisions to approve or re-approve. Lawyers need to re-apply at least every five years, through a streamlined re-approval process (McCreadie, 2011b). The quality assurance framework also sets out a schedule of experience and competence requirements for criminal matters based on the severity of the criminal proceedings.<sup>13</sup>

One of the new requirements set out in the quality assurance framework is that lawyers applying to provide legal aid services must provide evidence of employment as a lawyer or that there are adequate arrangements in place for the supervision of the applicant's legal work. They need to show that they have service delivery systems in place to provide and account for legal aid services in an effective, efficient, and ethical manner (Government of New Zealand, 2011). This was intended to prevent the abuse of the system by "car boot lawyers" who worked without offices or facilities and provided a very poor level of service (Hansen, 2011).

The supervision requirement does not apply to 'lead providers,' who are senior lawyers contracted to for more complex cases or to supervise a group of lawyers. Lead providers have overall responsibility for the work completed on a file (Ministry of Justice, New Zealand, 2013).

***Practice standards for legal aid lawyers.*** As part of the quality assurance framework, the Ministry of Justice established practice standards as part of providers' contracts after a consultation period in 2010. In general, the practice standards require that legal aid lawyers:

- ▶ understand the law relating to the cases they work on
- ▶ understand legal aid entitlements and processes
- ▶ recognize cross-cultural issues and issues facing disadvantaged people
- ▶ only take on work they have the experience, skills, and capacity for
- ▶ exercise independent professional judgement on a client's behalf
- ▶ exercise due care in advising and representing clients
- ▶ communicate clearly and appropriately with clients

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<sup>13</sup> For example, level 1 criminal proceedings are any proceeding for which the Judge-alone trial procedure is used and that is not a Crown prosecution, or any proceeding in a Youth Court. Level 4 criminal proceedings are any proceeding where the person charged: is charged with an offence listed in Schedule 1 of the Criminal Procedure Act 2011, or any offence not listed in that schedule that is punishable by imprisonment for life; or may be liable to a sentence of preventive detention; or would, if convicted, be subject to additional consequences under section 86D of the Sentencing Act 2002 (Government of New Zealand, 2013).

### *Overview of New Zealand's Legal Aid System*

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- ▶ keep a proper record of the instructions they get and the advice they give
- ▶ be respectful and not inflame disputes
- ▶ have adequate backup in case of illness or unavailability
- ▶ adequately supervise and review the work of lawyers acting under their supervision
- ▶ maintain the privacy of people named in court documents (Ministry of Justice, New Zealand, n.dn).

There are also specific practice standards for criminal court (Ministry of Justice, New Zealand, 2011). The rotational system (mentioned above) of assigning criminal legal cases based on number of assignments, rather than client preference, was also meant to prevent lawyers from taking on very large numbers of cases without sufficient assurance that they could represent their clients effectively (Ministry of Justice, New Zealand, n.dl). On the other hand, the rotational system has been cited as a factor in one lawyer's bankruptcy. He claimed that before the rotational system was introduced, much of his business came from legal aid clients nominating him to represent them in fraud cases; once the rotational system was introduced his business dried up. Justice Lang, adjudicating the hearing, agreed that the legal aid changes went some way toward explaining the lawyer's situation (New Zealand Herald, 2013b)

**Reference list**

- Bazley, M. (2009). *Transforming the Legal Aid System - Final Report and Recommendations*. Wellington: Ministry of Justice. Retrieved from <http://www.justice.govt.nz/publications/global-publications/t/transforming-the-legal-aid-system>
- Community Law. (2014). Chapter 30: Criminal Court Proceedings. In *Community Law Manual*. Retrieved from <http://www.communitylaw.org.nz/community-law-manual/chapter-30-criminal-court-proceedings/>
- Ellingham, J. (2013). Legal aid change concern: new scheme puts screws on lawyers. *The Evening Standard*. Palmerston North, New Zealand.
- Gay, E. (2012). Lawyers seek court review of new legal aid fees. Retrieved from [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10788417](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10788417)
- Government of New Zealand. (2011). Legal Services (Quality Assurance) Regulations 2011. Retrieved from [http://www.legislation.govt.nz/regulation/public/2011/0145/latest/whole.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_legal+services\\_rese1\\_25\\_a&p=1#DLM3744334](http://www.legislation.govt.nz/regulation/public/2011/0145/latest/whole.html?search=ts_act%40bill%40regulation%40deemedreg_legal+services_rese1_25_a&p=1#DLM3744334)
- Government of New Zealand. (2013). Legal Services (Quality Assurance) Amendment Regulations 2013. Retrieved from [http://www.legislation.govt.nz/regulation/public/2013/0187/latest/whole.html?search=ts\\_act%40bill%40regulation%40deemedreg\\_legal+services\\_rese1\\_25\\_a&p=1#DLM5201808](http://www.legislation.govt.nz/regulation/public/2013/0187/latest/whole.html?search=ts_act%40bill%40regulation%40deemedreg_legal+services_rese1_25_a&p=1#DLM5201808)
- Hansen. (2011). Changes to Legal Aid in New Zealand (2011-09-30).
- McCreadie, M. (2011a). Fixed fees and criminal legal aid. *LawTalk*, 777, 12.
- McCreadie, M. (2011b). Legal aid changes from 1 July 2011. Retrieved February 4, 2014, from <http://my.lawsociety.org.nz/in-practice/practising-law/regulatory-advice/legal-aid-changes-from-1-july-2011>
- Ministry of Justice, New Zealand. (n.da). About the Public Defence Service. Retrieved February 3, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/public-defence-service/about>
- Ministry of Justice, New Zealand. (n.db). Applying for criminal legal aid. Retrieved February 7, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/criminal/applying>
- Ministry of Justice, New Zealand. (n.dc). Approval to provide legal aid services. Retrieved February 6, 2014, from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/approval-to-provide-legal-aid-services>
- Ministry of Justice, New Zealand. (n.dd). Community legal services. Retrieved February 5, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/community>
- Ministry of Justice, New Zealand. (n.de). Contact the Public Defence Service. Retrieved February 5, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/public-defence-service/contact>
- Ministry of Justice, New Zealand. (n.df). Contact Us. Retrieved February 5, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/contact>

## *Overview of New Zealand's Legal Aid System*

---

- Ministry of Justice, New Zealand. (n.dg). Contracts to provide legal aid services. Retrieved February 6, 2014, from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/contracts-to-provide-legal-aid-services>
- Ministry of Justice, New Zealand. (n.dh). Criminal case assignment report. Retrieved February 5, 2014, from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/criminal-case-assignment-report>
- Ministry of Justice, New Zealand. (n.di). Evaluating the Public Defence Service. Retrieved February 7, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/public-defence-service/about/evaluating>
- Ministry of Justice, New Zealand. (n.dj). Frequently asked questions about community law centre contract variations 2013/14. Retrieved February 5, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/community/frequently-asked-questions-about-community-law-centre-contract-variations-2013-14>
- Ministry of Justice, New Zealand. (n.dk). Higher quality legal aid services. Retrieved February 6, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/reform/purchasing>
- Ministry of Justice, New Zealand. (n.dl). Legal Aid Funding. Retrieved February 3, 2014, from <http://www.justice.govt.nz/policy/justice-system-improvements/legal-aid/legal-aid-funding>
- Ministry of Justice, New Zealand. (n.dm). Legal aid practice standards. Retrieved February 6, 2014, from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/legal-aid-practice-standards>
- Ministry of Justice, New Zealand. (n.dn). Legal aid quality assurance framework: an overview. Retrieved February 4, 2014, from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/legal-aid-quality-assurance-framework-an-overview>
- Ministry of Justice, New Zealand. (n.do). Legal aid reforms. Retrieved February 3, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/reform/reform>
- Ministry of Justice, New Zealand. (n.dp). Legal help on your first day in court. Retrieved February 6, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-help-on-your-first-day-in-court>
- Ministry of Justice, New Zealand. (n.dq). Overview of reforms to the legal aid system. Retrieved February 3, 2014, from <http://www.justice.govt.nz/policy/justice-system-improvements/legal-aid/overview-of-reforms-to-the-legal-aid-system>
- Ministry of Justice, New Zealand. (n.dr). Public Defence Service. Retrieved February 3, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/public-defence-service>
- Ministry of Justice, New Zealand. (n.ds). Public Defence Service history and expansion. Retrieved February 6, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/public-defence-service/about/history>
- Ministry of Justice, New Zealand. (n.dt). Public Defence Service staff. Retrieved February 6, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/public-defence-service/about/staff>

## *Overview of New Zealand's Legal Aid System*

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- Ministry of Justice, New Zealand. (n.du). Quality Assurance Checks and Audits. Retrieved February 7, 2014, from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/audits-complaints-and-performance-review>
- Ministry of Justice, New Zealand. (n.dv). Supporting New Zealanders to resolve legal disputes early. Retrieved February 7, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/reform/supporting>
- Ministry of Justice, New Zealand. (n.dw). Targeting public funding to where it is needed most. Retrieved February 7, 2014, from <http://www.justice.govt.nz/services/legal-help/legal-aid/reform/targeting>
- Ministry of Justice, New Zealand. (n.dx). What we will do. Retrieved February 7, 2014, from <http://www.justice.govt.nz/publications/global-publications/s/statement-of-intent-20112014/what-we-will-do>
- Ministry of Justice, New Zealand. (n.dy). Where to get legal help. Retrieved February 5, 2014, from <http://www.justice.govt.nz/services/legal-help/where-to-get-legal-help>
- Ministry of Justice, New Zealand. (2011). *Practice standards For Legal Aid Providers*. Retrieved from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/practice-standards-for-legal-aid-providers/Practice%20standards%20for%20all%20Legal%20aid%20provider.%2015032012.docx.pdf>
- Ministry of Justice, New Zealand. (2013). *Proposed changes to the Provider Contract for Services: summary of feedback on consultation and response November 2013*. Retrieved from <http://www.justice.govt.nz/services/information-for-legal-professionals/information-for-legal-aid-providers/feedback-document-provider-contract-for-services>
- New Zealand Herald. (2013a). Government to appeal legal aid decision. Retrieved from [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10886540](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10886540)
- New Zealand Herald. (2013b). Lawyer blames bankruptcy on legal aid move. Retrieved from [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11112274](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11112274)
- Ogier, S., & Tait, R. (2008). *Evaluation of the Public Defence Service Pilot: Final Report*. Retrieved from <http://www.justice.govt.nz/services/legal-help/legal-aid/public-defence-service/about/evaluation-of-the-pds-pilot-april-2013>



# Overview of the criminal legal aid systems in England/Wales and Scotland

## 1.0 Structure/organization

Responsibility for legal aid in the United Kingdom is devolved in Scotland and Northern Ireland. Legal aid in England and Wales is provided by a single government agency for both jurisdictions. This report focuses specifically on the legal aid organizations for England/Wales and Scotland.

