

# Canadian Centre for Justice Statistics

## Legal Aid Survey 2008/2009

### Scoring Guide

#### General Instructions

1. To meet our target date for the publication of data, respondents are asked to submit completed surveys to the Courts Program at the Canadian Centre for Justice Statistics by **JUNE 8, 2009**. Each Legal Aid Plan will be contacted later in the fiscal year in order to confirm its survey results prior to publication.

Please fax the completed paper version of the form to:

Mark Sudworth  
Courts Program  
Fax (613) 951-6615  
Tel (613) 951-6656

2. The survey consists of two parts:

Part 1: Revenues, Expenditures and Personnel (Questions 1-5)  
Part 2: Caseload Characteristics (Questions 6-13)

Each of the 13 questions in this survey is followed by:

- A table to be completed by the respondent;
  - A section for the respondent to describe how the data reported deviates from the survey definitions and to report any changes in legal aid service delivery that may have affected this year's data.
3. Respondents are asked to provide a figure in all boxes. If there is no amount for a particular box, enter one of the following:

0	the amount is zero
X	the figure is not available
N	the figure is not applicable or not appropriate

4. All dollar figures are to be reported in thousands of dollars.
5. Should you have any problems completing this survey, please contact Mark Sudworth at 613-951-6656.

## General Definitions

Scope	Information requested is limited to descriptions of legal aid services delivered by legal aid offices (including community law clinics) that are funded in whole or in part by the legal aid plan of the province or territory.
Fiscal year	April 1, 2008 to March 31, 2009
Federal Criminal Matters	Refers to those criminal offences designated as a federal statutory responsibility.
Provincial/Territorial Offences	Refers to those offences under provincial or territorial statutory responsibility. Also included are infractions under municipal by-laws.
Family Matters	Refers to proceedings related to divorce, separation, maintenance, custody/access, wardship/child protection, and all other matters of a family law nature (e.g. adoption, change of name, mediation proceedings, filiation).
Other Civil Matters	Refers to all other civil proceedings that are not of a family nature.
Adult	Refers to persons 18 years of age and older.
Youth	Refers to persons who are 12 years of age or older, but under 18 years of age.

## Survey Definitions

### **Question 1 — Revenues:**

**Revenue** refers to all monies received directly by the Legal Aid Plan during a given fiscal year. Funds received for specific projects from agencies external to the Legal Aid Plan are not included as revenue.

**Government contributions** refer to both federal and provincial/territorial monies allocated to the Legal Aid Plan through the provincial/territorial government. Federal contributions made through the separate federal/provincial or federal/territorial cost-sharing agreements for criminal adult legal aid, young offender legal aid or civil legal aid should not be reported to the survey, since monies are generally directed to the consolidated revenue fund of the province or territory and not to the Legal Aid Plans directly.

**Interest from lawyers' trust accounts** refers to all monies received from interest on lawyers' trust accounts.

**Contributions of the legal profession** refers to all monies received from the law profession (e.g. levies) other than trust account interest which should be reported separately.

**Client contributions** refer to all monies received from the aided person for legal assistance; flat user fees are included.

**Cost recoveries** refer to the party costs ordered or agreed to be recovered in the case. Includes monies recovered from a judgement, award or settlement.

**Other sources** refer to revenues that have not already been accounted for in the above categories. The other category may include, among others, revenues from investments, research sales, and general interest earnings.

### **Question 2 — Direct legal services expenditures:**

**Expenditures** refer to the actual gross dollars expended during the fiscal year by the Legal Aid Plan. Expenditures made on behalf of the Legal Aid Plan by other agencies should not be included. Total expenditures equals the sum of expenditures on direct legal services, central administrative expenditures and any other expenditures as indicated in Question 3.

**Direct legal services expenditures** are the sum of payments made to private law firms and the cost of legal service delivery by Legal Aid Plan staff. These expenditures include monies spent on the provision of legal advice and representation services to clients including special target groups. All law office and contracted community clinic expenses are included (i.e. staff salaries, benefits and overhead expenses.) *Central administrative expenses and other expenses of the Legal Aid Plan are excluded.*

**Staff direct legal services expenditures** include monies spent on the provision of legal advice and representation services by Legal Aid Plan staff to clients, including special target groups. All law office and contracted community clinic expenses are included (i.e. staff salaries, benefits, and overhead expenses). These expenditures include, for example, professional and support staff salaries and benefits, legal disbursements and overhead costs of direct legal service offices. Associated overhead includes the cost of office supplies, equipment and maintenance, conferences, meetings, membership expenses, rent, etc. Central administrative expenses and other expenses of the Legal Aid Plan are excluded.

