

# LEGAL AID TODAY



Legal  
Services  
Society

British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

*July 2015*

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# Who we are



## *Our mandate*

Created by the *Legal Services Society Act* in 1979, LSS is a non-profit organization that is independent of government.

Our mandate is:

- To help people resolve their legal problems and to facilitate their access to justice
- To establish and administer an effective and efficient system for providing legal aid in BC
- To provide advice to the Attorney General about legal aid and access to justice

## *Our governance*

The society is governed by a nine-member board of directors. Five are appointed by the government and four are appointed by the Law Society of BC after consultation with the BC Branch of the Canadian Bar Association.

The *Legal Services Society Act*, together with a Memorandum of Understanding and the government's Mandate Letter, govern the relationship between LSS and the Ministry of Justice.

## *Our funding*

LSS receives 95% of its funding from the provincial Ministry of Justice (the federal government provides a contribution to the province).

The society also receives funding from the Law Foundation of BC and the Notary Foundation of BC, which collect interest earned on lawyer and notary trust accounts and pay a portion to LSS.

The Ministry of Justice also provides additional funding for large criminal cases that are managed by LSS but outside the legal aid mandate.

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# What we stand for



## *We support government's justice sector strategy*

The priorities identified in the Justice and Public Safety Council's 2015/16 strategic plan are also priorities for LSS: Aboriginal justice, justice and mental health, access to justice, domestic violence, justice system costs and performance measures.

## *We focus on outcomes*

Our services are designed to help people achieve early, stable and just outcomes, often without having to go to court.

We provide self-help websites and publications, legal information workers, telephone advice lines, educational workshops, Aboriginal programs, mediation and more.

For serious family, child protection, immigration and criminal matters, we provide lawyers to represent clients in court.

## *We are fiscally prudent*

LSS has demonstrated leadership in finding new ways to deliver much needed legal services, while making prudent use of public funds.

The society has robust cost controls and industry-leading reporting systems that monitor service expenditures.

## *We are innovative and collaborative*

LSS has developed medical-legal partnerships, duty counsel and advice programs, pilot projects and collaborative projects.

We are currently working on five pilot projects in collaboration with the Ministry of Justice that are intended to increase access to justice through enhanced legal advice services and early out-of-court resolution.

## *We are leaders*

LSS is recognized provincially, nationally and internationally for its innovative services and reform proposals.

LSS is also recognized for its work in evaluating the effectiveness of legal aid services and justice reform projects.

# What we do



*Legal aid is a continuum of services*

Information through self-help websites and publications.

Advice programs to assist people to resolve legal problems on their own (duty counsel in courthouses, telephone advice lines, advice lawyers at Justice Access Centres).

Representation by a lawyer for serious criminal, family, child protection and immigration cases.

## 2014/15 Client Services

Information	Publications distributed	154,450
	Legal Information Outreach Worker client interactions	8,199
	LSS website visits	399,240
	Family Law self-help website visits	1,037,520
Advice	Criminal duty counsel client visits	69,411
	Immigration duty counsel client visits	1,238
	Family duty counsel and advice lawyer client visits	36,913
	Criminal law telephone advice for persons detained – calls handled	18,800
	Family law telephone advice – calls handled	5,234
Representation	Criminal representation	19,852
	Family representation	3,442
	Child protection representation	2,549
	Immigration representation	714

# Community services



## *LSS helps communities help themselves*

The Legal Services Society helps communities and social service agencies throughout BC to build the strengths and skills they need for legal problem solving.

We do this by providing training and support for community workers and advocates who assist LSS clients and low-income people.

LSS also partners with organizations in rural, remote and Aboriginal communities to connect them to legal aid and other resources.

## 2014/15 Community Services

Training and Outreach	Community workers and advocates trained in regional legal education workshops and provincial conferences	782
	Outreach events participated in by LSS community partners, Terrace regional centre staff, local agents, and legal information outreach workers	458
Aboriginal Services	Aboriginal Community Legal Worker client assists (Duncan and Nanaimo)	1,247
	Duty Counsel client assists at First Nations' Court in Duncan, Kamloops and New Westminster	267
	Gladue reports	61

*LSS's community, Aboriginal and information services, including our publications, are mostly funded by the Law Foundation and Notary Foundation.*

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# Where we are



## *Staff offices*

Regional centres in Vancouver and Terrace.