### 1.1 England/Wales – Legal Aid Agency (LAA)

The Legal Aid Agency (LAA) responsible for operating criminal and civil legal aid in England and Wales. The Agency is relatively new, being created in April of 2013 to replace the Legal Services Commission (LSC), which was abolished through the *Legal Aid, Sentencing and Punishment of Offenders Act* of 2012 (UK Ministry of Justice, 2013a). The primary purpose of the Agency is “to deliver an efficient and effective legal aid system in collaboration with the rest of the justice system” (UK Ministry of Justice, 2013d). The Agency currently operates under three strategic objectives:

1. Improve casework to reduce cost, enhance control and give better customer service (UK Ministry of Justice, 2013d, p. 11)
2. Improve organizational capability to meet the challenges ahead, including developing and engaging LAA staff (UK Ministry of Justice, 2013d, p. 12)
3. Build and maintain strong partnerships to secure quality provision and contribute fully to wider justice and government aims (UK Ministry of Justice, 2013d, p. 13)

A key distinction between the LAA and its predecessor is that the LSC operated as a non-departmental public body (NDPB), meaning it was neither a government department nor part of a department, and therefore able to operate at arms length to departmental ministers. The newly created LAA is an executive agency, which is part of the UK Ministry of Justice, allowing the government to carry out executive functions according to the department’s framework (GOV.UK, 2013). As such, it is the Minister of Justice’s responsibility for determining policy on the availability of legal aid (UK Ministry of Justice, 2013e, p. 6). However, to ensure the LAA retains the independent decision-making powers of an NDPB, the Agency includes a Director of Legal Casework office, which makes decisions on funding individual cases. The Director of Legal Casework is a civil servant, designated by the Minister of Justice, but is protected by law from having to take direction from the Minister in relation to individual legal aid applications (UK Ministry of Justice, 2013e, p. 8). The Ministry of Justice however retains overall authority over LAA, having the ability to introduce additional legal aid provisions through statutory instrument, bypassing the need for Parliamentary approval (Cairns, 2013, pp. 186–187).

Another key change was that the LSC’s Legal Services Research Centre (LSRC) – which provided research into civil and criminal law issues to help inform policy development and guide service delivery – was closed and all research activities were transferred to the Ministry of Justice (UK LSC, 2012b, p. 14)

Finally, essential to the operation of LAA is the Public Defender Services (PDS), which provides advice and representation for criminal matters at police stations and magistrates courts and advocacy in the higher courts (UK Ministry of Justice, 2013a). The PDS website instructs clients who are facing investigation or prosecution of a criminal offence to contact one of four PDS office across England/Wales to seek advice and representation (UK Ministry of Justice, 2014e). Case management for criminal matters is handled by the Agency's Nottingham office, while exceptional and high cost cases are handled in London (UK Ministry of Justice, 2013d, p. 10).

## **1.2 Scotland – Scottish Legal Aid Board (SLAB)**

The Scottish Legal Aid Board is responsible for managing legal aid in Scotland. It is described as a non-departmental public body responsible to the Scottish Government (SLAB, 2012a, p. 25), who in turn is responsible for appointing SLAB's board members, deciding legal aid policy, setting rules for legal aid provision, and deciding on the fees to be paid to legal providers (SLAB, 2014a). Changes to legal eligibility testing are decided by the Scottish parliament (SLAB, 2014f).

SLAB funds advice, assistance and representation for matters falling under Scots Law, which covers both criminal and civil matters (SLAB, 2014a). SLAB's criminal legal aid services are provided through its Public Defence Solicitor's Office (PDSO), which operates a network of seven offices across Scotland and employs a small number of salaried solicitors (SLAB, 2012a, p. 20). Most legal aid services however are provided by private practice solicitors who are paid on a case by case basis (The Scottish Government, 2011, p. 3).

## **2.0 Legal aid reforms – England/Wales**

### **2.1 Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act**

In 2010 the UK government began developing proposals and hold consultations on reforming the legal aid system in England. In 2012 the UK government passed the *Legal Aid, Sentencing and Punishment of Offenders Act* in an effort to scale back England's £2-billion annual legal aid budget and Wales' £350 million legal aid budget (BBC News, 2013a)<sup>14</sup>. LASPO enabled numerous reforms focused on cutting legal aid funding and scaling back eligibility.

Some of these reforms are reviewed below. However, this review is not exhaustive. Given the recent and evolving nature of these reforms, there is a lack of grey and academic literature to consult. What information is available tends to be either outdated or unclear on which of the proposed reform have been implemented, which are being modified (and if modified, how?), and which have been implemented as planned. Furthermore, the Act and resulting reforms are controversial and much of the available information flows from binary opposite sources (the Ministry of Justice itself and the legal sector via the media).

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<sup>14</sup> LASPO does not apply to legal aid delivery in Scotland or Northern Ireland (UK Government, 2012)

## 2.2 LASPO reforms

One of the cost saving strategies of the LASPO reforms was to direct as many trials as possible to the lower magistrates' courts rather than the more expensive Crown Court, which handles more serious indictable matters (NAO, 2012, p. 42). Reporting from the now-abolished LSC suggests this trend had begun prior to LASPO being enacted (Table below).

<b>Table 10: Legal Services Commission – Acts of assistance for criminal matters</b>			
	<b>2010-2011</b>	<b>2011-2012</b>	<b>2012-2013</b>
	<b>Acts of assistance (% annual total)</b>		
<b>Crime Lower 1</b> (services to suspects who have not been charged, including police station attendance and phone advice)	845,504 (49%)	794,823 (54%)	734,764 (54%)
<b>Crime Lower 2</b> (services to defendants who have been charged - representation in magistrates court, court duty solicitor, prison law, legal aid refusals)	581,487 (34%)	541,314 (37%)	500,448 (37%)
<b>Crime Higher</b> (legal advice and representation at the Crown Court or higher)	286,072 (17%)	138,544 (9%)	122,500 (9%)
<b>Annual Total</b>	<b>1,713,063</b>	<b>1,474,681</b>	<b>1,357,712</b>

Source:(UK LSC, 2011, p. 9, 2012a, p. 10, 2012b, p. 15)

The LSC estimated the LASPO reforms would result in the withdrawal of 38,000 legal representation cases and 585,000 legal help cases from the scope of legal aid (UK LSC, 2012b, p. 9). However LSC does not indicate which areas of law these reductions would come from.

For criminal matters, the Act and resulting reforms have made legal aid unavailable to clients with a annual household disposable income of £37,500 (UK Ministry of Justice, 2014b), which translates into \$69,312 CDN.<sup>15</sup> Clients with household disposable income between £3,399 and £37,499 are eligible for legal aid, but liable for an income contribution (UK Ministry of Justice, 2014c).

The LASPO reforms have also introduced competitive tendering for the duty solicitor schemes at police stations and courts (police station duty solicitors is discussed further in Section 6.1). These tenders are to be based on a firm's legal quality and long-term financial viability. The UK government previously intended to introduce price competitive tenders for all criminal legal aid representation, but following mass demonstrations by lawyers (The Guardian, 2014a, 2014c), the government decided revisit its plans for competitive tendering (The Guardian, 2013). Most recently, the government has put forward an alternative approach that would use capacity and quality (rather than price) as the determining criteria for awarding legal aid work (UK Ministry of Justice, 2013h, p. 7).

Foremost, the Act has introduced sweeping changes to civil legal aid, including the removal of funding for private family law (divorce and custody cases), personal injury, clinical negligence, and for immigrants who have been in the country for less than a year (BBC News, 2013a,

<sup>15</sup> The Guardian reports that LASPO restricted financial eligibility for criminal legal aid to households and prisoners with an annual disposable income of £37,500 and at least £3,000 to spare each month after paying household bills (The Guardian, 2013). The source of the discrepancy between these sources is unclear.

2013b). However, family law cases involving domestic violence are still funded (BBC News, 2013a).

### **2.3 Opposition and criticism**

The LASPO Act has been controversial from its inception, being defeated 14 times by the British House of Lords before being passed by a narrow margin (BBC News, 2013a). The Act and its resulting reforms have been widely criticized by the legal profession (BBC News, 2013c; The Guardian, 2014b; The Guardian, 2014c). Recently the Supreme Court issued a guide for individuals who are forced to self-represent in the country's highest court, indicating it anticipates an increase in self representation as changes continue to be made to legal aid funding (The Guardian, 2014c).

### **3.0 Legal aid reforms – Scotland**

Like England and Wales, Scotland has planned and implemented a number of major reforms aimed at improving the efficiency and cost-effectiveness the legal aid system. However, the Scottish government has taken a different approach, focusing on finding efficiencies within the current system, rather than reducing the overall scope of legal aid (The Scottish Government, 2011, p. 5).

Beginning in 2007, a series of measures were implemented by the Scottish government to increase access to justice. These reforms included increasing the financial eligibility for civil legal aid, which raised limits on disposable incomes to £25,000 (with the expectation of a client contribution). The Scottish government indicates these changes extended access to civil legal aid to 70% of the Scottish population (The Scottish Government, 2011, p. 2). The Scottish government also initiated several reforms targeting remuneration for criminal and civil legal aid (The Scottish Government, 2011, p. 2), including introducing block funding to “reduce perverse incentives to prolong cases” (The Scottish Government, 2011, p. 6)

In 2011 the Scottish government released its overall framework for legal aid reforms. This framework - titled *A Sustainable Future for Legal Aid* – was part of the government's overall “Making Justice Work” program, which was meant to ensure that Scotland's justice system was fair, accessible, cost-effective, efficient, and timely (The Scottish Government, 2011, p. 1). The framework focused on four overarching themes, involving reforms to both the criminal and civil legal aid system. These reforms are discussed below, with a focus on measures specifically related to criminal legal aid, but also on initiatives that affect overall legal aid delivery, such as administrative and operational changes.

