

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

Legislative Research Branch

RESEARCH PAPER | RP 17-09

OCTOBER 2021

A Primer on Legal Aid in Ontario

Lauren Warner | Research Officer

This paper provides an overview of the legal aid system in Ontario. It first reviews the history of legal aid in the Province and the events that led to the creation of Legal Aid Ontario (LAO). It then reviews the statutory framework for LAO and provides an overview of legal aid services in the Province. It closes with a brief discussion of some current issues affecting the legal aid system.

Cover photo: [Robert Linsdell](#)

The Legislative Research (LR) branch is dedicated to serving Ontario's Parliament, by providing Members of the Provincial Parliament (MPPs), their staff, and legislative committees with confidential, non-partisan research and analysis on request. LR also prepares research papers on key public policy topics of interest to parliamentarians.

Every effort is made to ensure that research papers are accurate as of the date of publication, but the papers may not be updated subsequently. LR accepts no responsibility for any references or links to, or the content of, information maintained by third parties.

Research Officers are available to discuss research papers and other topics with MPPs and their staff.

Content

INTRODUCTION	1
HISTORY OF LEGAL AID IN ONTARIO	2
Early development: 1950s and 1960s	2
Development of the clinic system: 1960s and 1970s	2
The 1994 funding crisis and the McCamus Report	3
Legal Aid Ontario (LAO): 1998	4
New Legal Aid legislation comes into force: 2021	4
LEGAL AID SERVICES IN ONTARIO TODAY	5
The Certificate Program	5
Duty counsel services	6
Clinic law services	6
FUNDING	7
RECENT DEVELOPMENTS AND CURRENT ISSUES	8
<i>Legal Aid Services Act, 2020</i>	8
Coverage issues	8
Funding and financial challenges	9
CONCLUSION	10
NOTES	11

Recent Publications from Legislative Research

Municipal Governance in Canada

RESEARCH PAPER 21-03

Michael Vidoni

Federal Transfers to Ontario

RESEARCH PAPER 20-11

Jason Apostolopoulos

Women on the Frontlines in Ontario's Fight Against COVID-19

RESEARCH PAPER 21-01

Laura Anthony and Sude Bahar Beltan

Access to Justice:

Initiatives to Improve Access to Legal Services and Dispute Resolution

RESEARCH PAPER 20-08

Lauren Warner

Public Health and Epidemiology: An Overview

RESEARCH PAPER 21-04

Erica Simmons

Hospital Overcrowding

RESEARCH PAPER 11-19

Jason Apostolopoulos

Flood Management

RESEARCH PAPER 21-12

Sude Bahar Beltan

Introduction

Legal aid is the provision of legal assistance to persons who are unable to afford it, and is considered an important component of access to justice. Broadly, the concept of access to justice speaks to the ability of an individual to advance legal claims or defences in the appropriate forum, such as a court or tribunal.¹ Legal aid can include providing legal information, legal advice, drafting assistance, and/or representation in court. Legal representation is particularly important in our adversarial court system, which presumes two equal parties presenting evidence and argument before a neutral decision-maker.²

The legal aid system in Ontario has developed over a number of years to provide a wide range of legal services. However, the system has faced, and continues to face, challenges related to coverage, funding, and administration. This paper provides an overview of the legal aid system in Ontario. It first reviews the events that led to the creation of Legal Aid Ontario (LAO). It then provides an overview of legal aid services in the Province, and closes with a brief discussion of some current issues affecting legal aid in Ontario.

History of Legal Aid in Ontario

Early development: 1950s and 1960s

Until 1951 Ontario had no statutory legal aid plan. Legal aid services were provided informally by lawyers on a charitable basis.³ In 1951, the Legislature enacted the *Law Society Amendment Act, 1951*.⁴ The Act authorized the Law Society of Upper Canada, the organization that licenses, regulates, and disciplines lawyers, to establish a legal aid plan.⁵ However, legal aid remained a largely charitable endeavor. The Act only allowed lawyers to be reimbursed for some administrative expenses and disbursements. Otherwise, legal aid services remained unremunerated.⁶

By the early 1960s, the delivery of legal aid on a charitable basis was proving inadequate to meet demand.⁷ In 1963, the Ontario government appointed a committee to review the current legal aid plan and make recommendations on a new system.⁸ The committee recommended that a legal aid plan be established based on the English “judicare model,” under which legal aid is provided by lawyers in private practice on a fee-for-service basis.⁹

