

MANAGEMENT RESPONSE AND ACTION PLAN

Evaluation Report Title: Evaluation of the Legal Aid Program

Approval Date of Evaluation by Deputy Minister: 07/2021

Recommendation 1: The Legal Aid Directorate (LAD), in collaboration with the Federal-Provincial-Territorial Permanent Working Group on Legal Aid (PWG) explore options for a national immigration and refugee (I&R) legal aid program that would extend to all jurisdictions and include national standards.

Rationale for Recommendation:

Applications for I&R legal aid increased during the period covered by the evaluation. The increase was attributed to the international situation (i.e., the level of conflict and human rights abuses in various countries) and more irregular border crossers coming from the United States to Canada to seek asylum.¹ As the federal funding allocation formula is based on past demand, increases in applications created funding pressures for the legal aid plans at different points in time, that challenged their ability to continue providing I&R legal aid services.

As provincial funding was not available to address the fluctuations in demand, and in some jurisdictions there were substantial provincial I&R legal aid budget cuts, the federal Program made yearly off-cycle and federal Budget requests for additional funding (top-ups) to address the shortfall. Federal funding for I&R legal aid, as for criminal legal aid, is provided to the provinces to distribute to their legal aid plans. Given the need to seek additional funding, there were issues with the timing of the confirmation of increased funding, which did not provide some legal aid plans with enough lead time to manage their caseloads against available funding.

Given this situation, there is support for the federal government to fund the legal aid plans for I&R legal aid directly, which would ultimately be more efficient than delivering funding through contribution agreements with the provinces. The development of a national I&R legal aid program would provide more timely funding, and would in turn, be the opportune time to establish national standards.

Management Response:

We agree with the recommendation. The LAD will continue to consult with the PWG on future federal program delivery options for I&R legal aid, including separate contribution agreements for I&R legal aid, and the national expansion of the Program.

Action(s) What SMART action(s) will be taken to address this recommendation?	Deliverable(s) Expected deliverable(s) to demonstrate the completion of the action.	Accountability ADM responsible for implementing the action.	Planned Completion Date
Consultations between the LAD and the PWG will continue to confirm support for separate contribution agreements (outside of the current cost-shared agreement for criminal	<ul style="list-style-type: none"> • Record of Discussions from meetings. • Confirmation from provincial and territorial government and legal aid plan representatives 	SADM, Policy Sector	September 30, 2021

¹ When individuals cross the Canada-United States border between ports of entry, this is termed “irregular border crossings.”

legal aid) directly with service delivery agencies, i.e. legal aid plans	supporting the proposed approach.		
The development, negotiation and approval of contribution agreements for I&R legal aid with the provinces that deliver I&R legal aid.	<ul style="list-style-type: none"> • A minimum of seven contribution agreements for I&R legal aid in place for 2022-23. 	SADM, Policy Sector	October 1, 2022
The expansion of the federal I&R legal aid program on a national basis that includes a consistent level of service delivery across all jurisdictions, including those that previously did not provide access to I&R legal aid services and the development of national service standards for the delivery of I&R legal aid.	<ul style="list-style-type: none"> • Contribution agreements in place in the remaining jurisdictions where there is a demand for I&R legal aid. • Agreements in place that ensure access to I&R legal aid in jurisdictions where demand is too low to enter into contribution agreements. • National service standards developed and endorsed by all I&R legal aid service providers. 	SADM, Policy Sector	<p>July 1, 2023</p> <p>July 1, 2023</p> <p>December 31, 2023</p>

Recommendation 2: The LAD (including the representative from the Policy Implementation Directorate responsible for the Access to Justice Services Agreements) should work in collaboration with the Federal-Provincial-Territorial Permanent Working Group on Legal Aid (PWG) to improve performance measurement and reporting. Consideration should be given to improving the consistency of data, including demographic information, and identifying additional data that would be useful for reporting and future program planning.

Rationale for Recommendation:

While improved during the period covered by the evaluation, there remains work to be done on reporting and performance measurement. Key informants were divided on whether the reporting requirements were reasonable or onerous. The LAD is considered to have made improvements in the Statement of Final Claim forms and been supportive of legal aid plans that have more limited data collection capacity. However, further improvements could be made to ensure the data being captured are relevant. For performance measurement, the Definitions Project is considered to have improved the consistency of the data being collected and reported in the *Legal Aid in Canada* report. The next step is to further reduce inconsistencies in the data and to determine what additional data would be useful to provide information on the delivery challenges and impacts of legal aid services.

Management Response:

We agree with the recommendation. The LAD and PID will continue to work in collaboration with the PWG to improve performance measurement and reporting, including the consistency of data, such as demographic information, which will prove useful for reporting and future program planning.

Action(s) What SMART action(s) will be taken to address this recommendation?	Deliverable(s) Expected deliverable(s) to demonstrate the completion of the action.	Accountability ADM responsible for implementing the action.	Planned Completion Date
The performance measurement strategy will be reviewed through internal discussions and PWG meetings, to ensure it aligns with Program objectives and the future iterations of the contribution agreement.	<ul style="list-style-type: none"> • PWG (or its Subcommittees) Records of Discussion(s) • Jurisdictional support (emails) for the performance measurement strategy 	SADM, Policy Sector	September 1, 2022
The Statement of Final Claim and the Legal Aid in Canada report to be reviewed annually, in collaboration with the jurisdictions, including officials from the Association of Legal Aid Plans Finance Committee, in an effort to address inconsistencies in the reported data. <ul style="list-style-type: none"> • Review the capacity of jurisdictions to collect sociodemographic data • If needed, strategies will be developed to collect the required data. 	<ul style="list-style-type: none"> • PWG Records of Discussion • Communications (emails) with the PWG and its officials 	SADM, Policy Sector	May 1, 2022