Province-wide, toll-free call centre for legal aid applications.

Aboriginal Community Legal Worker in Duncan and Nanaimo.



## *Local agents*

Contract agents in 33 communities where you can apply for legal aid and get legal information.

Agents are available at most courthouses and in several Aboriginal communities.



## *Community partners*

Social services agencies in 35 locations who provide legal information and connect people to legal aid services.

*LSS also provides legal education workshops to hundreds of community advocates and social service providers around the province.*

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# Financial eligibility for representation by a lawyer

## *Establishing financial guidelines*

LSS’s financial eligibility guidelines are based on Human Resources Development Canada’s “Market Basket Measure” (MBM) of goods and services adjusted for inflation.

The MBM is a measure of low income based on the cost of specific goods and services representing a modest, basic standard of living.

The financial eligibility cut-off does not represent a person’s ability to afford a lawyer.

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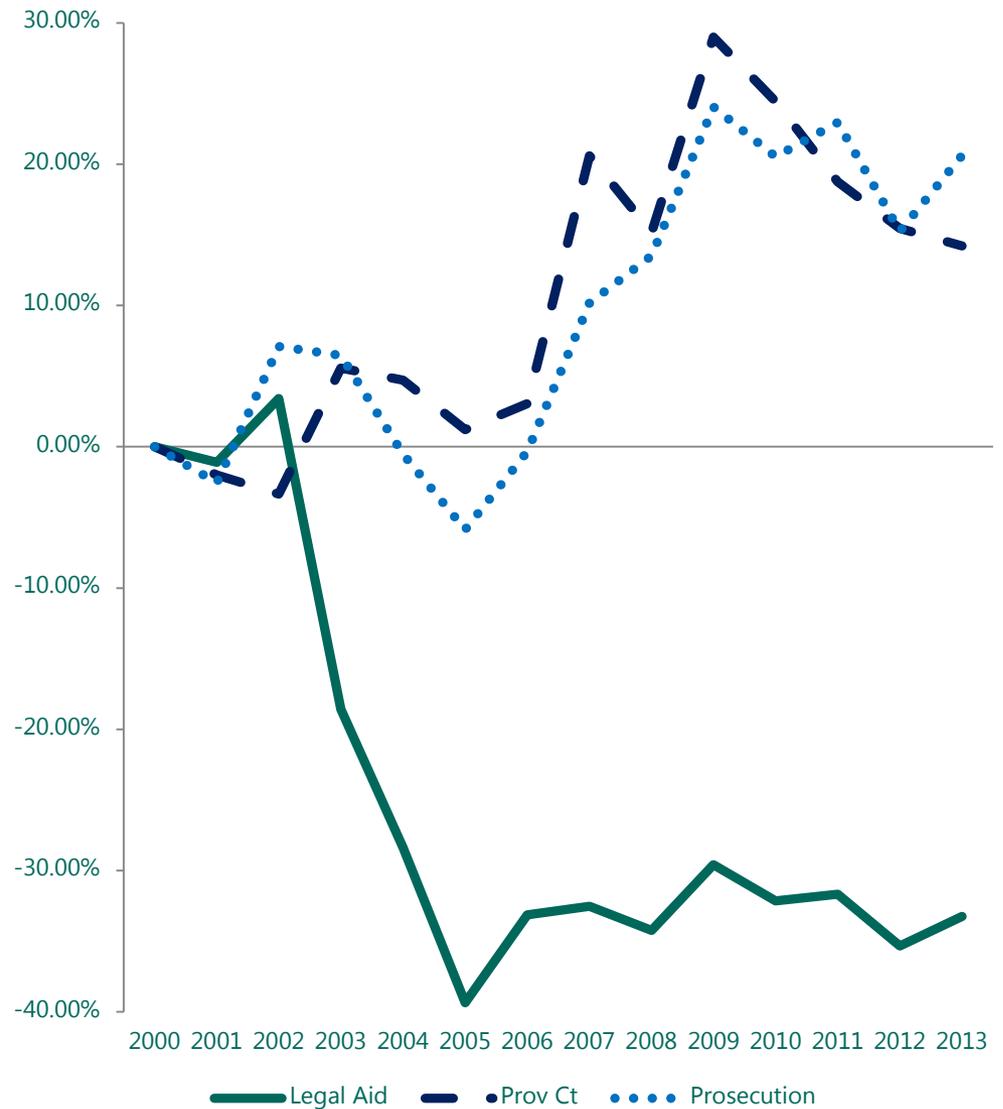
Household Size	Net Household Monthly Income
1	\$1,500
2	\$2,100
3	\$2,700
4	\$3,290
5	\$3,890
6	\$4,490
7 or more	\$5,090