The provincial government accepted most of the committee’s recommendations and enacted the *Legal Aid Act, 1966*.¹⁰ The Act established the Ontario Legal Aid Plan (OLAP), which was funded by the provincial government and administered by the Law Society through an advisory committee and local area directors.¹¹

OLAP operated largely under the judicare model recommended by the committee. Vouchers for legal aid services, known as certificates, were issued to financially eligible clients to retain lawyers in private practice.¹² The Act also allowed for the establishment of a duty counsel program.¹³ Under the program, lawyers were assigned to specific courthouses to advise unrepresented persons of their rights and represent them in court on pressing issues such as bail.¹⁴

Development of the clinic system: 1960s and 1970s

By the late 1960s and early 1970s some lawyers and community activists had concluded that the judicare program was not fully meeting the needs of low-income Ontarians.¹⁵ Inspired by a new legal aid movement in the United States that emphasized working in low-income neighbourhoods and community engagement, these lawyers and activists began to set up community legal aid clinics.¹⁶

Clinics focused on providing services in areas of law involving basic needs, such as social assistance, worker’s compensation, and housing. They also became involved in grassroots community development and public legal education.¹⁷ The early clinics were established outside of OLAP and were governed by voluntary boards of directors. They were funded by a mixture of charitable and government grants. As a result, they enjoyed considerable independence, but lacked stable funding.¹⁸

In 1979, a regulation was made that required OLAP to fund the clinics. It also established a Clinic Funding Committee (CFC) as a committee of the Law Society separate from the original Legal Aid Committee. The CFC was provided with a separate budget designated by the Attorney General.¹⁹ This decision was significant: clinic advocates feared that clinic independence and resources would be jeopardized if they were subsumed under the mandate of the original Legal Aid Committee.²⁰

The 1994 funding crisis and the McCamus Report

In the early 1990s, the cost of OLAP's certificate program grew dramatically. The increased costs were driven by a recession (which increased the pool of those financially eligible for legal aid), changes to law and government policy that resulted in more criminal charges being laid, and an increase in family and child welfare cases.²¹

In 1994, the Province and OLAP entered into a Memorandum of Understanding (MOU) requiring OLAP to operate with a pre-determined level of funding for certificates over the next four years.²² Prior to this MOU, provincial funding had been open-ended. The Act provided that anyone who met the eligibility criteria for legal aid was entitled to it, and the government provided whatever funds were necessary to meet the demand.²³ Around the same time, the federal government started to provide its financial contribution in fixed amounts that were not related to need.²⁴

As a result of these funding restrictions, OLAP imposed a number of service cuts. The availability of certificates for civil law matters was restricted, caps were placed on billing for certificates, and stricter eligibility criteria for certificates were introduced.²⁵ These measures stabilized OLAP's financial situation, but impacted many participants within the justice system. According to the 1997 McCamus Report (described further below), these changes exacerbated the issue of unmet legal needs and led to inefficiencies in the justice system as a whole.²⁶

The McCamus Report: 1997

In December 1996, in the wake of the funding crisis, the Ontario government established an independent task force to review the state of legal aid and make recommendations as to its future direction. Chaired by law professor John McCamus, the task force received submissions, held consultations, and commissioned research on various topics related to its mandate.²⁷

By this time a "mixed" model for legal aid had been established, with different modes of delivery operating in the Province. Lawyers from the private bar were providing legal representation through the certificate program. Duty counsel programs had been established in many courthouses, and community legal clinics were offering poverty law services. Some specialty legal clinics, focusing on specific areas of law (such as landlord-tenant), had also been established.²⁸

The task force's report, known as the McCamus Report, was released in August 1997. It concluded that the mixed delivery model should continue, and argued that the legal aid system needed to be flexible enough to adapt to the needs of different clients, types of legal problems, and geographic contexts. The report called for a legal aid plan that would provide an even greater mix of legal services and "narrow the gap between full representation and no representation."²⁹ The McCamus Report also recommended transferring the responsibility for legal aid from the Law Society to an independent agency.³⁰

Legal Aid Ontario (LAO): 1998

In response to the McCamus Report, the Ontario government enacted the *Legal Aid Services Act, 1998*. The Act established Legal Aid Ontario (LAO) as an independent but publicly-funded and accountable agency, with a mandate to establish and administer a legal aid system.³¹ The stated purpose of the Act was to promote access to justice for low-income Ontarians.³²