#### **► Focusing legal aid on those who need it most**

Under this theme the Scottish government proposed introducing contributions for criminal legal aid. These contributions were estimated to result in £5 million savings (The Scottish Government, 2011, p. 7). At the time, contributions were already in place for criminal advice and assistance services and civil legal aid services (The Scottish Government, 2011, pp. 6–7). The government justified the introduction of contributions for criminal legal aid by stating such

contributions were already a common practice in many other legal aid jurisdictions (The Scottish Government, 2011, pp. 6–7).

As part of these reforms, between 2011 and 2013 SLAB and the Law Society of Scotland worked with the government to determine how contributions for criminal legal aid would be calculated (SLAB, 2012a, p. 20). These changes were legislated in January 2013 (SLAB, 2013a, p. 2). The legislation sets out the tests that must be applied when assessing legal aid eligibility. Considerations include the client’s income, capital and expenses and whether paying for legal help would cause undue hardship for the client or someone else, such as their partner (SLAB, 2014b). For criminal legal aid, SLAB also considers ‘interests of justice’. Decisions are subject to judicial review (SLAB, 2013a, p. 5)

As part of implementation process for contributions, the Scottish government proposed solicitors were responsible for collecting fees from clients in summary criminal cases. This resulted in some private solicitors refusing to represent their custody clients in court in a number of locations around Scotland (SLAB, 2013a, p. 4). Despite these protests, the proposal was accepted by the Scottish Law Society. It is worth noting that in its most recent annual report, SLAB indicates criminal contributions took up a “very considerable amount of staff time” (SLAB, 2013a, p. 23), suggesting that the collection of these additional funds have perhaps redirected staff resources (and probably private solicitors) from service delivery.

► **Ensuring wider access to justice (the right help at the right time)**

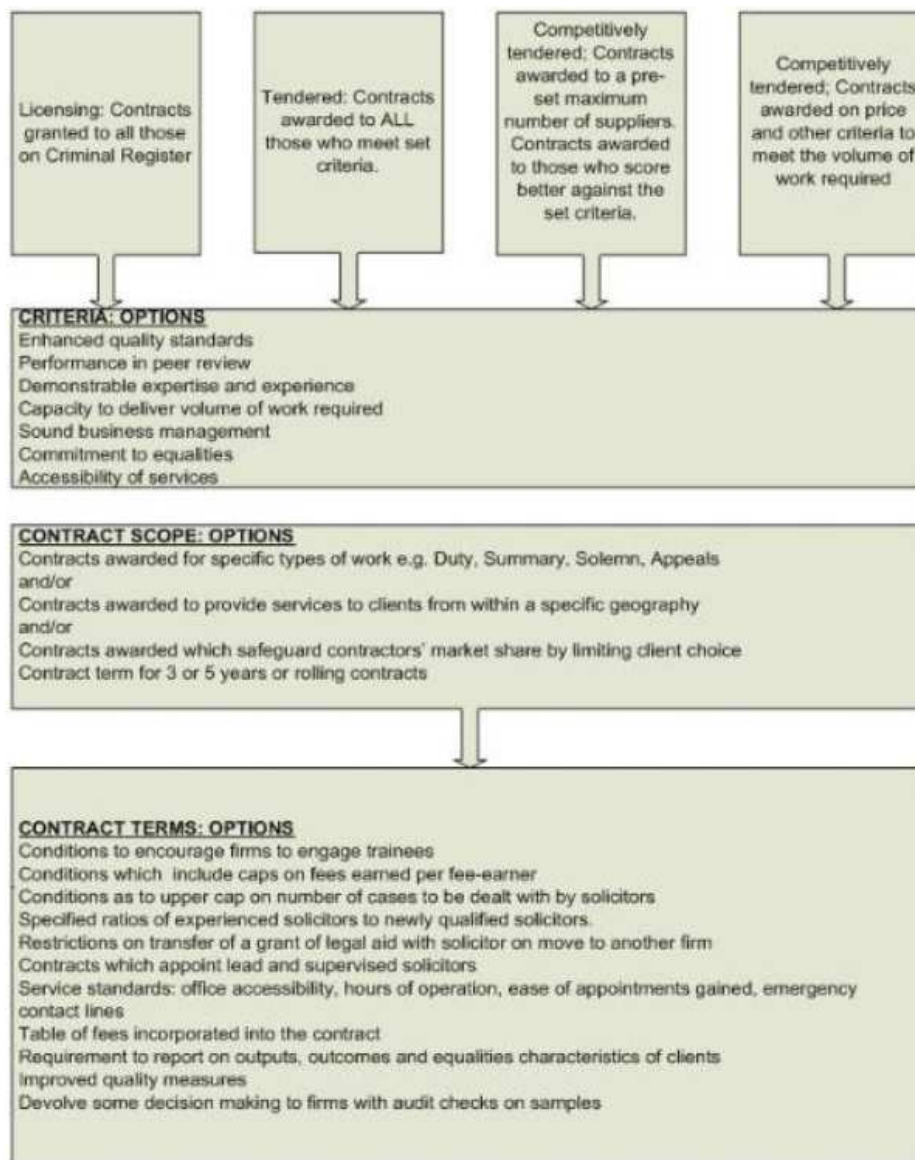
Much of the work under this theme focused on civil law and the wider justice system. The plans included introducing a triage approach to civil justice system that would identify and guide cases down the most appropriate route for dealing with civil legal issues at varying stages (The Scottish Government, 2011, p. 8). The plan also called for improved information resources and adequate alternative dispute resolution systems to handle civil and consumer law issues. These services were to be accessible through a single site, which would provide high quality digital advice and information (The Scottish Government, 2011, p. 9)

► **Maximizing value of the legal aid expenditure**

Under this theme, plans were made for SLAB to further cut administrative costs over a three year period while still maintaining quality services. These cuts were intended to provide a savings of over £1.2 million (The Scottish Government, 2011, p. 11).

Plans were also made to increase the number of SLAB solicitors on duty plans and employ extra solicitors to take on additional work when necessary. This was to result in £1.3 million in savings. Savings were also to be made through a series of cuts to summary criminal fees (The Scottish Government, 2011, p. 12)

Further savings were sought through regulatory changes that would allow SLAB to use contracts with its criminal legal aid suppliers. The government argued this approach could deliver over £3 million in savings by 2014-15 and might serve as a catalyst for firms to implement more efficient business models (The Scottish Government, 2011, p. 12). Figure 3 below shows the four contracting models SLAB is considering for criminal legal aid delivery. The Board planned to submit these plans to the Scottish government in October of 2013 (SLAB, 2013b).



**Figure 3**  
(SLAB, 2013f)

As the figure above shows, price-competitive tendering is only one of the four models being considered by SLAB. The Board notes that both Scotland and England/Wales are facing similar circumstances: falling crime numbers and a trend towards legal aid delivery through “micro firms” (SLAB, 2013d). There are no further updates on the potential contracting models for criminal legal aid in Scotland.

► **Making the justice system more efficient**

Plans under this theme involve making greater use of technology to reduce legal aid costs associated with travel. SLAB investigated using video conferencing for court proceedings, prison visits, and for the provision of solicitor advice during police interviews. The government estimated these changes would result in a savings of more than £1.2 million by 2014-15 (The Scottish Government, 2011, p. 15)

## **4.0 Funding arrangements and reforms**

### **4.1 England/Wales**

In 2009 and 2011 the Ministry of Justice undertook research to examine and compare international publically funded legal services. The research found that legal aid costs in England and Wales were considerably higher than in other jurisdictions, at roughly £39 per head of population annually. By comparison, Canada's legal aid costs were calculated at £10 per head, while New Zealand's was calculated at £18 per head (UK Ministry of Justice, 2011, pp. 8–9). These results fed into the UK government's decision to put forward legislation to reform the legal aid system with the goal of saving approximately £100 million per annum (NAO, 2012, p. 42).

Through the LASPO Act (see Section 2.1), the Ministry of Justice created the Legal Aid Agency (see Section 1.1), which gave the ministry control of the Agency's funding and budgetary allocations (UK Ministry of Justice, 2013e, p. 12). The LSC operated as a non-departmental public body, which generally operates at arms-length to the ministry and had a greater level of operational autonomy (GOV.UK, 2013). While the Ministry of Justice funded the LSC, it is not clear whether the Ministry also allocated specific amounts for LSC's criminal and civil legal aid fund, as is done through the LAA.

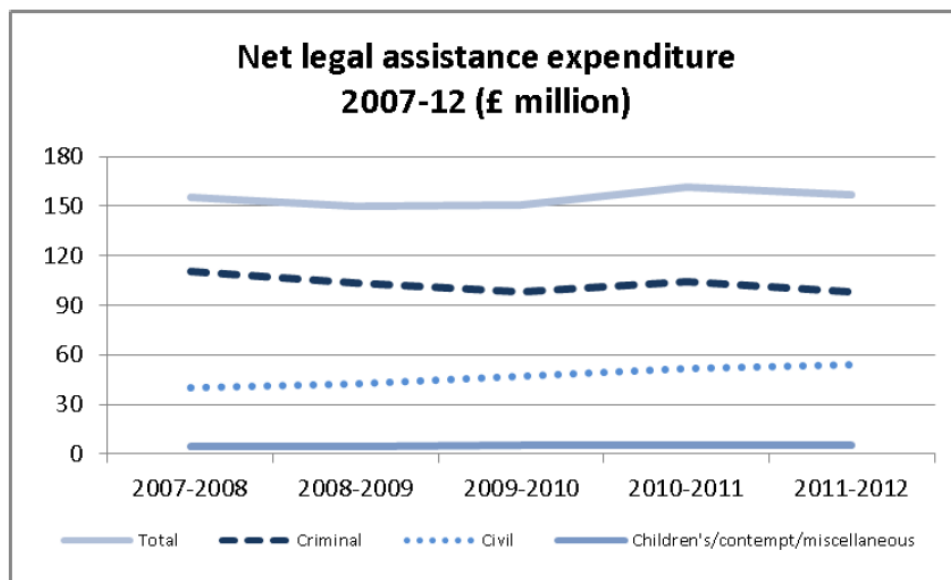
In FY 2013-2014 the Ministry budgeted £1,828 million for legal aid services, representing a 7.7% decrease in funding from FY 2012-2013 (UK Ministry of Justice, 2013e, p. 12) and a 12% decrease from FY 2011-2012 (UK LSC, 2012a, p. 6). Roughly half of 2013-2014 funds (51%) were allotted to criminal legal aid, with the remainder going toward civil legal aid (UK Ministry of Justice, 2013e, p. 12); these funding proportions mirrored those spent on civil and criminal legal aid in previous fiscal years (UK LSC, 2012a, p. 6, 2012b, p. 15). It is unclear why the proportion of civil legal aid funding has not changed following the reduction in scope for civil legal aid introduced by the LASPO Act.