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# Justice system funding

*Percentage change in constant dollars*

"Legal aid has been under constraint since the mid-1990s, and apart from large case funding, has received very little incremental funding. Despite this it has actively led in producing innovative programs and services. The submissions which touched on resources almost universally called for priority to increases in legal aid funding. In my view, in order for legal aid to play an active and necessary role in the achievement of Provincial Court reforms, incremental legal aid resources would be money well spent." — Geoff Cowper, QC, *A Criminal Justice System for the 21<sup>st</sup> Century*



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# Access to Justice Leadership

## *New services for children and families*

Four of the five justice transformation pilot projects involve services for children and families.

This reflects the LSS board's priorities and its concern that more legal aid family law services are needed.

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## *Advice to the Attorney General*

In 2012, the Attorney General asked LSS for advice on ways legal aid could be used to reduce justice system costs and improve access to justice.

## *Making Justice Work*

LSS presented its advice in a report, *Making Justice Work: Improving Access and Outcomes for British Columbians*.

The report recommends a new approach to justice reform that focuses on outcomes rather than changes to court process.

## *Two million dollars for justice transformation pilot projects*

In May 2014, the Attorney General announced that LSS would receive an additional \$2 million a year for three years to implement five justice transformation pilot projects in accordance with recommendations in *Making Justice Work*.

The projects were launched in 2014/15. Independent evaluation will determine their ongoing viability and will help the society and the ministry determine whether future collaborative projects can be used to develop programs that better address legal aid client needs.

*The five justice transformation projects are described on the following pages.*

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## *Justice transformation projects*



### *Expanded Family Duty Counsel*

This service is offered at the Justice Access Centre in Victoria and focusses on legal coaching intended to provide clients with the tools they need to manage and resolve their family law problems on their own.

### *Expanded Family LawLINE*

The Family LawLINE is a province-wide telephone advice service that provides brief next-step help for people representing themselves.

The expanded service includes preparation and review of legal documents, and coaching for self-represented clients.

### *Family Law Mediation Referrals*

This is a joint project with Mediate BC that provides mediation services to people with family law problems who qualify for legal aid financially but whose legal issue is not covered by LSS, such as property, debt and spousal or child support issues.

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## *Justice transformation projects*



Stephanie Cadieux, Minister of Children and Family Development; Suzanne Anton, Attorney General and Minister of Justice; and Tom Christensen, LSS board chair at the opening of the Parents Legal Centre at the Robson Square courthouse in Vancouver.

### *Parents Legal Centre*

The Parents Legal Centre is a new program at the Robson Square courthouse in Vancouver that focuses on early, collaborative resolution of child protection issues involving the Ministry of Children and Family Development or a Delegated Aboriginal Agency.

### *Expanded Criminal Duty Counsel*

In this pilot project, duty counsel retain conduct of uncomplicated files and provide services to a broader range of clients. This initiative is based at the Port Coquitlam courthouse and complements two other criminal justice system reforms: the Provincial Court Scheduling Initiative and the Crown File Ownership initiative.

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# MyLawBC website

## *A new service for all British Columbians*

“Imagine a website built around your needs, where you can work through your legal issue using a guided pathway, that ends with an action plan, information, and the services you need. A site that also provides a hotline, live chat, or automated attendant service. A site that anyone can go to and say “Here’s MY solution to MY legal problem.” — MyLawBC.com

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## *Guided pathways to legal solutions*

LSS is embarking on a new project called MyLawBC that will use online technology to tailor legal information for an individual’s specific needs.

It works by asking the user a series of online questions similar to those a mediator or lawyer would ask in a face-to-face meeting that help the user identify, manage and resolve his or her legal issue. It will also integrate personal assistance over the phone and online. The website will be a unique resource created with the participation of BC’s public legal education and information providers.

MyLawBC is being developed in partnership with the Hague Institute for the Internationalization of Law, which developed a similar service for the Dutch legal aid program. The service is expected to launch by the end of 2015.

