



THE CANADIAN
BAR ASSOCIATION
British Columbia Branch

March 31, 2018

BC Poverty Reduction Strategy
Ministry of Social Development &
Poverty Reduction
PO Box 9929, Stn Prov Govt
Victoria, BC V8W 9R2

via email: BCPovertyReduction@gov.bc.ca

Attention: Shane Simpson, Minister
Mable Elmore, Parliamentary Secretary for Poverty Reduction

Dear Sirs / Mesdames:

Thank you for the opportunity to provide input on the development of British Columbia's Poverty Reduction Strategy. The Canadian Bar Association BC Branch ("CBABC") welcomes the commitment of the government to adopt and implement a poverty reduction strategy for BC.

The CBABC is the voice of this province's legal profession on matters of law and justice, and we advocate on behalf of both fair, just and affordable justice system and the concerns of our members. We support the rule of law, access to justice, improvements in law, and the administration of justice. We are a member-funded, not-for-profit organization that represents nearly 7,000 lawyers, judges and law students in every region of this province. The CBABC is a branch of the Canadian Bar Association, which represents more than 35,000 members across the country.

Poverty in British Columbia has a number of different causes. Our submission focuses on one such cause – that is, the inability of citizens to obtain adequate access to justice in order to resolve legal problems fairly and expeditiously. As noted in the submission of the Legal Services Society:

Legal problems often stem from poverty. By resolving legal issues, legal aid services can help put people on the path towards escaping poverty. Yet many people never deal with their legal problems due to lack of resources and lack of knowledge of services, or other barriers to access. Some do not even know that they have a problem with a legal solution.

A lack of access to justice can disproportionately affect the most vulnerable and marginalized members of our society and can significantly impact the severity of the effects of poverty. Addressing significant access to justice concerns must thus be part of an effective poverty reduction strategy.

As the CBABC has emphasized in its [Agenda for Justice](#) (2017):

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An effective justice system is one that actively supports the ability of families, communities and businesses to evolve and thrive. People want practical laws to govern their affairs and fast, effective resolution of legal conflicts that interfere with their lives and businesses. British Columbians want a government that is ready to take action and deliver a justice system that provides: effective access to justice; support for BC's families; public safety and community fairness, and stability for business.

Today the justice system in British Columbia is not meeting these objectives. Parents and children caught up in family law disputes often have no legal representation, adding greatly to family stress and the time their cases take to resolve. The legal system has completely failed our indigenous citizens. Rural communities, their residents and businesses, lack local legal resources. The system is underfunded and understaffed, leading to long delays in the administration of justice.

As has been noted by the Canadian Forum on Civil Justice, in its recent report on the "[Costs of Justice](#)", unresolved legal problems can have serious impacts on individuals, including physical and emotional tolls, family and relationship stresses, and serious housing and workplace consequences, to name some. These problems, in turn, can also cost the state significantly in terms of increased social assistance, employment insurance, and health care expenses.

In 2010, a group of legal organizations¹ sponsored the Public Commission on Legal Aid in British Columbia. Commissioner Len Doust QC held hearings in a number of communities around the province collecting evidence as to issues with our legal aid system. A number of community leaders, including several MLA's, participated in the hearings in their local communities. The [Final Report](#) of the Commission, released in 2011, contains a detailed commentary on the issues highlighted in the hearings and submissions received. The Report notes that "there are many people who are left behind by legal aid in British Columbia and that it is the most disadvantaged members of our community who are suffering the most as a result of inadequate legal aid . . ." (p. 22).

The Report discussed the need for better legal aid services in the family law area at p. 16:

The family law regime provides important legal rights and protections to address the consequences of the breakdown of a marriage or long-term relationship, including those pertaining to child custody, access and support, division of property and spousal support. These issues relate to the most fundamental aspects of our lives, our relationship with our children and our ability to provide ourselves and our families with adequate housing and the other necessities of life. In addition to providing a legal framework to contribute to the fair resolution of family law disputes, law reforms were developed in part to recognize the disadvantage that women faced in separation and divorce proceedings. They were intended to contribute to women's social and economic equality.

¹ The organizations were the CBABC, Law Society of British Columbia, the Law Foundation of British Columbia, the BC Crown Counsel Association, the Vancouver Bar Association and the Victoria Bar Association.