The Act required LAO to provide legal aid services in the areas of criminal, family, mental health, and clinic law. It also required LAO to recognize the private bar (i.e., the certificate program) as the foundation for the provision of criminal and family law services, and the clinics as the foundation for the provision of clinic law services.³³ Otherwise, LAO was given discretion with respect to how to fulfill its mandate. The Act enabled LAO to provide legal services by any method it considered appropriate including

- issuing certificates;
- funding clinics;
- establishing staff offices;
- funding student legal aid services societies;
- funding Indigenous legal services organizations; and
- providing duty counsel services, summary legal advice, and public legal education.³⁴

New Legal Aid legislation comes into force: 2021

In October 2021, the *Legal Aid Services Act, 2020* came into force, and replaced the *Legal Aid Services Act, 1998*. The new legislation continues LAO as an independent agency with a mandate to establish and administer Ontario's legal aid system, and continues to authorize LAO to provide legal aid services through a range of programs.³⁵ However, the new legislation also allows LAO to make rules on the provision of legal aid services, such as rules governing eligibility and service providers.³⁶ Previously, many of these rules were set out in the legislation itself, or in its regulations. As a result, legislative or regulatory amendments were often required for LAO to change operational practices.³⁷ According to LAO, the new rules-based framework "enables LAO to modernize and clarify its operational structure—increasing efficiency and improving service."³⁸

Legal Aid Services in Ontario Today

As outlined below, the bulk of legal aid services in Ontario today fall into three main categories: the certificate program, the duty counsel program, and clinic law services.

The Certificate Program

A legal aid certificate is an agreement by LAO to pay a lawyer’s fees at a specified hourly rate, up to a maximum number of hours.³⁹ For a person to qualify for a certificate, the legal issue must be one that LAO covers, and the person must meet a financial eligibility test.

LAO issues legal aid certificates in four main areas of law: criminal, family (including child protection), mental health, and immigration and refugee law. Not all legal issues in these areas are covered. Generally speaking, the legal problem must be sufficiently serious or complex to qualify for a legal aid certificate.⁴⁰ For instance, in most cases to qualify for a criminal law certificate, the applicant must be at risk of incarceration.⁴¹

The financial eligibility test for a certificate considers family size, gross family income, and the total value of the family’s liquid assets.⁴² Only those with a total gross income below a specific amount, which varies based on household size, will qualify for free legal services. Those with slightly higher incomes may qualify for a certificate by agreeing to contribute to some of the cost. There are higher income thresholds for persons experiencing domestic violence.⁴³ In addition, as a temporary measure during COVID-19, LAO has waived eligibility requirements for certificates for certain persons (such as some in-custody accused and those in immigration detention).⁴⁴ Otherwise, as of October 2021, the income thresholds for the certificate program were as follows:

**Figure 1:
Gross Income Cut-off for Certificate Services**

Family Size	Regular Certificate	Domestic Abuse Cases
1	\$18,795	\$22,270
2	\$32,131	\$32,131
3	\$39,352	\$39,352
4	\$45,289	\$45,440
5+	\$50,803	\$50,803
Single boarder	\$12,330	N/A

Source: LAO, [Will Legal Aid pay for my lawyer?](#)

The certificate program is LAO’s largest program by expenditure. In 2019-20, LAO spent approximately \$223.6 million on the certificate program (48% of expenditures). The majority of certificates issued were for criminal law (60,097), followed by family law (24,055), refugee and immigration (15,654), and other matters such as

civil tribunal hearings and prison law (5,654).⁴⁵ The average cost of a completed certificate (across all areas of law) in 2019-20 was \$2,089.

Duty counsel services

Duty counsel are lawyers who provide immediate assistance to people arriving at court (or a tribunal) without a lawyer.⁴⁶ They provide more basic services than certificate lawyers. They provide basic legal advice, negotiate issues, assist with document preparation, and, in some cases, represent persons in court.⁴⁷ In Ontario, duty counsel provide services in the areas of criminal, family, mental health, and landlord-tenant law.⁴⁸

In 2019-20, LAO's duty counsel program provided over 618,000 assists in Ontario courts and tribunals, at a cost of approximately \$56 million (12% of expenditures).⁴⁹ The majority of assists (516,759) were in the area of criminal law. The remaining assists (101,927) were civil law assists, most of which were in family court. The duty counsel roster consists of both staff lawyers employed by LAO and members of the private bar who work on a per diem basis.⁵⁰