Funding for MyLawBC is provided by the Law Foundation of BC and the Notary Foundation of BC.

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# Technology upgrade



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## *Improved efficiency*

LSS has replaced its obsolete case management system, which had become increasingly challenging and expensive to maintain. The new system manages all of our business processes from client intake to lawyer referral and tariff payments.

The system represents a change in the way LSS interacts with clients and lawyers and increases the opportunities for reporting, and for understanding the breadth of services LSS provides to its clients.

For lawyers, the new system means there is a central place for almost all their interactions with the society. Efficiencies include the ability of lawyers to see what they can bill for, what items require authorization, which authorizations have been granted, and if they've billed, what amount is remaining on their referral contract.

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# Operating environment and risks

## *External pressures*

LSS operates in an environment where service costs are largely driven by external factors over which the society has no control.

Unpredictable factors such as the number of people charged with criminal offences, the number of children taken into government care, family breakup, and legislative policies all affect demand for legal aid.

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## *Managing cost pressures*

The society has addressed cost pressures in past years by reducing staff and closing offices and by restricting representation services (particularly for family law).

The LSS board and staff have made every effort, and will continue to make every effort, to find savings and maintain direct client services, recognizing it is increasingly difficult to reduce operating costs without impairing the society's ability to deliver and manage its services or to respond to unanticipated service demands.

## *Growing challenges*

LSS has identified three issues that pose serious risks to the society's ability to meet its statutory mandate and to BC's justice system. Those risks are discussed in the following pages — Aboriginal justice, family law and legal aid tariffs.