An additional £86.1 million was budgeted in FY 2013-2014 for administrative expenses, including case management, contract management, and other administrative activities (UK Ministry of Justice, 2013d, p. 23). This represented a 12% reduction from FY 2012-2013 (UK Ministry of Justice, 2013d, p. 24), but a 5% increase from FY 2011-2012 (UK LSC, 2012a, p. 6)

### **4.2 Scotland**

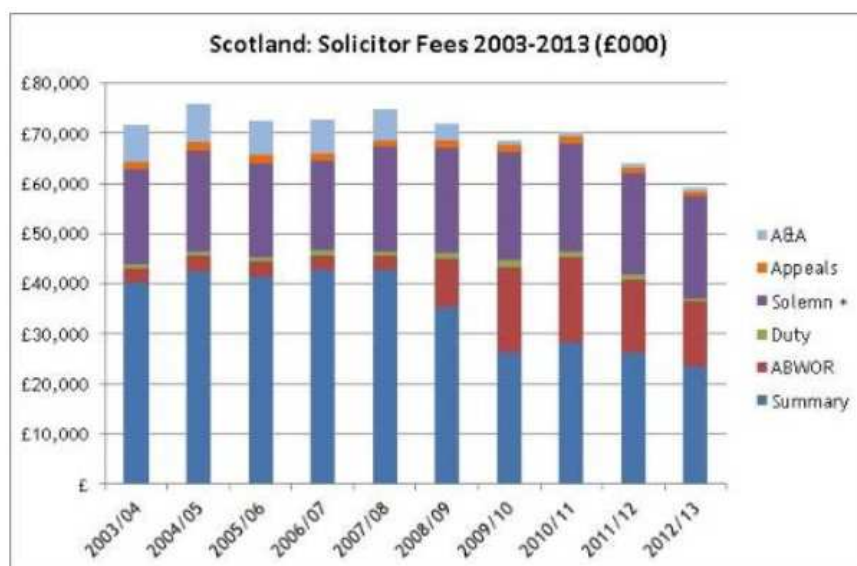
The Scottish government provides funding to meet the costs of eligible legal aid cases as they arise, so there is no set legal aid budget and no funding caps on eligible cases (SLAB, 2014a, 2014f). SLAB refers to this as a "demand led" legal aid system (SLAB, 2012a, p. 2).

As the figure below shows, the majority of legal aid funds between 2007 and 2012 were spent on criminal legal assistance. The figure also shows civil legal assistance expenditures have been slowly increasing while expenditures on criminal legal aid have slowly decreased over time.



**Figure 4 – Net legal assistance expenditures (2007-2012)**  
(SLAB, 2012a, p. 7)

Figure 5 below shows how decreasing criminal legal aid expenditures are reflected in the legal aid fees paid to solicitors. The figure shows substantial reductions summary criminal legal aid fees<sup>16</sup> and advice and assistance (A&A) fees. Not all areas of criminal legal aid fees have fallen. Notably, fees paid for “assistance by way of representation” (ABWOR) have increased substantially since 2008-2009.



**Figure 5 – Criminal legal assistance fees**  
(SLAB, 2013f)

<sup>16</sup>

As mentioned earlier in Section 3.0, under the Scottish government’s plans to “*maximize the value of the legal aid expenditure*”, cuts were to be made to summary criminal fees (The Scottish Government, 2011, p. 12).



SLAB explains that criminal and civil legal aid face very different challenges. The Board notes that the number of criminal cases being pursued through the courts (the most expensive route) have been falling over time, which has resulted in less legal aid work and income for legal firms (SLAB, 2013a, p. 3). Unlike criminal legal aid, SLAB describes the demand for civil legal aid as “*unrelenting*” and continuing to rise to well over 20,000 applications per year (SLAB, 2013a, p. 3).

#### 4.2.1 Funding gap

Table 11 below shows the forecasted gap between SLAB’s legal aid expenditures and the government’s planned legal aid budget. According to these 2011 estimates there would be a £13.2 million funding gap by 2014-2015.

	2012-2013	2013-2014	2014-2015
	<b>£ - millions</b>		
2011 forecast legal aid spend	146.7	145.4	145.3
Government legal aid budget	144.1	138.1	132.1
<b>Difference</b>	<b>2.6</b>	<b>7.3</b>	<b>13.2</b>
Source: (The Scottish Government, 2011, p. 4)			

Recent reporting from SLAB indicates the board achieved substantial savings over the past few years. In FY 2011-2012 the Board achieved £6 million in savings, which was followed by more than £18 million by the end of 2012-13. The board and government aim to achieve another £21 million of savings in 2013-2014 (SLAB, 2013a, p. 2). Despite all these efforts to cut back legal aid costs, there continues to be a “significant gap” between the government’s allocation for legal aid and SLAB’s forecasted expenditures (SLAB, 2013a, p. 2)..

#### Operational expenditures

SLAB’s operational costs – also funded by the government – are cash limited (SLAB, 2012a, pp. 3–4). Over the past 5 years the government has required SLAB to reduce its administration costs, while also maintaining high quality legal aid services (The Scottish Government, 2011, p. 11). SLAB reports that between 2008-2009 and 2011-2012 it reduced its operating costs by £1.1 million. Between 2012-2013 and 2014-2015 the Scottish government plans to further reduce SLAB’s administrative funding by another £1 million (SLAB, 2012a, pp. 3–4).

#### 5.0 Overview of LSC/LAA activities

The following sections have been organized according to four overarching themes that were observed among Canadian legal aid plans, including accessibility, effectiveness, efficiency, and accountability. In many cases the activities of the LSC, LAA, and SLAB fit well into these categories and in many cases activities could potentially fit across multiple categories, but for simplicity sake, each activity is listed under a single category.

## **6.0 Access**

Initiatives undertaken by the LSC and LAA to improve access to legal aid have mostly focused on streamlining processes, including providing multiple entry points for clients to access legal aid. SLAB has taken a similar approach with the introduction of a police station duty scheme.

### **6.1 England/Wales**

#### **Criminal Defence Service (CDS) Direct**

CDS Direct provided detained suspects access to telephone advice. Calls were managed through the Duty Solicitor Call Centre or contracts with individual providers to give face-to-face advice at police stations (see police-based duty counsel below). CDS Direct was managed by the LSC (UK LSC, 2011, p. 9). CDS Direct continues to operate under the Legal Aid Agency (now called Criminal Defence Direct (CDD)). The advice service is limited to drinking and driving offenses, non-imprisonable offenses, breach of bail and warrants. If a client requests their own solicitor, the CDD will notify the client's chosen solicitor (UK Ministry of Justice, 2014d).

#### **Police-based duty counsel**

For well over a decade the LSC managed police-based duty counsel for detained suspects. These services have now transferred to the Legal Aid Agency's Public Defender Service. Police-based duty counsel provides 24-hour free legal advice and assistance to all suspects without any means test. Suspects are not required to use the police station's duty solicitor; they may also choose their own solicitor or select a solicitor from a list maintained by the police (Justice Canada, 2004). Once a suspect asks for legal advice, police cannot question the suspect until the advice is received. For serious cases, police can make a suspect wait at the station until the legal advice is received. The maximum allowable wait for legal advice is 36 hours (UK Ministry of Justice, 2014a).

While police-based duty counsel is most often provided by a duty solicitor, accredited legal representatives - such as an articulated clerk or former police officers - may also offer these services (Justice Canada, 2004). All legal representatives must go through an accreditation program, which is managed by the Solicitors Regulation Authority (SRA) and administered through four authorized assessment organizations (which include law schools or legal professional development organizations). Training is informed by the SRA's standards of competence and involves practical and written examinations (SRA, n.d). All legal representatives must have a supervising solicitor who is either a current police station duty solicitor or be qualified under the Crime Category Supervisor Standard and conduct a minimum of 25 police station visits per year (UK LSC, 2008, p. 18)

The LSC's Legal Service's Research Centre (LSRC) has conducted a number of studies examining police-based duty counsel. A 2010 study by the Centre found that there had been an increase in the use of police-based duty solicitors since the mid-1990s (Kemp, 2010, p. 5). This observation was confirmed by a later study by the LSRC (although this increase was marginal). This later study also found requests of legal advice varied among police stations, ranging from 32% at one station to 62% in another (Kemp, 2012, p. 12).

LSRC research also shows that among suspects who declined police station legal advice, most felt they did not need advice, while others were concerned that getting legal advice would delay their time spent in custody (Kemp, 2010, p. 5). A later study by the LSRC seems to verify this perception: suspects who requested legal advice spent on average 4-5 hours longer in custody than those who did not request legal advice (Kemp, 2013, p. 3).

LSRC research also found that changes to police investigation processes and the setting of a fixed fee for duty counsel resulted in legal advisers spending less time waiting at the police station (Kemp, 2010, p. 5). A pilot project conducted between 2010 and 2012 attempted to demonstrate the efficiency of having duty counsel present at the station 5 days a week from morning until evening (Kemp, 2013, p. 3). However finding from both phases of the project found this new arrangement did not have an effect on suspects' request for legal advice (Kemp, 2012, p. 24, 2013, p. 4).

### **6.1.1 Scotland**

#### **Police station duty scheme**

The right to legal advice before and during a police interview was legislated in Scotland in 2010. The Board was given the responsibility of managing the availability of duty solicitors for suspects detained by police. Beginning in July 2011 the Board launched its 24/7 police station duty scheme and contact line (The Scottish Government, 2011, p. 4).

