



**Suzette Narbonne, Chair, Legal Services Society
Speech to the Law Society of BC Benchers, January 27, 2017**

Thank you all for inviting me. I am looking forward to talking to you a little bit about what we're doing at Legal Aid and what you are doing here at the Law Society.

Although I'm here as the chair of the LSS Board, I am a practicing lawyer, in family law and criminal law. My practice is a combination of private-paying clients and legal aid clients. It is from this perspective that I'd like to start by telling you a bit about why I believe legal aid is so important.

I live in Sechelt, but I help legal aid clients in communities right across BC. Sometimes my clients have mental health issues ... sometimes they have addictions ... sometimes they have low literacy ... and sometimes, they just don't have the money to pay for a lawyer. What they all have in common is a legal problem — and no way to access justice without legal aid.

As an example, let me quickly tell you about one client in particular, who without legal aid would not have met any definition of legal fairness that you and I would agree upon.

This client has asked me to share her story — except for her name — I will call her Jackie. Jackie had been in an emotionally abusive relationship for 30 years. She had never held down a job. She had never had a bank account.



Her husband first introduced her to alcohol. He then introduced her to drugs. He inherited a huge amount of money and squandered it on crazy business deals. At her lowest point, Jackie was not able to get up — except to do more drugs. Her husband forced her to sign a paper that put a lien on the house. Her children wouldn't even talk to her.

One day she managed to get to a transition house. And the very first thing they did was get her connected to Legal Aid. Legal Aid then called me and I took her file.

When I met Jackie she was fragile. She just wanted to get out of the nightmare she was in. She didn't even know why she needed a lawyer.

The first thing she did was check herself into a treatment program. When she came out of that, we met again. She still just wanted out of the relationship. Her husband made her an offer: he would keep the house; he would keep the debt. He would never pay her any support. He would pay for the divorce, and they would call it fair. She said, yes, let's do it. I said, no, you're not doing that. This is after a *30-year marriage* and she is willing just to take this offer and walk away because she doesn't have the ability to take care of herself at this point.

Without legal aid, there is no way she could have persevered with this file. She didn't have the skills, and she didn't have the strength. Her husband had a job, he a lawyer, and he made his offer sound really good.



Through the course of my legal relationship with Jackie, she was able to build a lot of confidence. She opened up a bank account. She found a job. It was the first time in her life she had ever stood up to her husband.

It also turned out that the financial picture was not quite as bleak as her husband had suggested to her. So at the end of this, she was able to get a reasonable property settlement. She was able to get some spousal support, and she got her divorce.

This would not have happened without legal aid. But you should know that Jackie would not necessarily even qualify for legal aid right now. She only met our criteria for discretionary spending, which we can only do when we have the money in our budget. We have to keep a balanced budget. So right now, she would not qualify for legal aid. It really depends on *when* you apply.

I realize that for many of you this is just a reminder, but it is an important reminder of why legal aid plans do exist. If Jackie had not got legal aid, she would have given up her legal rights. And many of the Jackies of the world, if they don't give up their rights, they try to self-represent... they prolong the court process ... and they don't truly get justice under the law. That's why what legal aid does is so important.



This brings me to the good news portion of my speech! First, I'd like to acknowledge the leadership role the Law Society is taking in a number of areas. The Law Society's quick response to the Truth and Reconciliation Commission's report is to be congratulated.

By establishing a permanent Truth and Reconciliation Advisory Committee, and encouraging all BC lawyers to take training in areas relating to Aboriginal law, you've taken a very important step in the reconciliation process.

I'm sure we can all agree that it's important for lawyers not only to understand Indigenous laws, but the history and legacy of residential schools ... In other words, cultural competency should be a prerequisite of helping Indigenous people with their legal matters.

This is a subject that is much on our minds at LSS. We see firsthand the disproportionate number of Indigenous clients in the justice system. They represent about 30 percent of all legal aid clients, and in child protection law the proportion goes up to 40 percent. These are staggering statistics. When I spoke to you a few years ago, those were the stats, they have not changed.

For this reason, LSS has made Aboriginal Services a priority. It has submitted a business case to the Ministry of Justice to get funding to expand our Parents Legal Centre model to more locations.



The centre was successfully piloted at Robson Square. It helps parents facing child protection issues — many of whom are First Nations families — to get advice early in the process, and culturally appropriate support to deal with related issues. The centre’s approach to child protection has resulted in better collaboration between social workers, families and lawyers; and often, cases are resolved much quicker.

We at LSS are also looking closely at how we can respond in a meaningful way to Grand Chief Ed John’s recent report on Indigenous child welfare in British Columbia.

Turning to another area of shared interest.... Since I spoke to you last in 2015, the Law Society has struck a Legal Aid Task Force. It demonstrates your commitment to people like Jackie, who I talked about earlier. I was really grateful to be able to attend the forum organized in November.

It was a fantastic exchange of ideas among previous LSS board chairs, many of whom I’d never met, and lawyers, judges, academics... I really look forward to seeing your next steps in that regard.

There are also other opportunities for the Law Society to take a leadership role in partnership with LSS. One — and I know I have spoken to some of you about this before — is a joint research project into the cost of practicing law in BC.



This would really assist us in advocating for increased fees for lawyers who do legal aid cases.

I think most of you know that legal aid lawyers are paid according to a tariff set by LSS. These rates were marginally increased in 2006. However, the last significant increase was back in 1991.

The rate we pay legal aid lawyers is often far less than what the government-paid lawyers are getting, who sit opposite them in court. It puts both the client and the lawyer at a disadvantage.

Doing legal aid is becoming a money-losing proposition for lawyers. Lawyers will often put more time in than they will ever get paid for. In such circumstances, the sustainability of legal aid is uncertain. How can we keep asking lawyers to do this?

I was recently up in Terrace, and the lawyers there were saying they do family law work because they believe in it – because they think the clients should have representation – but they can't afford to have anyone helping them in their office.

So their clients are frustrated because they don't always get an answer to their phone calls; the documents take longer to prepare. The clients are directly impacted by the lawyers' ability to run their offices because of the amount we are able to pay them.



So, while we worry about young lawyers too — they're our future — the senior lawyers are struggling, doing this kind of work. We are worried that we will have fewer and fewer lawyers able to help marginalized people.

Raising the tariffs is increasingly a top priority for LSS. And, yes, we can set the tariffs — we have that autonomy — but we have a budget and it must be balanced. Without any increases in funding, any increase in tariffs is coming out of services. So, we can cut services to increase tariffs. But since we can only cut services in non-constitutional areas, it means cutting family law, primarily. We do not see that as an answer.

Together with the Law Society, we can make a case for increasing tariffs for lawyers who do legal aid. At LSS, we will continue to advocate for increased funding from government. But a research report on the cost of practicing law ... sponsored by the Law Society ... would certainly be a welcome tool for us.

This is my last speech to you as the board chair of LSS. It has been gratifying to work with the benchers and Law Society staff. We have all been working hard to advance common goals. I can tell you that I've heard from a lot of different lawyers and judges how pleased they are that you are taking this role. From my perspective and the board's perspective, we are truly grateful for what you have done.



Legal
Services
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Providing legal aid
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Speaking Notes

You, as benchers, are highly respected in the legal community ... so if I have one goal for this meeting, it's that after I leave you today, you will ensure the Law Society continues on this path of supporting legal aid, and protecting the rights of British Columbians who have legal problems and have low incomes.

Thank you.