# Aboriginal legal aid clients

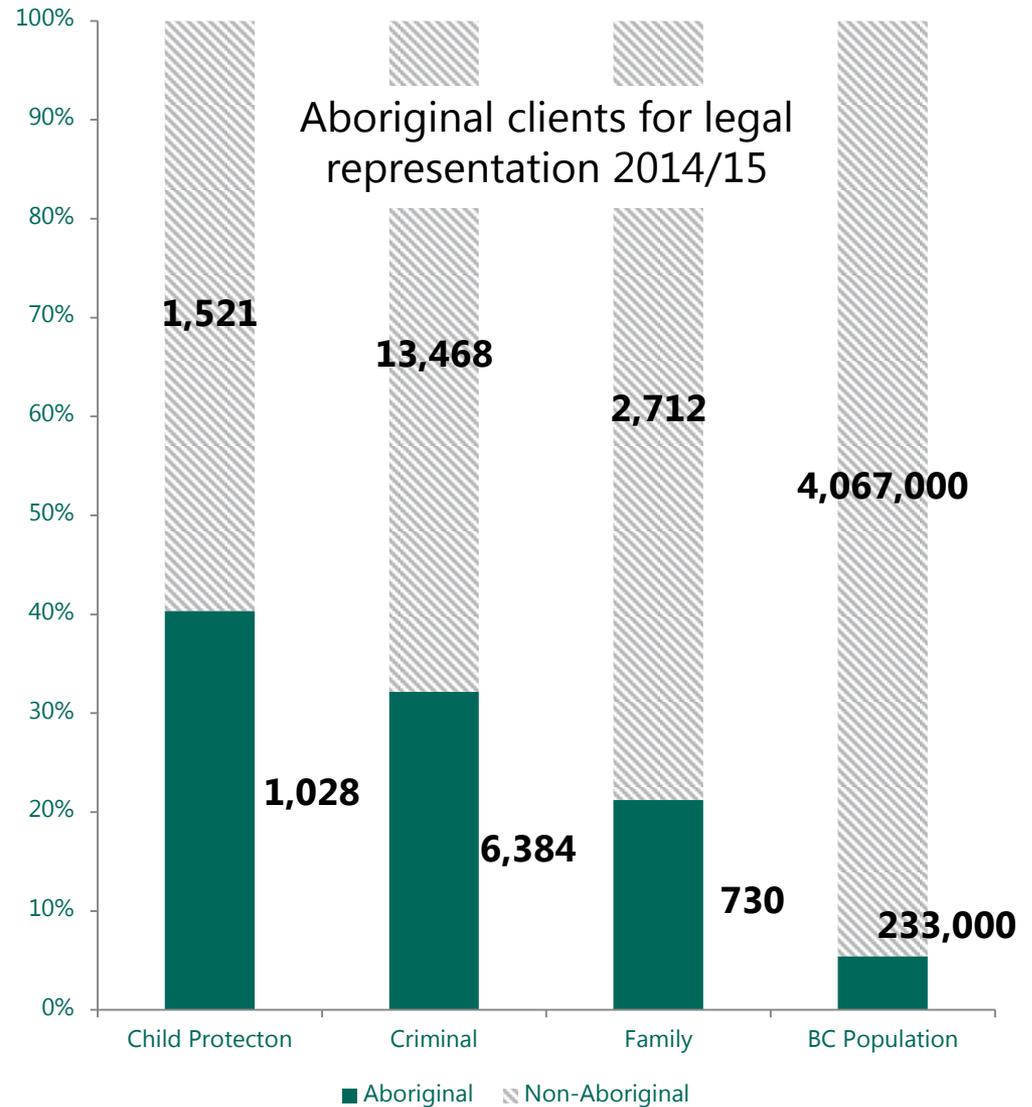
## *The challenge*

Aboriginal clients are over-represented in the justice system

Aboriginal people make up less than 6 per cent of BC's population yet 30 per cent of legal aid clients who are referred for representation by a lawyer are Aboriginal.

## *What's needed*

Dialogue with Aboriginal communities and justice system stakeholders about reforms that meet the unique needs of Aboriginal peoples.



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# Aboriginal services



## *Community-based solutions*

"Addressing the unmet legal needs of Aboriginal people requires acknowledging that solutions must be found within Aboriginal cultures and delivered in partnership with Aboriginal communities." — Ardith Walkem, *Building Bridges: Improving Legal Services for Aboriginal Peoples*

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## *Legal aid services for the Aboriginal community*

The Legal Services Society offers a number of specialized services for Aboriginal communities

- Legal aid applications and outreach in 26 Aboriginal communities.
- Aboriginal staff in our intake department and an Aboriginal Services Manager.
- Aboriginal Community Legal Worker in Duncan and Nanaimo who can assist with legal information and advice, support for meetings with MCFD staff, assistance with legal forms, etc.
- Aboriginal law publications and website.
- Aboriginal family advice clinics in Williams Lake and two Vancouver locations.
- Duty counsel and support for elders in First Nations Courts.
- Gladue report pilot project.

# Family law

## *The challenge*

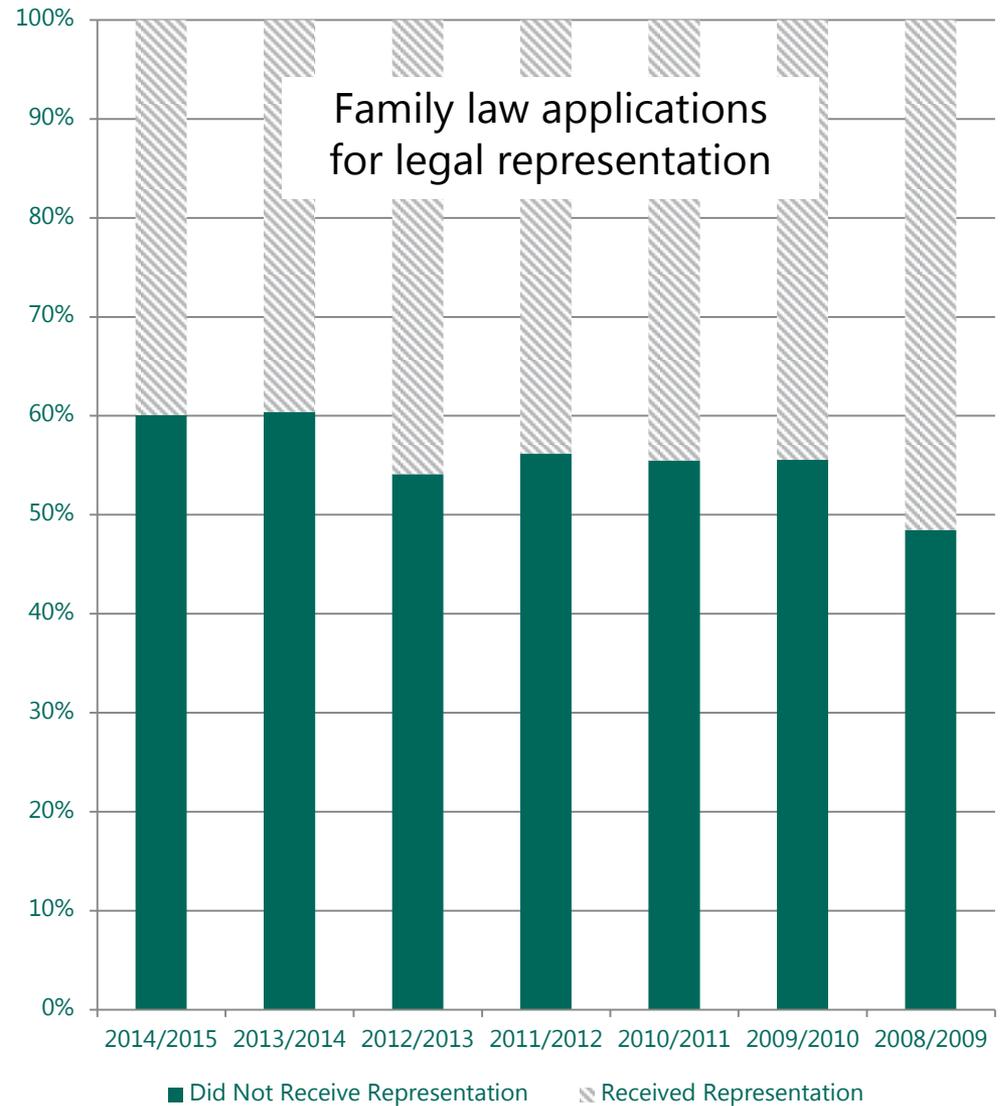
Current funding limits family law representation to situations where there is a risk of violence, persistent denial of access to a child, or a risk that a child will be permanently removed from the province.

