



**Legal Services Society  
Annual Report 1998 – 1999**



**Legal  
Services  
Society**

British Columbia  
<http://www.vcn.bc.ca/lssbc/>

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This is a publication of the Legal Services Society (LSS). LSS provides legal aid to eligible applicants and legal information and education to all British Columbians. LSS provides these services with the participation of about 1,700 private bar lawyers and with funding from the provincial government, the Law Foundation, the Notary Foundation, and, indirectly, the federal government.

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## Message from the Chair and CEO

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This was the first year of the Legal Services Society (LSS or the Society) five-year business plan, adopted by the Board of Directors in 1997 – 1998. Featured throughout this report are progress synopses on various initiatives in the areas of mandate and service delivery, quality assurance, and finances.

The overall objective of the five-year plan is to continue and, where possible, enhance current programs, given restricted funding. Most of the initiatives set out in the business plan for this year were partly or wholly implemented.

In the mandate and service delivery area, for instance, LSS developed and participated in innovative programs to help fill some of the gaps created by previous years' budget cuts, particularly in family and criminal law services. This work included —

- developing self-help materials for people who do not qualify for legal aid,
- translating a number of publications into a variety of languages, and
- working with the Ministry of Attorney General to divert family disputes that do not involve violence from litigation to mediation.

The Society enhanced aboriginal services by —

- opening the Vancouver Aboriginal Law Centre, with a mandate to ensure that services in the Vancouver Downtown Eastside are provided in a culturally sensitive manner, appropriate to the unique needs of aboriginal clients,
- working with the aboriginal community and the federal and provincial governments to develop the Vancouver Aboriginal Restorative Justice Project, and
- facilitating the development of native justice committees across the province.

Throughout the year, the Society monitored the impact on clients of previous years' cuts and, in some areas, were able to improve services. We found, for example, that by June 1998, the

number of family law legal aid applications and referrals were below projected levels. In July, therefore, we relaxed financial eligibility requirements for emergency family cases by reintroducing a modified flex test (which allows clients an additional \$150 per month income exemption in specified situations).

LSS also considerably improved quality assurance by —

- introducing community advisory systems in 10 branch offices to improve community input into branch operations;
- issuing a revised and fully consolidated *Guide to Legal Aid Tariffs*; and
- implementing a new computerized billing system, which promises greater bill-processing efficiency, a better expense-tracking system, and improved auditing access to legal aid billings.

Efforts to stabilize LSS finances include ongoing negotiations with the Ministry of Attorney General to establish a special reserve to fund large and expensive criminal cases.

The year 2000 project was a major initiative this year, begun last fiscal year to ensure the Society's systems remain fully functional in January 2000 and beyond. Because the magnitude of this undertaking was not fully identified until almost mid-year, due to the complexities involved in testing existing equipment and software, a few projects, such as implementing a direct-deposit system for paying private bar lawyers' bills, were postponed. The year 2000 project is a considerable milestone for the Society. It will resolve past problems and implement technologies that will support and significantly enhance LSS services in the early years of the next millennium.

One challenge the Society faces is to ensure that its systems change in step with changes in the justice system generally. Last year, the Chief Judge of the Provincial Court initiated a review of the justice system to determine how best to resolve the problem of court backlogs. LSS was included in one of the study groups. The resulting *Report of the Chief Judge* made a number of recommendations, some of which could lead to significant changes in how the courts process criminal cases. The report also contained

recommendations about legal aid, including the following:

“That the legal aid tariff for criminal matters must be adequate to support full answer and defence while providing incentives for early preparation, timely disposition and effective, high quality defence services to accused who are eligible for legal aid.”

and

“That the Legal Aid Program needs to receive sufficient stable funding to ensure that legal aid services continue to be available in Provincial Court criminal matters.”<sup>1</sup>

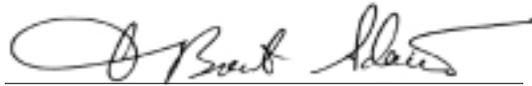
As a result of its participation in the development process, LSS is now involved in plans to implement the new Criminal Caseflow Management Rules.

LSS undertook a similar initiative in immigration law. Because of concerns raised by an immigration staff lawyer, the Society began a series of meetings with the Convention Refugee Determination Division of the Immigration and Refugee Board. These meetings resulted in changes to the LSS immigration tariff, and led to a more keen appreciation of legal aid issues on the part of the refugee board. Managers from the LSS Client Services and Tariff Departments now meet regularly with refugee board management on issues of common concern.

As we note later in this report, the Society's most important resource is our staff, whose experience and expertise provide legal aid clients with the very highest calibre of advice, representation, and assistance. Many staff members also actively participate in local community efforts to improve access to justice. We are very pleased to highlight in this annual report several staff members who received significant honours and recognition during the year.

We are grateful to all staff, private bar lawyers, and community agencies for their ongoing dedication and commitment to providing high quality legal aid services to our clients.

Next year marks the Society's 20th anniversary, and we look forward to celebrating two decades of working to ensure everyone in B.C. has equal access to the law.



**D. Brent Adair**  
Chair



**Dave Duncan**  
Chief Executive Officer

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Throughout the period under review, LSS has appreciated the funding support of the Ministry of Attorney General, the Law Foundation, and the Notary Foundation.

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<sup>1</sup> *Report of the Chief Judge: Delay and Backlog in the Provincial Court of British Columbia, April 1998, pages 28 – 29.*

## Mandate

The Legal Services Society Act gives the Society a twofold mandate: to provide legal representation for eligible applicants and legal education for the people of British Columbia.

Section 3 of the act says:

- (1) *The objects of the society are to ensure that*
  - a) *services ordinarily provided by a lawyer are afforded to individuals who would not otherwise receive them because of financial or other reasons, and*
  - b) *education, advice and information about law are provided for the people of British Columbia.*
- (2) *The society must ensure, for the purposes of subsection (1) (a), that legal services are available for a qualifying individual who meets one or more of the following conditions:*
  - a) *is a defendant in criminal proceedings that could lead to the individual's imprisonment;*
  - b) *may be imprisoned or confined through civil proceedings;*
  - c) *is or may be a party to a proceeding respecting a domestic dispute that affects the individual's physical or mental safety or health or that of the individual's children;*
  - d) *has a legal problem that threatens*
    - i) *the individual's family's physical or mental safety or health,*
    - ii) *the individual's ability to feed, clothe and provide shelter for himself or herself and the individual's dependents, or*
    - iii) *the individual's livelihood.*

## Board of Directors

LSS, created in 1979 by the Legal Services Society Act, which merged the Legal Aid Society and the Legal Services Commission, is an independent, non-profit organization managed by a 15-member board of directors. The Lieutenant-Governor in Council, on the recommendation of the Attorney General, appoints five directors, of whom no more than three can be lawyers. The Law Society of British Columbia consults with the Canadian Bar Association, B.C. Branch, and then appoints five directors. The B.C. Association of Community Law Offices (BCACLO) and the Native Community Law Offices Association of B.C. (NCLOABC) appoint two directors each and one jointly.

Board members as of March 31, 1999 were:

### *Appointed by the Lieutenant-Governor in Council*

Rick Craig (Vancouver)  
Bruce Hardy (Vancouver)  
Marie Jessup (North Vancouver)  
Bridget Moran (Prince George)  
Rashpal (Palo) K. Sall (Port Alberni)

### *Appointed by the Law Society of British Columbia\**

D. Brent Adair (Chair) (Trail)  
Pinder Cheema (Victoria)  
D. Geoffrey G. Cowper, Q.C. (Vancouver)  
E. David Crossin, Q.C. (Vancouver) (to February 1999)  
Barbara J. Yates (Victoria)

### *Appointed by the BCACLO and NCLOABC*

Martin Adams (Terrace)  
Jeannette Armstrong (Penticton)  
Judith Doulis (Vancouver)  
Colin Fortes (Vancouver)  
Sandi Tremblay (Powell River)

*\* One position was vacant at the end of the year.*

## Committees

Standing board committees are: Conflict of Interest, Core Services/Public Legal Education/Governance, Executive, Finance,

Media, Native Services, Strategic Planning, and Tariffs (criminal, family, and immigration).

Each tariff committee is chaired by a board director, with committee members chosen from the private bar. At committee meetings, private bar lawyers provide valuable input on the structure, form, and content of the tariffs, as well as on coverage and eligibility issues.

## Mission

LSS is an independent, non-profit organization, created by statute. Its mandate is to foster public legal education and provide effective legal services to B.C. residents living in poverty, particularly those people experiencing legal problems that threaten their liberty, security, and livelihood.

Since the state is often the opposing party in legal matters that affect people living in poverty, LSS can only truly serve its clients' interests by remaining independent of all levels of government and special interest groups.

The Society's mission is to:

- Ensure that education, advice, and information about the law are available to all people in British Columbia.
- Ensure that legal representation is provided to those people facing serious legal problems who would not otherwise receive legal help.
- Ensure that people living in poverty receive legal services that are —
  - appropriate to their needs,
  - capably delivered, and
  - respectful of their differences.
- Work with the government, the community, and the private bar to ensure the efficiency and effectiveness of all legal services.
- Deliver legal services to the aboriginal people of B.C. that meet their particular needs.

## Strategic Goals: Five-Year Plan

During the next five years, LSS will pursue strategic goals in three areas: mandate and service delivery, quality assurance, and finances. This year, the Board of Directors added a new mandate and service delivery goal (see #2, Part A, below, on working with aboriginal people). The goals are:

### Part A: Mandate and service delivery

1. Ensure, within the limits of available funding, that services are provided in each area of law covered in our mandate.
2. Work together with aboriginal people to develop and promote innovative methods of delivering legal services to aboriginal people and their communities.
3. Establish a regular review process to identify common legal issues among groups of client cases in order to advance test cases and advocate law reform that will benefit our clients.
4. Preserve our current support of public legal education programs to help individuals and groups identify and avoid, or resolve, legal problems.
5. Increase the capacity of offices, community information agencies, and advocacy services to provide people with current information and self-help materials in those areas of law where legal representation services have been reduced.
6. Review our services annually to identify opportunities for mediation and other dispute resolution methods within each of our mandated areas of service.
7. Develop the best possible mix of service delivery models.

### Part B: Quality assurance

1. Expand our existing quality assurance systems to include all aspects of service



**Campbell River branch office staff, from left to right: Legal Secretaries Lori Hildebrandt and Pam Wonnacott, Family Staff Lawyer Forrest Nelson, Managing Lawyer Dennis Morgan, and Intake Legal Assistants Lena Proudfoot and Michele Greengrass. Photograph by Lee Morgan.**

delivery in monitoring service quality and policy compliance.

2. Develop strategies to address lowered morale, reduce employee turnover, and decrease friction among the different service delivery models and their representatives.

## Part C: Finances

1. Secure from the provincial government adequate funding that meets the demand-driven nature of our services.
2. Restrict our expenditures to keep within the fiscal framework imposed by Section 11 of the Legal Services Society Act.
3. Pursue our statutory authority to recover our expenses.
4. Explore alternative sources of revenue.

## Services

People with legal problems get legal help from LSS in a number of different ways. They may walk into one of the local offices across the province to apply for legal aid and/or ask staff for summary advice or copies of free (or low-cost) public legal education materials published and distributed by the Society. Or they may take their legal questions to their local public library,

community group, or multicultural agency, where they can ask LSS-trained workers or look up LSS or LSS-funded materials (e.g., print material, audiotapes, or Web sites) to find answers.

Intake workers at legal aid offices refer applicants who qualify for legal aid to either staff lawyers (or paralegals) or lawyers in private practice. Applicants qualify for legal representation if they have serious criminal, family, immigration, human rights, or other civil law problems and they meet LSS financial and other eligibility criteria. In 1998 – 1999, 90.3 (full-time equivalent) staff lawyers, 57.3 (full-time equivalent) paralegals/legal information counsellors, and 1,634 private bar lawyers provided these services. Private bar lawyers handled 74.5% of these referrals.

In several communities, people can apply to the local area director for legal aid. Area directors are private bar lawyers who act as LSS agents.

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Area Director Glen Ewan and Senior Counsel David W. Mossop of the Community Legal Assistance Society were named Queen's Counsel by the Attorney General in March 1999.

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Applicants who do not speak English can arrange to bring along someone to translate for them. LSS will pay for the services of qualified interpreters.

LSS has taken a variety of steps to ensure its services are accessible to all communities. For example, the Society —

- has an employment equity policy, and staff are required to adhere to a code of ethics that includes non-discrimination and non-harassment;
- maintains a list of multilingual staff lawyers/paralegals and private bar lawyers who accept legal aid referrals;
- funds interpreter services when an interpreter is required to work with a lawyer;
- maintains a link with interpreters for people in custody calling the Brydges 24-hour telephone line (see page 9) who need to talk to a lawyer and do not speak English; and

- provides public legal education materials in a variety of languages (see pages 26 – 27).

In 1998 – 1999, more than 23,000 of the applicants who did not get legal representation were diverted to alternate service providers, received summary legal advice, and/or were given legal information to help them. Summary advice can be both legal information and advice on where to go or what to do next. It may require a summary review of facts or an analysis of the applicant’s legal problem. Summary advice may be given quickly or in more detail, depending on the problem and the resources available.

Applicants can appeal decisions about whether or not they qualify for a legal aid lawyer (see page 25).

## Service delivery review

This year, the Core Services/Public Legal Education/Governance committee of the LSS Board of Directors researched existing service delivery models, reviewed the Society’s current mix of services, and prepared a detailed overview of service delivery models currently in place along with alternative models to consider.

The board discussed this review at its annual retreat in October 1998. Board members generally endorsed the current mix of services, but also raised further issues for investigation to improve its cost-effectiveness.

## 1999 – 2000 initiative

- In partnership with the Canadian Bar Association and the Law Society of B.C., explore ways to offer a greater volume and range of pro bono services to low-income individuals and groups needing legal advice and representation.

## Funding

The provincial government provides the major portion of the Society’s funds and, under federal-provincial cost-sharing agreements, the federal government reimburses the provincial government for part of the cost of criminal and civil legal aid. The amount reimbursed in 1998 – 1999 for criminal legal aid was just over \$8 million.

Additional funding includes grants from the Law Foundation and the Notary Foundation, recoveries and contributions from clients, and money from publication sales.

The Legal Services Society Act requires LSS to balance its budget. LSS may plan for an operating deficit for a given year only with prior approval from the Attorney General and the Minister of Finance and Corporate Relations.

