

Big Case Management

The Big Case Management (BCM) program is a cost monitoring and control system for large-scale criminal cases in line with LAO's mandate to provide quality service for low-income individuals.

BCM is geared towards criminal cases likely to cost over \$20,000. Other major factors for entry into the program are:

- The case involves a charge of first or second-degree murder and is expected to cost over \$30,000 in fees and disbursements.
- The case involves multiple co-accused and is expected to cost over \$50,000 in collective fees and disbursements.
- Matters where the preliminary hearing is likely to take more than two weeks.

The BCM Director and the Vice President of Central Programming and Innovations oversee all BCM cases. They are managed by a core group of area directors responsible for the majority of BCM certificates.

The BCM Application Process

Counsel alerts LAO about potential BCM files by submitting an opinion letter, which provides LAO with a comprehensive outline of all the relevant facts and legal issues pertaining to the case, after which the area director meets with counsel to determine whether the case qualifies for BCM.

Accepted cases have budgets set in consultation with a lawyer; however if a case is expected to cost more than \$75,000, it is referred to the Exceptions Committee for review before a panel of senior lawyers. There is no appeal from a refusal of admission into BCM although lawyers can re-apply if there is a change in circumstance. Lawyers working on big cases must provide periodic updates to LAO and adhere to a set of extensive guidelines that outline conduct, quality service, budget management and billing rules to name a few.

Generally, the case manager is the area director of the office where the certificate was issued. However, in matters of multiple co-accused from different areas or complex

criminal cases, the case manager may be from a different office. In all situations there is one case manager per case.

BCM- By the Numbers

BCM Case Costs

- LAO spends an average of \$20 million on big cases each year.
- Big cases generally represent about 2% of criminal certificates and 25% of criminal certificate costs.
- The average cost of a non-big case is \$1,675; on average, each big case costs \$29,459, 18 times the cost of a regular certificate.

BCM Cases - Numbers 2008-09

- 1185 active cases were carried over into 2008-09 from 2007-08.
- In the first 6 months:
 - 318 new cases have entered the program.
 - 273 cases have been resolved.
- As of the end of the 2nd quarter, LAO is managing 1230 active BCM cases.
- Big cases typically have a life span of 3-4 years.

Mega Cases

- Total average cost of big cases has increased 16% since 2001 due to the rising number of multiple co-accused cases.
- It is estimated that LAO will spend an average of \$3.3M annually on mega cases over the next few years.

Exceptions Committee

- Currently there are 233 open Exceptions Committee certificates.
- The average case costs for completed Exceptions Committee cases is \$50,811 for cases that do not go to trial and \$80,018 for cases that do go to trial.
- Since its inception in 2001, the committee has heard over 800 applications.
- Over the past 6 years, the committee has saved LAO about \$24 million in cost avoidance (the difference between Counsel's budget request and the Committee's recommendation).

BCM Cases by Offence - 2007-08

Homicide	44%
Sexual assault	9%
Narcotics (cocaine & heroin)	11%
Robbery	9%

Weapons offences	5%
Other*	22%

*"Other" includes: arson, conspiracy, threatening, kidnapping, aggravated assault, assault causing bodily harm, theft and break and enter.

BCM - Backgrounder

LAO's mandate is to provide quality services for low-income individuals. This includes complex and costly cases where warranted.

The BCM program handles large-scale criminal cases costing over \$20,000. Criminal matters expected to cost in between \$20,000 to \$75,000 in fees and disbursements are managed by the local area director under the supervision of the BCM director. Matters likely to exceed \$75,000 are referred to the Exceptions Committee for examination and recommendations from an experienced panel. Big cases can include homicide, conspiracies, drug trafficking and sexual assaults, and often involve more than one accused person.

The program is designed to monitor, control and predict case costs, while providing counsel with appropriate resources for high quality, effective service delivery. It helps ensure the private bar continues to accept certificates for big cases. LAO gives individual consideration to each big case and works with the lawyer to tailor a budget that meets the requirements of the case. This helps LAO better manage costs, and ensures that the lawyer can plan his or her defence strategy accordingly.