There is no coverage for divorce and separation, adoption or financial issues.

As a result, only 2 out of 5 people who apply for representation by a lawyer in family law cases receive representation.

## *What's needed*

Innovative ways, along with the necessary resources, to deliver services that are currently not available but are needed to ensure the stability and safety of children and families.



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# Tariffs

## *The challenge*

Due to increasing service costs and rising demand, LSS has been able to increase tariffs only once since 1991.

LSS surveys show that few lawyers are willing to take referrals because of low tariffs.

In some locations, LSS is unable to place cases with local lawyers and must pay transportation costs for lawyers from other communities.

## *What's needed*

A mechanism to determine an appropriate and sustainable tariff structure and funding so that LSS is able to provide tariffs that ensure lawyers are able to meet the legal needs of legal aid clients.

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## *Tariff rates for representation services*

Family law referrals are paid on LSS's hourly tariff rate to a maximum of 25 hours for preparation plus court time. Any additional time required is not funded.

Child protection referrals are paid on LSS's hourly tariff rate to a maximum of 20 hours for preparation plus court time. Any additional time required is not funded.

Hourly tariff rates are based on years of experience: Tier 1 (less than four years) \$83.90; Tier 2 (4 – 10 years) \$88.10; Tier 3 (10+ years) \$92.29. By comparison, Legal Aid Ontario's top tier is \$136.43

Since 1991, LSS has been able to increase tariff rates only once.