The phone line is used as the first point of contact for the police when a suspect is detained and requests a lawyer. The phone line is staffed by a small number of Board employed solicitors, who may give suspects advice over the phone, refer the suspect to listed private solicitor, or personally attend the police station to further assist the suspect (SLAB, 2012a, p. 19). There is no reference to the alternative use of "legal representatives", as used in the England-Wales police station duty scheme. Rather, SLAB indicates that to be eligible for the scheme, a solicitor must hold a practicing certificate with no restrictions and must demonstrate competence (as evidenced through instructions in court, professional development, code of practice and quality assurance compliance, and compliance with the police station duty scheme in previous years (SLAB, 2014d)

When the police station duty scheme first launched, the services were delivered mostly by board solicitors. However, following negotiations with the Scottish government, changes were made to the fee regime to encourage the private bar to sign up for duty solicitor work (SLAB, 2012a, p. 19). These changes increased the amount of private bar participation in the police duty scheme; however challenges have occasionally risen over some private firms deciding to cut their participation in the duty scheme (SLAB, 2013a, p. 6)

Two years after its launch, SLAB reports that the solicitor contact line has gained a positive reputation among police and private solicitors (SLAB, 2013a, p. 6). Board statistics show use of police-based duty counsel continues to increase and most personal attendances at police stations are increasingly handled by private sector solicitors (see Table 12 below).

<b>Table 12: Scotland police station duty scheme statistics</b>		
	<b>July 2011 – June 2012</b>	<b>July 2012 – July 2013</b>
<b>Calls from police stations</b>	22,227	22,632
<b>Personal attendance (# of clients)</b>	2,609	4,433
Contact line solicitor	248 (10%)	554 (12%)
PDSO solicitor	368 (14%)	453 (10%)
Private duty solicitor	1301 (50%)	1,929 (44%)
Private named solicitor	692 (27%)	1,497 (34%)
Source: (SLAB, 2012a, p. 19, 2013a, p. 26, 2014e)		

SLAB does not define “private named solicitor” and how this differs from a private duty solicitor. However, the Board’s website indicates personal attendance can only be made by “a named solicitor if the solicitor appears on a local or an adjacent policy duty plan, unless authorised by Board staff”. Solicitors not included in the police station duty scheme will not receive legal aid payment for advice and assistance (SLAB, 2014d). It is not clear whether the “private named solicitors” in the table above were authorized by Board staff, or whether this assistance was provided without legal aid funding.

SLAB does not provide consistent reporting on the amount of time suspects remain in custody, as was studied by the LSRF in England-Wales. During the first four months of operation, SLAB indicates the amount of time spent in custody for suspects who requested legal advice went from 4 hours 55 minutes to 3 hours 45 minutes (SLAB, 2012a, p. 19). No further data is provided on in-custody wait times. However, SLAB’s website indicates that one hour is a reasonable amount of time for a solicitor to attend the police station if they live in an urban area and that two hours is reasonable for solicitors in rural areas (SLAB, 2014d). No explanation is provided of the difference between actual time spent in custody and the targeted time for solicitors to attend a police station.

## **7.0 Effectiveness**

See quality assurance activities discussed in Sections 9.1 and 9.2. Although quality assurance has been categorized as a matter of accountability, it also factors into the effectiveness (and efficiency) of legal aid services by ensuring only demonstrably well-managed and high-quality legal firms are used for legal aid service delivery.

## **8.0 Efficiency**

LAA and SLAB have addressed operational efficiencies by implementing new technologies to accelerate legal aid processes. Specifically, both organizations have utilized video technology and implemented all-electronic case management systems.

### **8.1 Accelerated processes – England/Wales**

#### **e-Hearings**

The Ministry of Justice is planning to increase the use of email or video hearings in an effort improve the efficiency of legal services, (The Guardian, 2013). The Ministry refers to these as ‘virtual courts’, which allow defendants in police custody to appear for their first hearing via a video link to a magistrate’s court. Overall the approach is expected to speed the resolution of cases for victims, witnesses and defendants, while also freeing up police and enabling magistrate courts to hear cases more quickly (UK Ministry of Justice, 2012b). Recently the Ministry of Justice set up a working party to examine how such an approach would be implemented on a fuller scale (BBC News, 2013b).

#### **Case management system**

LAA is investing substantially in an electronic case management infrastructure, with intentions to interact with service providers mostly through electronic systems (UK Ministry of Justice, 2013d, p. 10). The Agency is currently implementing a Client and Cost Management System (CCMS) for civil cases, which will completely digitize the casework environment of civil legal aid providers (UK Ministry of Justice, 2013d, pp. 9, 16). The new system allows legal aid providers to input information directly into the CCMS, including case evidence (such as bank statements). The system also enables legal aid clients to make direct debit payments or internet or telephone payments towards their legal aid contribution (UK LSC, 2012b, p. 10). Changes implemented through the CCMS are intended to speed up and simplify the case management process, reduce levels of bureaucracy for service users, and the reduce the cost of LAA’s civil law operations (UK Ministry of Justice, 2013d, pp. 9, 16). Of greater relevance to this study, LAA is planning to move its crime systems online over the next three years (UK Ministry of Justice, 2013d, pp. 9, 16).

### **8.2 Accelerated processes – Scotland**

#### **Video conferencing**

SLAB is leading a “justice-wide” project to promote the use of video conferencing technology in the conduct of court and tribunal proceedings, solicitors’ prison visits, and the provision of advice prior to, and attendance at, police interviews (SLAB, 2013a, p. 22). The project aims to reduce travel time billed to legal aid. SLAB indicates a number of pilot projects are underway and initial feedback has been “very positive” (SLAB, 2013a, p. 22).

## **Electronic applications and case management**

In April 2011 SLAB completed its move to an electronic applications system, meaning 100% of legal aid applications were to be submitted through the Board's Legal Aid Online system and paper applications would no longer be accepted (SLAB, 2012a, pp. 21–22). The Board reports that the system has made application processing faster and removed the need for manual interventions into the application process (SLAB, 2012a, p. 5).

The same year the Board continued its efforts to move accounting processes online. This process proved more difficult because many solicitor firms used third-party case management systems to compile their account data. By April of 2012 about 87% of SLAB's private solicitor firms were using online accounts for all or some of their legal aid account activity; about 90% of summary criminal and advice and assistance accounts were being handled online (SLAB, 2012a, p. 5).

### **8.3 Managing system delays – England/Wales**

As part of the LASPO reforms, the Ministry planned to introduce a 17.5% cut in fees paid for legal aid work over a two year period. These cuts were planned to result in £220 million in savings (The Guardian, 2013). The first phase of these funding cuts have targeted remuneration rates for numerous categories of legal aid work and introduced fixed fees for early guilty pleas and cracked<sup>17</sup> cases that elect<sup>18</sup> to the Crown Court (UK Ministry of Justice, 2013d, p. 24).

## **9.0 Accountability**

Accountability in legal aid service delivery is a prominent theme in the UK. Even before the LASPO reforms, the LSC had implemented quality standards to ensure legal providers were accountable for the quality of the services they provided. The Legal Service Commission also took a systematic approach to monitoring its performance and progress towards organizational objectives. Both these practices have been continued by the LAA. SLAB has taken a slightly different approach to quality assurance and performance measurement, but has the added responsibility of monitoring and reporting on the overall accessibility of legal services across Scotland.

### **9.1 Quality assurance - England/Wales**

#### **Provider standards**

The Legal Aid Agency requires organizations providing legal aid services to maintain a recognized quality standard. These standards include the Mediation Quality Mark (MQM), Lexcel Practice Management (Lexel) and Specialist Quality Mark (SQM) (UK Ministry of Justice, 2013g).

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<sup>17</sup> Cracked cases are those case that do not proceed on the scheduled date, but do not need to be rescheduled because the defendant has entered a guilty plea or the case has been dropped by the prosecution (UK Ministry of Justice, 2012a).

<sup>18</sup> The right of election refers to cases involving "either way" offenses, meaning it could be dealt with by the magistrates court in a summary manner or committed to the Crown Court for trial by jury (Forbes Solicitors, 2014)

## Overview of England/Wales and Scotland Criminal Legal Aid System

The MQM is a mandatory quality assurance standard for organizations providing publicly funded family mediation services (UK Ministry of Justice, 2013g). The guidance manual for the standard suggests it is primarily directed at civil law matters (UK LSC, 2012c). The Lexel standard is owned and managed by The Law Society for all types of legal practices. It provides standards (though not procedures) for case and risk management and customer care. Holders are assessed on an annual basis (The Law Society, 2014).

Of greater relevance to this study is the SQM, which was owned by the LSC (presumably ownership of this standard transferred to the LAA, as it is still on the Agency's website) (UK Ministry of Justice, 2013g). The SQM is targeted at legal service providers who supply complex legal help and offer a full range of legal services, including representation in court by formally trained professionals (UK Ministry of Justice, 2013g). SQM holders are subject to independent audits to ensure standards are being achieved. The SQM standard is divided into seven key quality areas, which are outlined in the table below

<b>Area</b>	<b>Description of requirements</b>
<b>Access to service</b>	<ul style="list-style-type: none"> <li>• Plan services according to business plan; biannual and annual review of business plans</li> <li>• Raise awareness of services among community and other organizations</li> <li>• Ensure services consider diverse needs and do not unlawfully discriminate. Ensure non-discrimination policy is in place.</li> </ul>
<b>Seamless service</b>	<ul style="list-style-type: none"> <li>• Ensure procedure is in place for signposting and referrals and that staff are knowledgeable of these procedures. Note: <i>signposting</i> refers to when the initial contact organization has not provided any legal advice to the individual and cannot provide the service the individual requires, and so directs the individual to the appropriate legal service provider. A <i>referral</i> occurs when the organization cannot help an individual any further in a current matter where a client relationship has already been established (UK LSC, 2012d, p. 127).</li> <li>• Ensure a process is in place to maintain the legal service providers referral list</li> <li>• Maintain referral records and data and review at least annually</li> </ul>
<b>Running of organization</b>	<ul style="list-style-type: none"> <li>• Defined and updated documentation on staff structure, decision making structure, and role and responsibilities of key staff</li> <li>• Financial management, including responsibilities, processes, maintenance of both internal and independent reviews</li> </ul>
<b>People management</b>	<ul style="list-style-type: none"> <li>• Ensure staff are clear on their role, their contributions are recognized, and potential is realized (job descriptions, defined responsibilities, open recruitment, performance review and feedback)</li> <li>• Ensure casework staff undertake legal training and have professional qualifications or regular involvement with the law, so to support a baseline legal competence in all areas of work</li> <li>• Have designated supervisors and related standards, including information on competency, legal training, minimum continuing professional development hours, and demonstrable accessibility.</li> </ul>
<b>Running the services</b>	<ul style="list-style-type: none"> <li>• Case management (procedures and processes)</li> <li>• Independent review of files and monitoring file review</li> <li>• Follow corrective action recorded</li> </ul>
<b>Meeting clients' needs</b>	<ul style="list-style-type: none"> <li>• Ensure clients receive information on services they will receive, what to do if they are not satisfied, initial costs advice, regular updates throughout the case, and client confirmation at conclusion of case</li> <li>• Maintain plans for complex cases, including updating case issues, progress and costs</li> <li>• Ensure confidentiality and privacy</li> <li>• Provide fair treatment when instructing legal service providers</li> </ul>