**Private law firm expenditures** include fees and disbursements, together with other specific costs (e.g. travel expenses) incurred by private lawyers for the provision of legal services to legal aid clients.

### **Question 3 — Total expenditures:**

**Direct legal services expenditures** are the sum of payments made to private law firms and the costs of legal service delivery by Legal Aid Plan staff as indicated in Question 2.

**Other program expenditures** are the sum of monies spent on external projects, legal research activities, public legal education and grants to other agencies.

**External project expenditures** refer to monies expended on projects undertaken external to the Legal Aid Plan (e.g. university clinics). Note that funding of community clinics is not included.

**Legal research expenditures** refer to monies expended for conducting research related to legal matters. *Excludes the cost of maintaining libraries.*

**Public legal education expenditures** refer to monies expended on preventive law programs, educational programs, and publicity.

**Central administrative expenditures** include monies spent on head office functions and on offices that do not employ staff to advise and represent clients.

**Other expenditures** refer to monies expended on functions not already accounted for in the above categories (e.g. capital expenditures).

#### **Question 4 — Personnel resources:**

**Personnel resources** refers to the actual number of both full-time and part-time staff employed by the Legal Aid Plan at one particular point in time: March 31, the final day of the fiscal year. These data are broken down in two ways: by type of service provided and by type of personnel. Personnel on staff with the Legal Aid Plans are divided into: lawyer and non-lawyer counts. Staff lawyers refer to lawyers who are hired by the Legal Aid Plan to work from the legal aid office whose salaries are paid by the Legal Aid Plan. *Notaries are included in the staff lawyer count. Paralegals are included in the non-lawyer count.*

**Direct legal service staff** refers to persons whose primary function is to deliver legal assistance and/or legal representation directly to clients.

**Other staff** refers to persons whose primary function does not involve the provision of legal advice and/or representation directly to clients; for example, lawyers performing primarily administrative functions, article clerks, accountants, librarians, law students and clerical staff. Also included in other staff are persons involved in public legal education and legal research programs.

**Public legal education staff** refers to persons working within a specific program area conducting preventive law programs, educational programs, and publicity.

**Legal research staff** refers to persons working within a specific program area conducting research related to legal matters. *Exclude persons maintaining Legal Aid Plan libraries.*

#### **Question 5 — Private lawyers:**

**Number of Private Bar lawyers who provided services** includes those active members of the private bar who actually delivered legal services and billed the Legal Aid Plan during the fiscal year. Active bar members include the total number of lawyers certified and insured to practice in the jurisdiction. *Government employed and legal aid staff lawyers are excluded. Notaries are included in the total counts provided. An unduplicated count is reported.*

#### **Question 6 — Applications:**

**Application** refers to a formal request evidenced in writing whereby a person applies to a legal aid office for assistance. When aggregated, the total number of applications reflects the number of individual requests for summary services and full service assistance, rather than the total number of persons seeking assistance. Summary services include the provision of legal advice, information,

or any other type of minimal legal service granted to an individual during a formal interview. Full services constitute more extensive legal assistance.

*Applications should be counted as follows:*

1. Count written requests for full or summary services as evidenced by the completion of a legal aid application. Include written applications that require a written assessment of merit. For example, in some jurisdictions, service certificates are issued for a legal opinion of case merit.
2. Exclude verbal requests made in person at a legal aid office or by telephone to direct legal service personnel.
3. Exclude requests for duty counsel services.
4. Include related legal matters enumerated at the time of the contact with the office in one application. If a matter related to that on the original application arises at a later date, other than an appeal, do not count another application.
5. Count separate applications for criminal and civil matters.
6. Count separate applications for youth criminal matters and adult criminal matters.
7. The total number of applications reported for the fiscal year include all applications filed during that time, irrespective of when the application was approved or rejected.