LSS began the fiscal year with an accumulated deficit of \$16.1 million. Provincial funding for legal aid remained frozen at \$81.5 million, and the Society was under instructions

## Demand for legal aid

Type of legal problem	1998 – 1999		1997 – 1998	
	Applications	Referrals	Applications	Referrals
Criminal	39,523	28,043	41,697	28,702
Family/CFCSA	24,556	13,177	26,721	13,532
Immigration	3,392	3,094	2,950	2,690
Human rights <sup>1</sup>	263	198		
Other civil <sup>1</sup>	10,871	6,226	12,914	6,947
Intake case <sup>2</sup>	20,726	n/a	18,054	n/a
<b>Total</b>	<b>99,331</b>	<b>50,738</b>	<b>102,336</b>	<b>51,871</b>

1998 – 1999 figures based on data run in May 1999.

1997 – 1998 figures based on data run in June 1998.

<sup>1</sup> Human rights statistics were included with other civil in previous years.

<sup>2</sup> An intake case is a record of a summary encounter with an applicant; the encounter is not formally processed as an application. Intake cases mainly involve brief service to poverty law clients.

from the government to pay its accumulated deficit by 2000 – 2001. During the year, the government provided LSS with another \$534,961 to pay the human rights tariff costs and to help with the Society’s year 2000 project (see page 13). Income from other sources in 1998 – 1999 totalled just over \$4 million. Total revenue for the year was \$86.2 million.

Throughout the year, LSS received strong support from two major stakeholder coalitions. The Coalition for Access to Justice and Women’s Access to Legal Services carried out a number of activities to encourage the government to provide adequate funding for legal aid. Their efforts included a Journey for Justice campaign in fall 1998, during which they gathered and presented to Premier Glen Clark numerous stories of people harmed by the under-funding of legal aid. The coalition emphasized, in the introduction to these stories, that “legal aid systems must be properly funded to ensure that we uphold our principle of fair and equal representation before the law.”

## Expenditures

The Society’s expenditures dropped to \$80.3 million in 1998 – 1999, down almost \$5 million from the previous fiscal year. By fiscal year-end, the Society had reduced its accumulated deficit to \$10.3 million.

LSS had hoped to secure stable, multi-year funding from the provincial government. The Deputy Attorney General responded to the *LSS Business Plan 1998 – 1999* in July and specifically noted this goal, stating that the

desire to secure “stable, predictable funding from government is understandable [but] its likelihood of success is limited. Government revenues change annually, but more importantly, the process of voting annual expenditures precludes all government operations from ascertaining their funding from year to year.”

## Structure

LSS operates or funds offices in communities across B.C. to provide legal aid services. These offices administer the legal aid plan, determine legal aid applicants’ eligibility, and refer applicants to staff and private bar lawyers. They also provide a range of other services to their communities, including poverty law advice and representation, public legal education (PLE), community development, and law reform. The extent and nature of local services are determined each year in annual office plans.

## Community offices

The different types of offices are:

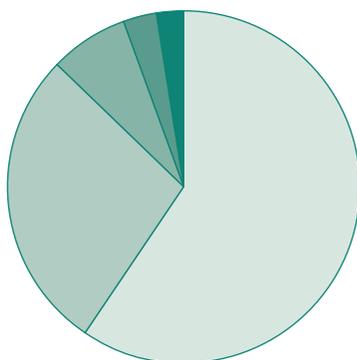
- branch offices — staffed by LSS employees — lawyers, paralegals, secretaries, and legal assistants;

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Legal Secretary Marnie Nelson, of the Kootenay Community Law Centre, won the South’s Best Secretary award in April 1998.

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### 1998 – 1999 expenditures



Tariffs	\$ 47,929,559
Community offices (intake and poverty law services)	22,270,575
Management and administration	5,733,016
Client programs (PLE, library services, publications, Native Programs, and Appeals)	2,536,296
Service delivery support	1,865,950
<b>Total</b>	<b>\$ 80,335,396</b>

See page 37 for a detailed breakdown of each of these categories.

- community law offices (CLOs) and native community law offices (NCLOs) — independent bodies governed by their own boards of directors, drawn from the local community (although two CLOs, Victoria and Nanaimo, are staffed by LSS employees); and
- area directors — private bar lawyers who take family and criminal legal aid applications and refer eligible applicants to lawyers.

While all offices serve all people in their communities, NCLOs also focus on local aboriginal needs in providing legal services.

As of March 31, 1999, in addition to head office, LSS operated 16 branches, and funded 14 CLOs and 14 NCLOs with a combined total of

that closed in September 1997, has primarily aboriginal staff, and is supported by the Vancouver branch office. The centre is also home to the University of British Columbia First Nations Legal Clinic, which provides representation for clients on matters not covered by the LSS tariff.

The resource allocation study completed in summer 1997 provided the Society with a formula for allocating funds to intake and poverty services across the province. This formula was updated in fall 1998 using the most recent census data. The formula relies on three external demand variables — the percentage of violent crime, the proportion of the population aged 16 to 65 collecting Employment Insurance

or B.C. Benefits, and the percentage of the population who are of aboriginal origin. It was subsequently updated with 1998 – 1999 budget information, which did not significantly change the relative positions of regions. The board will continue to use the formula to identify those communities whose



The VALC held an open house in spring 1999. Shown in the photo, behind the counter (left to right) are: Frank Kraemer (Vancouver Regional Director), Renee Taylor (Director, UBC First Nations Legal Clinic), Kent Patenaude (Manager, Native Programs) and Millie Poplar (Union of B.C. Indian Chiefs). Others in the photo are Paulah Dauns (former Vancouver Regional Director); Susan Poulos (LSS Deputy Executive Director), David Duncan (LSS Chief Executive Officer), Julie Rupert (former Articled Student), and Coralie Gregoire (VALC Paralegal). *Photograph by Colleen Lyttle (Vancouver branch office Administrator).*

service development needs should take priority once the budget situation improves.

By year-end, 10 of the 16 branch offices had taken concrete steps toward creating community advisory systems to improve community input into branch operations. A variety of approaches were taken. Offices in some communities worked with an existing inter-agency group; one branch serving a large area established a regular “community voice” day to encourage feedback from advocacy organizations and clients; and other branches struck specific-purpose committees for regular consultations.

442.9 full-time equivalent staff positions. The Map of Legal Aid Offices on the back cover of this report shows all office locations.

In fall 1998, the Vancouver Aboriginal Law Centre (VALC) opened its doors to clients. The centre’s aim is to ensure that legal aid services are delivered to aboriginal clients in the Vancouver Downtown Eastside in a culturally sensitive manner, appropriate to their unique needs. The centre replaces the Vancouver NCLO

### 1999 – 2000 initiatives

- Continue to work with branch offices to ensure appropriate ongoing involvement by community advisory councils/committees.
- Within the limits of available funding, strive to ensure the equitable distribution of

funding for community intake and poverty law services.

- Continue to work with the VALC to ensure its integration into the network of services available to aboriginal people and involve the aboriginal community in its operation.

### **Other funded agencies**

LSS also provides funds to the **Community Legal Assistance Society**, which, under its mandate, does test case and law reform work in poverty, human rights, and disability law; supervises the Law Students Legal Advice Program; and provides services under the Mental Health Act.

After a review of legal aid intake services provided by agents in the courts, LSS decided to cancel its contracts with the **Elizabeth Fry Society** and the **Salvation Army**. The review concluded that having staff deliver these services directly would be more effective. This change applied primarily to offices in the Lower Mainland. A small contract with the Salvation Army in Victoria continues to serve the prisons and courts. While these agents provided valuable intake service over the years, particularly for accused in custody, the introduction of the LSS computerized case management system (CMS) in 1996 reduced the need to help people complete paper application forms. Continuing the agents' services after CMS was implemented duplicated work, delayed application processing, and often resulted in adjournments. Funding for these agencies was reallocated to improve intake services in Lower Mainland legal aid offices.

### **Brydges line**

LSS contracts for a province-wide 24-hour toll-free telephone line, known as the Brydges line, to ensure prompt access to legal aid advice for people who are arrested and detained, or who are under active investigation by the police or other law enforcement agencies, but who are not yet charged and need emergency advice. In 1998 – 1999, the Brydges line received 27,248 calls.

### **Duty counsel**

Staff and private bar lawyers provide duty counsel services in most courts to advise accused people in custody about the charges against them, court procedures, and legal rights (including the right to counsel and the right to apply for legal aid). Duty counsel often represent these clients in hearings where they are applying for releases, entering guilty pleas, and/or speaking to sentences. Clients do not have to be



**Training session for Kootenay Community Law Centre board members, February 1999. Standing, left to right, are Sheila Vinge, Thom McCaughey, Don Holt, Melanie Fiorentino, Bill Metcalfe (Facilitator), and Paulette Couperus; sitting is Susan Steele (Chair). Photograph by Connie Johnston (Kootenay Community Law Centre Administrator).**

financially eligible to receive duty counsel services, but only those who meet LSS coverage and financial eligibility requirements are entitled to a legal aid referral for ongoing representation. In 1998 – 1999, duty counsel assisted 61,058 people in courts across B.C.

The concern that significantly reduced tariff payments would force increasing numbers of lawyers to refuse to provide legal aid services to poor people became a reality in 1998 – 1999. As part of a campaign to lobby the government for more legal aid funding, private bar lawyers in a number of communities across the province stopped providing duty counsel services or taking eligible criminal category I (e.g., breach of probation, peace bond offences, etc.) and sexual assault cases. This resulted in the Society transferring work to staff lawyers in the affected communities. Duty counsel services in most of those locations had to be limited to the

minimum required by our mandate — assisting only those people in custody who were charged with criminal offences.

### ***Circuit courts***

LSS contracts with lawyers in private practice or provides staff lawyers to act as counsel in circuit courts in remote areas of the province, where a “court team” travels to a circuit of one or more communities to hear cases. The communities where they sit are small, rural, and predominantly aboriginal. These lawyers represent clients for criminal, family, and youth court matters on the court list, including duty counsel services, preliminary hearings, and trials.

In 1998 – 1999, Client Services and Native Programs staff, along with board member Bridget Moran, visited several remote communities with little or no access to legal aid to consult with local organizations about how services could be improved. The communities they visited included Bella Bella, Bella Coola, Port Hardy, Alert Bay, Fort Nelson, and Dease Lake. As a result of these consultations, the Society provided immediate assistance for some communities, including funds to cover local court workers’ travel between circuit court sittings. LSS anticipates adding other services to some of the communities and may eventually have lawyers who live in Bella Bella and Bella Coola take on more circuit court work in those communities, rather than rely primarily on Vancouver lawyers.

### **Central support to community offices**

Head office, located in Vancouver, provides three main categories of support to community offices: client programs, service delivery support, and management and administration. This year, the Society officially established a year 2000 project to ensure its systems are Y2K-ready by January 1, 2000.

In June 1998, LSS completed a head office restructuring, assigning four directors responsibility for the Society’s various operations. The deputy executive director, the director of Judicial Appeals/Tariff, the director of

Finance, Administration, and Human Resources, and the director of Information Technology all report directly to the chief executive officer.

### ***Client programs***

Client programs are available to clients and the public on a daily basis:

#### ***Judicial Appeals***

The Judicial Appeals Department provides legal aid services to eligible clients who are appealing either lower court, administrative board, or tribunal decisions (see page 22).

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Staff Lawyers Rod Holloway and Mark Benton once again taught the appellate advocacy workshop for the Faculty of Law at the University of British Columbia. They’ve delivered this workshop twice a year since 1994.

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#### ***Legal Information Services***

The Legal Information Services Department (LIS) works to improve access to basic legal information for all British Columbians by providing reference, training, and collection support to public libraries, as well as library reference services through the Legal Resource Centre (LRC), and project funding and publications through the Public Legal Education (PLE) and Publishing programs (see pages 26 – 32). In providing these services, LIS relies on intermediaries across the province to reach people in their own communities and uses the most appropriate medium (e.g., print, audio-visual, audio, Web site) to convey legal information to the public.

The department received \$160,735 in external funds to produce the pamphlet series *Speaking of Abuse* and for PovNet.

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LRC Librarian Cynthia Bartholomew was awarded the Sandra Garvie Memorial Fund Scholarship for 1998. This annual award, given by the University of Alberta, is to help an individual research or study the library or information aspects of public legal education.

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This year, LSS continued its participation in PovNet, an electronic communications/

information network consisting of closed discussion groups, a public Web site, and databases for poverty law advocates and the general public. A mid-project evaluation demonstrated that PovNet is an excellent resource for legal aid staff, community advocates, and self advocates. The B.C. Benefits database will be launched in April 1999 and work on residential tenancy information is scheduled for summer 1999. By the end of this fiscal year, there were 45 users, mainly small community advocacy groups, connected to and trained to use PovNet. Membership and participation in the discussion group is growing slowly. The technology upgrade at LSS (see page 13) early next fiscal year will provide all offices with access to PovNet, doubling its user list.

### *1999 – 2000 initiative*

- Provide PovNet with leadership and support to strengthen the advocacy network throughout the province. The major task will be to find stable funding to continue providing co-ordination, training, and backup to advocates using the discussion groups, and updating the Web site and database.

### **Native Programs**

Native Programs develops and implements policies, plans, program proposals, and initiatives for delivering appropriate legal services to aboriginal people. One of the department's priorities is to help aboriginal communities develop community-based justice programs. Native Programs provides guidance and advice about aboriginal law issues, information about lawyers or services that can help aboriginal clients, and public legal education funding and services. Its focus is to improve aboriginal people's access to legal programs and services throughout the province, and to ensure that the unique legal needs of aboriginal people are met by the Society.

### **Native justice committees**

Throughout the year, Native Programs continued its work with aboriginal organizations across the province to facilitate the development of native justice committees, which are intended

to identify gaps in legal service delivery. The department recognizes the need for change and for a departure from the status quo that has continually failed the aboriginal community. To effect real change, communities must be empowered to examine, formulate, and implement processes that reflect their members' unique needs.

In addition to the Kootenay Regional Native Justice Committee, established last year, formative stage discussions were held in Duncan (with the Cowichan tribes and the Duncan NCLC), Fort St. John, Lytton/Lillooet, Burns Lake, and Canim Lake. Native Programs supported these initiatives by meeting with band and tribal council representatives, elders, hereditary chiefs, and NCLCs, as well as providing small grants to fund community forums, workshops, and start-up costs. Native Programs is committed to delivering the level of support appropriate for each individual community's situation.

Other LSS offices are also involved in this work — for example, a native justice committee was established in 1991 by the Powell River NCLC and the Sliammon band.

