

**April, 1982**

LEGAL AID MEMORANDUM TO THE  
PROFESSION PARTICIPATING IN LEGAL AID

---

<u>Index</u>	<u>Page</u>
Service of Documents and Hiring of Agents	1
Delegation of Certificates	2
Reciprocal Legal Aid	2
Appeals	2
Receiving and Reporting Allowance	2
Unusual and Interim Disbursements	3
Travel Time	3
Change of Financial Status of Legal Aid Client	3
Cost Controls	3-4
Statement of Account	4
Disallowing Fees	5
Reporting Out	5
Co-accused	5
Contested Matters	5
Transcripts	6
Photocopying and Mileage	6
Recoveries and Settlements	6
Financial Eligibility Guidelines	6
Board of Directors	7

NOTICE TO LAWYERS PARTICIPATING IN LEGAL AID

April 1, 1982

RE: LEGAL AID REGULATIONS AND POLICIES

We have over the past few years issued a number of notices to lawyers participating in legal aid about various matters, most of which refer to policies of the Society, as well as new policies or changes to the Society's regulations which should be brought to the attention of the legal profession.

This memo is an update to the last memorandum on March 21, 1980.

SERVICE OF DOCUMENTS AND HIRING OF AGENTS

Below are guidelines which might be of assistance to counsel so that they would know when to contact our offices regarding service.

a. In-Province Services

Unless services are to be effected in such remote areas of the province as Churchill, Norway House, Grand Rapids, Easterville, Cross Lake, Berens River and Little Grand Rapids or other areas serviced by northern duty counsel, or as counsel might be advised in future memorandums, then services should be processed through the appropriate Sheriff's Office. It is not necessary to obtain our approval to effect service through the Sheriff's Office. Services to be effected other than through the Sheriff's Office must have the approval of the office of the Executive Director.

b. Out-of-Province Services

There is no need for counsel to seek authority from our office where documentation can be sent to an extra provincial Sheriff's Office for service. However, under no circumstances should counsel retain an agent-solicitor in another province without first gaining the concurrence of the office of the Executive Director.

c. Services outside of Canada

In all matters where service of documents is to be effected outside the country, approval must be obtained from the office of the Executive Director.

DELEGATION OF CERTIFICATES

Delegation is possible under certain circumstances; please refer to Section 13(2) of the Legal Aid Act. The client must consent in writing with regard to any request for delegation and the request with the clients consent should be sent to the Area Director who should also be advised as to the exceptional circumstances referred to in Section 13(2) of the Legal Aid Act.

RECIPROCITY WITH OTHER PROVINCES

The various Legal Aid plans in Canada have reciprocal arrangements which have changed from time to time by agreement. Generally, the procedure in civil matters is for the client to apply for legal aid in his or her province of residence. If the person is eligible in that province, the matter is forwarded to the other province, where the service is usually provided without further enquiry into eligibility.

In criminal matters, the accused may apply for legal aid services in the province in which the alleged offence took place, even if it is not his or her ordinary place of residence. Eligibility is determined in the usual way.

The point to remember is that there is such a thing as inter-provincial legal aid services.

APPEALS TO HIGHER COURTS

Counsel sometimes ask to appeal court decisions without providing Legal Aid with information that would allow us to determine whether there is merit. We must have such information. (See Regulation 18(5) to the Legal Act).

RECEIVING AND REPORTING

At present the Executive Director may allow an all-inclusive amount not to exceed \$15.00 for necessary services rendered by a solicitor in the course of receiving, accepting and concluding a legal aid matter including:

- a. Receiving, perusing and returning a legal aid certificate and necessary correspondence in connection, therewith;
- b. Reporting to the client and to the Society upon completion of a legal aid matter;

- c. Preparing the bill of costs in the legal aid matter and the necessary correspondence in connection with the submission and settlement thereof and obtaining payment of the account.

### UNUSUAL DISBURSEMENTS

You must receive the approval of Legal Aid before making any unusual expenditures (or undertakings to make payments) for such things as medical reports, expert evidence, surveys, investigations by private agencies, etc. (See Regulation 80 and the Tariff).