To qualify for some duty counsel services, an individual must meet a financial eligibility test. The duty counsel test is the same as the test for a certificate but some of the income and asset thresholds are slightly higher.⁵¹ However, as outlined in a 2018 report from the Auditor General, until recently eligibility tests for duty counsel services were only applied when duty counsel suspected that a person might not qualify.⁵² In response to the Auditor's Report, LAO stated that duty counsel would be applying financial eligibility tests more consistently.⁵³

Clinic law services

LAO funds and oversees 72 legal clinics across the Province, as well as seven Student Legal Aid Services Societies (which operate out of Ontario's law schools). Most of the clinics are community legal clinics, which assist low-income Ontarians with legal issues that involve basic needs, such as access to housing and social assistance. Thirteen are "specialty clinics," which either represent certain groups of people (such as seniors) or specialize in a specific area of law (such as landlord-tenant).⁵⁴

Legal clinics are independent non-profit organizations with their own boards of directors. However, LAO provides most clinic funding (approximately \$89 million in 2019-20), and clinics must comply with certain conditions and standards set out in LAO's Legal Aid Services Rules.⁵⁵

Clinics are required to apply financial eligibility criteria for clinic services set by LAO.⁵⁶ The financial eligibility thresholds that are similar to those that apply to certificate and duty counsel services. However, clinics may also provide services to people whose primary income consists of social assistance or other benefits (such as Old Age Security) without applying the income and asset tests. In addition, clinics retain some discretion to take on clients who would not otherwise qualify financially.⁵⁷

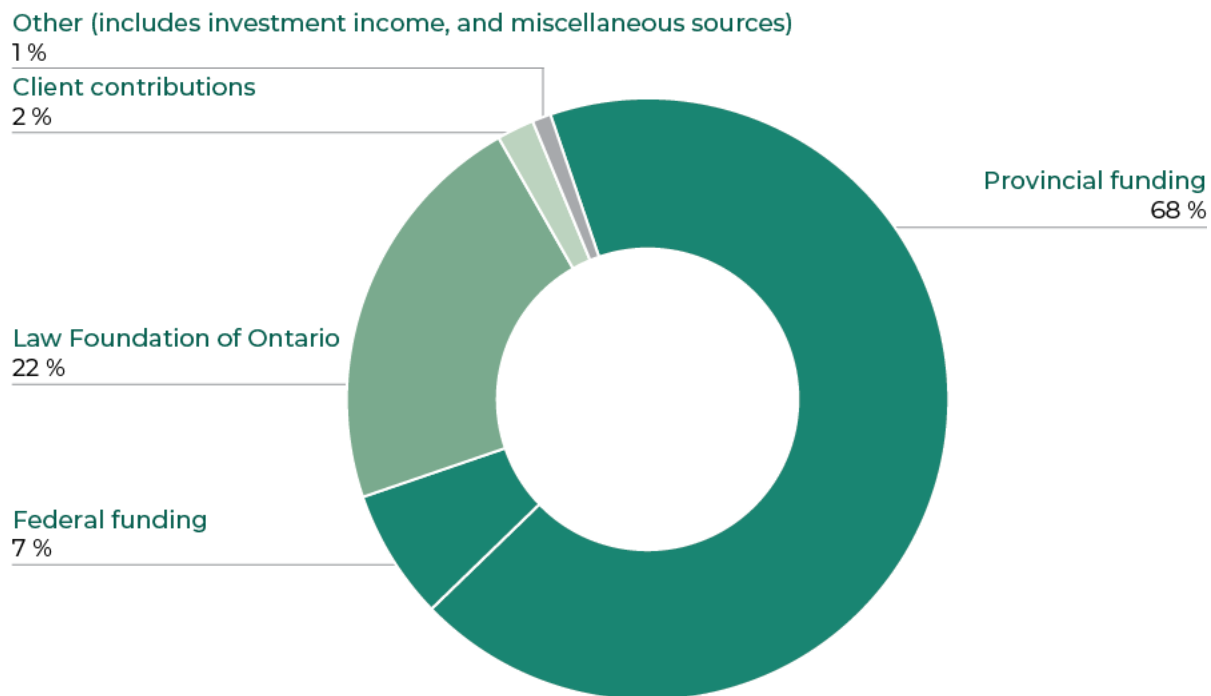
In 2017/18, community legal clinics handled over 170,000 files.⁵⁸ Clinic services range from summary advice to full representation before courts or tribunals. In 2016/17, 44% of clinic cases were Ontario Disability Support Program (ODSP) applications and appeals.⁵⁹ Housing matters and other income maintenance issues were the next most common types of clinic cases.⁶⁰