<b>Table 13: SQM quality areas</b>	
<b>Area</b>	<b>Description of requirements</b>
	<ul style="list-style-type: none"> <li>• Maintain quality of 3<sup>rd</sup> party service delivery</li> </ul>
<b>Commitment to quality</b>	<ul style="list-style-type: none"> <li>• Inform clients of how and to whom to lodge a complaint</li> <li>• Maintain complaint procedures, client feedback procedure</li> <li>• Conduct annual reviews and note outcomes</li> <li>• Maintain client confidentiality procedure</li> <li>• Maintain up-to-date quality procedures, including having a quality manual, making the manual available, maintaining process controls, and appointing a quality representative</li> <li>• Ensure that evaluation of caseworker performance feeds into future instruction</li> </ul>
Source: (UK LSC, 2012d)	

### **Peer review**

In addition to quality standards, the LAA uses independent peer review by experienced legal aid practitioners to assess a random sample of provider case files according to standardized criteria and a rating system. Once assessed, the reviewer reports their judgement on the provider's quality of advice and legal work in a particular area of the law, noting positive areas, areas needing improvement, and the overall quality rating. Providers who receive a "below competence" or "failure in performance" rating are allowed to challenge the peer review results. Challenges will be considered by the peer reviewer and senior panel members from the Institute of Advanced Legal Studies at the University of London (UK Ministry of Justice, 2013f).

### **Provider audits**

LAA also conducts audits of its legal aid providers. Audits are conducted in cases where there are anomalies in management information that require follow up; at the request of a contract manager; and as a follow-up to a previous intervention as a means of ensuring the problem has been resolved. The key objectives of the auditing program are to identify the cause of errors found through LAA's data validation procedures and test the eligibility and accuracy of legal aid payments, including incorrect claims for private family cases and immigration and asylum cases (UK Ministry of Justice, 2013b).

In response to failed audits, the LAA may: 1) issue a contract notice, which requires significant improvements in provider's performance within 6 months; 2) proceed to recoup money against over or ineligible payments; or impose a contract sanction, which may include suspending contract work for a certain period, suspending payments, or terminating the provider's contract (UK Ministry of Justice, 2013b).

### **Investigating high cost claims**

LAA operates a special investigations unit to investigate applicants or clients with complex financial circumstances and to protect against fraud. The unit investigates both civil and criminal legal aid applications. For criminal funding, the unit aims to recover as much money as possible from those who have the means and ability to pay it back. The unit will also pursue Recovery of Defence Cost Orders that are referred to LAA by the Crown Courts and Criminal Appeals Office (UK Ministry of Justice, 2013c)



## **Monitoring legal aid payments**

Prior to its dissolution, the LSC operated a Stewardship Programme aimed at ensuring the accuracy of legal aid payments. Few details are provided on this programme, but the LSC indicates errors and irregularities were reduced by improving the controls embedded in key LSC processes. Part of this programme involved identifying erroneous transactions and recovering overpayments. Some part of this program used statistical analysis (UK LSC, 2012b). In FY2012-2013 the LSC reported that the work under the Stewardship Programme reduced overall level of net error to £14.5 million, which was a 60% reduction from the previous fiscal year. The LSC reports that the Stewardship Programme would continue under the LAA (UK LSC, 2012b)

## **9.2 Quality assurance - Scotland**

### **Criminal quality assurance scheme**

Since 2010 SLAB has operated a criminal quality assurance scheme as a means of ensuring criminal legal aid services accord to specific high quality criteria (a separate scheme covers civil legal aid). The scheme applies to all solicitors registered with the Board for the provision of criminal legal assistance (SLAB, 2013c).

The quality assurance reviews are administered by Criminal Quality Assurance Committee (CQAC),<sup>19</sup> which is responsible for appointing peer reviewers for the various types of reviews (see Table 14 below). Reviewers are sourced from a panel of experienced and practicing criminal solicitors. Reviewers may conclude the review amounts to a pass or fail, but the final judgement is made by the CQAC. Peer reviewers are obligated to disclose any reasons why they should not conduct a review of a particular solicitor or file held by a firm (such as conflict of interest or prior involvement in a case) (SLAB, 2013c).

Each of the review types are based on the Inadequate Professional Services (IPS) standard, which asks reviewers not to second-guess a peer's judgement but instead call into question situations where "no reasonable solicitor would have conducted the case in the way demonstrated by the contents of the file" (SLAB, 2013c). In addition to this standard, reviewers must follow specific marking criteria and follow specific sets of questions for the different types of criminal files involved in the review. For example, there are 24 questions to be addressed under summary criminal files, 27 questions under solemn criminal files, and 22 questions under criminal appeals files (SLAB, 2013c).

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<sup>19</sup> CQAC consists of three SLAB members, three members from the Law Society of Scotland, and three independent members.

<b>Peer review</b>	This review examines documentation according to set criteria for summary, solemn, and criminal appeal cases. Once the review is complete, the peer reviewer reports back to the CQAC. No information is provided on who covers the cost of peer reviews.
<b>Routine review</b>	Under this process the CQAC chooses solicitors to be reviewed according to a set schedule and cases are chosen among randomly selected closed files. Peer reviewers chosen to conduct routine reviews must be outside the local area of the solicitor/firm being reviewed. Results of the review are communicated to the firm's compliance officer, who must be a partner within the firm. Costs for routine reviews are covered by SLAB.
<b>Extended review</b>	These are conducted in cases where a solicitor fails a routine review. In some cases the CQAC allows 6 months for the solicitor or firm involved to correct their actions. In other cases the review is conducted as soon as possible. The extended review involves two peer reviewers who were not previously involved in the routine review. Unlike routine reviews, which may be conducted off-site, extended reviews are conducted onsite and examine both closed and new legal aid files. Costs for extended reviews are covered by SLAB.
<b>Final reviews</b>	Following an extended review, firms are given a 6 to 12 month notification before a final review is conducted. The review is conducted by two or more reviewers who were not already involved in the review. The review focuses on files that were already reviewed and new files opened since the extended review, looking for signs of progress or deficiencies. Final reviews are conducted onsite and at the expense of the firm being reviewed.
<b>Special review</b>	May be conducted at any time upon CQAC request at the Board's expense. These follow the procedures outlined in the extended and final reviews. After passing a special review, the firm will not be reviewed again until their next routine review. Failing a special review will result in another extended or final review.

Source: (SLAB, 2013c)

### **Monitoring the accessibility of legal services**

In 2010 SLAB was given the responsibility to monitor the availability and accessibility of legal services in rural and urban parts of Scotland (SLAB, 2014c; The Scottish Government, 2011, p. 2). SLAB's monitoring function extends beyond its own legal services, including privately funded services in areas of law not covered by legal aid (such as insolvency) (SLAB, 2012b, p. 3)

The Board monitors accessibility by analyzing data on trends in legal assistance and supply and supplements this data with information required from the Law Society of Scotland, Faculty of Advocates, and the Scottish Court Service (SLAB, 2014c). Other stakeholder views are provided through the Access to Justice Reference Group (AJRG), whose membership comes from various government and legal organizations. The group provides information on accessibility issues and reviews data prepared by the Board.

SLAB has released two monitoring reports in the past two years. Neither report highlights service accessibility issues related to criminal matters (SLAB, 2012b, 2013e). According to the 2013 reports' "high level assessment of systemic problems with access to legal services", for both the prosecution and defence of criminal matters, there is little probability that systemic access problems are occurring and there are no reports of access problems. These results are multiplied to provide a "green" level exposure rating (SLAB, 2013e, pp. 47–49). The assessment criteria have been reproduced below to illustrate the areas of crime that are monitored for accessibility issues.

<b>Table 15: High level assessment of systemic problems with access to criminal legal services</b>				
<b>Type of law</b>		<b>Assessment</b>		
		<b>Probability that a systemic access problem is occurring</b> 1 (low) to 5 (high)	<b>Reports of actual instances of problems with access</b> 1 (no reports) to 5 (consistent reports)	<b>Exposure</b> (probability x reports) 1-4 = Green 5-14 = Amber 15-25 = Red
Crime - prosecution	Non-sexual crimes of violence	1	1	1
	Sexual offenses	1	1	1
	Crimes of dishonesty	1	1	1
	Fire raising, vandalism	1	1	1
	Other crimes (incl. drugs)	1	1	1
	Misc. offenses	1	1	1
	Motoring offenses	1	1	1
Criminal defence	Non-sexual crimes of violence	1	1	1
	Sexual offenses	1	1	1
	Crimes of dishonesty	1	1	1
	Fire raising, vandalism	1	1	1
	Other crimes (incl. drugs)	1	1	1
	Misc. offenses	1	1	1
	Motoring offenses	1	1	1

Source: (SLAB, 2013e, pp. 47–49).

### 9.3 Performance measurement – England/Wales

LAA has developed four key performance indicators (KPI) to measure progress in meeting the Agency’s strategic objectives. The Agency’s performance against its KPIs is to be published on the Ministry of Justice’s legal aid website (UK Ministry of Justice, 2013d, p. 20). The Table below summarizes LAA’s KPIs.