### INTERIM DISBURSEMENTS

Interim fee statements are not paid, but disbursements in excess of \$50.00 can be. (See Regulation 81). The most common requests for payment of disbursements relate to medical reports or fees for transcripts.

### TRAVEL TIME

Where a solicitor is required to travel for more than one hour in one direction in the course of providing services, an allowance of \$35.00 an hour may be made up to a maximum of six hours per day where such travel is both reasonable and necessary under the circumstances. Special allowances for down time is also provided for lawyers practising north of the 53rd parallel. The Area Director and/or Executive Director must be satisfied that the travelling was reasonable and necessary. Legal Aid cannot pay travel costs of any kind for clients.

### LOSS OF ELIGIBILITY FOR LEGAL AID SERVICE

Under our Regulations, lawyers are obliged to advise Legal Aid of any change in a client's circumstances which may affect his or her eligibility for legal aid. If the lawyer believes that his client may not be eligible for legal aid, he should contact the Area Director as quickly as possible.

### COST CONTROLS

Legal Aid will not pay for transportation costs for accused persons, in order to allow them to travel from one jurisdiction to another to attend at their trial. We would ask that if Counsel run into situations where their clients cannot appear owing to financial difficulties, that they explore with the Court and with the Crown, methods of ensuring the appearance but at a cost that should not be born by Legal Aid Manitoba.

Counsel should be advised that Legal Aid in an effort to control costs, has informed all Area Directors to enforce revised Section 30(1) of the Society's Regulations, which reads:

"Where it appears to an area director that the legal aid for which application is made can be rendered more conveniently and economically by a solicitor in another area, or for any other

reason he deems proper, he may, with the written consent of the executive director, send to the area director of the other area, the application and the agreement of the applicant to pay a contribution, if any."

This Section is being applied in all matters except those where the penalty on conviction is life imprisonment.

### STATEMENTS OF ACCOUNT

Solicitors are reminded that statements of account will only be accepted for valid Legal Aid Certificates. Applications for Legal Aid should be remitted promptly; solicitors should not assume that they will receive a certificate until in fact a certificate does issue.

When submitting statements of account for payment, please indicate those services delivered by other persons including associates and articling students and a statement of account should set forth the name of the person who has acted opposite the service rendered.

The Act provides that preparatory work may be done by an "articled graduate-at-law" supervised by a lawyer who has a certificate. The chargeable fee is \$20.00 per hour.

Bills sent to Legal Aid for taxation should set out the names of lawyers and students who performed services on the matter.

Note that the certification of services required under Regulation 81 to the Legal Aid Act includes the statement "I certify that the legal aid ... was rendered by me, or by such other named person as is specifically stated herein ..."

We would ask all solicitors to please render their accounts as quickly as possible after the completion of a matter. If, for whatever reason, a solicitor will not be rendering an account, please notify us so we may be able to close our file.

### ACCOUNTS AND DOCUMENTATION

Documentation is often requested (and usually returned after perusal) when a claim is made for preparation of a brief on law. Transcripts and particulars may also be requested. (See Regulation 76). In civil matters, copies of court orders are required in most cases.

### DISALLOWING FEES

The Regulations give Legal Aid discretion to disallow fees in certain circumstances. Included is "preparation that is unreasonable ..." (See Regulation 83).

Legal Aid cannot and will not pay - even at its reduced fee level - for preparation that is excessive. I mention this because we get bills in which counsel have put in far more time than we could possibly consider reasonable, and they feel hurt when the bill is cut. We want Legal Aid clients to be well represented, but not at all costs!

### REPORTING OUT

Lawyers are encouraged to submit their billings directly upon completion of their files. A typical report should include the following:

1. Covering letter
2. Solicitor's Legal Aid Report (Form 6)
3. Statement of Account (including):
  - itemization of services provided;
  - date of service for each item;
  - time expended in service of each item;
  - indication of whom service was provided by;
  - receipts for disbursements where appropriate;
  - certification and signature.
4. Copies of court orders or other relevant documentation.