Entry into BCM

LAO's legislated guidelines provide big case management for criminal matters in the following circumstances:

- The case is expected to cost \$20,000 or more in fees and disbursements.
- Murder cases (first or second-degree charges) where total fees and disbursements are expected to exceed \$30,000.
- Cases with multiple accused expected to cost over \$50,000 in collective fees and disbursements.
- Matters where the preliminary hearing is likely to take more than two weeks.

BCM Goals

The BCM program's goals reflect the broader purpose of LAO and include:

- To monitor and control case cost, in accordance with the standard of a reasonable client of modest means.

- To increase the predictability of the cost per case.
- To provide lawyers with appropriate resources for high quality and effective service delivery.
- To ensure the criminal/private bar continues to accept certificates for big cases.
- To develop and maintain a framework of accountability and consistency.
- To give each case individual consideration.
- To manage and deliver the program within the available financial resources.

The BCM Application Process

The defendant's lawyer alerts LAO about a potential BCM file by submitting an opinion letter to the local area director. The opinion letter provides LAO with a comprehensive outline of all the relevant facts and legal issues pertaining to the case .

The area director then meets with the lawyer to determine whether the case qualifies for BCM. If the case is accepted, a budget is set in consultation with the lawyer and the tariff maximum is essentially replaced. As mentioned earlier, if the budget exceeds the \$75,000 ceiling, it is referred to the Exceptions Committee.

Typically, the case manager is the area director of the office from which the certificate was issued. In some circumstances, area directors may manage matters from other areas or refer the setting of a budget to another area director experienced in BCM cases, particularly in cases with multiple co-accused from different areas.

To maintain efficiency, only one case manager is assigned to each big case, with all cases overseen by the BCM Director and the Vice President of Central Programming and Innovations.

Among other things, lawyers working on big cases must provide periodic updates to LAO and adhere to a set of extensive guidelines that outline conduct, quality service, budget management and billing rules.

A core group of area directors are responsible for the majority of BCM certificates. The area offices that receive the bulk of big cases are located in Toronto, Etobicoke, Scarborough, Oakville, Ottawa, Brampton, Hamilton and Lindsay.

Exceptions Committee

LAO's Exceptions Committee was established in 2002-03 to review big cases and their budgets in special circumstances where the costs of a case may exceed \$75,000. The Committee consists of experienced, senior criminal lawyers and senior LAO staff and is lead by the Director of BCM and the Vice President of Central Programming & Innovations.

If the area director's believes that the budget is likely to exceed \$75,000, the lawyer receives an invitation to attend an Exceptions Committee meeting. The Committee considering any written materials and submissions during the meeting, and after deliberating, recommends a budget to the area director, who has the final decision. The committee also makes recommendations on requests for a second counsel (junior or co-counsel), and additional disbursements as necessary.

Counsel may appeal the Committee's decision to the President and CEO of Legal Aid Ontario.

There is no appeal from a refusal of admission into the BCM program, although lawyers can re-apply if there is a change in circumstance.

Working Group

LAO and the Ministry of the Attorney General (MAG) have formed a Working Group to develop stronger working relationships including those involving BCM.

The role of the working group is to develop a financial plan and strategies to address issues that are affecting the efficiency and effectiveness of the delivery of legal aid services, such as the rising costs of big criminal cases.

The goal is to strengthen LAO's financial position and provide the predictable funding it needs to deliver an appropriate range of quality legal aid services to meet the needs of low-income Ontarians.

Extremely Serious Criminal Matters (ESM) Panel Standards

LAO has established a minimum set of panel standards for lawyers who take on serious criminal cases, such as extraditions on murder charges, charges with a mandatory minimum penitentiary sentence of 4 years or more, dangerous offender applications, and charges related to terrorism.

The ESM's minimum standards for membership and retention on the panel:

- Must be a member of LAO's Criminal Panel and:
 1. have a minimum of five years of 100% criminal practice concentration or the equivalent; and,
 2. within the last five years have:
 - conducted 100 days of contested trials or contested preliminary inquiries;
 - acted as counsel, co-counsel or junior counsel on at least one jury trial;
 - conducted a minimum of five voir dres with issues of similar fact, statements, hearsay and/or expert evidence; and,
 - conducted a minimum of five contested Charter applications.

For more information please refer to:

- [BCM - Information for Lawyers](#)
- [Protocol - MAG](#)

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