### **Restorative justice**

The Vancouver Aboriginal Restorative Justice Project (VRJP) is an initiative to help establish an alternative justice model for aboriginal offenders in the Lower Mainland. Based on the principles of rehabilitation and healing instead of isolation and punishment, the project is a collaborative effort involving numerous aboriginal service agencies and the federal and provincial governments. This is a top priority for LSS Native Programs, which has been involved in every aspect of the work and provided start-up funds for the project.

By diverting certain criminal matters away from the formal court process, project organizers hope to help lower the disproportionate number of aboriginal people in the criminal justice system. The basic premise is to return the accountability and well-being of aboriginal people to the community. The VRJP will blend the concepts of restorative justice and community development. Restorative justice attempts to restore harmony among those

affected by crime (the victim, the offender, their families, and the community). Community development empowers individuals to formulate appropriate responses and strategies to deal with the crime.

This project secured the necessary financial support for development and operations in 1998 – 1999. A 22-member steering committee guides the development of a traditional native justice process. An aboriginal caucus will ensure consensus and unanimity from the community perspective and provide guidance and direction once the program is operating. The project is administered through the Vancouver Aboriginal Friendship Centre Society, with funding provided by the federal Department of Justice and the province of B.C. (half from each). The VRJP expects the diversion program to begin processing its first cases in fall 1999.

### **1999 – 2000 initiatives**

- Continue Native Programs' work on developing native justice committees and completing agreements with the federal and provincial governments for funding, implementing, and co-ordinating restorative justice programs in six locations (NCLOs) throughout the province.
- Continue to seek external funding to allow Native Programs to support a greater number of effective aboriginal justice programs.

### **Service delivery support**

Service delivery support helps both community offices and private bar lawyers:

#### **Client Services**

The Client Services Department is responsible for community office intake and service delivery operations. The department develops intake, eligibility, and coverage policies, with input from other head office departments and community offices, and monitors operations to ensure these policies are consistently applied throughout the province. Department managers directly supervise LSS branch offices and administer contracts with funded agencies such as CLOs, NCLOs, and area directors.

The managers also support and monitor staff criminal, family, and immigration lawyer performance, engage in ongoing program evaluation, renewal, and development, and supervise the Family Case Management Program.

#### **Tariff**

The Tariff Department processes approximately 1,500 private lawyer accounts each week, answers billing questions from lawyers, gives tariff rate approvals, develops tariff policy and application guidelines, and develops and maintains the *Guide to Legal Aid Tariffs* (this includes the appeals, criminal, family, human rights, and immigration tariffs, disbursement guidelines, and other material — see page 35). Tariff clerks and Audit and Investigation division staff monitor tariff policy compliance and lawyers' billings.

### **Management and administration**

Several departments at head office provide management and administration support:

#### **Executive Office**

The Executive Office supports the board and board committees; reviews eligibility appeals; provides overall direction, and policy, planning, and communications support; and, with advice from in-house counsel, manages all LSS responses to formal applications under the Freedom of Information and Protection of Privacy Act.

#### **Finance and Administration**

Finance and Administration provides budgeting, financial control and reporting, capital planning, payroll, accounting and banking, purchasing, office administration, facilities, telecommunications, and records management services for the whole of LSS. It co-ordinates space planning, renovations, and equipment purchases for branches and, on request, assists CLOs and NCLOs with these matters.

Delays in tariff payments to the private bar were substantially reduced this year, with most bills paid within thirty days of approval. This was made possible, in part, by instituting bi-monthly, rather than just monthly, cheque runs.

## 1999 – 2000 initiative

- Implement direct deposit for lawyers' bills.

### **Human Resources**

Human Resources provides personnel policy, recruitment, benefits administration, employee and labour relations, salary administration, collective agreement administration and negotiation, performance management, and job classification services. Its Training Division designs, develops, and delivers staff training programs.

LSS values its most important resource — its staff. A committee with representatives from the B.C. Government and Service Employees Union, the Professional Employees Association, and LSS management worked together this year to develop an employee recognition program. LSS anticipates implementing the program in the next fiscal year.

Human Resources focused heavily on staff training throughout this year, including —

- policy and legal information workshops for 150 intake staff from around the province;
- a management training conference to support head office managers and supervisors, branch office managing lawyers, and CLO and NCLO administrators;
- a facilitation and presentation skills workshop for paralegals and legal information counsellors across the province to support their PLE/community work initiatives; and
- workshops on applying the new performance management program for all LSS supervisors and employees.

## 1999 – 2000 initiative

- Develop a corporate training and development plan with specific recommendations to effectively address the Society's training needs.

### **Information Technology**

The Information Technology Department operates a central service desk to provide technical help for computer-related problems. It installs, operates, and maintains the new Case Management System (CMS) LSS uses to conduct

intake and make referrals. This department handles computer system development, maintenance, and equipment upgrades/replacements for the local area networks at each legal aid office across the province. It is also responsible for voice messaging systems, and for managing the wide area network (WAN) that connects all legal aid offices.

### **Year 2000 readiness**

Considerable progress was made on the LSS year 2000 project, which was initiated last fiscal year to ensure the Society's systems remain fully functional in January 2000 and beyond. A comprehensive inventory and assessment of all existing LSS computer systems showed that most personal computers and most software used on them were not year 2000 (Y2K) compliant. And, although many machines could be made compliant, they were found to be too slow and lacking the necessary disk space to run compliant software. The Society therefore decided to undertake a major technology upgrade project, aimed at resolving pressing Y2K concerns while implementing technologies that will prepare the organization for its role in the twenty-first century.

Key aspects of the project include upgrading LSS computer and telephone systems and office equipment, ensuring building operations for head office and branches are compliant, and reviewing the Society's day-to-day business interactions to identify and mitigate legal and contractual Y2K issues. All the major work will be completed by mid-1999, leaving the latter part of the year to focus on testing, problem resolution, and contingency planning.

Among the Society's accomplishments this year were the successful upgrade of its financial systems to Y2K-compliant software and the implementation of CMS Phase 2 (see page 35). Plans were completed for staff training and replacement or upgrade of all personal computers and most servers, to occur in April and May 1999.

This major undertaking will provide significant benefits, including a vastly improved, state-of-the-art systems and communications network, improved software, enhanced network

control and security, and broad access to the Internet. It will also establish a foundation for developing an intranet for viewing and distributing information and documents among the Society's offices across the province.

### 1999 – 2000 initiative

- Ensure that all LSS information systems are year 2000 compliant.

## Coverage

Legal aid coverage is provided in most areas of law, as outlined in the following sections. Often, however, a client's problems do not fall neatly into one of these categories but cross the dividing lines and require various kinds of assistance. The following case illustrates the complications that can arise, and the degree of co-operation that occurs among community organizations, service agencies, and LSS to ensure holistic services are provided to resolve overlapping legal problems.

Our client, a victim of abuse, was referred to legal aid staff by RCMP crisis counsellors. The woman and her pre-school child had come to B.C. from another jurisdiction in an attempt to hide from her abuser. The abuser had been charged with indictable assault with a weapon, uttering death threats, and sexual assault. The child was suffering from behavioural problems as a result of witnessing years of abuse.

Our client's first concern was the fact that her daughter was not obtaining necessary medication because the Ministry of Human Resources (MHR) refused to grant her regular B.C. Benefits until she produced written confirmation that she did not qualify for Employment Insurance (EI) benefits. LSS staff contacted MHR in Victoria and Human Resources Development Canada (HRDC). HRDC managers confirmed in writing to MHR that our client did not qualify for EI, but even before that, MHR, on the basis of legal aid staff representations, began paying for the child's prescriptions and other medical needs.

Other issues quickly emerged, including —

- **Poverty law issues** related to obtaining a secret name change for our client and her daughter; transferring medical records without disclosing her location; obtaining victim assistance in the other jurisdiction so she could testify at her abuser's trial; seeking criminal injuries compensation; setting up a secret bank account; helping with debt problems that could obstruct our client's application for a de-linked Social Insurance Number (i.e., a new number not associated with any previous identification — available under the New Identities for Victims of Abuse Program so victims cannot be traced by their abusers).
- **Family law issues** for obtaining legal aid in the other jurisdiction to handle our client's application for sole custody of her daughter; co-ordinating a variety of legal and other services for our client with a transition house in the other jurisdiction; helping our client deal with childcare workers in B.C. who appeared to blame her for her daughter's difficult behaviour, raising a danger of child apprehension.

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Staff Lawyer Judy Gedye (Vancouver Criminal Law Clinic) was appointed to the Provincial Court bench, effective February 1999. She is one of five new Provincial Court judges appointed to help reduce the backlog of cases in B.C. courts.

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## Criminal law

Under its mandate (see page 3), LSS must provide legal representation to financially eligible people charged with criminal offences who, if convicted —

- are likely to go to jail;
- might lose their means of earning a living; or
- could be deported from Canada.

Applicants may also receive legal representation if they —

- have a mental or emotional illness that makes it impossible for them to represent themselves, or
- are aboriginal and their ability to follow a traditional livelihood of hunting and fishing

could be affected if they are convicted of a criminal offence.

Under the federal Young Offenders Act, anyone under 18 years of age charged with a federal offence has a statutory right to a court order appointing a lawyer paid for by the state. Coverage must be provided regardless of financial eligibility or likelihood of imprisonment.

### Self-help materials

This year, the Society produced and distributed the brochure/poster *If You Are Charged with a Crime*, and the pamphlet *What to Do Next, if You Are Charged with Drinking and Driving*, and promoted the use of criminal law self-help materials in meetings with Court Services and at regional workshops with legal aid staff. This material helps people facing criminal charges find resources and prepare for court appearances.

A draft joint research paper released by the federal Department of Justice and LSS in December 1998 concluded that PLE materials cannot replace legal representation at trial for people accused of criminal offences. However, it also reported that the materials are valuable to applicants who are refused legal aid, enabling them to more clearly understand the nature of their problems, the options available to them, and the court process. The report recommended that LSS continue to distribute these materials to applicants who will not receive full legal aid services.

### Large case costs

Because of the serious budget impact of large and unpredictable criminal cases, LSS policy now is to terminate legal aid coverage for clients whose legal aid fees paid or billable in a criminal proceeding exceed \$50,000. This limit applies to all cases that began the hearing of a trial, appeal, or retrial after January 31, 1998.

Near the end of this year, LSS submitted a proposal to the Ministry of Attorney General suggesting that the Society be indemnified for large cases as part of a new criminal case management program.

### 1999 – 2000 initiatives

- Promote the use of criminal law self-help material and self-help publications for other matters not covered by LSS policies.
- Pursue further discussions with the Ministry of Attorney General on reserve funding and processing of large cases (over \$50,000) and ineligible cases where a *Rowbotham* application (for a court-appointed lawyer) is likely to succeed. Explore and implement criminal case management where appropriate.

### Sample cases

- A handicapped man who experienced temporal lobe seizures several times daily was charged with performing indecent acts after he was observed apparently dancing in

## Demand for legal aid: Criminal matters 1998 – 1999

In 1998 – 1999, just over 55% of legal aid referrals were for criminal matters, the same as in the previous year.

Region*	Total applications	Adult referrals		YOA referrals		Total referrals	Information/ Summary advice, etc.
		Staff	Private bar	Staff	Private bar		
Lower Mainland/ Fraser Valley	20,726	2,177	9,150	1,062	1,949	14,338	415
Vancouver Island	7,868	334	3,428	149	1,331	5,242	263
Southern Interior	5,570	430	2,937	166	845	4,378	92
Northern B.C.	5,359	331	2,767	144	843	4,085	109
<b>Total</b>	<b>39,523</b>	<b>3,272</b>	<b>18,282</b>	<b>1,521</b>	<b>4,968</b>	<b>28,043</b>	<b>879</b>

\* See the inside back cover for a list of offices by region.

his underwear, grabbing himself in the area of his genitals, and saying something that witnesses thought was “Yahoo.” The man was defended on the grounds of non-insane automatism. The charge was stayed after neurological evidence proved the witnesses had observed, and misinterpreted, the man having a seizure. Were it not for legal aid, the necessary medical evidence would probably not have been raised, and this case would have ended in a wrongful conviction.

- A twenty-one-year-old with a youth record was charged with robbery with a firearm, which carries a minimum four-year sentence. The staff lawyer representing him persuaded the Crown to reduce the charge to armed robbery — the weapon used was a pellet pistol — and succeeded in obtaining the client’s release on a bail review (i.e., an appeal of an earlier court order to detain him pending disposition of the charge). Our client, a drug addict, entered a rehabilitation program during his release, and pleaded guilty to the lesser charge. Legal Resource Centre librarians provided volumes of case law on sentencing, which helped the lawyer persuade the judge to impose a 12-month conditional (non-custodial) sentence, given the particular circumstances of this case, rather than the 18 months to 2 years less a day in jail sought by the Crown.

## Family law

In accordance with section 3 of the Legal Services Society Act (see page 3), LSS provides legal aid for family matters for financially eligible people who —

- have serious family problems — for example, if they or their children are at risk of abuse, or they may lose contact with their children;
- need help to start getting maintenance payments or custody of/access to their children and no other organization in their community can help them;
- are likely to go to jail as a result of maintenance enforcement proceedings;
- have had their children taken away by the Ministry for Children and Families; or

- require legal representation to deal with custody and access of a child in the care of the Ministry for Children and Families.

The Family Case Management Program (FCMP) allows the Society to assess cases at regular intervals after the initial referral to ensure they continue meeting coverage and eligibility guidelines, and that the actions being taken or proposed are ones reasonable people would expect if they were paying for their own lawyers. FCMP applies to all family matters except those under the Child, Family and Community Service Act (CFCSA).

Applicants with family problems may be either referred to lawyers or, under certain circumstances, diverted to available alternative services in the community. Diversion may occur where —

- there is no history of abuse; or
- interim orders are not immediately necessary to ensure the immediate safety of the applicant and/or his or her children; and
- the applicant agrees to be diverted to an available alternative service. The applicant’s agreement is not required if the only issue is obtaining an initial maintenance order.

Applicants diverted to family justice counsellors for dispute resolution services may return to LSS for independent legal advice before signing a consent order.

As part of the tariff-revision project this year (see page 35), LSS made changes to reflect new procedures under the CFCSA, including mediation procedures and case conferences.

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Staff Lawyer Debby O’Leary (Prince George branch office) was re-appointed by the city to sit on the Family Court/Youth Justice Committee for another year. She was also re-appointed by the Minister of Health to be the government appointee of the College of Physical Therapists for another year.

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## *Diversion project*

The Family Justice Diversion Project, implemented this year by LSS and the Ministry of Attorney General, doubled the number of

referrals to family justice counsellors. This year, LSS began diverting appropriate cases from the tariff to family justice counsellors for mediation/conciliation services and revised its family coverage policy accordingly. Intake staff were given extensive training on how to screen for violence to ensure that only appropriate cases were diverted. Family justice counsellors also participated in a discussion about local referral practices and community networking. Preliminary indications are that less than 30% of clients referred in this way return to LSS for further services.