<b>Table 16: Legal Aid Agency's KPIs</b>	
<b>KPI areas</b>	<b>Description of measures</b>
Financial management and assurance	<ul style="list-style-type: none"> <li>Includes indicators that reflect administrative efficiencies and cost savings as well as legal expenditures, including financial savings resulting from LASPO reforms.</li> </ul>
Operational performance	<ul style="list-style-type: none"> <li>85% of applications will be processed within 20 working days of receiving an accurate application</li> <li>90% of bills will be processed within 25 working days</li> <li>An indicator measuring how LAA is working with legal providers – measured through rejected applications, errors by providers, financial recoveries, visits by contract managers, and follow-up contract notices</li> </ul>
People	<ul style="list-style-type: none"> <li>Measure of LAA response to complaints and official correspondence</li> </ul>
Change	<ul style="list-style-type: none"> <li>Measure of improving staff engagement and reducing number of work days lost through staff absences.</li> </ul>

Source: (UK Ministry of Justice, 2013d, pp. 21–22)

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In the last year of its operation the LSC operated with 6 KPIs that aligned with the organization's strategic objectives. These are outlined in the table below.

<b>Strategic objective</b>	<b>KPI areas</b>	<b>Description of measures</b>
Commissioning and procuring services that provide timely access to quality legal advice for eligible clients  Using finances consistently and reliability to achieve value for money	Coverage	<ul style="list-style-type: none"> <li>• 95% of police station duty calls accepted within 30 minutes</li> <li>• 98% of CLS coverage per procurement area</li> </ul>
	Deliver program and savings initiatives to stay within legal aid budget	<ul style="list-style-type: none"> <li>• Year to date spending per month against forecast and budget delegated by Ministry of Justice</li> </ul>
	Implement efficiency measures for administrative budget	<ul style="list-style-type: none"> <li>• Tracking various administrative expenses</li> </ul>
Improve business by simplifying processes, driving efficiency and eliminating waste	Legal aid processing times and quality measures	<ul style="list-style-type: none"> <li>• Use a number of measures (unidentified) that provide an indication of customer experience based on quality of service and speed of decision.</li> </ul>
	Customer service (complaints)	<ul style="list-style-type: none"> <li>• Track and monitor performance against customer service standards and statutory deadlines for responses under applicable legislation</li> </ul>
Build capability to ensure LSC has the right people with the right skills	People and performance management	<ul style="list-style-type: none"> <li>• 7.66 sickness absence days or fewer per person for the year</li> <li>• 99% of staff to have performance review</li> </ul>
Source: (UK LSC, 2012b, p. 21)		

### 9.4 Performance measurement – Scotland

SLAB uses a system of performance indicators and targets to measure the Board's performance and report this to the Scottish government. Performance targets are agreed upon by the government and the board on an annual basis (SLAB, 2012a, pp. 23–24).

The Board's key performance measures are its "headline indicators". These indicators "combine individual timeliness and accuracy targets for each legal aid type" (SLAB, 2012a, pp. 23–24). No further details are provided on what feeds into the development of these indicators. An example of the Board's headline indicators and targets for FY 2012-2013 is provided below.

Headline indicators	Target	Performance for year
Civil legal aid	97%	98%
Criminal legal aid	99%	100%
Children's legal aid	97%	97%
Advice and Assistance	97%	100%
Criminal accounts	97%	99%
Civil accounts	97%	99%
Children's accounts	97%	99%
A&A accounts	97%	99%

**Figure 6**  
(SLAB, 2013a, p. 23)

The Board also reports against a series of strategic goals and outcomes. These are summarized in Table 18 below. Activity areas that relate to the provision of criminal legal aid (in whole or in part) are bolded and italicised to demonstrate the relatively large degree to which criminal legal aid services feed into the organization's overall strategy and strategic outcomes

<b>Table 18: SLAB strategic aims and outcomes</b>		
<b>Strategic aim</b>	<b>Outcome</b>	<b>Activity areas measured / reported on</b>
Facilitate access to a range of quality assured legal help in Scotland when and where it is needed	People can access justice by being able to seek the appropriate kind of legal advice and representation at the right time	<ul style="list-style-type: none"> <li>• <b>Administration of legal aid</b></li> <li>• Targeted funding and service provision for civil legal problems</li> <li>• Grant fund projects</li> <li>• Civil Legal Assistance Offices</li> <li>• <b>Public Defence Solicitors' Office</b></li> </ul>
	The justice sector is better able to make informed decisions about planning and co-ordination of legal services to meet the needs of the people of Scotland	<ul style="list-style-type: none"> <li>• <b>Monitoring the supply and accessibility of legal services</b></li> <li>• <b>Solicitors and firms registered to provide legal assistance</b></li> <li>• Making Justice Work – Enabling Access to Justice project</li> </ul>
Provide access to service providers that deliver services in ways that benefit the justice system	Legal assistance services provided by solicitors are good quality	<ul style="list-style-type: none"> <li>• <b>Quality assurance schemes for legal assistance</b></li> </ul>
	Evidence used to make further improvements to legal aid and access to justice	<ul style="list-style-type: none"> <li>• <b>Legal aid research</b></li> <li>• Supplier support</li> </ul>
Reduce the environmental impact of funded services and reduce carbon footprint	Reduce organizations carbon footprint	<ul style="list-style-type: none"> <li>• Carbon management plan</li> </ul>
	Environmental impact of funded services is reduced	<ul style="list-style-type: none"> <li>• <b>Travel rate for solicitors</b></li> <li>• <b>Use of video conferencing as alternative to traveling</b></li> </ul>
Obtain best value for taxpayer from legal aid expenditure	Legal aid system is more efficient	<ul style="list-style-type: none"> <li>• <b>Legal Aid Online</b></li> </ul>
	Legal aid system delivers value for money	<ul style="list-style-type: none"> <li>• <b>Sanction for counsel and expert witnesses in criminal legal aid</b></li> <li>• <b>Contributions in criminal legal aid</b></li> <li>• <b>Administration of legal aid</b></li> <li>• <b>Preventing legal aid fraud and abuse</b></li> <li>• Best value reviews</li> </ul>
Contribute to an efficient justice system of providing an efficient legal aid system	Legal aid supports efficient operation of the justice system, including minimizing churn of cases due to legal aid	<ul style="list-style-type: none"> <li>• Participation in government justice programs</li> <li>• <b>Police station duty scheme and solicitor contact line</b></li> <li>• The Children's Hearings Act</li> </ul>
Source: (SLAB, 2013a, pp. 18–26)		

The Board aligns these strategic goals and outcomes with the Scottish government's National Outcomes and Purpose, which are outlined in Figure 7.

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Scottish Government's Purpose	To focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth				
Scottish Government's Strategic Objectives	Helping communities become safer and stronger places to live		Enabling the increasing of wealth through efficient public services		Improving the environment and its sustainability
Scottish Government's National Outcomes	9 We live our lives safe from crime and danger	11 We have strong and resilient communities	7 We have tackled inequalities in Scottish Society	16 Our public services are high quality, responsive, and continually improving	14 We reduce the impact of our consumption and production
Justice Strategy for Scotland Priorities	Widening access to justice and law reform	Transforming civil and administrative justice	Enhancing efficiency		
Our Strategic Aims	<p>To facilitate access to a range of quality assured legal help in Scotland, when and where it is needed.</p> <p>To provide access to service providers that deliver services in ways that benefit the justice system.</p> <p>To obtain best value for the taxpayer from legal aid expenditure.</p> <p>To contribute to an efficient justice system in Scotland by providing an efficient legal aid system.</p> <p>To reduce the environmental impact of the services that we fund as well as reducing our own carbon footprint</p>				

**Figure 7**  
(SLAB, 2013a, p. 17)

**Reference list**

- BBC News. (2013a). BBC News - Q&A: Legal aid changes. Retrieved February 20, 2014, from <http://www.bbc.co.uk/news/uk-21668005>
- BBC News. (2013b). Legal Aid U-Turn Over Price Competition Plan. Retrieved February 20, 2014, from <http://www.bbc.co.uk/news/uk-23967908>
- BBC News. (2013c). Lord Neuberger: Legal aid cuts threaten to deny justice. Retrieved February 20, 2014, from <http://www.bbc.co.uk/news/uk-24545584>
- Cairns, R. (2013). The Legal Aid, Sentencing and Punishment of Offenders Act 2012: The significant changes. *Probation Journal*, 60(2), 177–189. doi:10.1177/0264550513489762
- Forbes Solicitors. (2014). Crime FAQ: How do I know which court will deal with my case? Retrieved February 26, 2014, from <http://www.forbessolicitors.co.uk/about-forbes/faqs/default.htm?question=28>
- GOV.UK. (2013). Public Bodies Reform - Detailed Guidance. Retrieved February 20, 2014, from <https://www.gov.uk/public-bodies-reform>
- Justice Canada. (2004). The Duty Solicitor Scheme in England and Wales: An Alternative Model for Delivering Legal Advice and Assistance to Suspects in Police Custody. In *A Review of Brydges Duty Counsel Services in Canada*. Retrieved from [http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr03\\_la4-rr03\\_aj4/p6.html](http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr03_la4-rr03_aj4/p6.html)
- Kemp, V. (2010). Transforming Legal Aid: Access to Criminal Defence Services. Retrieved February 27, 2014, from [http://www.justice.gov.uk/downloads/publications/research-and-analysis/lsrc/2010/TransformingCrimDefenceServices\\_29092010.pdf](http://www.justice.gov.uk/downloads/publications/research-and-analysis/lsrc/2010/TransformingCrimDefenceServices_29092010.pdf)
- Kemp, V. (2012). Bridewell Legal Advice Study – BLAST: An Innovation in Police Station Legal Advice (interim report). Retrieved February 26, 2014, from <http://www.justice.gov.uk/downloads/publications/research-and-analysis/lsrc/2012/blast-report.pdf>
- Kemp, V. (2013). Bridewell Legal Advice Study: Adopting a “whole-systems” approach to police station legal advice (BLAST II Final Report). Retrieved February 26, 2014, from <http://www.justice.gov.uk/downloads/publications/research-and-analysis/lsrc/blast-II-report.pdf>
- NAO. (2012). Comparing International Criminal Justice Systems. Retrieved February 4, 2014, from [http://www.nao.org.uk/wp-content/uploads/2012/03/NAO\\_Briefing\\_Comparing\\_International\\_Criminal\\_Justice.pdf](http://www.nao.org.uk/wp-content/uploads/2012/03/NAO_Briefing_Comparing_International_Criminal_Justice.pdf)
- SLAB. (2012a). Annual Report 2011-2012. Retrieved February 28, 2014, from [http://www.slab.org.uk/common/documents/Annual\\_report\\_2011\\_2012/Annual\\_Report\\_2011-2012.pdf](http://www.slab.org.uk/common/documents/Annual_report_2011_2012/Annual_Report_2011-2012.pdf)
- SLAB. (2012b). Monitoring of Availability and Accessibility of Legal Services: First Report. Retrieved March 5, 2014, from [http://www.slab.org.uk/export/sites/default/common/documents/about\\_us/whatwedo/2012\\_Final\\_Monitoring\\_Report.pdf](http://www.slab.org.uk/export/sites/default/common/documents/about_us/whatwedo/2012_Final_Monitoring_Report.pdf)



