

Progress update:

Truth and Reconciliation Commission Calls to Action



LEGAL AID ONTARIO

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On June 15, 2016, Legal Aid Ontario's (LAO) President and CEO, David Field, issued a statement in which he committed to working with Indigenous communities and provincial and federal governments to implement the Truth and Reconciliation Commission's Calls to Action addressed to the justice community.

The following is an update on LAO's progress to date.



Call to Action #1:

Commit to reducing the number of Aboriginal children in care by providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.

Current initiatives

LAO offers certificates providing full private bar representation to eligible Indigenous families who have an active child protection application before a court.

LAO provides pre-litigation certificates to those who financially qualify for Indigenous families that are involved with child protection agencies but do not have an active application before the court.

These certificates can cover the cost of a lawyer to draft a customary care agreement or to provide legal advice during Indigenous dispute resolution processes.

LAO supports Child Protection Indigenous People's Courts by providing funding and operational support in the form of duty counsel participation.

LAO is exploring more effective ways to promote the services it offers to Indigenous clients and families within the child welfare system.

Call to Action #27:

Ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Current initiatives

In 2020, LAO held a comprehensive training on how to effectively apply Gladue principles at the bail stage of the legal process for all duty counsel and roster lawyers. The recording of this training and associated materials are available on LAO's intranet for continued use by staff.

As a resource to staff and roster members, LAO LAW maintains a database of case law and legislation, as well as a collection of memos, specific to Indigenous issues.

LAO's Aboriginal Justice Strategy hosts information sessions on a variety of Indigenous-focused topics (e.g., the importance of Indigenous data collection, Missing and Murdered Indigenous Women and Girls, Two Spirit issues, etc.) for LAO and clinic staff.

LAO launched an Indigenous book club giving staff new opportunities to consider and discuss different themes and issues from the perspective of Indigenous people and communities. Indigenous authors are invited to join and share their point of view.

New employees with LAO's Client Legal Service Centre (CLSC) are provided with training by the Aboriginal Justice Strategy lead during orientation.

Call to Action #30:

Commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.

Current initiatives

LAO established a specialized *Gladue* roster and provides additional coverage (certificate hours) to lawyers who introduce *Gladue* reports at court on behalf of Indigenous clients.

Since 2014, LAO has expanded access to *Gladue* report services by investing over \$1 million dollars in Indigenous service organizations writing these reports.

LAO has sought the advice of an independent expert on how to improve *Gladue* report writing services.

LAO funds community-driven processes including alternative dispute resolution and justice initiatives in some communities.

LAO continues to support the creation and operation of Indigenous Peoples Courts (IPC) across Ontario and provide duty counsel to eligible clients. LAO also participates as an active member of IPC steering committees.

LAO oversees the federally funded Anti-Racism Action Program (ARAP) project, collecting Indigenous and race-based data at the bail stage. Data collected will be analyzed by a team of academics to determine if there is a discrepancy between outcomes for Indigenous, Black and other racialized clients as compared to non-Indigenous, non-Black, and non-racialized clients. This information will be used to address systemic issues within Ontario's justice system.

LAO supports improved access to justice for Indigenous people by funding a select number of test case matters dealing with issues specific to Indigenous clients.

Call to Action #30:

Commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.

Current initiatives

In 2020, LAO introduced temporary emergency measures, including expanded eligibility for legal aid, to address the needs of Indigenous individuals and families during the lockdown phase of the COVID-19 pandemic when access to many services was unavailable or restricted.

Institutional duty counsel work with correctional institutions across Ontario to provide direct legal services—either in person or virtually—to inmates, including those who identify as Indigenous.

Call to Action #31:

Provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.

Current initiatives

LAO provides funding to certain community justice programs such as the Indigenous Community Justice Program through the Ontario Federation of Indigenous Friendship Centres (OFIFC).

LAO funds Nishnawbe-Aski Legal Services Corporation to administer legal aid services within Nishnawbe Aski Nation (NAN).

LAO provides duty counsel to eligible clients in alternative courts, such as Indigenous Peoples Courts, Mental Health Courts, and Drug Treatment Courts, throughout the province. These courts provide culturally appropriate alternatives to incarceration for Indigenous clients.

LAO supports the development and operation of the Ontario Justice Centres in Kenora, Toronto, and London. Justice Centres move justice out of the traditional courtroom into a community setting and bring justice, health, and social services together to break the cycle of offending and improve community safety.

Call to Action #38:

Commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.

Current initiatives

Indigenous youth who are charged with a criminal offence are legally eligible for a legal aid certificate.

Call to Action #47:

Repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and terra nullius, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

Current initiatives

LAO staff recognize that it is a privilege to work and live on Indigenous land and that these lands are governed by treaties and agreements that need to be followed. A [land acknowledgement](#) is published on LAO's website (www.legalaid.on.ca) along with a toolkit to assist those who want to learn about and create a meaningful land acknowledgement for their own territory.

Call to Action #57:

Provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Current initiatives

LAO's Board of Directors and all current and incoming LAO staff will participate in The Path: Your Journey through Indigenous Canada cultural competency training.

In 2021, LAO's executive team and a small group of other key decision makers participated in the Bimickaway cultural training provided by the Indigenous Justice Division of the Ministry of the Attorney General of Ontario.

In 2021, LAO's Board of Directors' annual retreat was focused on issues facing Indigenous and racialized people. The Board heard from guest speakers and engaged in discussion about how to ensure that the unique challenges facing Indigenous and racialized clients and communities were incorporated into implementation of LAO's strategic plan.

LAO staff are offered several opportunities to increase their awareness of the experiences and unique needs of Indigenous clients and communities (e.g., Lunch and Learn workshops, documentary film screenings, and other events).

Call to Action #80:

Collaborate with Aboriginal peoples to ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.

Current initiatives

Since its inception in 2021, LAO has commemorated the National Day of Truth and Reconciliation/Orange Shirt Day by reaffirming its commitment to fulfilling the Truth and Reconciliation Commission's Calls to Action. LAO offices are closed (except for bail services) on September 30 to allow Indigenous staff and non-Indigenous allies to recognize the day in a meaningful way.

The Aboriginal Justice Strategy along with LAO's Equity, Diversity and Inclusion Committee host a series of activities for staff during National Indigenous History Month and Truth and Reconciliation Week as well as throughout the year to increase awareness of the history and many contributions of Indigenous people.