### 1999 – 2000 initiative

- LSS and the Ministry of Attorney General will complete a joint evaluation of the diversion program.

### Sample cases

- A woman arrived at a legal aid office one morning in considerable distress but, because English was her second language, was having trouble explaining her problem to staff. An interpreter was found and quickly determined that the woman's estranged husband had broken into her home and taken her child to Vancouver. Staff made an emergency court application for interim custody and a restraining order, and the child was returned to his mother the following day.
- A woman who was divorced in 1984 had received an order at that time for her share of family assets, but had not been able to get any of these assets until this year. A B.C. Supreme Court action (that an LSS family law team helped her with) resulted in the successful division of her ex-husband's military pension. As a result, this client is looking forward to being self-sufficient and going off income assistance benefits.
- A client was awarded child maintenance of \$1,800 per month after she retained custody of her child in a Supreme Court proceeding. The mother and father in this case had never married, but had lived together. The father, a highly paid professional, had moved away from Canada and married, and wanted custody of the child from his previous relationship. The mother had been providing him with generous access rights and wanted child support. This complex case was significant in that the outcome —
  - showed money can't always buy custody,
  - rejected the father's claim that he should not have to make the high payments that are consistent with the new child support guidelines because he thought this would benefit the mother, and
  - rejected the father's assertion that the mother should be working instead of going to school for retraining.

### Demand for legal aid: Family matters 1998 – 1999

In 1998 – 1999, just under 26% of legal aid referrals were for family matters, down from just over 26% the previous year.

Region*	Total applications	Family referrals		Child protection (CFCSA) referrals		Total referrals	Information/ Summary advice, etc.
		Staff	Private bar	Staff	Private bar		
Lower Mainland/ Fraser Valley	9,858	904	2,996	253	872	5,025	663
Vancouver Island	6,252	102	2,617	13	565	3,297	385
Southern Interior	4,874	38	2,377	9	599	3,023	227
Northern B.C.	3,572	392	996	81	363	1,832	216
<b>Total</b>	<b>24,556</b>	<b>1,436</b>	<b>8,986</b>	<b>356</b>	<b>2,399</b>	<b>13,177</b>	<b>1,491</b>

\* See the inside back cover for a list of offices by region.

## Immigration and refugee law

Section 3 of the Legal Services Society Act (see page 3) guarantees legal aid for financially eligible people who face immigration proceedings that would result in their removal from Canada. Most immigration cases covered by legal aid are refugee matters.

Staff Lawyer Guy Riecken taught the immigration law course for the Faculty of Law at the University of British Columbia in the fall 1998 semester. This is the third time he has taught this course for UBC.

### Sample cases

- A man applying for refugee status in Canada on the basis of his experiences during the 1980s civil war in El Salvador contracted HIV while awaiting his hearing. During the hearing, an immigration staff lawyer provided evidence that there is a great deal of discrimination and violence against gay men in El Salvador, where our client's HIV status would lead people to assume that he was homosexual. They also demonstrated that the medical system in El Salvador is prejudiced against people with HIV and would withhold available treatment for his condition. The Immigration and Refugee Board granted him refugee status, ruling that he had a well-founded fear of persecution because he would not receive adequate medical care if he were returned to El Salvador.
- Staff lawyers applied to the United Nations Committee Against Torture, asking them to intervene to stop the removal from Canada of a Convention refugee from Iran. This international committee agreed to review the file, and the federal government stopped removal proceedings pending results of the review.
- A woman who was the victim of domestic violence in Mexico tried to escape her long-term relationship by moving to other parts of the country. Her abuser stalked her and continually tracked her down, so she came to Canada and applied for refugee status. Staff represented her before the Immigration and Refugee Board, providing evidence that her life would be in danger and she would be unable to get protection from the authorities if she returned, largely because there are no Mexican laws to protect women in her situation. The board applied its special gender guidelines, which consider women who are victims of domestic violence as Convention refugees, and concluded that she had a well-founded fear of persecution because of her membership in that particular social group.

### Demand for legal aid: Immigration and refugee matters 1998 – 1999

In 1998 – 1999, just over 6% of legal aid referrals were for immigration and refugee matters, up from just over 5% the previous year.

Region*	Total applications	Referrals			Information/ Summary advice, etc.
		Staff	Private bar	Total	
Lower Mainland/ Fraser Valley	3,281	397	2,619	3,016	40
Vancouver Island	80	6	53	59	1
Southern Interior	21	4	9	13	0
Northern B.C.	10	2	4	6	1
<b>Total</b>	<b>3,392</b>	<b>409</b>	<b>2,685</b>	<b>3,094</b>	<b>42</b>

\* See the inside back cover for a list of offices by region.

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LSS Vancouver Regional Director Paulah Dauns was appointed to a three-year term on the Immigration and Refugee Board of Canada. She is on leave from LSS to take up this appointment, which began September 1, 1998.

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## Other civil (poverty) law

Other civil law matters (also known as poverty law) include landlord/tenant disputes, workers' compensation claims, Canada Pension Plan issues, income assistance appeals, consumer protection issues, Employment Insurance appeals, foreclosures, and bankruptcy.

The most urgent poverty law problems are given priority — matters that affect applicants' ability to feed, clothe, and house themselves and/or their families (see page 3).

Generally, a plaintiff who may receive money as a result of a civil action is not covered by legal aid. For example, a plaintiff in a personal injury Insurance Corporation of B.C. case will rarely qualify for legal aid.

As part of the tariff-revision project this year (see page 35), LSS issued a new guide for non-tariff retainers that covers clients' civil and administrative legal problems. Staff lawyers and paralegals carry out most of this poverty law work, but private lawyers do some of it on a pro bono or contingency basis and LSS pays only for approved disbursements.

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Paralegal Roxane Vachon of the Vancouver Community Law Clinic was called to the B.C. bar in March 1999. She was called to the Quebec bar in 1989 and has worked as a paralegal at LSS since 1994.

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## Poverty law standards

Following completion of the *Poverty Law Services Review Committee Final Report* in March 1998, LSS began developing a new manual covering standards and guidelines to ensure cost-effective delivery of quality poverty law services. These guidelines are intended to ensure that all clients across the province have access to the same base level of service in poverty law, as appropriate for each community.

The Client Services Department this year drafted revisions to LSS policies to provide a clearer framework for poverty services and how they are to be reported in CMS. The department also contracted with Staff Poverty Lawyer Anne Beveridge, who works part-time at the North Shore CLO, to develop a *Guide to Poverty Law Practice* for community office staff. This guide, which should be ready by October 1999, will incorporate many non-policy practice details, focusing on selected topics such as coverage, appropriate levels of service, relationships with clients, law office systems, poverty law legal topics, aboriginal issues, public legal education, and community development.

## 1999 – 2000 initiative

- Begin to develop a *Poverty Law Resource Manual* to address legal issues and on-reserve processes that affect aboriginal clients.



Staff Poverty Lawyer Mary McGrath, Q.C., retires after 24 years as a legal aid lawyer. Shown with Mary (seated) are, left to right, Burnaby Staff Criminal Lawyer Dan Fox, Client Services Manager Wayne Robertson, Burnaby Managing Lawyer Vikki Bell, and Her Honour Judge Jane Godfrey; in the background is Paulah Dauns (former Vancouver Regional Director).

## Sample cases

- A landlord, in anger and in an attempt to teach other tenants a lesson, locked our client, whose rent was in arrears, out of her apartment, removed her belongings, and refused to return them until she paid the arrears. When our client served the landlord with a notice of arbitration to resolve the wrongful seizure of her property, the landlord assaulted her. After the arbitrator declined jurisdiction because the property value exceeded \$10,000, a Supreme Court order was issued for the return of her property. Only some of it was returned, and that was damaged. Among the lost items were irreplaceable personal photographs and jewellery. She then took an action to the B.C. Supreme Court against the landlord, claiming damages for wrongful distress, assault and battery, and punitive damages. The court awarded our client \$21,000, including \$5,000 for punitive damages. The court held that the landlord's actions were malicious, flagrant, and high-handed. This case is significant because of the punitive damages award and because the court accepted our submissions regarding the nature of landlord/tenant relationships, confirming that an underlying philosophy of the Residential Tenancy Act is to give tenants the same rights as homeowners to feel safe and secure in their homes.
- In a criminal injury compensation matter, staff successfully helped a client whose monthly disability pension had been terminated by the Workers' Compensation Board (WCB). The pension originally was intended to compensate the client for a permanent impairment she had sustained as a victim of crime when she was a child. The WCB determined in 1997 that the pension had been awarded in error and immediately terminated it. LSS became involved after the client went to the media with her story. After their submission to the Appeal Committee\* failed to reinstate the client's pension, staff filed a lengthy submission to the WCB Appeal Division requesting leave for a further review of the issue. The division granted the leave on the basis that the issue involved a significant statutory or policy interpretation. Before the case could be heard, however, the WCB reversed its decision and permanently reinstated the client's pension. This reversal came about after LSS staff submitted two Freedom of Information requests to the WCB about this matter, and after numerous telephone conversations and correspondence with WCB officers. The reinstatement affected at

\* This committee is part of the Workers' Compensation Review Board, which is independent of the WCB.

## Demand for legal aid: Other civil matters 1998 – 1999

In 1998 – 1999, just over 12% of legal aid referrals were for other civil matters, down from 13% the previous year (part of this decline is because last year these statistics included matters covered by the human rights tariff; see page 21 for this year's human rights statistics).

Region*	Total applications	Referrals			Information/ Summary advice, etc.
		Staff	Private bar	Total	
Lower Mainland/ Fraser Valley	4,769	3,123	84	3,207	199
Vancouver Island	3,126	1,210	106	1,316	224
Southern Interior	1,390	761	89	850	70
Northern B.C.	1,586	810	43	853	97
<b>Total</b>	<b>10,871</b>	<b>5,904</b>	<b>322</b>	<b>6,226</b>	<b>590</b>

\* See the inside back cover for a list of offices by region.

least three other claimants being helped by legal aid and potentially could affect other claimants who had their pensions terminated but did not seek legal assistance.

- A client who had difficulty speaking or understanding English came to legal aid for help after he was denied Employment Insurance (EI) benefits. He had lost his job due to apparent misconduct — absence from work without giving notice to his employer. It turned out the client suffered from untreated diabetes and clinical depression, had unplugged his phone, and was incapable of contacting anyone. Eventually, after a concerned relative called the police because she couldn't reach him, he was found bedridden and seriously ill. Staff obtained medical evidence that confirmed his disability, took statements from witnesses, and represented him before the EI Board of Referees. He won his appeal, is currently receiving EI sickness benefits, and will be eligible for regular benefits if he is unable to find work when he recovers.

tariff provide increased coverage for mediation and settlement processes, the possibility of limited early referrals, discretion for LSS to authorize extra fees for human rights work done by the private bar, and full indemnification for LSS for the cost of the services.

The contract covers —

- legal advice and representation for settlements or hearings of human rights complaints;
- filing and enforcing orders made by the commission and the B.C. Human Rights Tribunal; and
- legal advice and representation for judicial reviews and subsequent appeals initiated by parties other than the complainant, if approved by the LSS Appeals Department.

Clients making human rights complaints do not have to be financially eligible to receive legal aid. Respondents to complaints are given an income test to determine if they are financially eligible for legal aid, and must now also pay client contributions where applicable (see pages 24 – 25).

## Human rights law

The B.C. Human Rights Commission funds a human rights tariff administered by LSS, which applies only to issues the commission recognizes.

This year, LSS renegotiated its contract with the commission and revised its human rights tariff and referral policy. The new contract and

## Sample case

Our client, a man in his mid-sixties, was confined to a wheelchair by a stroke 15 years ago. He used a motorized wheelchair which enhanced his mobility and freedom. He lived in a local facility for the elderly and handicapped, operated by a non-profit society. For five years,

### Demand for legal aid: Human rights matters 1998 – 1999<sup>1</sup>

Region <sup>2</sup>	Total applications	Referrals			Information/ Summary advice, etc.
		Staff	Private bar	Total	
Lower Mainland/ Fraser Valley	161	4	126	130	2
Vancouver Island	48	2	27	29	4
Southern Interior	31	0	25	25	0
Northern B.C.	23	1	13	14	1
<b>Total</b>	<b>263</b>	<b>7</b>	<b>191</b>	<b>198</b>	<b>7</b>

<sup>1</sup> Human rights statistics were included in other civil in previous years.

<sup>2</sup> See the inside back cover for a list of offices by region.

he lived there without incident. Then he received notice that as of January 1, 1999, motorized wheelchairs would not be allowed in the common areas of the building, including the hallways, laundry room, and lounge — where most of his social activities took place. He was the only person in the building using a motorized wheelchair.

Legal aid staff tried to negotiate a resolution to the dispute, but the society’s board of directors refused to change its position, citing liability concerns about our client’s ability to operate his chair safely, despite a letter from his doctor stating that this was not a problem.

Staff filed a complaint with the B.C. Human Rights Commission, but their case backlog meant they could not assess the case for many weeks. This posed considerable concern because our client had been seen in his wheelchair in the hallway after January 1, and had been given a letter threatening eviction if he used the hallway again. Our client had a heart condition exacerbated by stress and an eviction would have been very hard on his health. He tried to comply with the policy until the human rights complaint could be dealt with. He was confined to his very small apartment during this time. The only way he could get in and out was through sliding glass doors that opened directly into the winter weather.

After two months, the commission assigned his complaint to an officer and prepared to proceed. Two days later our client died of a massive heart attack while undergoing surgery.

The human rights officer assigned to the case agreed that the complaint could continue, as the Human Rights Code states that “any person” can proceed with a complaint. We became the complainant.

Four days after being served with the complaint, the society rescinded the rule forbidding use of motorized wheelchairs in common areas of the building.

## Judicial appeals

Judicial appeals include —

- appeals of lower court decisions made to the B.C. Supreme Court, the B.C. Court of Appeal, and the Supreme Court of Canada; and
- applications to judicially review decisions made by administrative boards or tribunals (for example, under the Immigration Act or the B.C. Benefits Act). These applications are made to the B.C. Supreme Court or the Federal Court Trial Division.