Many spouses are able to come to an agreement upon separation or divorce, especially when provided with assistance in understanding their legal rights and an assisted resolution process such as mediation. Without adequate and timely legal assistance, however, matters go awry very quickly with serious consequences, including severe stress with health repercussions, unworkable child custody and access arrangements, inadequate and unstable financial situations, all of which can lead to dependence upon scarce and inadequate social assistance benefits and the attendant extra costs borne by society.

Women are disproportionately affected by inadequate legal aid in family law because they are frequently in a situation of relative economic disadvantage and they often bear the lion's share of both the short-term and long-term consequences of our failures in this regard. The need for adequate legal aid is very compelling in situations where a woman is attempting to leave an abusive relationship, and her life and her physical and emotional security are at risk, as is the safety of her children. Less obvious but no less pressing is the need for legal assistance to ensure that women and their children do not face poverty in the short and long term.

The Report also discussed the need for legal aid for poverty law matters (p. 16):

The need for legal aid for poverty law matters is perhaps the least well understood but is clearly a pressing area of concern. Poverty law problems include issues such as debt, access to social assistance and housing, and employment matters. The legal regimes that regulate the lives of the indigent are complex. It is difficult, if not impossible, for many people to ensure that decision-makers have all of the right information and are applying the law fairly, and to push for review of incorrect decisions. For a person of minimal income today in British Columbia, access to these legal entitlements and protections can mean the difference between having a safe place to live or living on the streets, between having food, or going hungry. Inadequate legal aid jeopardizes the survival of our most vulnerable citizens, including people with mental or physical disabilities, the elderly, and single mothers with young children.

As West Coast LEAF has pointed out in its own poverty reduction submissions:

Significant access to justice barriers aggravate the precarious circumstances of women experiencing poverty. They create situations where women are not only unable to leave abusive relationships, but also are unable to pursue protective measures and financial support because they cannot afford a lawyer. The drastic underfunding of civil legal aid in BC means that many women have no means to seek legal advice and representation and no means to enforce their rights.

As has also been pointed out by the Disability Alliance of BC in its submission:

People with disabilities are disproportionately impacted by poverty and many are homeless or at risk of being homeless. Without adequately funded legal services, many would not have the socio-economic means to obtain the information and expertise essential to knowing and protecting their rights. Many would be denied provincial disability benefits and other critical subsidized services despite their eligibility. This would have devastating

consequences that social justice organizations are all too familiar with, as the relationship between an individual's deteriorating economic situation and worsening disability conditions can be a vicious cycle.

A further key need in British Columbia is a culturally appropriate and responsive justice system that is focused on improving outcomes for Indigenous people and reducing their over-representation in the adult and youth criminal justice systems and the child welfare system in order to help end the cycle of a worsening legal and economic situation that many in those communities can face.

With specific regard to legal aid in family law matters, the 2018 provincial budget announced an increase of basic legal aid funding for Indigenous and family law services of just under \$4.8 million per year. This is a significant improvement, but is less than the approximately \$20 million that is required to restore full family law legal aid services to all who meet financial eligibility criteria. This leaves the Legal Services Society in the position of having to allocate important family law services amongst those with the most compelling circumstances, with many continuing to fall between the cracks.

With respect to poverty law legal aid, we note that the Law Foundation of British Columbia funds a number of initiatives to assist those with poverty law issues, helping to bridge a portion of the gap created by the 2002 elimination of government funding of poverty law legal aid services. However, the need is greater than the resources available and we encourage the government to dedicate resources to this area as well.

Generally, as a number of social justice groups have highlighted in their call for [Justice Reform for BC](#):

The priorities identified [in their report] fall primarily under the responsibilities of the Attorney General and the Solicitor General. A commitment to justice and fairness, however, must animate the whole of the government. We believe that the well-being and human rights of British Columbians – including those most marginalized by our society – depends on a strong justice system that works in an integrated and collaborative fashion with the other pillars of our public system.

With the foregoing in mind, we urge the BC government to take a leadership role in creating and implementing an impactful poverty reduction strategy that takes into account the important role that addressing serious access to justice concerns must play in an effective plan.

Yours truly,



Bill Veenstra
President 2017/2018
Canadian Bar Association, BC Branch

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