

History. Before the advent of organized legal aid, lawyers sometimes provided free legal services to people who could not pay, or they charged reduced fees depending on a client's financial circumstances. An early arrangement for providing legal help was to appoint a lawyer when an indigent person was charged with a serious crime. The appointment may have been made by a judge or on a judge's request, depending on the jurisdiction. The provincial or territorial department concerned with justice usually looked after the cost, at least for more serious and time-consuming cases, but the government did not always pay the lawyer who was appointed.

In the development of legal aid plans, there were basically three different patterns. In Newfoundland, Nova Scotia, Quebec, Manitoba and British Columbia, the provincial law society first developed legal aid clinics. The efforts of the law societies led in due course to the development of government funded legal aid. In Ontario and Alberta the law society and the provincial government went through a developmental period which culminated in the current plans in both provinces now mostly funded by the government. In Prince Edward Island and New Brunswick, the provincial governments introduced the present legal aid plans. Saskatchewan introduced at first a *judicare* plan, based on an agreement between the law society and the province and a few years later the present plan, which provides for legal services, as a rule, through salaried lawyers.

In Yukon and Northwest Territories, the federal Department of Justice administered a criminal legal aid plan for a number of years until 1971. At that time the administration of justice functions including the provision of legal aid were transferred to the territories.

Agreements with the federal government. The federal Department of Justice started cost sharing legal aid with respect to the criminal law in 1972. Quebec and British Columbia signed by December of that year, the four Atlantic provinces, Ontario, Manitoba and Alberta signed in 1973, and Saskatchewan in 1974.

The cost-sharing formula specified in the criminal legal aid agreement has traditionally set a maximum limit to the federal contribution.

The formula set out in the federal-provincial agreements and applied to each plan's net cost-shareable expenditures, determines federal contributions to criminal legal aid. Net cost-shared expenditure is the cost incurred by each legal aid plan on matters specified under the federal-

provincial cost-sharing agreement for criminal legal aid. It covers both legal service costs and associated administrative expenses, less all contributions and recoveries received from clients. Administrative expenses have been claimable since 1976-77.

The federal and provincial government agreement is subject to a number of conditions including eligibility of persons charged with offences, choice of lawyers, appeals to higher courts by the Crown, and fee schedules.

Civil coverage of legal aid matters was initiated in July 1980 with federal amendments to the Canada Assistance Plan Act, 1966-67. Under the auspices of Health and Welfare Canada, the federal and provincial governments agreed to cost share civil legal aid on a 50/50 basis. These agreements allow for retroactive payments of civil legal aid expenditure, subject to provincial social assistance legislation.

Cost sharing with the territories extends to both criminal and civil matters. Agreements were signed with Northwest Territories in 1971 and 1979 and with Yukon in 1977. With the territories, the formula calls for a 50% federal contribution, with specified maximums.

Duty counsel. Most jurisdictions have a duty counsel system to advise detained persons and persons appearing in court without counsel, to guide them in obtaining legal services, and to provide on-the-spot representation if needed.

Duty counsel is provided through private practice lawyers in New Brunswick, Alberta and the two territories, which have *judicare* type legal aid. It is furnished mainly by staff lawyers in Quebec, but by both private practice and staff lawyers in all other provinces with duty counsel service: Newfoundland, Ontario, Manitoba and British Columbia. Ontario is different in that duty counsel service is provided by staff lawyers in Toronto but by private practice lawyers elsewhere.

Lawyers who provide duty counsel services may be located in magistrate's (provincial), family and juvenile courts. In Yukon and Northwest Territories, duty counsel lawyers travel with the court.

Nova Scotia, Prince Edward Island and Saskatchewan do not have duty counsel systems, but lawyers working for the legal aid plans advise or represent accused persons if necessary.

Legal aid services. Legal aid services may consist of providing advice, representing clients in court proceedings, representing clients in administrative matters, drawing up legal documents, and negotiating settlements. The