Funding

The largest source of revenue for LAO is funding from the provincial government.⁶¹ Under the legislation, LAO must provide its annual budget to Ontario’s Attorney General, and the money required for administration of the Act is paid out of funds appropriated by the Legislature.⁶²

LAO also receives funding from the Law Foundation of Ontario. In accordance with the *Law Society Act*, the Law Foundation must provide 75% of the revenue it earns each year on the trust accounts of lawyers and paralegals to LAO.⁶³ The federal government also contributes indirectly to LAO through a cost-sharing arrangement with the Province for funding for criminal law and immigration and refugee law.⁶⁴ A small proportion of funding comes directly from clients who are receiving certificate services under contribution agreements.⁶⁵

Figure 2:
LAO Sources of Revenue in 2019-2020



Source: LAO, [2019-2020 Annual Report](#), p. 37; graphic by Legislative Research, Legislative Assembly of Ontario.

Recent Developments and Current Issues

Legal Aid Services Act, 2020

In July 2020, the Legislature passed the [Legal Aid Services Act, 2020](#).⁶⁶ It was proclaimed into force in October 2021, following consultations with stakeholders on how to operationalize the new framework. As noted above, one of the primary features of the new framework is that it allows LAO to make rules regarding the provision of legal aid services on many matters that were previously addressed in the legislation itself, or its regulations. The new [Legal Aid Services Rules](#) now govern the administration of legal aid in the Province, and cover a wide range of matters such as eligibility, certificate management, and clinic operations.

According to LAO, the new legislation will allow LAO to eliminate red tape and give it more flexibility to develop and adapt its services.⁶⁷ Among other things, it allows LAO to provide legal services through both lawyers and other service providers, and states that LAO should ensure a mix of service providers, to the extent practicable.⁶⁸ It also explicitly allows LAO to offer unbundled legal services (in which a lawyer provides specified services to a client rather than handling the entire case).⁶⁹

However, the new legislation is not without controversy. In contrast to the 1998 legislation, which stated that LAO must provide legal aid services in the areas of criminal, family, clinic, and mental health law, the new legislation states that LAO “may, subject to the regulations,” provide services in a number of different areas. Some commentators say this language could open the door to service cuts at LAO’s discretion, or through regulations made by Cabinet or the Attorney General.⁷⁰

Despite the change in language, the Attorney General has stated that LAO will continue to provide legal aid services in all of the areas it currently covers, including criminal, family, and poverty law services.⁷¹ LAO has similarly emphasized that it will continue to offer the same services for low-income Ontarians under the new framework.⁷²

Coverage issues

Between 1996 and 2014, the financial eligibility criteria to qualify for a legal aid certificate was not raised in Ontario. In 2011, it sat at \$10,800 for a single person, one of the lowest thresholds in Canada.⁷³ In 2014, LAO began receiving additional annual funding from the Province to raise the eligibility threshold for all types of services. The threshold has risen 6% a year since that time. As of April 2020, for a single person with no dependents to qualify for a legal aid certificate their gross income must be \$18,795 or less. For a family of four the threshold is \$45,289.⁷⁴ To provide some context for these thresholds, in 2019 the Statistics Canada low-income cut-off for a single person living in a large urban center was \$21,899; for a family of four it was \$41,406.⁷⁵

According to a number of commentators, the effect of LAO's strict financial eligibility requirements is that many Ontarians have incomes that are too high to qualify for legal aid, but too low to hire a lawyer privately.⁷⁶ As a result, an increasing proportion of Ontarians are now attempting to navigate the justice system without legal representation, especially in family court.⁷⁷ Many litigants report that they are self-represented because they cannot afford a lawyer and/or do not qualify for legal aid.⁷⁸ The impact of self-representation is felt throughout the justice system, and includes additional costs and delays in the courts.⁷⁹

Funding and financial challenges

LAO has incurred significant deficits in recent years: \$14 million in 2015/16 and \$26 million in 2016/17.⁸⁰ According to Ontario's Auditor General, these deficits were primarily due to an increased demand for refugee services and LAO's decision to expand eligibility criteria for certificates so it could keep unspent provincial funding.⁸¹ More people qualified for expanded certificates than had been projected, which contributed to the financial shortfall. In December 2016, LAO announced it would be scaling back the expanded eligibility to balance its budget.⁸² These changes brought LAO back to a balanced budget in 2017-18.⁸³