### CO-ACCUSED

Where two or more clients are represented in the same matter, the tariff allowance may be claimed for one client only excepting where separate and distinct services are rendered on behalf of the other client(s). Itemized accounts should be spotted for these additional claim under their respective certificates.

A contested matter shall usually be considered to be one which is contested at its hearing. In certain instances this definition may be extended by the Executive Director where he deems it appropriate to do so. As this is discretionary, the onus will be on the lawyer to justify the requested special consideration.

### TRANSCRIPTS

Official court transcripts should be provided at preferential rates in Legal Aid matters. Billings submitted for such transcripts should indicate the rate which has been charged by the court reporter. Failure to do so will result in a delay of payment. Solicitors should take note that a new schedule of preferential rates for Legal Aid in civil and criminal matters for court reporters took effect as of January 6, 1982. Copies of this schedule can be obtained by calling Legal Aid.

### PHOTOCOPYING AND MILEAGE

The Board of Directors has determined that in-office photocopying may be allowed for certain matters at a rate of 10 cents a copy. Out-of-office photocopying (such as at the library or court offices) will be allowed at the rate charged to the lawyer. Mileage where the distance travelled exceeds 25 kms, (15 miles) will be allowed under the new tariff at 16 cents per km, south of the 53rd parallel, and 18 cents per km, north of the 53rd parallel (26 cents per mile and 29 cents per mile respectively) . Parking costs are not paid.

### RECOVERIES AND SETTLEMENTS

Pursuant to Part VI of the Regulations, a legally-aided client recovering funds by way of judgment, order or settlement may be required to contribute toward the cost of the proceeding out of those monies. The usual procedure to be followed in this situation is for the lawyer to hold back an amount of monies equal to that which s/he will bill Legal Aid Manitoba and forward that sum to Legal Aid with his or her account, and report. Any excess funds should be immediately released to the client. Legal Aid will then make a determination as to the amount of the contribution from the client, based upon the client's financial circumstances and the nature of the award or settlement.

### FINANCIAL ELIGIBILITY GUIDELINES

Legal Aid's financial eligibility guidelines have been revised and as of April 1, 1982 are as follows:

<u>Family Size</u>	<u>Allowable Gross Annual Income</u>
1	\$ 9,500
2	11,100
3	12,200
4	13,300
5	14,400
6	15,500
7	16,600

Please take note that the final determination of financial eligibility is made by the Area Director.

**MAY 1, 1983**

NOTICE TO LAWYERS PARTICIPATING IN LEGAL AID

RE: LEGAL AID REGULATIONS AND POLICIES

In continuing past practice of issuing notices to lawyers participating in legal aid about various matters relating to policies, practices and regulations of the Society, this memorandum is being circulated as an update to the last memo issued on April 1, 1982.

<u>Index</u>	<u>Page</u>
Act and Regulations	1
Financial Eligibility Guidelines	1
Delegation of Certificates	1
Reciprocity with Other Provinces	2
Appeals to Higher Courts	2
Wards of Agencies	2
Loss of Eligibility for Legal Aid Service	2
Cancellation of Certificates	3
Service of Documents and Hiring of Agents	3
Unusual Disbursements	3
Interim Disbursement	3
Travel Time	4
Cost Controls	4
Statements of Account	4
Accounts and Documentation	5
Co-Accused	5
Contested Matters	5
Transcripts	6
Photocopying and Mileage	6
Lifting of the Bar	6
Recoveries and Settlements	6
Board of Directors	7



1. ACT AND REGULATIONS

As of June 1982 the Legal Aid Act was amended in order to extend the mandate of Legal Aid to provide assistance and representation to groups and organizations. Amendments were also made to the Society's Regulations to conform to the amended Act. Copies of the amended Act are now available and can be obtained by contacting Legal Aid's Head Office in Winnipeg. New copies of the Regulations will be available in the summer.