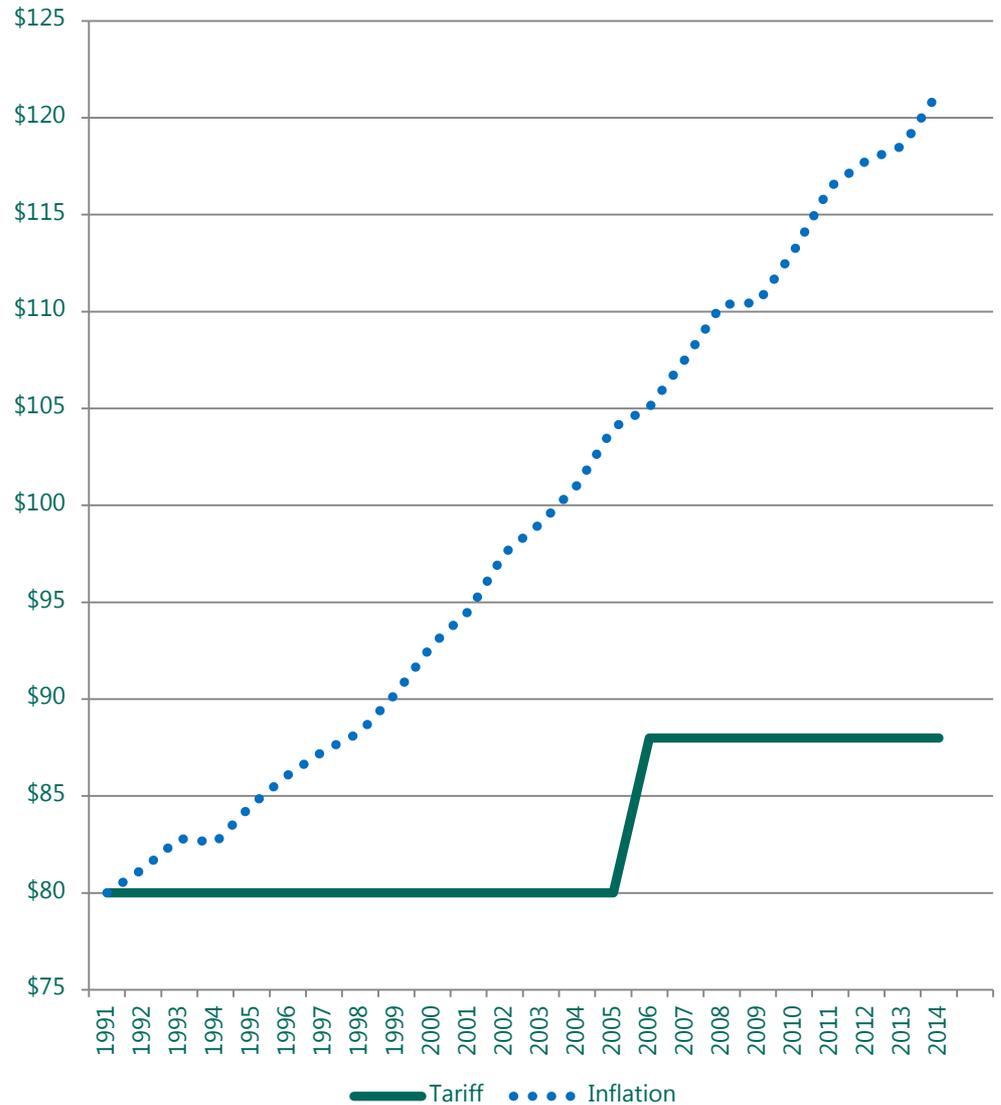
Most criminal matters are paid on a block tariff that covers a broad range of services regardless of the time required to complete the tasks.

Some complex criminal matters are paid on LSS's hourly tariff rate. These cases are monitored by LSS to ensure prudent expenditure. LSS offers enhanced fees and an exceptional responsibility premium to ensure senior, experienced counsel will accept referrals in the most difficult, serious cases.

# Tariffs and inflation

## Declining tariffs

In 1991, the hourly tariff was \$80. The current rates were introduced in 2006 and have not changed. The current Tier 1 tariff rate of \$84 is equal to just \$58 in 1991 dollars, a decline in real terms of 27%.



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## *Typical case costs and tariff payments*

### *Criminal*

Breach of probation: Client interview, bail hearing, review police reports, attendance at court for scheduling, preparing for court, guilty plea and sentence — \$410.

Break and enter: Client interview, bail hearing, review police reports, attend at court for scheduling, preparing for court, guilty plea and sentence — \$675. With a 1-day trial instead of guilty plea — \$1,050.

*In 2013/14, 690 lawyers took criminal law referrals. Their average earnings for these referrals was \$39,600.*

### *Family*

Restraining order: All client meetings; document and affidavit preparation; discussions with opposing party; preparation for court; court appearance, preparing and filing court orders; all collateral matters — \$2,500.

*In 2013/14, 505 lawyers took family law referrals. Their average earnings for these referrals was \$19,200.*

### *Child protection*

Simple apprehension: All meetings with client, social workers, Director's Counsel, social service providers, etc.; document and affidavit preparation; preparation for and attendance at Presentation Hearing; two or three Protection Hearings; preparing and filing court orders; all collateral matters — \$3,300. Typical timeline = 12 – 18 months.

*In 2013/14, 416 lawyers took child protection referrals. Their average earnings for these referrals was \$16,500.*