

TARGETED SERVICES FOR FIRST NATIONS, MÉTIS AND INUIT

Many of LAO's new initiatives are targeted to vulnerable client groups and communities and support LAO's Aboriginal Justice, Mental Health, and Domestic Violence strategies. These groups/communities are often over-represented in the justice system and therefore represent a high proportion of LAO's clients.

The need for expanded certificate legal aid services for First Nations, Métis and Inuit clients was confirmed by Justice Iacobucci's 2013 report on the under-representation of First Nation people on juries. The report found the justice system is failing Aboriginal people and that access to justice, the administration of justice, the availability of appropriate and quality legal services, and the treatment of First Nation people in the justice system remains inadequate in Ontario. Aboriginal people and families are disproportionately represented in criminal justice system and in child protection matters.

By expanding legal services to Aboriginal people in family and criminal law, LAO seeks to address the historical injustices inflicted on First Nation, Metis and Inuit people and to better serve these communities.

LAO is expanding legal aid services to First Nation, Métis and Inuit people as follows:

COMPLEX FAMILY MATTERS

LAO is expanding certificates for financially eligible clients in a broad range of complex family matters. These circumstances may include multiple legal issues, a self-employed parent, Hague applications, matrimonial property claims for clients on reserve and mobility claims. Self-Identifying as being First Nation, Métis or Inuit will be included as a complex client factor in considering eligibility for a legal aid certificate in family law matters.

COVERAGE FOR THIRD-PARTY CAREGIVERS IN CHILD PROTECTION PROCEEDINGS

The *Child and Family Services Act* includes several provisions recognizing the importance of Aboriginal children's heritage, culture, and key role of the extended family and community involvement. Residential schools and child welfare systems removed First Nation, Métis and Inuit children from their families and communities, tearing the social fabric of Aboriginal nations. This has resulted in a crisis for Aboriginal children. They account for 2.8 per cent of Ontario's child population, but make up 22 per cent of Ontario crown wards¹. It is estimated there are more children in care today than at the height of the residential school era².

To address these issues, LAO will, in some circumstances, offer third-party caregivers a certificate to seek a lawyer's

assistance and advice be added as a third-party in a child protection proceeding. If accepted as a third party, the lawyer would help the caregivers put forward a detailed plan of care when a child-protection agency is seeking custody of a child. This could allow the child to stay in the care of grandparents, aunts, uncles or other possible caregivers in their home community when possible, rather than become a ward of the state.

NON-LITIGATION SERVICES FOR PARENTS INVOLVED WITH CHILD-PROTECTION AGENCIES

In child protection matters, early intervention can keep cases out of the courts, which benefits everyone, particularly children. Agreements signed between parents and child-protection agencies can have long-term repercussions on families. Providing parents with access to legal assistance at the preliminary stages can offset the power imbalance between parents and child-protection agencies.

To prevent child apprehension by child-protection agencies, LAO will facilitate early intervention initiatives. In some circumstances, LAO will issue a certificate for independent legal advice and negotiation:

- to help negotiate customary care agreements
 - to help negotiate special needs agreements
 - to help negotiate temporary care agreements
 - to facilitate the client's participation in Aboriginal alternative-dispute resolution processes.
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COVERAGE FOR FIRST-TIME ACCUSED

For those with no prior criminal record, a first conviction can change everything. Many describe acquiring a criminal record as a life-changing event and a barrier to leading a full and productive life. Many employers now ask for a criminal record check, especially in the resource- development industry. A person with a record becomes unable to find work, to contribute to their community, volunteer at their children's school or travel freely. Providing representation to accused with no prior criminal record increases the odds they will not come into repeated contact with the justice system.

LAO will now issue a certificate to a financially eligible Aboriginal adult accused with no prior criminal record or an Aboriginal youth accused with no prior dispositions if the Crown is seeking a conviction or a discharge. Certificates will be available for any summary, hybrid or indictable offence. This will not include matters where the Crown is seeking diversion (unless it is a mental health matter).

1 Ontario Association of Children's Aid Societies, *Ontario's Child Welfare Report* (2012) online: <<http://www.oacas.org/newsroom/releases/12childwelfarereport.pdf>> at 7.

2 Blackstock, C. (2003). First Nations Child and Family services: Restoring Peace and Harmony in First Nations communities. In K. Kufedlt & B. McKenzie (Eds.), *Child Welfare: Connecting Research Policy and Practice*. 331-342. Waterloo, Ontario: Wilfred Laurier University Press.

EXPANDED BAIL SERVICES

Over the past 20 years, more and more Ontarians spent time in jail while awaiting a decision on bail or being denied bail. In fact, more people in Ontario now spend time in jail for this reason (generally referred to as remand) than due to convictions³. This trend has disproportionately affected First Nation, Métis and Inuit, particularly in Ontario's North.

By expanding bail coverage, LAO can reduce the number of people in custody as they wait for a trial or a bail hearing. It will also help ensure fewer people will plead guilty just to get out of jail. In the coming months LAO will begin issuing a certificate or provide an authorization to a financially eligible accused to vary bail conditions and allow their lawyers to conduct a second bail hearing. In some circumstances, LAO will issue enhanced authorizations for bail reviews. These enhanced authorizations will expand the number of hours lawyers have to challenge illegal bail orders and improper conditions on bail releases.

³ http://www.archives.gov.on.ca/en/e_records/ipperwash/policy_part/research/pdf/Rudin.pdf

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