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Fact Sheet

Big Case Management

Big Case Management (BCM) sets the budgets, and monitors the costs of large criminal cases. BCM is an important part of Legal Aid Ontario's mandate to provide quality service for low-income individuals, while maintaining fiscal responsibility.

Typically, criminal cases likely to cost over \$20,000 become part of the BCM program. Other major factors for entry into the program are:

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

Big Case Management certificates are managed by a core group of district area directors.

BCM - By the numbers

BCM case costs

- LAO spends an average of \$23 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 regular case is \$1,391; Overall big case cost on average \$32,700 however, the average cost of a regular big case is \$24,700 or 18 times the cost of a regular LAO case.

BCM cases - Numbers 2009-10

- Big cases typically have a life span of three to four years.
- BCM will manage 1500 certificates throughout the year and will have 650 active big cases at any given time.

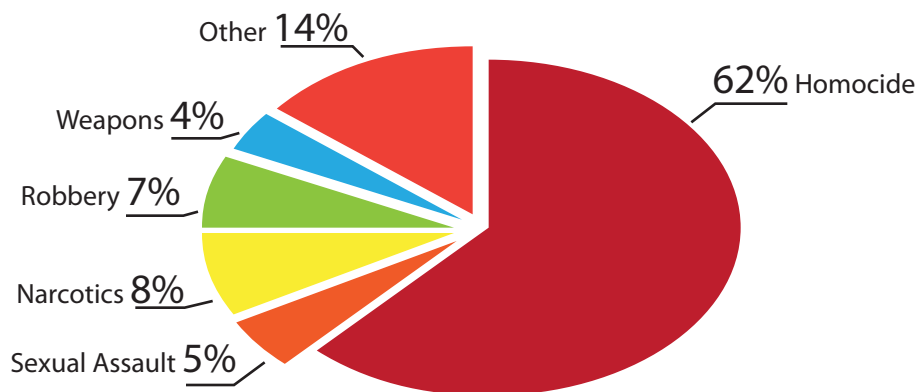
Mega cases

- Refined management of large or very high profile cases has enabled BCM to better control costs. Overall average certificate costs are now only 5% higher than in 2001.

Exceptions committee

- The Exceptions Committee hears on average 250 applications a year.
- The average case costs for completed Exceptions Committee cases is \$56,300 . Examining only those matters that proceed to trial the average cost is \$78,000.
- Since its inception in 2001, the committee has heard approximately 1500 applications.
- The Committee saves the organization roughly \$1.6M a year.

BCM cases by offence - 2009-10



Homicide certificates make up the majority of the Program's case load.

BCM – Application process and background information

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

The BCM program handles large-scale criminal cases costing over \$20,000. Criminal matters expected to cost between \$20,000 and \$75,000 in fees and disbursements are managed by a district 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 are:

- 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 that criminal lawyers continue 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 managing district area director. The opinion letter provides LAO with a comprehensive outline of all the relevant facts and legal issues pertaining to the case.

The district 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. This means the tariff maximum is essentially replaced. As mentioned earlier, if the budget exceeds \$75,000, it is referred to the Exceptions Committee.

Typically, the case manager is the district area director of the office or area from which the certificate was issued. In some circumstances, district area directors may manage matters from other areas or refer the setting of a budget to another district 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 district area directors are responsible for the majority of BCM certificates. The areas that receive the bulk of big cases are Toronto, Etobicoke, Scarborough, Oakville, Ottawa, Brampton, Hamilton and Lindsay.

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.

Exceptions Committee

LAO's Exceptions Committee reviews 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 led by the Director of BCM and the Vice President of Central Programming & Innovations.

If the district area director believes that the budget is likely to exceed \$75,000, the lawyer receives an invitation to attend an Exceptions Committee meeting. The Committee considers written materials and submissions during the meeting, and after deliberating, recommends a budget to the district 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.

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 four 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:

- have a minimum of five years of 100 per cent criminal practice concentration or the equivalent; and;
- 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 dires with issues of similar fact, statements, hearsay and/or expert evidence; and,
- conducted a minimum of five contested Charter applications.

Questions?

For more information please refer to:

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

For more information on this topic contact media@lao.on.ca