The 2019 Provincial Budget brought further financial challenges for LAO, with provincial funding to the organization reduced by about 30%. Plans for further reductions were later abandoned, but the 30% funding reduction will remain going forward.⁸⁴ In April 2019, LAO announced internal cost cutting measures including a hiring freeze, a salary freeze for management, and the elimination of certain positions.⁸⁵ LAO stated that its goal was to maintain front line services; however, some service changes were made.⁸⁶ Among other things, LAO announced changes to the certificate program for bail and some family matters, with duty counsel to take on some of the work previously handled by certificate lawyers.⁸⁷ LAO also reduced funding to the clinic program by \$9.6 million in 2019-2020.⁸⁸

According to media reports, the COVID-19-related economic downturn has created additional challenges for LAO. The number of people seeking legal aid services to deal with jobs losses, evictions, and other matters has increased. At the same time, LAO expects to receive significantly less funding from the Law Foundation (which remits interest earned on lawyer's trust accounts) due to extremely low interest rates.⁸⁹ LAO faced similar problems in the wake of the 2008 financial crisis, when decreased revenue from the Law Foundation helped drive the organization into deficit from fiscal years 2008/09 to 2010/11.⁹⁰

Conclusion

The legal aid system in Ontario has faced, and continues to face, challenges related to coverage, funding, and administration. Despite recent increases to the income threshold for eligibility for legal aid services, the cut-off for legal aid eligibility remains relatively low. Provincial funding has been reduced in recent years, and the COVID-19-related economic downturn is expected to bring further financial challenges. Nevertheless, as envisioned by the McCamus Report, the system provides a wide range of services to some of the Province's most vulnerable citizens. To that end, legal aid continues to play a vital role in Ontario's justice system.

Notes

¹ Michael Trebilcock, Anthony Duggan, and Lorne Sossin, "Introduction," *Middle Income Access to Justice*, eds. Michael Trebilcock, Anthony Duggan, and Lorne Sossin (University of Toronto Press, 2012).

² The adversarial system can be contrasted with inquisitorial systems, in which judges take a more active role in investigating and questioning witnesses. Inquisitorial systems are more prevalent in Europe.

³ Michael Cormier, "[Legal Aid in Ontario: The Function of Charity](#)," *Journal of Law and Social Policy* 6 (1990), pp. 103-104.

⁴ *Law Society Amendment Act, 1951*, S.O. 1951, c. 45.

⁵ Now known as the Law Society of Ontario.

⁶ *Law Society Amendment Act, 1951*, s.1.

⁷ [Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services](#) (Ministry of the Attorney General, 1997) vol. 1, p. 10 (McCamus Report).

⁸ Ontario, *Report of the Joint Committee of Legal Aid* (March 1965), p. 5.

⁹ *Ibid.*, pp. 97-99.

¹⁰ *Legal Aid Act, 1966*, S.O. 1966, c. 80. The Act came into effect on March 27, 1967.

¹¹ *Ibid.*, ss. 2 and 5(1)(a).

¹² *Ibid.*, ss. 12, 13, and 17.

¹³ *Ibid.*, s. 20(b).

¹⁴ John D. Honsberger, "The Ontario Legal Aid Plan," *McGill Law Journal*, 15 no. 3 (1969), p. 440.

¹⁵ Lenny Abramowicz, "[The Critical Characteristics of Community Legal Aid Clinics in Ontario](#)," *Journal of Law and Social Policy*, 19 (2004), p. 78.

¹⁶ Michael Cormier, "[A Response to 'The Critical Characteristics of Community Legal Aid Clinics in Ontario'](#)," *Journal of Law and Social Policy* 19 (2004), p. 86.

¹⁷ McCamus Report, vol. 1., p. 14.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, p. 15.

²⁰ *Ibid.*

²¹ *Ibid.*, pp. 24-26.

²² *Ibid.*, p. 19.

²³ *Ibid.*, pp. 17, 28, and 29. Federal contributions were made largely through a cost sharing agreement under which the federal government would contribute to expenditures where the clients met a needs-based test.

²⁴ Michael Trebilcock, [Report of the 2008 Legal Aid Review](#), Ministry of the Attorney General, 2008 (Trebilcock Report), pp. 5-6.

²⁵ *Ibid.*, p. 6.

²⁶ McCamus Report, vol. 1, pp. 21-22.

²⁷ *Ibid.*, pp. 3-6.