Applicants who are financially eligible for legal aid may be covered if they are responding to appeals initiated by another party. Otherwise, LSS funds only those appeals and judicial

### Demand for legal aid: Judicial appeals 1998 – 1999

Type of legal problem	Total applications	Referrals			Information/ Summary advice, etc.
		Staff	Private bar	Total	
Criminal	834	33	379	412	2
Family/CFCSA	256	5	112	117	0
Immigration <sup>1</sup>	810	JR: 46 AS: 156	JR: 136 AS: 359	JR: 182 AS: 515	0
Human rights <sup>2</sup>	16	0	12	12	0
Other civil <sup>2</sup>	48	4	8	12	4
<b>Total</b>	<b>1,964</b>	<b>244</b>	<b>1,006</b>	<b>1,250</b>	<b>6</b>

<sup>1</sup> There are two kinds of immigration referrals: JR = a referral for a judicial review, where a formal hearing is held in federal court. Applications must pass a merit test before these referrals are issued. AS = a referral for ancillary services, which entail submissions to the Minister of Immigration under sections 9, 53, and 70 (5) of the Immigration Act and section 2 of the Regulations (no formal hearing is held). These applicants would have been denied a referral for judicial review. Referrals for ancillary services are not subject to a merit test. Ancillary services include, for example, submissions to the minister to allow an applicant to remain in Canada for humanitarian and compassionate reasons.

<sup>2</sup> Human rights statistics were included in other civil in previous years.

reviews that fall under the Society's regular coverage criteria and have a reasonable chance of success. All appeals — and effective January 1, 1999, all services to be provided in each case — must be approved by the Appeals Department.

A new Appeals tariff was developed and implemented as part of this year's tariff-revision project (see page 35). The department also succeeded in attracting and retaining experienced counsel to conduct appeals, as part of its goal to ensure quality representation for the most important and difficult cases.

## Prisoners' services

All offices provide services to financially eligible prisoners, ranging from summary advice to legal representation for family, immigration, and criminal matters. In addition, Prisoners' Legal Services in Abbotsford deals exclusively with prison and parole-related legal issues for the men and women incarcerated in prisons and penitentiaries from Vancouver to Agassiz.

Prisoners' program staff also give legal information and summary advice, make written submissions, and negotiate on behalf of clients. If all else fails, they litigate. Staff help prisoners with disciplinary hearings, parole hearings, involuntary transfers or solitary confinement placements, sentence calculations, involuntary treatment issues, assaults on prisoners, parole or statutory release conditions, and institutional interference with family visits and correspondence.

Staff are very experienced in prison law matters and have worked on hundreds of cases

over the years to help improve conditions in B.C. prisons and penitentiaries.

## Reciprocals

Provinces and territories in Canada provide the same level of civil and family legal aid coverage to people who live outside — but face legal proceedings within — their jurisdiction as they provide to their own residents. The inter-provincial reciprocal agreement, implemented by the Association of Legal Aid Plans of Canada, sets out the procedures for this coverage.

LSS community offices process requests by B.C. legal aid applicants for cases in other jurisdictions. Staff assess the applicant's financial eligibility, gather all relevant documents, and refer those who are eligible to the appropriate provincial plan. In 1998 – 1999, of 490 applications, 309 were referred to other legal aid plans.

The Vancouver Intake Clinic processes incoming reciprocals (from other provinces). Staff assess coverage and refer eligible applicants to lawyers in the communities where court actions are to take place. In 1998 – 1999, of 302 incoming applications, 244 were referred to lawyers in B.C.

## Financial Eligibility

Anyone whose net household income and assets are below set limits is financially eligible for legal aid. Intake workers assess each applicant's

### Income/Asset guidelines

Income		Assets	
Household size	Criminal cases (includes Appeals)	All other cases (includes Appeals)	Personal property exemption (all cases)
1	\$ 833	\$ 941	\$ 2,000
2	1,250	1,412	4,000
3	1,458	1,647	4,500
4	1,612	1,821	5,000
5	1,778	2,008	5,500
6	1,932	2,183	6,000
7 or more	\$ 2,065	\$ 2,333	\$ 6,000

financial status to determine his or her net household income and assets. Some income sources, such as the Child Tax Credit, are excluded from total net income, and some expenses, such as daycare costs, are deducted.

LSS was forced to implement a number of cuts to programs and services last year (see the *LSS Annual Report 1997 – 1998*). Those cuts included eliminating the income flex test for emergency family cases (which allowed for an additional \$200 per month income exemption). The Society monitored the impact of its cuts on clients and found that by June 1998, the numbers of both applications for legal aid and referrals to lawyers, in family law, were below projected levels. As a result, effective July 1, 1998, an income flex test was reintroduced. Applicants with net household income that exceeds the guidelines by up to \$150 are eligible for legal aid if they face —

- an emergency family problem; or
- a Child, Family and Community Service Act matter.

Applicants whose income is below the guidelines may own some assets and still be eligible for legal aid. There are five asset categories: family home, real property (except the family home), vehicles, business assets, and personal property. Each category has different limits, but generally applicants may still qualify for legal aid if they have some personal property (e.g., reasonable household furnishings), a small amount of liquid assets (e.g., cash, bank accounts), and equity of \$5,000 or less in vehicle(s).

As a condition of receiving legal aid, clients must agree to repay some or all of their legal aid costs if their financial situations improve.

Applicants whose income and assets are above the financial eligibility limits can still receive legal information and summary advice.

There are two maximum income levels: one for criminal matters and one for all other matters. The Income/Asset guidelines chart on page 23 sets out the LSS income and personal property asset guidelines.

## Financial eligibility reassessments

A legal aid client's financial eligibility may be reassessed from time to time to determine if he or she is still financially eligible or should have legal aid discontinued and pay his or her own lawyer privately. Such reassessments normally occur —

- if the client's financial circumstances have changed during the course of a referral;
- if LSS becomes aware of assets, income, or family relationships that the client did not reveal during intake;
- when a new case is opened;
- when a change of lawyer is processed;
- at the request of the Family Case Management Program (for family cases);
- as a result of a complaint about the client's financial eligibility; or
- on a random basis for auditing purposes.

A legal aid client's financial eligibility is always reassessed if he or she receives assets/money. In such cases, LSS calculates the total amount received, and determines whether to convert the legal aid referral to a private fee retainer and collect a payment from the client.

There is a basic exemption of \$10,000 in assets/money received to cover basic needs, including housing. The maximum a client could be asked to pay toward legal expenses is 50% of the amount received, after deducting this exemption.

The amount received in recoveries from clients in 1998 – 1999 was \$618,136.

## Client Contributions

Applicants whose household income after deductions falls within the LSS contribution guidelines must pay a contribution ranging from \$25 to \$100 before being referred to a lawyer or staff paralegal. With some important exceptions — for example, a client with emergency family problems — the contribution must be paid in full before staff can refer the applicant to a lawyer.

## Client contributions by monthly income level after deductions

Household size	Monthly income after deductions				
	\$ 0 – 644	\$ 645 – 678	\$ 679 – 775	\$ 776 – 872	Over \$ 872
1	0 – 923	924 – 972	973 – 1,111	1,112 – 1,250	Over 1,250
2	0 – 1,129	1,130 – 1,189	1,190 – 1,359	1,360 – 1,529	Over 1,529
3	0 – 1,283	1,284 – 1,350	1,351 – 1,543	1,544 – 1,736	Over 1,736
4	0 – 1,396	1,397 – 1,469	1,470 – 1,679	1,680 – 1,889	Over 1,889
5	0 – 1,489	1,490 – 1,567	1,568 – 1,791	1,792 – 2,015	Over 2,015
6	0 – 1,584	1,585 – 1,665	1,666 – 1,903	1,904 – 2,141	Over 2,141
7 or more					
<b>Contribution</b>	<b>None</b>	<b>\$ 25.00</b>	<b>\$ 50.00</b>	<b>\$ 75.00</b>	<b>\$ 100.00</b>

Income from client contributions for 1998 – 1999 was \$186,961.

## Coverage and Eligibility Reviews

Applicants who are refused legal aid have the right to have that decision reviewed. They must request an appeal of the refusal within 21 days of receiving the decision. This right extends to many other decisions that affect applicants and clients; for example, financial eligibility reassessments. Final decisions on reviews are made by the chief executive officer or his or her designate.

LSS has the right to refuse to provide legal aid services if the intake worker believes an applicant is not financially eligible, or if the applicant's problem does not fall under the Society's coverage rules, or if the applicant has not provided sufficient information to satisfy LSS that he or she is eligible for legal aid.

In 1998 – 1999, LSS received and assessed 1,556 requests for coverage and eligibility reviews. Of these, 71 were approved, 1,325 were refused, and 79 were abandoned (i.e., the matter was returned to the referring office to consider additional information or issues, or the applicant resolved the matter by other means). At year-end, decisions were pending on 81 requests.

## Client Confidentiality

All information an applicant or client gives to LSS is subject to solicitor-client privilege. LSS cannot disclose that information to any third party without the applicant's or client's explicit approval. Solicitor-client privilege is protected under section 12 of the Legal Services Society Act and section 14 of the Freedom of Information and Protection of Privacy Act (FOIPPA).

## Freedom of information

As a public agency, LSS is covered by the FOIPPA. LSS makes every effort to give applicants, clients, and the general public access to information they are entitled to have, while protecting personal privacy.

In 1998 – 1999, LSS closed files on 7 requests for information under the FOIPPA (compared to 36 the previous year). Of these files, most (4) were requests from clients (21 last year). Two requests received this fiscal year remained open as of March 31, 1999, each pending the result of the applicant's request for a review of the Society's decision.

Requested information was denied to one applicant, fully disclosed to three applicants, and partially disclosed to the rest. The reasons for denying access to all or some records were that releasing the information would harm a third party's personal privacy and/or because

the request was for a third party's personal information that is protected by solicitor-client privilege.

## Complaints

Anyone can complain to LSS about issues ranging from possible abuse of legal aid or wheelchair access at a community office to the quality of a lawyer's service. LSS forwards complaints to the appropriate office or department for investigation. Decisions are reviewed to maintain consistent investigations throughout the province.

In 1998 – 1999, LSS received complaints that claimed 378 individuals were improperly receiving legal aid. The chart at the bottom of this page shows the outcome of investigations into those complaints.

## Public Legal Education and Information

Providing the public with legal education and information is an integral part of the LSS mandate (see page 3). Staff in community offices, the Legal Resource Centre (LRC), the Public Legal Education and Publishing programs, and Native Programs offer a wide variety of services that increase and improve public access to — and involvement in — the

law. Public legal education (PLE) materials and activities fill a number of key needs, such as —

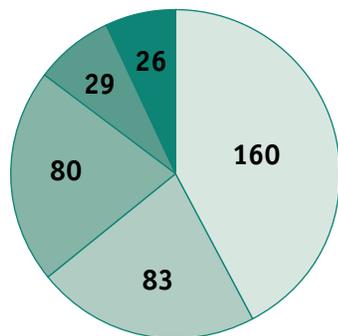
- giving staff updated legal information and resources to use in providing summary advice and legal representation services to the public;
- providing the public with information and/or self-help materials that can help them solve their legal problems without legal representation whenever possible and appropriate; and
- helping newcomers to the province gain access to legal information and legal aid services.

The following are examples of how these needs were met in 1998 – 1999.

## Publications

Native Programs and the Public Legal Education Program update and co-ordinate production of numerous legal self-help and information materials. The Publishing Program uses plain language editing and design expertise to produce PLE materials that help client groups identify, avoid, or resolve common legal problems. The program distributes these materials to legal aid offices, community groups, libraries, government agencies, and the public. Some publications are produced in the most needed languages other than English, such as Chinese, Farsi, French, Punjabi, Russian, Spanish, and Vietnamese. These materials are described in the *LSS*

## Complaints



- Complaint unfounded/coverage continued 160
- Coverage terminated or case converted to private retainer 83
- Open, investigation continuing 80
- Complaint received after case concluded or substantially completed 29
- Complaint about a non-LSS client (file kept open for 6 months in case individual applies later) 26

*Publications Catalogue.* In addition, the program maintains information about LSS and some PLE publications on the LSS Web site (at <http://www.vcn.bc.ca/lssbc/>).

In 1998 – 1999, the Publishing Program distributed 137,365 PLE items. Of these, most were produced by LSS (109,455 were copies of Public Legal Education Program publications, and 14,861 were copies of Native Programs publications). The rest were: 10,698 copies of Tenants' Rights Action Coalition publications and 2,351 copies of People's Law School publications.

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"We received some fact sheets about 'Legal Information for Battered Women' from LSS last year. These fact sheets have been really useful and helpful for battered women. We have used some of the information in these fact sheets in our Volunteer Training Program. We find the information ... to be very clear and simple and therefore easier for our volunteers to use. Sometimes it is difficult for the volunteers to explain something using legal terms; now we can read the fact sheets to the battered women to let them know what their rights are, what they can do and who can help."

— Helen Huang, Volunteer Co-ordinator,  
Chimo Chinese Crisis Line

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LSS improved access to legal education for people in B.C. with first languages other than English this year, by producing nine publications in various languages. Some of these were developed in collaboration with and/or funded by the Victim Services Division of the Ministry of Attorney General, the People's Law School, the Inland Refugee Society, the Carnegie Community Centre, the Progressive Intercultural Community Service, and the West Coast Environmental Law Research Society.

This year, the Society worked in a variety of ways with the Ministry of Attorney General to provide cost-effective PLE services for clients seeking maintenance variations based on the new federal child support guidelines. LSS drafted a self-help document for applicants to the Supreme Court, which at year-end was

being pre-tested by the ministry. As well, LSS added new information about the guidelines to its two most popular family law publications, *If Your Marriage Breaks Up* and *Living Common-Law*.

### **1999 – 2000 initiative**

- Develop and test additional print and video materials for family court to be used in LSS offices and pro bono clinics that help unrepresented litigants prepare for court.

## **Native Programs: New and revised publications**

### **Family Violence**

This 16-page booklet, written for the Bella Bella aboriginal community, is a useful model for how to talk about family violence — in any culture. In clear, straightforward language, it explains what family violence means, who can help, and what people can do themselves to deal with the problem. An informative, concise publication, *Family Violence* shows the challenges and responsibilities that both individuals and communities need to face and accept in order to deal with this issue.

### **Human Rights, My Rights: A handbook for aboriginal people**

This award-winning booklet provides information on federal and provincial law prohibiting discrimination and harassment. This year, Native Programs revised and reprinted the booklet and facilitated the development of a video to complement it.

The video was produced by KLa-how-ya Communications, working out of the Vernon Native Friendship Centre, with funding from the B.C. Human Rights Commission, the Canadian Human Rights Commission, and Native Programs. It reinforces information provided in the booklet, including specific information on what discrimination is, what legal rights aboriginal people have under human rights laws, what to do if a person is discriminated against, and who can help. The video brings to life examples of discrimination faced every day by aboriginal people in many areas. Copies were distributed to more than 200

aboriginal agencies across the province, including native friendship centres, tribal councils, and educational institutions.