The amendments to the Act ensure that groups can be represented by private bar lawyers as well as staff counsel. All applications on behalf of groups should be sent to the Executive Director. A paper setting forth criteria for group eligibility for Legal Aid is available and a copy can be obtained by contacting Legal Aid's Head Office in Winnipeg.

2. FINANCIAL ELIGIBILITY GUIDELINES

Legal Aid's financial eligibility guidelines have been revised and as of May 1, 1983 are as follows:

<u>Family Size</u>	<u>Allowable Gross Annual Income</u>
1	\$9,500
2	12,000
3	13,200
4	14,300
5	15,400
6	16,500
7	17,600

Legal Aid also takes into account available assets and debts of an applicant.

Please take note that the final determination of financial eligibility is made by the Area Director.

3. DELEGATION OF CERTIFICATES

Delegation is possible under certain circumstances; please refer to Section 13(2) of the Legal Aid Act. The client must consent in writing with regard to any request for delegation and the request with the clients consent should be sent to the Area Director who should also be advised as to the exceptional circumstances referred to in Section 13(2) of the Legal Aid Act.

4. RECIPROCITY WITH OTHER PROVINCES

The various Legal Aid plans in Canada have reciprocal arrangements which have changed from time to time by agreement. Generally, the procedure in civil matters is for the client to apply for legal aid in his or her province of residence. If the person is eligible in that province, the matter is forwarded to the other province, where the service is usually provided without further enquiry into eligibility.

In criminal matters, the accused may apply for legal aid services in the province in which the alleged offence took place, even if it is not his or her ordinary place of residence. Eligibility is determined in the usual way.

5. APPEALS TO HIGHER COURTS

In any matter involving an appeal, counsel must provide a written opinion as to merits and any other information which would assist Legal Aid in deciding whether to issue a certificate. (See Regulation 18(5)). Applications, with the required information, for appeals to the Manitoba Court of Appeal, Federal Court of Canada or the Supreme Court of Canada must be addressed to the Executive Director. Other applications, such as to the County Court, should be addressed to the local Area Director.

6. WARDS OF AGENCIES

In many cases, Legal Aid did not provide counsel to wards of child caring agencies. This policy was based upon the belief that the agencies should be responsible for legal costs, as they are for other necessities. As of October 1982, agreements were entered into with all child-caring agencies in Manitoba, as well as with the Provincial Director of Child Welfare, whereby the agencies will reimburse Legal Aid for the costs of providing services to wards, if they are otherwise eligible. As of now, this arrangement is working out well.

7. LOSS OF ELIGIBILITY FOR LEGAL AID SERVICE

Under our Regulations, lawyers are obliged to advise Legal Aid of any change in a client's circumstances which may affect his or her eligibility for legal aid. If the lawyer believes that his client may not be eligible for legal aid, he should contact the Area Director as quickly as possible.

8. CANCELLATION OF CERTIFICATES

If for whatever reason, a legal aid certificate is cancelled and the solicitor has already signed and returned the certificate to Legal Aid, the solicitor can bill Legal Aid for work performed from the effective date of the certificate until the date of cancellation.

9. SERVICE OF DOCUMENTS AND HIRING OF AGENTS

Below are guidelines which might be of assistance to counsel so that they would know when to contact our offices regarding service.

a. In-Province Services

Unless services are to be effected in such remote areas of the province as Churchill, Norway House, Grand Rapids, Easterville, Cross Lake, Berens River and Little Grand Rapids or other areas serviced by northern duty counsel, or as counsel might be advised in future memorandums, then services should be processed through the appropriate Sheriff's Office. It is not necessary to obtain our approval to effect service through the Sheriff's Office. Services to be effected other than through the Sheriff's Office must have the approval of the office of the Executive Director.

b. Out-of-Province Services

There is no need for counsel to seek authority from our office where documentation can be sent to an extra provincial Sheriff's Office for service. However, under no circumstances should counsel retain an agent-solicitor in another province without first gaining the concurrence of the office of the Executive Director.