- ²⁸ Ibid., pp. 43-47.
- ²⁹ Ibid., p. 137.
- ³⁰ Ibid., pp. 137 and 160.
- ³¹ [Legal Aid Services Act, 1998](#), S.O. 1998, c. 26, ss. 5, 7, and 8.
- ³² Ibid., s. 1.
- ³³ Ibid., s. 14(2) and (3). “Clinic law” was defined in the Act as “the areas of law which particularly affect low-income individuals or disadvantaged communities” including housing, income maintenance, social assistance, human rights, health, employment, and education.
- ³⁴ Ibid., s. 14(1).
- ³⁵ [Legal Aid Services Act, 2020](#), ss. 5 and 16.
- ³⁶ Ibid., s. 46(1)(b)-(f).
- ³⁷ LAO, “[LASA 2020 has been proclaimed](#),” news release, October 18, 2021.
- ³⁸ Ibid.
- ³⁹ LAO, [A Roadmap for Certificate and Duty Counsel Lawyers](#), p. 6.
- ⁴⁰ LAO, “[Criminal legal issues](#).”
- ⁴¹ Indigenous persons and people with mental health issues may qualify on a case-by-case basis even if there is no risk of incarceration.
- ⁴² [Legal Aid Services Act, 2020](#), s. 7; Legal Aid Services Rules, s. 12.
- ⁴³ Ibid., ss. 12-13.
- ⁴⁴ LAO, “[Temporary service changes due to COVID-19](#),” updated October 12, 2021.
- ⁴⁵ Auditor General of Ontario, *Annual Report 2018*, vol. 1, ch. 3.05, “[Legal Aid Ontario](#),” pp. 257-258.
- ⁴⁶ LAO, [Fact Sheet: Duty Counsel Services](#).
- ⁴⁷ LAO, *2019/20 Annual Report*, p. 26; LAO, [Fact Sheet: Duty Counsel Services](#).
- ⁴⁸ LAO, [Fact Sheet: Duty Counsel Services](#).
- ⁴⁹ LAO, *2019/20 Annual Report*, pp. 26 and 39.
- ⁵⁰ Ibid., p. 26.
- ⁵¹ Legal Aid Services Rules, s. 12.
- ⁵² Auditor General of Ontario, *Annual Report 2018*, pp. 289-90. Part of the reason the eligibility test is not strictly enforced is that things proceed quickly in court, and duty counsel often assist individuals in court at the direction of judges who are aiming to ensure court functions efficiently.
- ⁵³ Ibid., p. 290 (Legal Aid Ontario Response). See also LAO, “[2019 duty counsel service guides](#).”
- ⁵⁴ LAO, “[Legal clinics](#).”
- ⁵⁵ [Legal Aid Services Act, 2020](#), s. 5(1); LAO, *2019/20 Annual Report*, p. 41; Legal Aid Services Rules, Part 4 (Entity Service Providers).
- ⁵⁶ Legal Aid Services Rules, ss. 12 and 15; LAO, *Legal Aid Services Act 2020 Policies: Financial eligibility testing for entity services provided by community legal clinics and student legal services organizations*, October 2021.
- ⁵⁷ LAO, “[Details on Legal Aid Ontario’s Financial Eligibility Increase for 2020](#),” March 27, 2020.
- ⁵⁸ Auditor General of Ontario, *Annual Report 2018*, p. 258.
- ⁵⁹ Ibid., p. 280.
- ⁶⁰ Ibid., p. 281. This data excludes student legal aid services societies.
- ⁶¹ LAO, [Fact Sheet: How is Legal Aid Ontario Funded?](#)