***How to Make a Will and Settle an Estate: A guide for aboriginal people***

Demand for this extremely popular and useful publication was far greater than anticipated. A reprint was necessary to ensure aboriginal individuals and organizations had access to information on this complex topic. This practical guide helps those responsible for carrying out the instructions of a will to ensure they have administered the estate properly. The publication also contains useful information on how to prepare a valid will. With the reprint of this booklet, Native Programs continues to ensure aboriginal people have access to the legal information they need.

***Public Legal Education Program: New and revised publications***

***Help for Refugee Claimants***

This practical brochure, a joint LSS/Inland Refugee Society production, was published in 1998 in English, Farsi (Persian), and Spanish. The brochure provides step-by-step information

on applying to the Immigration and Refugee Board for Convention refugee status, and a list of local refugee organizations and services.

***If Your Child Is Taken by the Ministry for Children and Families: Parent's rights and the removal of children***

Children in B.C. are protected by special laws. This brochure, revised in 1998, explains parents' rights and what happens after a child is removed, and what parents can do to try and have their children returned.

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"Thank you for sending us the copies of *Parents' rights, Kids' Rights: A parent's guide to child protection law in B.C.* [We] work towards the prevention of child abuse via a network of Parent Support Circles throughout the province. We maintain a referral line that parents can call for information if their children are removed by the Ministry for Children and Families. We have found that the booklet has been extremely helpful to us in giving clear information to these callers. We are able to flip to the appropriate page and read the information ... As a small non-profit organization our resources are limited, and we are pleased to have found such a useful tool."

— Morgan McGuigan, Executive Assistant,  
B.C. Parents in Crisis Society

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**Award-winning publications**

This year, several LSS staff were recognized for their excellent work on PLE publications:

The LRC's *Legal Services Society Audio-Visual Library Catalogue 1997 – 1998* won an Apex Award of Excellence in the Brochures, Booklets and Catalogues — Special Purpose category (*Editor: Winnifred Assmann, Designer: Lesa Moriarity*).

Two Native Programs publications were honoured: *Human Rights My Rights: A handbook for aboriginal people* (revised 1997), won an Apex Award of Excellence in the Training, Education and Information category (*Editors: Anne Rose, Lois Richardson; Designer: Lesa Moriarity*). *Fishing — Aboriginal rights in British Columbia* won a 1999 Communicator Award of Distinction in the Brochure/Educational category (*Editor: Anne Rose, Designer: Lesa Moriarity*).



The PLE Program booklet *Employment Insurance*, published in Chinese, Farsi, Punjabi, and Spanish, won a 1999 Communicator Award of Distinction in the Brochure/Educational category (*Editor: Anne Rose, Designer: Lesa Moriarity, Translators: Candice Lee, Mo Sa'lemy, Eduardo Aragón*).

### ***Why See a Lawyer About Your Court-Ordered Plan of Care?***

At the request of the Ministry for Children and Families, LSS produced this brochure for social workers to give to young people aged 12 – 18 who are being asked to consent to a court-ordered plan of care. The brochure explains why it is important for youth in this situation to seek out legal advice before they agree to any court decisions about their lives.

### ***Speaking of Abuse: Violence Against Women in Relationships***

This booklet replaces the Justice Institute/LSS publication *Assault: Violence against women in relationships*. Like *Assault*, *Speaking of Abuse* is based on the Attorney General's policy on violence against women in relationships. It reflects the most recent changes to the laws that affect women who are in abusive relationships, and explains how a woman can help herself by understanding her rights. It is available in Chinese, English, Farsi, French, Punjabi, Russian, Spanish, and Vietnamese; and on disk and audiotape in English only.

### ***Self-help public legal education materials***

This year, LSS produced four new and two revised self-help information brochures/booklets about specific legal problems. These materials, given out in legal aid offices, and intended to help people who have been denied legal aid, include:

- *What to Do Next, if You Are Charged with Drinking and Driving* (part of the *Next Step* series)
- *Can't Pay Your Mortgage? What you can do if you're facing foreclosure*
- *If You Can't Get a Lawyer for Your Criminal Trial*
- *If You Are Charged with a Crime*
- *How to Appeal Your Conviction* (revised)
- *How to Appeal Your Sentence* (revised)

## **Newsletters**

### ***Community Law Matters***

Produced four times a year by the Public Legal Education Program, this is a digest for community advocates who work in poverty law.

It includes reports on recent cases, changes in legislation, and community organizing initiatives.

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"I just received the latest edition of *Community Law Matters* and I just wanted to say IT'S LOOKIN REALLY GOOD!! You guys are doing a great job. Thank you!"

— Bev Hall, Executive Director, Langley  
Legal Assistance Centre

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### ***LRC News and Supplement***

The Legal Resource Centre produced three issues of the *News* and *Supplement* this year. These inform librarians and community information workers about referral agencies and about changes in the law, new publications, and old materials to be discarded.

### ***1999 – 2000 initiative***

- Reinstated the *Aboriginal Justice Bulletin*.

## **Legal Resource Centre**

The LRC is a law library for the public and legal aid staff. The library collection contains 9,000 volumes for reference use, including special collections of poverty law, native law, law and the disabled, legal literacy, legal aid, and legal education materials. This year, the LRC converted its computerized catalogue to a format that allows staff throughout the province to access it directly from their work stations. LRC services include the following:

### ***Reference services***

LRC staff provide reference services to staff and public libraries. In 1998 – 1999, they responded to 1,694 specialized reference requests.

### ***Law Line***

Law Line is a legal information telephone service provided by law librarians for the general public. In 1998 – 1999, Law Line personnel responded to 11,039 requests.

### ***Audio-visual collection***

The LRC maintains a circulating audio-visual collection of B.C. law-related and educational

materials. This year, 995 items were circulated to community groups, schools, and colleges. As well, updates to the *Legal Services Society Audio-Visual Catalogue 1997 – 98* were made available on the LSS Web site. Spring and fall print updates were published and sent to community organizations and schools.

### **Public library grants**

Public libraries can apply to the LRC for funding to purchase legal materials. In 1998 – 1999, grants totalling \$24,000 serviced 68 libraries.

### **Workshops**

The LRC sponsors a legal materials/information and reference training program. In 1998 – 1999, the centre provided or participated in 17 workshops for 600 librarians, LSS staff, community organizations, and teachers.

This year, the LRC also worked with the B.C. Library Association to give workshops in Vancouver, Prince George, and Prince Rupert on information policy issues and access to government information.



**Nancy Hannum, LRC Manager/Chief Librarian, talks about access to government information at a workshop on information policy issues, Prince Rupert Public Library, May 22, 1998. Photograph by Alan Wilson.**

### **Electronic Law Library**

The project to integrate the Electronic Law Library (ELL) into public library reference systems proceeded smoothly this year. Use of the ELL is high, with 24,740 hits between August 1997 and March 1999. The LRC is on the provincial steering committee for the public library system's Virtual Reference Desk and has joined with staff from the Vancouver Public Library to evaluate law-related Internet sites for use by libraries and the general public. With the addition of a new LRC fieldwork librarian, training for public libraries is being retooled and requests for training are coming in from libraries across the province. The ELL, maintained by the LRC, provides basic links to reliable legal information sites for the general public, including statute, court, and government sites, as well as others containing information on topics ranging from aboriginal law to young offenders. The Internet address for ELL is <http://www.bcpl.gov.bc.ca/ell>

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Nancy Hannum, LRC Manager and Chief Librarian, was recognized for her work in the library field when the First Nations Interest Group received the B.C. Library Association's merit award for outstanding achievement in programs and services. Nancy is the chair of this group, which has worked since 1991 to address issues of access to libraries for First Nations people living on reserves, to develop and provide workshops on library skills for bands, and to raise issues of access to public libraries at the association and regional meetings.

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### **1999 – 2000 initiatives**

- Strengthen services to B.C. libraries by adding more training materials and recommendations for print resources for rural/remote libraries.
- Plan and implement a modified LRC intranet service to provide LSS legal staff with quick access to the best possible legal information, LRC updating and alerting services, PovNet, the ELL, and other relevant Web sites.

## **Small grants**

LSS supports community participation in public legal education by providing small grants to help organizations across the province develop projects, workshops, and materials that explain the law and the legal system to the public.

### ***Native Programs project grants***

Native Programs provided \$102,630 in grants to fund (fully or partly) 29 PLE projects in 1998 – 1999. Organizations receiving grants included First Nations bands, friendship centres, community service agencies, aboriginal women's organizations, and Métis groups.

Below are a few examples of these projects:

#### ***Public legal awareness***

The Esketemc (Alkali Lake) First Nation hosted a series of workshops dealing with criminal and family law issues. A half-day workshop about custody, access, and maintenance issues was of particular interest, judging from the large number of participants and the comments received afterwards. Criminal law workshop participants attended a court session to gain some insight into and understanding of what is involved in the court process. The discussion that followed focused on how victims and their communities were affected by the offenders' actions. A field visit to the Kamloops Correctional Centre to examine the effects of incarceration capped this series of workshops.

#### ***Family violence and the law***

The goal of this project by the Lower Nicola Indian Band was to educate band members about certain aspects of law and the legal system. The project facilitator called on the expertise of community advocates and service agencies in the Merritt region, including family violence workers, alcohol and drug counsellors, lawyers, and victim assistance workers. The group produced a pamphlet containing information about the rights of individuals suffering from abuse and family violence, as well as a list of community agencies that can assist in these situations. A short video was developed to

complement the pamphlet that included interviews with victims, offenders, educators, and community members affected by incidents of family violence. This project generated tremendous interest in the community and as a result, many more workshops and information sessions are planned for the future.

#### ***How do I get my kids back?***

The Métis have a unique cultural and political identity that blends aboriginal and European traditions and values. In recent amendments to the Canadian constitution, the Métis are defined as a specific aboriginal group. This has led to some confusion regarding the rights of the Métis; in particular, with family law issues. Based in Surrey, Métis Family Services identified a need for information about custody and access among its members. An information guide entitled *How do I get my kids back?* was developed to explain how parents can regain custody of their children. This publication was well received by the Métis community, and the feedback has been consistently positive. Parents of children in care expressed a keen interest in knowing more about the subject and were eager to further discuss their rights and responsibilities as identified in the brochure. Support workers dealing with Métis families also felt that the information in the booklet was very well presented and indicated a need for more advocacy and outreach in this area of family law.

### ***Public Legal Education Program project grants***

The Public Legal Education Program provided \$153,072 in grants to fund PLE projects across B.C. in 1998 – 1999, working with 68 community groups on 83 projects (about half carried over from last year). By the end of the year, all were completed or substantially completed. Providing advocacy training to volunteers was a high priority this year, with 14 organizations completing advocacy workshops in their communities. The PLE program also assisted seven legal aid offices with their PLE work.

Below are a few examples of these projects:

### ***Mock refugee-hearing project***

In Vancouver, the Little Mountain Neighbourhood House Society developed a play for refugee claimants, which re-creates refugee hearings in Spanish, French, Farsi, and English. The play, in the form of a mock hearing, helps claimants and settlement workers understand the refugee hearing process. Presented in four different locations — each time in a different language — it was attended by a total of 285 people. Community representatives, a former refugee board member, immigration lawyers, qualified interpreters, and members of refugee-serving organizations worked on the project and developed scripts to reflect the cultural experiences of the refugee claimants and accurately describe the hearing process. A question-and-answer period followed each presentation, and handouts were available in the language of the presentation. Audience members said that the mock hearings were an excellent way to educate refugees on the hearing process, and they appreciated the opportunity to ask questions at the end of the session. The hearings were videotaped and plans are underway to promote and distribute the tapes to refugee-serving organizations.

### ***Training and resources on child apprehension matters***

The Drug and Alcohol Meeting Support for Women (DAMS) provided training and a resource package on child apprehension issues for single parents and community workers. The project included six workshops to help mothers understand their rights and responsibilities under the law. DAMS reviewed existing print material and met with mothers, community workers, Ministry for Children and Families officials, and lawyers to identify and discuss questions and problems around child apprehension. They compiled the results of their research into an invaluable resource binder that contains information about the issues identified by parents and advocates, as well as other relevant printed materials. The group went on to hold a one-day workshop for community advocates that attracted more than 60 participants.

### ***Advocacy training for volunteers***

The Hundred Mile House and District Women's Centre Society was one of several groups to develop an information and advocacy training course for volunteers this year. The 60-hour course included sessions on skills training, communications, interviewing, human rights, income assistance, violence against women, and legal and community services. The project used advocacy training kits developed by the Penticton Advocacy Network and the B.C. Coalition of People with Disabilities. Participants and resource people alike gave the training program high marks.

## **Community office public legal education**

Across the province, staff provide a wide range of public legal education services for their communities, and work with other local agencies to improve public access to and understanding of the law. These services include:

- providing general legal information in newspaper columns and on television programs;
- training lay advocates;
- speaking about the law to schools, colleges, and community groups;
- co-sponsoring conferences and giving workshops on various aspects of the law; and
- offering free information and intake clinics in communities where there are no legal aid offices.

Office staff are also involved in a variety of community development and law reform activities that can provide direct benefits to a class of clients or improve client access to the legal system. Such work can reduce the need for individual representation, or improve the functioning of the larger justice system.

This year, LSS began improving its reporting system for test cases and developing a protocol to support law reform initiatives. A number of reporting mechanisms are currently in place, including publications (e.g., *Community Law Matters*), PovNet, and staff conferences. Next year, LSS hopes to establish a Poverty Test Case

Committee with province-wide representation that could assess potential test cases for such factors as the number of clients affected and the potential benefit to clients of litigation, and also consider how to share the large amount of work among all LSS advocates in the province.

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Poverty Staff Lawyer Diana Lowe (Surrey branch office) was appointed Executive Director of the Canadian Forum on Civil Justice, a joint initiative of the Canadian Bar Association and the Faculty of Law at the University of Alberta. She's on a year's leave from LSS to take up the position, which started in September 1998. The forum will collect, promote, and distribute information about civil justice reform across the nation.

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### *1999 – 2000 initiatives*

- Identify emerging law reform issues or potential test cases, using existing reporting procedures.
- Continue work on a protocol to identify and support local law reform initiatives that have a significant impact on clients, provincially or nationally.