#### **Question 7 — Refused applications:**

**Refused applications** refer to all formal requests for legal aid evidenced in writing, that have been denied legal services. This total includes applications for which no services have been approved, as well as those applications denied for full service that subsequently receive summary service. An application can be refused, appealed and still refused, only the initial refusal is counted. Reasons for refusal are a product of legislative and policy restrictions and include:

**Financial ineligibility.** A refusal for legal aid based on some financial information disclosed by the applicant pertaining to his/her income, assets and liabilities.

**Coverage restrictions.** Applications refused on the grounds that the legal matter is not covered by the Legal Aid Plan.

**Lack of merit.** Applications refused because the nature of the case or the seriousness of the matter does not warrant legal assistance.

**Non-compliance/abuse.** A refusal for legal aid based on either an applicant's prior or current experience with the Legal Aid Plan. These refusals include applications where similar services were already rendered, services applied for are abusive of the legal process, or failure to co-operate with the legal aid lawyer.

**Other.** Refers to all other reasons for refusing an application that have not already been accounted for in the above categories. If possible, please indicate the reason(s) for refusal in the Comments section.

*If an application involves two reasons for refusal, choose the more important of the two and count it as the major reason.*

**Questions 8 and 9 — Applications approved, full service:**

**Approved applications for full service** refers to an application for legal assistance which is granted legal aid as described in a certificate, referral, or any other authorization denoting that the applicant is entitled to extensive legal services.

Once an application is approved for full service, it is not subsequently counted as a summary service although in some cases, relatively little service may be required to fulfil the request.

This count measures the number of units of service rather than the number of persons assisted, and excludes all summary service (including written legal opinions) and duty counsel services.

**Question 10 — Applications approved, summary service:**

**Approved applications for summary services** refers to the provision of legal advice, information, or any other type of minimal legal service to an individual during a formal interview. It can include simple legal tasks such as making a telephone call or drafting a letter on behalf of a client. Summary services are provided to individuals in two circumstances: a written request has been submitted at the office, or a verbal request has been made in person at a legal aid office or by telephone to direct legal service personnel. *Only written requests should be included in the count.*

This count *excludes* applications that requested extensive legal assistance (full service) but received summary service upon refusal. Also excluded are the applications originally approved for full service but subsequently rendered summary services.

Summary service counts measure the number of units of service provided rather than the number of persons assisted, and are *mutually exclusive of both the approved full service application and duty counsel counts.*

**Question 11 — Duty counsel services provided:**

**Duty counsel services** refer to legal services provided by a lawyer at a location other than a legal aid office, where the person assisted had not applied in writing requesting legal aid services. *This count measures the number of units of service provided rather than the number of persons assisted, and is mutually exclusive of both the summary service and approved application counts.*

Cases coming before a circuit court are typically provided duty counsel services. Consequently, circuit court cases are included in the duty counsel service count rather than in the approved application count. Only circuit court matters granted a delay are included in the approved application count. The provision of duty counsel services does not bar the recipient from subsequent application for legal aid services.

**Criminal duty counsel** refers to legal services in criminal matters that are generally provided at a court or place of detention.

**Civil duty counsel** refers to legal services in civil matters that may additionally be provided at locations other than a court or place of detention (e.g. psychiatric hospital, senior citizens' home).

**Question 12 — Interprovincial dossiers:**

**Interprovincial Reciprocity Agreement** refers to the informal agreement among Legal Aid Plans in Canada to handle non-resident civil dossiers. Under the terms of the agreement, applicants must request legal aid in their province of residence rather than in the province where the legal recourse is sought. An approved application is then forwarded to the Legal Aid Plan which will provide the legal aid service.

**Incoming Dossiers** refer to the number of applications approved for civil legal aid by other provincial Legal Aid Plans which are forwarded to the Legal Aid Plan for service and for which service has been provided.

**Outgoing Dossiers** refer to the number of applications for civil legal aid approved by the Legal Aid Plan and are forwarded to other provincial Legal Aid Plans for service.

**Question 13 — Appeals:**

**Appeals** refer to an appeal of a lower court or administrative tribunal decision, not an appeal of a refused application. Each dossier is counted despite the fact that the matter may have been dealt with by the Legal Aid Plan in the past.