10. UNUSUAL DISBURSEMENTS

You must receive the approval of Legal Aid before making any unusual expenditures (or undertakings to make payments) for such things as medical reports, expert evidence, surveys, investigations by private agencies, etc. (See Regulations 65.1 and 80).

11. INTERIM DISBURSEMENTS

Interim fee statements are not paid, but disbursements in excess of \$50.00 can be. (See Regulation 81). The most common requests for payment of disbursements relate to medical reports or fees for transcripts,

12. TRAVEL TIME

Where a solicitor has received authorization to travel for more than one hour in one direction in the course of providing services, an allowance of \$35.00 an hour may be made up to a maximum of six hours per day where such travel is both reasonable and necessary under the circumstances. Special allowances for down time are also provided for lawyers practising north of the 53rd parallel. The Area Director and/or Executive Director must be satisfied that the travelling was reasonable and necessary. Legal Aid cannot pay travel costs of any kind for clients. We would ask that if Counsel run into situations where their clients cannot appear owing to financial difficulties, that they explore with the Court and with the

Crown, methods of ensuring the appearance but at a cost that should not be borne by Legal Aid Manitoba.

13. COST CONTROLS

Counsel should be advised that Legal Aid in an effort to control costs, continues to enforce revised Section 30(1) of the Society Regulations, which reads:

"Where it appears to an area director that the legal aid for which application is made can be rendered more conveniently and economically by a solicitor in another area, or for any other reason he deems proper, he may, with the written consent of the executive director, send to the area director of the other area, the application and the agreement of the applicant to pay a contribution, if any."

This Section is being applied in all matters except those criminal offences where the minimum penalty on conviction is life imprisonment.

14. STATEMENTS OF ACCOUNT

Solicitors are reminded that statements of account will only be accepted for valid Legal Aid Certificates. Applications for Legal Aid should be remitted promptly; solicitors should not assume that they will receive a certificate until in fact a certificate does issue.

When submitting statements of account for payment, please indicate those services delivered by other persons including associates and articling students and a statement of account should set forth the name of the person who has acted opposite the service rendered.

The Act provides that certain work may be done by an "articled graduate-at-law" supervised by a lawyer who has a certificate. The chargeable fee is \$20.00 per hour for preparatory work and an appropriate pro-rated fee for court attendances.

Note that the certification of services required under Regulation 81 to the Legal Aid Act includes the statement "I certify that the Legal Aid... was rendered by me, or by such other named person as is specifically stated herein ...".

We would ask all solicitors to please render their accounts as quickly as possible after the completion of a matter. If, for whatever reason, a solicitor will not be rendering an account, please notify us so we may be able to close our file.

15. ACCOUNTS AND DOCUMENTATION

Documentation is often requested (and usually returned after perusal) when a claim is made for preparation of a brief on law. Transcripts and particulars may also be requested. (See

Regulation 76). In civil matters, copies of court orders are required in most cases and should be remitted promptly, especially where there is an order for costs. Please be reminded that we also require the completed Solicitor's Legal Aid Report (Form 6) and receipts for major disbursements incurred (transcripts, medical reports and travel expenses). Failure to remit required documentation will result in a delay in the processing and payment of the account.

16. CO-ACCUSED

Where two or more clients are represented in the same matter., the tariff allowance may be claimed for one client only excepting where separate and distinct services are rendered on behalf of the other client(s). Itemized accounts should be submitted for these additional claims under their respective certificates.

17. CONTESTED MATTERS

A contested matter shall usually be considered to be one which is contested at its hearing. In certain instances this definition may be extended by the Executive Director where he deems it appropriate to do so. As this is discretionary, the onus will be on the lawyer to justify the requested special consideration.

18. TRANSCRIPTS

Official court transcripts should be provided at preferential rates in Legal Aid matters. Billings submitted for such transcripts should indicate the rate which has been charged by the court reporter. Failure to do so will result in a delay of payment. Solicitors should take note that-the current schedule of preferential rates for Legal Aid in civil and criminal matters for court reporters has been in effect as of January 1982. Revisions to the rate schedule are currently underway.