### *Examples of this year's work*

- **Campbell River** staff gave several seminars to service organizations and school and college counsellors on "Court Ordered Disclosure of Confidential Records." Advocates who counsel victims of sexual assault have been particularly concerned about their own and their clients' privacy rights under the Criminal Code procedures.
- The **Chilliwack** paralegal's participation in meetings of the Chilliwack Resource Library Board, the local Adult Guardianship Community Response Network, and the Chilliwack Social Awareness Network helped the legal aid office develop important links throughout the community.
- A workshop on "Employment and the Law on Reserve" at the Friendship Centre in **Duncan** provided detailed information in two separate sessions — one for band managers and one for other employees. Topics included federal and provincial division of powers, how to tell whether

you're covered by federal or provincial legislation, and which employment rights are guaranteed under the Constitution Act of 1982. It also provided information on the Indian Act, the Canada Labour Code, the Employment Standards Act, and legislation concerning human rights, employment insurance, income taxes, and workers' compensation.

- Staff in **Kamloops** organized four major workshops on B.C. Benefits legislation, providing training for community advocates and people working in various social service agencies in the area.

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Poverty Paralegal Jane Rowe was selected for the Woman of Distinction in the Community Service category of the YWCA Women of Distinction Awards announced May 21, 1998 in Kamloops.

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- Since January 1999, the **Kelowna** branch office and the local Elizabeth Fry Society have co-sponsored a community law clinic. Members of the private bar volunteer their time to give free legal advice and information to members of the public in all areas of law.



**Kamloops branch office staff celebrate Intake Legal Assistant Marilyn Callaghan's birthday. Shown with Marilyn (seated) are, left to right, Paralegal Jane Rowe, Staff Criminal Lawyer Samantha Wellman, and Intake Legal Assistant Karleen Lehmann. Photograph by Managing Lawyer Louise Richards.**



Staff from the Vancouver branch office participated in the Heart and Stroke Foundation's Big Bike Ride on May 7, 1998. Staff shown in the photo are: left to right, front row, Staff Lawyers Denice Barrie, Carol Rosset, and Tim Timberg; second row, Intake Legal Assistant Annette Taylor (wearing the baseball cap). Photograph by Joe Parsons of the Heart & Stroke Foundation of BC & Yukon.

The law clinic, which is held at the Kelowna office on the second Thursday evening of the month, has proven very popular and continues to receive strong support from both local lawyers and the public.

- The poverty team in **Nanaimo** provided numerous disability workshops to show hundreds of people how to apply to have their disability status recognized by submitting accurate applications and appeals. The team created a simple, comprehensive instruction module and information package and prepared two practicum students to provide the training. They also worked with local churches, food banks, and the Ministry of Human Resources in response to the removal of the "unemployable" category from income assistance regulations.
- **North Shore** CLO staff are working with advocates from a wide range of other community organizations to map legal and other related services available in the area. The ultimate goals of the project are to increase community access to information and ensure service providers are sending
- people to the appropriate agencies and services. Some of the other groups involved in the project are the North Shore Multicultural Society, the Community Support/Response Network for Adults at High Risk, the OAK Tree Project (a National Crime Prevention Centre Initiative), North Shore Community Mental Health, Family Services of the North Shore, and the Canadian Mental Health Association.
- Staff in **Powell River** participated in the organization and presentation of the local Native Justice Committee's Cross Cultural Awareness Day at Sliammon in October 1998. Attended by about 20 people, mostly non-native, the day included a presentation on the Sliammon language and school system, a display of the band's cultural art, an explanation of some of their religious traditions, and a visit to a sweat lodge. The event was one of a variety of programs undertaken by the committee to meet its mandate of creating cross-cultural awareness, facilitating an understanding of the justice system among local native and non-native residents, exploring how to implement restorative justice mechanisms (see also page 11), and acting as liaison between provincial agencies dealing with aboriginal issues and the community of Sliammon.
- **Prince Rupert** staff continued their work on the Community Action Committee Against Family Violence, which organized a Speakers' Bureau consisting of qualified presenters who can speak to organizations on the realities of family violence. They also worked with local groups on adult guardianship legislation; specifically, with the newly formed Community Response Network on the issue of representation agreements.
- **Surrey** branch office staff spoke about child protection issues at a workshop organized by the Newton Advocacy Group Society as part of a project to establish a self-advocacy group for parents of children who are or have been in the care of the Ministry for Children and Families.

- Family Law Clinic staff in **Vancouver** gave numerous talks on family and child protection law for organizations such as the Vietnamese Immigrant Society, Downtown Eastside groups such as the Drug and Alcohol Meeting Support for Women, the UBC Aboriginal Law Clinic, and Langara college students.
- The paralegal at the Immigration and Refugee Law Clinic in **Vancouver** was involved in efforts to improve relations between the police and the Latin American community and to improve public opinion of the Latin American community. She was also involved in the planning of mock refugee hearings (see page 32).
- **Victoria** Law Centre staff once again co-sponsored a half-day workshop on “Non-Profits and the Law” with Camosun College, Volunteer Victoria, and the United Way. This year’s session attracted 51 participants and focused on legal liability — how to limit it, what the role of insurance is and how else people can minimize personal risk, and what steps to take when something goes wrong.

## Tariffs

Private bar lawyers who represent legal aid clients in criminal, family, immigration and refugee, and judicial appeals matters are paid according to a schedule of fees known as the tariffs. These fees are established by LSS in consultation with the private bar. In 1998 – 1999, tariff payments came to 60% of all LSS expenses.

The B.C. Human Rights Commission reimburses LSS the cost of the human rights tariff for B.C. Human Rights Act matters, and pays the Society an administrative fee for processing accounts.

There is no tariff for poverty (other civil) law services. Staff lawyers or paralegals, under staff lawyer supervision, do most of this work. Some matters are referred to the private bar on a pro bono (no fee) basis, in which case LSS pays the lawyers for approved disbursements (out-of-pocket expenses).

The criminal tariff is based on block fees (before holdbacks), which represent the average amount of time required for a proceeding. Block fees are generally based on court appearances, and these fees are meant to include all other related services that are not billable.

The family, human rights, appeals, and immigration tariffs are generally \$80 per billable hour (before holdbacks) up to specified maximums for most work. The family and immigration tariff fees both pay for actual time spent in court (except for detention hearings, which are paid on a block fee basis). Prior to January 1, 1999, the criminal appeals tariff was based on block fees (before holdbacks).

This year, the department revised its procedures for authorizing extra fees and disbursements. A panel of private bar lawyers with expertise in various areas of law now provides staff with advice and assistance in assessing these requests, leading to better decisions at no extra cost to the Society.

## Revised tariff guide and new billing system

LSS introduced a completely new set of tariffs this year. For the first time in a decade, the *Guide to Legal Aid Tariffs* is a complete document, including the terms and conditions of retainer, and provides a current and consolidated set of materials for legal aid billings. This project was done in conjunction with the implementation of CMS Phase 2 — a new computerized billing system — that involved considerable work on the part of staff in the Information Technology, Tariff, Client Services, and Publishing departments and the LSS board tariff committees.

The new billing system promises greater bill-processing efficiency, a better expense-tracking system, and improved auditing of legal aid billings. Its implementation in January 1999 was the culmination of five years’ work to develop an integrated system that tracks clients from their initial legal aid application to the final billing on their file.

The new system reduces some administrative functions in branch offices, simplifies rendering accounts to private bar

lawyers, and allows for more efficient bill processing in the Tariff Department.

### *1999 – 2000 initiative*

- Complete CMS Phase 2 initiatives, including record keeping and billing for duty counsel services, and time-keeping for professional staff.

## **Holdbacks**

Tariff holdbacks are amounts deducted from accounts at the time of payment. The holdbacks this year remained at 10% for family cases, 15% for criminal cases, 17% for immigration cases, and 15% for duty counsel. The holdback for criminal judicial appeals changed from 5% to 15% (effective January 1, 1999) when the criminal appeals tariff was restructured. Family and immigration judicial appeals remained subject to the 5% holdback. At the end of each fiscal year, the Board of Directors determines whether any money is available in the tariff budgets to repay any portion of these amounts.

Family tariff expenditures for 1997 – 1998 were \$1,350,491 less than the projected family tariff budget. In October 1998, repayments were made on a pro rata basis to lawyers affected by those holdbacks. Because criminal and immigration tariff expenditures exceeded their budgets, the 1997 – 1998 holdbacks in these areas will not be repaid.

The board decided that \$407,282 in holdbacks deducted from family accounts and \$143,543 deducted from criminal accounts paid during 1998 – 1999 will be repaid at a later date to private bar lawyers affected by these holdbacks. Because immigration tariff expenditures exceeded that budget, the 1998 – 1999 holdbacks in this area will not be repaid.

## **Private bar billings and recoveries**

More than half (65%) of the private bar lawyers whose accounts were approved for payment billed LSS less than \$20,000 in fees in 1998 – 1999. (These billings include cases referred before this fiscal year.)

LSS monitors billings to ensure that private bar lawyers acting for legal aid clients bill LSS appropriately for their services and disbursements. For example, Audit and Investigation staff perform random audits of expensive cases, accounts showing unusual billing patterns, and other accounts, such as those by top-billing private bar lawyers.

This year, the Tariff Department began a review of its entire audit process. The review, which will continue into the next fiscal year, is intended to develop recommendations to enhance the audit function and ensure that investigations are carried out as efficiently as possible. The department also began discussions with each of the board tariff committees about appropriate audit triggers for billings by private bar lawyers.

In 1998 – 1999, account audits led to recovering \$46,624 in over billings or accounts billed in error.

### *1999 – 2000 initiative*

- Complete a systems review of the Tariff Department, designed to cover the structure and policies of audit functions and workflow, the efficiency and effectiveness of the current disbursements policy, and current tariff-processing policies.

## Tariff expenditures (including disbursements)

Area of law	1998 – 1999	1997 – 1998
Criminal	\$ 18,865,063	\$ 20,202,649
Family	20,411,083	24,749,593
Immigration	4,169,935	3,387,438
Duty counsel <sup>1</sup>	2,257,998	2,204,466
Human rights <sup>2</sup>	332,941	271,365
Prison <sup>3</sup>	72,559	73,565
Transcripts	1,062,920	1,251,004
Pro bono disbursements	183,048	197,693
Staff case disbursements	574,012	495,458
<b>Total<sup>4</sup></b>	<b>\$ 47,929,559</b>	<b>\$ 52,833,231</b>

<sup>1</sup> Duty counsel includes circuit court counsel payments.

<sup>2</sup> The B.C. Human Rights Commission reimburses LSS the cost of the human rights tariff for B.C. Human Rights Act matters.

<sup>3</sup> Prisoners' Legal Services has a small budget for retaining private counsel to represent prisoners at parole hearings.

<sup>4</sup> These totals consist of the following expenditures shown on page 42: tariffs plus transcripts plus duty counsel, minus Brydges (included in Duty counsel) minus mental health services (included in Tariffs). Brydges costs (reported separately in Operating Expenditures, on this page) were \$204,916 in 1998 – 1999 and \$201,130 in 1997 – 1998. Mental health services costs (reported as part of CLO expenses in Operating Expenditures, on this page) were \$18,124 in 1998 – 1999 and \$12,466 in 1997 – 1998.

## Operating Expenditures

### Community offices (intake and poverty law services)

	1998 – 1999	1997 – 1998
Branches	\$ 11,888,103	\$ 11,765,226
CLOs <sup>1</sup>	6,981,093	7,555,225
NCLOs	2,945,194	3,135,916
Brydges duty counsel	204,916	201,130
Area directors	191,269	210,700
Salvation Army	60,000	62,280
<b>Total</b>	<b>\$ 22,270,575</b>	<b>\$ 22,930,477</b>

### Client programs

	1998 – 1999	1997 – 1998
Appeals	\$ 740,289	\$ 660,254
Library services	603,730	607,275
Public Legal Education <sup>2</sup>	643,387	531,811
Publications	260,950	359,399
Native Programs	287,940	199,756
<b>Total</b>	<b>\$ 2,536,296</b>	<b>\$ 2,358,495</b>

### Service delivery support

	1998 – 1999	1997 – 1998
Tariff, Audit and Investigation	\$ 1,173,670	\$ 1,089,836
Client Services <sup>3</sup>	692,280	672,874
<b>Total</b>	<b>\$ 1,865,950</b>	<b>\$ 1,762,710</b>

### Management and administration

	1998 – 1999	1997 – 1998
Human Resources <sup>4</sup>	\$ 901,120	\$ 790,124
Finance and Administration	2,466,072	2,584,142
Information Technology <sup>5</sup>	1,809,351	1,399,448
Communications	46,104	41,012
Depreciation	510,369	570,343
<b>Total</b>	<b>\$ 5,733,016</b>	<b>\$ 5,385,069</b>

<sup>1</sup> Includes funding for the Community Legal Assistance Society and the Elizabeth Fry Society.

<sup>2</sup> The 1998 – 1999 amount includes \$160,735 raised for the *Speaking of Abuse* pamphlet series and PovNet.

<sup>3</sup> Includes Reciprocals (reported separately under Client programs in last year's annual report).

<sup>4</sup> Includes Training.

<sup>5</sup> Includes community office IT costs and CMS project implementation, reported separately in last year's annual report.

## Financial Statements 1998 – 1999

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### Report of the Auditor General of British Columbia

*To the Members of the Board of Directors,  
Legal Services Society, and*

*To the Attorney General,  
Province of British Columbia:*

I have audited the balance sheet of the *Legal Services Society* as at March 31, 1999 and the statements of accumulated deficit, income and expenditures and changes in financial position for the year then ended. These financial statements are the responsibility of the Society's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the *Legal Services Society* as at March 31, 1999 and the results of its operations and changes in its financial position for the year then ended in accordance with generally accepted accounting principles.

*Victoria, British Columbia  
May 21, 1999*

## **Legal Services Society Management's Responsibility for the Financial Statements**

Management is responsible for the preparation of the Society's financial statements. This responsibility includes maintaining the integrity and objectivity of the Society's financial records, and presenting the Society's financial statements in accordance with generally accepted accounting principles for non-profit organizations.

Management maintains a system of internal control that ensures that all material agreements and transactions of the Society are properly recorded. The Society's financial statements for the year ended March 31, 1999 have been examined by the Office of the Auditor General. Their examination was made in accordance with generally accepted auditing standards, and included obtaining a sufficient understanding of the Society's internal controls to plan the audit.

The Board of Directors of the Society is composed solely of directors who are not employees of the Society. The Board, acting through its Finance Committee, is responsible for determining that management fulfils its responsibilities in the preparation of the financial statements and the control of the Society's financial operations. The Finance Committee meets with staff of the Office of the Auditor General to discuss their audit work, the Society's internal controls, and the financial statements. The Board of Directors is responsible for approving the financial statements.