- ⁶² *Legal Aid Services Act, 2020*, ss. 28 and 29.
- ⁶³ *Law Society Act*, R.S.O. 1990, c. L.8, s. 55(1)-(3).
- ⁶⁴ LAO, “Fact Sheet: How is Legal Aid Ontario Funded.”
- ⁶⁵ *Legal Aid Services Act, 1998*, s. 40; Legal Aid Ontario, *Annual Report 2018-2019*, p. 27.
- ⁶⁶ The Act was part of Bill 161, the *Smarter and Stronger Justice Act, 2020*, S.O. 2020, c. 11.
- ⁶⁷ LAO, “[New Legal Aid Services Act, 2020 receives royal assent](#),” news release, July 16, 2020.
- ⁶⁸ *Legal Aid Services Act, 2020*, S.O. 2020, c. 11, Sched. 15, s. 5.
- ⁶⁹ *Ibid.*, s. 3(b). “Unbundled legal services,” also known as “limited scope representation” or “limited scope retainers,” have been permitted by the Law Society of Ontario since 2011.
- ⁷⁰ Emmett Bisbee, “[Legal aid changes could mean more self-represented litigants](#),” *The Lawyer’s Daily*, September 2, 2020; Jacques Gallant, “Province pulls back plan to cut more from legal aid,” *Toronto Star*, December 10, 2019.
- ⁷¹ Legislative Assembly, *Hansard*, June 24, 2020.
- ⁷² Bernise Carolino, “[Legal Aid Ontario to launch modernized framework under new Legal Aid Services Act](#),” *Law Times*, July 29, 2020.
- ⁷³ Office of the Auditor General of Ontario, *2011 Annual Report*, p. 208-209.
- ⁷⁴ LAO, “[Details on Legal Aid Ontario’s financial eligibility increase for 2020](#),” March 27, 2020. There are slightly higher cut-offs for domestic abuse cases.
- ⁷⁵ Statistics Canada, Table 11-10-0241-01, [Low income cut-offs \(LICOs\) before and after tax by community size and family size, in current dollars](#). LICOs are income thresholds below which a family will likely devote a larger share of its after tax income on the necessities of food, shelter and clothing than the average family.
- ⁷⁶ See generally *Middle Income Access to Justice*, (Michael Trebilcock, Anthony Duggan, Lorne Sossin eds.) and Annemarie E. Bonkalo, *Family Legal Services Review*, December 31, 2016 [Bonkalo Report].
- ⁷⁷ In 2014/15, over 57% of litigants did not have representation in Ontario’s family courts. In some courthouses, the proportion of self-represented litigants is estimated to be above 70%. See Bonkalo Report, Part 2.a, and Julie Macfarlane, *The National Self-Represented Litigants Project*, 2013, p. 31.
- ⁷⁸ Rachel Birnbaum, Nicholas Bala, and Lorne Bertrand, “[The Rise of Self-Representation in Canada’s Family Courts: The Complex Picture Revealed in Surveys of Judges, Lawyers and Litigants](#),” *Canadian Bar Review*, 91 no. 1 (2013) p. 76; Julie Macfarlane, *The National Self-Represented Litigants Project*, p. 39.
- ⁷⁹ In a recent survey of Ontario family lawyers, 91% reported that having an unrepresented party on the other side of a case increases costs for the represented party. Similarly, judges surveyed stated that self-representation substantially lengthens the time required to resolve or manage a case. See Birnbaum, Bala, and Bertrand, “The Rise of Self-representation in Canada’s Family Courts,” pp. 80 and 87.
- ⁸⁰ Auditor General of Ontario, *Annual Report 2018*, p. 255. LAO’s total operating budget in 2015/2016 was about \$440-million.

⁸¹ Ibid., *Annual Report 2018*, pp. 266-269. See also Deloitte LLP, [Legal Aid Ontario Review](#) (Toronto: Ministry of the Attorney General, 2017).

⁸² Jacques Gallant, "Legal aid welcomes audit: CEO says financial woes were caused by increased demand, not internal mismanagement," *Toronto Star*, December 21, 2016.

⁸³ Auditor General of Ontario, *Annual Report 2018*, p. 268.

⁸⁴ Allison Jones, "Ontario cancels planned future cuts to legal aid; this year's cut remains," *Canadian Press*, December 9, 2019; Attorney General, "[Building a Stronger Justice System to Grow Safer Communities](#)," news release, December 9, 2019.

⁸⁵ Jacques Gallant, "Legal Aid slashing staff in face of cuts," *Toronto Star*, April 30, 2019. Positions were eliminated largely by cutting vacant positions, voluntary exits, and attrition.

⁸⁶ Ibid.

⁸⁷ LAO, "[Updated: LAO changes to policies and certificate coverage](#)," June 12, 2019.

⁸⁸ LAO, 2019/20 Annual Report, p. 39.

⁸⁹ Alyshah Hasham, "Legal Aid Could See Funding Drop by \$70 Million," *Toronto Star*, July 14, 2020. LAO's *2019-2020 Annual Report* also cites low interest rates driven by the COVID-19 pandemic as having the potential to significantly reduce LAO's revenue from the Law Foundation in the 2020-21 year and beyond (p. 35).

⁹⁰ Auditor General of Ontario, *Annual Report 2018*, p. 268.