

LEGAL AID TALKING POINTS - FOLA 2020

BACKGROUND

Legal Aid Services Act

On December 9, 2019, the government introduced the [Smarter and Stronger Justice Act \(Bill 161\)](#), a bill that, if passed, would establish a new framework in which we deliver legal aid services through amendments to the **Legal Aid Services Act**. The proposed changes to the act would ensure continuity and Legal Aid Ontario's status as an independent corporation accountable to the government and people of Ontario. The updated legislation—last revised in 1998—would give LAO greater scope to develop and adapt services and policies to more responsively serve clients, and work with service providers. It offers opportunities for innovation and allows it to address gaps in the justice system. As drafted, the proposed act is fully supported by the LAO.

On August 15, 2019, FOLA attended three Rountables (Criminal; Family; & Refugee) Chaired by Legal Aid Ontario Chair Charles Harnick. All were to discuss the Legal Aid Modernization Project and the Legal Aid Services Act Review.

You can access our [report](#) on those meetings (plus a recap of a meeting with the Attorney General of Ontario on August 14, 2019) [here](#).

On September 10, 2019, FOLA presented our submission regarding the review of the Legal Aid Services Act to the Attorney General of Ontario, the Chair of Legal Aid Ontario, the Law Society of Ontario, and the Chair of the Alliance for Sustainable Legal Aid. You can read that submission [here](#).

Provincial Funding Cuts

In the April 2019 Ontario Budget, Legal Aid funding cut by \$133 million – or 30 per cent of Legal Aid Ontario's funding. It was also announced that the organization could no longer use provincial funds for refugee and immigration cases. Ontario has since cancelled an anticipated \$31million, previously scheduled for 2021-22.

The Alliance for Sustainable Legal Aid

FOLA is a member of the Alliance for Sustainable Legal Aid (ASLA), which is a group of representatives of various legal service providers all reliant on LAO funding to some extent. The group meets approximately once a month to discuss common areas of concern and is currently reviewing Bill 161, lobbying for sustainable funding (with both the Ontario and Canadian governments), and advocating for funding and innovation.

FOLA'S POSITIONS

Bill 161 & the Legal Aid Services Act

FOLA highlighted the following as primary considerations:

1. Primacy of the private bar;
2. Legal Aid need to be both effective and efficient;
3. Incremental work on Quality Assurance is good and should be supported; and
4. Funding and tariffs should be considered in light of the cost of other government-employed-lawyers performing similar functions such as Crown Attorneys.

Other key points

- ❖ FOLA strongly believes that the private bar is the foundation for the provision of legal aid services in criminal and family law as well as mental health;
- ❖ LAO needs to do better re: leveraging new technologies so that it can provide best services in a cost-effective manner;
- ❖ FOLA strongly supports the independence of LAO from the government;
- ❖ LAO should have a skills based board, including representation from the private bar in a variety of practice areas;
- ❖ There needs to be a better definition of the role of Duty Counsel and LAO should not be expanding duty counsel services except where there is an identified gap in the system which cannot otherwise be filled by private bar counsel; and
- ❖ Improved transparency in the way in which certificates are approved or denied.

Sustainable Funding (provincial)

Along with ASLA, FOLA lobbied the government to cancel all Year Two cuts. This has been accomplished.

WHERE WE ARE NOW

FOLA is looking for acknowledgment from the Ontario government that the legal aid funding cuts have resulted in a loss of access to justice for Ontario's most impoverished and vulnerable, and, contrary to the stated goals of MAG.

KEY POINTS TO FLAG IN MEETINGS

- ❖ It is in the best interest of all Ontarians that the government is committed to, at a minimum, sustainable, long term funding that reflects pre-2019 cuts;
- ❖ Inability to access legal aid (especially since cuts) has resulted in a noticeable spike in the number of self reps – which increases court time, causes delays, and increases costs overall;
- ❖ MAG needs to support the private bar in recognition that it is the best delivery model used to service the public and is the most cost-effective use of taxpayer dollars (no pensions, staff overhead, overtime, etc);
- ❖ Quality assurance is critical; LAO should be responsible for quality control;
- ❖ MAG needs to commit to parallel funding for both crown and legal aid representation;
- ❖ MAG should restrict Duty Counsel services - they should only serve in communities where there is a gap in services provided by the private bar;
- ❖ LAO should leverage new technologies to ensure efficiency, expediency, and cost-effectiveness;
- ❖ Use of trial coordinators to deal with remand cases via modernization;
- ❖ Ensure stability of funding for student legal aid clinics.