*Overview of England/Wales and Scotland Criminal Legal Aid System*

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- SLAB. (2013a). Annual Report 2012-2013. Retrieved March 3, 2014, from [http://www.slab.org.uk/common/documents/Annual\\_Report\\_2012\\_-\\_2013.pdf](http://www.slab.org.uk/common/documents/Annual_Report_2012_-_2013.pdf)
- SLAB. (2013b). Criminal Contracting - update on policy development process. Retrieved March 5, 2014, from [http://www.slab.org.uk/providers/reforms/criminal/Contracting/Post\\_dialogue\\_events\\_update.html](http://www.slab.org.uk/providers/reforms/criminal/Contracting/Post_dialogue_events_update.html)
- SLAB. (2013c). Criminal Legal Assistance Handbook. Retrieved March 5, 2014, from <http://www.slab.org.uk/handbooks/Criminal%20handbook%20master%20copy/wwhelp/wwhimpl/js/html/wwhelp.htm#href=Part%20I%20Registration,%20compliance,%20quality/I%203%20Quality%20assurance.html>
- SLAB. (2013d). Law Society of England and Wales' Alternative to Price Competitive Tendering. Retrieved March 5, 2014, from <http://www.slab.org.uk/providers/reforms/criminal/Contracting/TenderingAlternative.html>
- SLAB. (2013e). Monitoring of Availability and Accessibility of Legal Services: Second Report. Retrieved March 5, 2014, from [http://www.slab.org.uk/export/sites/default/common/documents/about\\_us/policy/2013\\_monitoring\\_reportxfinalx.pdf](http://www.slab.org.uk/export/sites/default/common/documents/about_us/policy/2013_monitoring_reportxfinalx.pdf)
- SLAB. (2013f). The Context for Contracting: The Scottish Government's Strategic Outcomes Framework. Retrieved March 5, 2014, from <http://www.slab.org.uk/providers/reforms/criminal/Contracting/ContextForContracting.html>
- SLAB. (2014a). About us. Retrieved February 28, 2014, from <http://www.slab.org.uk/about-us/>
- SLAB. (2014b). Eligibility. Retrieved March 6, 2014, from <http://www.slab.org.uk/public/criminal/eligibility/>
- SLAB. (2014c). Monitoring services. Retrieved March 5, 2014, from <http://www.slab.org.uk/about-us/what-we-do/policyanddevelopmentoverview/Accessstolegalservicesreferencegroup/>
- SLAB. (2014d). Police Station duty Scheme. Retrieved March 5, 2014, from <http://www.slab.org.uk/providers/DutyPlans/PoliceStationDutyScheme/>
- SLAB. (2014e). Police Station duty scheme update – Solicitor Contact Line. Retrieved March 5, 2014, from [http://slab.kraya.net/common/documents/news/2014/Police\\_Station\\_Duty\\_Update\\_12\\_February\\_2014.pdf](http://slab.kraya.net/common/documents/news/2014/Police_Station_Duty_Update_12_February_2014.pdf)
- SLAB. (2014f). Who we are. Retrieved February 28, 2014, from <http://www.slab.org.uk/about-us/who-we-are/>
- SRA. (n.d). Police station representatives accreditation scheme | Solicitors Regulation Authority. Retrieved February 26, 2014, from <http://www.sra.org.uk/solicitors/accreditation/police-station-representatives-accreditation.page>
- The Guardian. (2013). Justice secretary scraps plan to award legal aid contracts to lowest bidder. Retrieved February 20, 2014, from <http://www.theguardian.com/law/2013/sep/05/justice-secretary-legal-aid-contracts>

## *Overview of England/Wales and Scotland Criminal Legal Aid System*

---

- The Guardian. (2014a). Courts Close Across England and Wales as Lawyers Protest at Legal Aid Cuts. Retrieved February 20, 2014, from <http://www.theguardian.com/law/2014/jan/06/courts-close-england-wales-lawyers-legal-aid-cuts>
- The Guardian. (2014b). Declining crime rates will “save £80m a year in legal aid.” Retrieved February 20, 2014, from <http://www.theguardian.com/law/2014/jan/13/declining-crime-save-80m-a-year-in-legal-aid>
- The Guardian. (2014c). Lawyers to Stage Full-Day Walkout Over Legal Aid Cuts in England and Wales. Retrieved February 20, 2014, from <http://www.theguardian.com/law/2014/feb/12/lawyers-walkout-legal-aid-cuts-england-wales>
- The Law Society. (2014). Lexcel practice management standard. Retrieved February 27, 2014, from <http://www.lawsociety.org.uk/accreditation/lexcel/>
- The Scottish Government. (2011). A Sustainable Future for Legal Aid. Retrieved February 28, 2014, from <http://www.scotland.gov.uk/Resource/Doc/359686/0121521.pdf>
- UK Government. (2012). Legal Aid, Sentencing and Punishment of Offenders Act 2012. Retrieved February 24, 2014, from <http://www.legislation.gov.uk/ukpga/2012/10/part/1/crossheading/criminal-legal-aid?view=extent>
- UK LSC. (2008). A Guide to Becoming an Accredited Police Station Representative. Retrieved February 26, 2014, from <http://www.justice.gov.uk/downloads/legal-aid/crime-categories-of-law/policerepsinfo-june2008-v2.pdf>
- UK LSC. (2011). Annual Report and Accounts 2010-11. Retrieved February 26, 2014, from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/247187/1555.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/247187/1555.pdf)
- UK LSC. (2012a). Annual Report and Accounts 2011-12. Retrieved February 26, 2014, from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/229120/0307.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229120/0307.pdf)
- UK LSC. (2012b). Annual Report and Accounts 2012-2013. Retrieved February 26, 2014, from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/246661/0337.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/246661/0337.pdf)
- UK LSC. (2012c). Mediation Quality Mark Standard. Retrieved February 27, 2014, from <http://www.justice.gov.uk/downloads/legal-aid/quality/mediation-quality-mark-standard.pdf>
- UK LSC. (2012d). Specialist Quality Mark Standard. Retrieved February 27, 2014, from <http://www.justice.gov.uk/downloads/legal-aid/quality/specialist-quality-mark-standard.pdf>
- UK Ministry of Justice. (2011). International Comparisons of Public Expenditure on Legally Aided Services Ad hoc Statistics Note. Retrieved February 20, 2014, from <https://www.justice.gov.uk/downloads/statistics/mojstats/international-legal-aid-comparisons.pdf>
- UK Ministry of Justice. (2012a). Criminal cases. Retrieved February 26, 2014, from <http://open.justice.gov.uk/courts/criminal-cases/>
- UK Ministry of Justice. (2012b). How video hearings are speeding up court cases - News stories - GOV.UK. Retrieved February 26, 2014, from <https://www.gov.uk/government/news/how-video-hearings-are-speeding-up-court-cases>

## *Overview of England/Wales and Scotland Criminal Legal Aid System*

---

UK Ministry of Justice. (2013a). About the Legal Aid Agency. Retrieved February 20, 2014, from <http://www.justice.gov.uk/about/laa>

UK Ministry of Justice. (2013b). Audits. Retrieved February 27, 2014, from <http://www.justice.gov.uk/legal-aid/quality-assurance/audits>

UK Ministry of Justice. (2013c). Investigating high cost claims. Retrieved February 27, 2014, from <http://www.justice.gov.uk/legal-aid/quality-assurance/investigation-high-cost-claims>

UK Ministry of Justice. (2013d). Legal Aid Agency - Business Plan 2013/14. Retrieved February 21, 2014, from <http://www.justice.gov.uk/downloads/publications/corporate-reports/legal-aid-agency/laa-business-plan-2013-14.pdf>

UK Ministry of Justice. (2013e). Legal Aid Agency Framework Document. Retrieved February 21, 2014, from <http://www.justice.gov.uk/downloads/publications/corporate-reports/legal-aid-agency/laa-framework.pdf>

UK Ministry of Justice. (2013f). Peer review. Retrieved February 27, 2014, from <http://www.justice.gov.uk/legal-aid/quality-assurance/audits/peer-review>

UK Ministry of Justice. (2013g). Quality standards. Retrieved February 27, 2014, from <http://www.justice.gov.uk/legal-aid/quality-assurance/quality-mark>

UK Ministry of Justice. (2013h). Transforming Legal Aid: Next Steps (September 2013 to November 2013).

UK Ministry of Justice. (2014a). Being arrested: your rights - GOV.UK. Retrieved February 26, 2014, from <https://www.gov.uk/arrested-your-rights/legal-advice-at-the-police-station>

UK Ministry of Justice. (2014b). Crime eligibility. Retrieved February 25, 2014, from <http://www.justice.gov.uk/legal-aid/assess-your-clients-eligibility/crime-eligibility>

UK Ministry of Justice. (2014c). Means test. Retrieved February 25, 2014, from <http://www.justice.gov.uk/legal-aid/assess-your-clients-eligibility/crime-eligibility/means-test#initial>

UK Ministry of Justice. (2014d). Police stations. Retrieved February 26, 2014, from <http://www.justice.gov.uk/legal-aid/areas-of-work/crime/police-stations>

UK Ministry of Justice. (2014e). Public Defender Service. Retrieved February 21, 2014, from <http://www.justice.gov.uk/contacts/legal-aid-agency/public-defender-service>