David S. Duncan  
Chief Executive Officer



Nancy Peck  
Director of Finance and Administration

**Legal Services Society  
Balance Sheet**

As at March 31, 1999

	1999	1998
<b>Assets</b>		
<b>Current assets</b>		
Cash	\$ -	\$ 358,755
Accounts receivable - Provincial Government	789,415	222,946
- Government of Canada	984,118	1,966,784
- other	170,335	66,907
Prepaid expenses	546,000	289,277
Total current assets	<u>2,489,868</u>	<u>2,904,669</u>
<b>Capital assets (note 4)</b>	<b>1,677,730</b>	<b>1,328,083</b>
	<u>\$ 4,167,598</u>	<u>\$ 4,232,752</u>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Operating line of credit	\$ 3,571,821	\$ -
Accounts payable - general	1,622,761	1,333,580
- tariff	8,217,756	17,860,780
Professional staff benefits plan	723,519	736,492
Current portion of obligation under capital lease (note 9)	81,124	75,149
Deferred income	60,792	133,453
Total current liabilities	<u>14,277,773</u>	<u>20,139,454</u>
<b>Long-term liabilities</b>		
Obligation under capital lease (note 9)	157,814	238,938
	<u>14,435,587</u>	<u>20,378,392</u>
<b>Accumulated deficit</b>	<b>(10,267,989)</b>	<b>(16,145,640)</b>
	<u>\$ 4,167,598</u>	<u>\$ 4,232,752</u>

The accompanying notes are an integral part of these financial statements.

Approved by the Board:

Director 

Director 

**Legal Services Society**  
**Statement of Accumulated Deficit**

For the year ended March 31, 1999

	<b>1999</b>	1998
<b>Accumulated deficit</b>		
Beginning of year	\$ (16,145,640)	\$ (17,106,042)
Add excess of income over expenditures for the year	5,877,651	960,402
End of year	<u>\$ (10,267,989)</u>	<u>\$ (16,145,640)</u>

## Legal Services Society Statement of Income and Expenditures

For the year ended March 31, 1999

	1999	1998
<b>Income</b>		
<b>Grants</b>		
Province of British Columbia	\$ 82,034,961	\$ 82,171,365
Law Foundation	2,975,000	3,500,000
Notary Foundation	489,790	46,758
	<u>85,499,751</u>	<u>85,718,123</u>
<b>Other income</b>		
Interest	211,827	79,681
Legal costs recovered from clients	186,961	214,000
Publications	9,710	10,316
Miscellaneous	304,798	208,264
Donated services (note 5)	-	-
	<u>713,296</u>	<u>512,261</u>
	<u>86,213,047</u>	<u>86,230,384</u>
<b>Expenditures</b>		
Amortization	510,369	570,343
Area directors	191,269	210,700
Board expenses	101,384	95,478
Computer	1,208,890	639,252
Duty counsel	2,462,913	2,405,596
Grants and contracted services	10,265,926	10,952,854
Libraries	250,714	261,171
Miscellaneous	326,959	292,180
Office	1,305,363	1,353,516
Premises	1,702,425	1,814,725
Publications	67,724	66,147
Salaries and benefits	15,935,418	15,794,219
Tariffs (note 6)	44,626,760	49,390,228
Transcripts	1,062,920	1,251,004
Travel	316,362	172,569
	<u>80,335,396</u>	<u>85,269,982</u>
<b>Excess of income over expenditures for the year</b>	<u>\$ 5,877,651</u>	<u>\$ 960,402</u>

**Legal Services Society**  
**Statement of Changes in Financial Position**

For the year ended March 31, 1999

	1999	1998
<b>Cash provided by (used in):</b>		
<b>Operating</b>		
Excess of income over expenditures for the year	\$ 5,877,651	\$ 960,402
Items not involving the outlay of funds		
Amortization	510,369	570,343
	<u>6,388,020</u>	<u>1,530,745</u>
Changes in non-cash operating items		
Accounts receivable	312,769	(531,084)
Prepaid expenses	(256,723)	(157,392)
Accounts payable	(9,353,843)	(239,473)
Professional staff benefits plan	(12,973)	80,619
Deferred income	(72,661)	133,453
	<u>(2,995,411)</u>	<u>816,868</u>
<b>Investing</b>		
Capital asset additions	(860,016)	(564,130)
<b>Financing</b>		
Capital lease payments	(75,149)	(69,614)
<b>(Decrease) increase in cash position</b>	<u>(3,930,576)</u>	<u>183,124</u>
<b>Cash beginning of year</b>	<b>358,755</b>	<b>175,631</b>
<b>(Operating line of credit) cash end of year</b>	<u>\$ (3,571,821)</u>	<u>\$ 358,755</u>

# Legal Services Society

## Notes to the Financial Statements

For the year ended March 31, 1999

### 1. The Society

The Society was established under the Legal Services Society Act on October 1, 1979 and is not an agent of the Crown. The objects of the Society are to ensure that:

- services ordinarily provided by a lawyer are afforded to individuals who would not otherwise receive them because of financial or other reasons; and
- education, advice and information about law are provided for the people of British Columbia.

In 1999, the Society received 95% (1998 – 95%) of its income from the Province of British Columbia and 4% (1998 – 4%) of its income from the Law Foundation of British Columbia. The Society depends on funding from these two sources for the continuance of its operations.

Under cost sharing agreements, the Province of British Columbia recovers approximately 10% of its contribution to the Society from the Government of Canada.

### 2. Significant Accounting Policies

#### Basis of accounting

These financial statements have been prepared in accordance with generally accepted accounting principles for non-profit organisations.

#### Specific accounting policies

Donated services are recorded at fair value when they would normally be purchased by the Society and a fair value can be estimated for the services.

#### Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets, including the recoverability of accounts receivable, capital assets, and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reported period. Actual results could differ from the estimates.

#### Capital assets

Capital assets are recorded at cost, and are amortized on a straight-line basis as follows:

	Per Year
Furniture	20%
Equipment	20%
Computer equipment	33%
Computer software	33%
Case Management System	10%
Leasehold improvements	20%
Equipment under capital lease	20%

### 3. Measurement Uncertainty

Uncertainty in the determination of the amount at which an item is recognized in the financial statements is known as measurement uncertainty. Uncertainty exists whenever estimates are used because it is reasonably possible that there could be a material variance between the recognized amount and another reasonably possible amount.

Measurement uncertainty in these financial statements exists in the accrual for tariff expenditures where work has been done for assigned cases for which eventual billings to the Society could result in actual costs to differ from the estimates made.

## 4. Capital Assets

	Cost	Accumulated Amortization	Net Book Value	
			1999	1998
Furniture	\$ 1,290,774	\$ 1,269,576	\$ 21,198	\$ 37,373
Equipment	832,544	749,312	83,232	31,700
Computer equipment	2,240,024	1,861,671	378,353	90,801
Computer software	210,589	69,760	140,829	45,521
Case Management System	935,582	214,739	720,843	623,604
Leasehold improvements	480,196	372,883	107,313	164,084
Equipment under capital lease	443,778	217,816	225,962	335,000
	\$ 6,433,487	\$ 4,755,757	\$ 1,677,730	\$ 1,328,083

## 5. Donated Services

The Society's head office premises are provided at a reduced rent under an agreement between the City of Vancouver and the building's owner that expires on June 14, 2004. The annual difference between the market value of the rent and the rent paid is approximately \$233,000 (1998 - \$249,000). Because the Society would not be leasing its current head office premises if it were paying the full market rent, this amount is not recorded in the Society's financial statements.

Lawyers from the private bar are retained by the Society to represent eligible clients in criminal, immigration/refugee, and family cases. Some lawyers subsidize the Society by being paid fees for their services that are less than those that they would normally charge privately. Because the donated portion of these services cannot be reasonably estimated, it is not recorded in the Society's financial statements.

## 6. Tariff Holdbacks

For clients referred after July 1, 1994, the Society implemented percentage holdbacks of tariff fees payable to lawyers from the private bar. The holdbacks retained for tariff accounts received in 1999 amounted to \$4,932,735 (1998 - \$4,433,967).

Lawyers from the private bar were advised by Notice to Counsel of the percentage of the holdbacks, and that the Society would determine after the end of the fiscal year, whether any money would be available

in the tariff budgets to repay all or part of the holdbacks deducted from the accounts approved in the year.

The Society decided to expense holdbacks in the amount of \$407,282 deducted from family accounts and \$143,543 deducted from criminal accounts approved in the year. No holdbacks were paid on account of immigration tariff expenditures, as it exceeded its budgeted amount, and duty counsel tariff expenditures, for which a significant portion of the current year's services were provided by staff lawyers. Duty counsel services, if not provided by staff lawyers, would have resulted in expenditures exceeding the budgeted amount.

Accordingly, the balance of the holdbacks deducted from accounts approved in the year was not expensed and was retained by the Society. The balance of the holdbacks in the amount of \$4,381,910 has not been recorded as a liability of the Society as at March 31, 1999 or included in the tariff expenditures for the year.

## 7. Commitments

The Society has the following commitments for long-term leases of its office premises, capital asset purchases, operating leases, and maintenance of its desktop software-licensing program:

2000	\$ 3,099,088
2001	1,275,847
2002	883,546
2003	791,786
2004	729,061

## 8. Pension Plan

The Society and its employees contribute to the Municipal Pension Plan administered by the Superannuation Commission of the Provincial Government. The Society's contributions to the Plan for 1999 were \$718,657 (1998 - \$691,392).

The Municipal Pension Plan is a defined benefit pension plan for which actuarial valuations are prepared at intervals of not more than three years. The most recent actuarial valuation of the Plan was made as at December 31, 1997. The amount of its unfunded liability is disclosed in its annual financial statements, which are included in the Public Accounts for the Province of British Columbia. The actuary does not determine the portion of the unfunded liability attributable to the Society, and therefore no amounts are recorded for any unfunded liability in these financial statements.

## 9. Obligation Under Capital Lease

	1999	1998
CDI Equipment Finance Inc. Blended lease payments of \$8,054 per month on telephone equipment expires December 2001	\$ 265,802	\$ 362,450
Less: amount representing interest (7.68%)	<u>(26,864)</u>	<u>(48,363)</u>
	<b>238,938</b>	314,087
Less: current portion	<u>\$ (81,124)</u>	<u>\$ (75,149)</u>
Long term	<u><b>\$ 157,814</b></u>	<u>\$ 238,938</u>

Principal payments due in the next 3 fiscal years are as follows:

2000	\$ 81,124
2001	87,574
2002	<u>70,240</u>
	<u><b>\$ 238,938</b></u>

## 10. Uncertainty Due to the Year 2000 Issue

The Year 2000 issue arises because many computerized systems use two digits rather than four to identify a year. Date-sensitive systems may recognise the year 2000 as 1900 or some other date, resulting in errors when information using the year 2000 date is processed. In addition, similar problems may arise in some systems that use certain dates in 1999 to represent something other than a date. The effects of the Year 2000 issue may be experienced before, on, or after January 1, 2000, and, if not addressed, the impact on operations and financial reporting may range from minor errors to significant systems failure that could affect the Society's ability to conduct normal business operations. Based on the terms of the financial audit engagement, it is not possible to be certain that all aspects of the Year 2000 issue affecting the Society, including those related to the efforts of suppliers, or other third parties, will be fully resolved. The Society's management has taken significant steps in addressing the Year 2000 issue.

## 11. Comparative Figures

Certain comparative figures have been reclassified to conform with the current year's presentation.

## Legal Aid Offices by Region

Check the telephone book for current addresses and phone numbers. Offices are listed under “Legal Aid — Legal Services Society” in the white pages and in the “Lawyers” section of the Yellow Pages.

### ***Lower Mainland/Fraser Valley***

Prisoners’ Legal Services (Abbotsford BO)  
Abbotsford Community Legal Services Society (CLO)  
Burnaby (BO)  
Chilliwack (BO)  
Langley Legal Assistance Centre (CLO)  
Ridge Meadows Community Law Office (Maple Ridge CLO)  
Westminster Community Legal Services Society (New Westminster & Port Coquitlam CLOs)  
North Shore Community Services (CLO)  
Robert Parsonage (Richmond AD)  
James K. Flemming (Sechelt AD)  
Brian N. Hughes (Squamish AD)  
Surrey (BO)  
Vancouver (BO, including Vancouver Aboriginal Law Centre)  
Vancouver (HO)

### ***Southern Interior***

Kootenay Community Law Centre (Cranbrook CLO)  
Ron Bentley (Fernie AD)  
Glen Ewan Q.C. (Golden AD)  
Deanna Ludowicz (Grand Forks AD)  
Barnim Kluge (Invermere AD)  
Kamloops (BO)  
Tom Humphries (Kaslo AD)  
Kelowna (BO)  
St’at’imx Nlha’7kapmx Legal Services (Lillooet and Lytton NCLOs)  
Nicola Valley Native Community Law Society (Merritt NCLO)  
Nelson (BO)  
Penticton Community Law Office (CLO)  
Robert A. Lundberg (Revelstoke AD)  
Daniel Wark (Salmon Arm AD to October 1998)  
Garret N. Wynne (Salmon Arm AD from October 1998)  
North Okanagan Community Law Office (Vernon CLO)

### ***Vancouver Island***

Campbell River (BO)  
Courtenay (BO)  
Duncan Community Law Office (NCLO)  
David P. O’Connor (Ladysmith AD)  
Doug Traill Memorial Law Centre (Nanaimo CLO)  
Barbara M. Smith (Port Alberni AD)  
Port Alberni Friendship Centre (NCLO)  
Powell River Legal Services (CLO)  
James P. Roth (Ucluelet AD)  
The Law Centre (Victoria CLO)

### ***Northern B.C.***

Burns Lake Yinkadinee’ Keyakh Law Centre Society (NCLO)  
Glenn A.P. Stasiuk (Chetwynd AD)  
Dawson Creek (BO)  
Fort Nelson Legal Information Services (CLO)  
Dene Law Centre Society (Fort St. James NCLO)  
Fort St. John (BO)  
Fort St. John Friendship Society (NCLO)  
Upper Skeena Counselling & Legal Assistance Society (Hazelton NCLO)  
Haida Gwaii Legal Society (Masset & Skidegate NCLOs)  
Nisga’a Community Law Office (New Aiyansh NCLO)  
Prince George (BO)  
Carrier Sekani Family Services (Prince George NCLO)  
Prince Rupert (BO)  
Community Law Centre (Quesnel CLO)  
Smithers (BO)  
L’ax Ghels Community Law Centre Society (Terrace NCLO)  
Williams Lake (BO)

**Legend: AD=area director; BO=branch office;  
CLO=community law office; HO=head office;  
NCLO=native community law office**

# Map of Legal Aid Offices