19. PHOTOCOPYING AND MILEAGE

The Board of Directors has determined that in-office photocopying may be allowed for certain matters at a rate of 10 cents a copy. Out-of office photocopying (such as at the library or court offices) will be allowed at the rate charged to the lawyer. Mileage where the distance travelled exceeds 25 kms. (15 miles) will be allowed under the tariff at 16 cents per km. south of the 53rd parallel, and 18 cents per km. north of the 53rd parallel (26 cents per mile and 29 cents per mile respectively). Parking costs are not paid.

20. LIFTING OF THE BAR

Legal Aid will only consider requests for lifting of the Bar (it has no discretion to vary block fees) in extremely unusual circumstances (see Note 3 to the Tariff). If such a request is made, the solicitor should explain fully the reasons for the request.

21. RECOVERIES AND SETTLEMENTS

Pursuant to Part VI of the Regulations, a legally-aided client recovering funds by way of judgment, order or settlement may be required to contribute toward the cost of the proceeding out of those monies. The usual procedure to be followed in this situation is for the lawyer to hold back an amount of monies equal to that which s/he will bill Legal Aid Manitoba and forward that sum to Legal Aid with his or her account and report, Any excess funds should be immediately released to the client. Legal Aid will then make a determination as to the amount of the contribution from the client, based upon the client's financial circumstances and the nature of the award or settlement.

22. BOARD OF DIRECTORS

On March 17, 1983 the Attorney-General appointed a new Board of Directors for Legal Aid as follows:

Doug Yard - Chairperson  
 Aaron Berg  
 Rosemarie Cuddy  
 Vicki Francis  
 Judy Cook Hannibal  
 Audreen Hourie  
 Leonard Lucas  
 Randy McNicol  
 Rod Stephenson  
 Nelson Thibault  
 Robb Tomn

CONCLUSION

If there are any matters raised in this memorandum which require clarification or any other matters which you would like to raise, please do not hesitate to contact me,

Robert Freedman  
 Executive Director

**July 1983**

NOTICE TO THE PROFESSION

In order to reduce costs, Legal Aid is restricting the amount that we will pay for service of documents in the Winnipeg area.

\* Beginning July 1st, 1983, Legal Aid will pay a maximum of \$13.00 per service. In addition to that, we will pay \$3.00 for a second service effected at the same time in the same matter, requiring a second affidavit. We will also pay for service attempts up to a maximum of \$1.00 per attempt,

These rates will also apply to areas in the immediate vicinity of Winnipeg, such as Headingley, Oak Bluff or St. Norbert. Services at Stony Mountain Penitentiary will also be paid at this maximum rate.

We have ascertained that at least one firm, is prepared to provide service in Legal Aid matters at the above rate. The firm is Asetine's Legal Processing Service, 205 Edmonton Street, Winnipeg, Manitoba - Telephone No. 943-9587. It should be noted that these rates are only available in Legal Aid matters and, as such, when requesting service please indicate that it is a Legal Aid matter and provide the Legal Aid certificate number.

The profession is reminded that they are responsible for the initial payment of all service fees but that Legal Aid will pay interim Statements of Account with respect to disbursements in excess of \$50.00.

It should also be noted that these rates only apply to the areas described above and that service in other areas should be effected through the Sheriff's office unless prior authorization has been received from the Area Director.

**March 21, 1984—Selkirk Panel**NOTICE TO LAWYERS ON SELKIRK PANEL LIST

This will confirm that the Selkirk Interlake Area Director's office will be closed as of March 31, 1984. All applications for legal aid will henceforth be addressed to the Winnipeg Area Director, whose address as of April 2, 1984 will be:

402-294 Portage Avenue  
Winnipeg, Manitoba  
R3C 0B9  
Telephone: 947-6501

For lawyers who maintain offices in the Selkirk-Interlake district, we would ask for your cooperation and assistance in ensuring that people have access to your offices in order that they may complete applications for legal aid. People who require informal advice or assistance can be directed to contact the Law Society Law Information Service by calling toll free 1-800-262-8800. Early in April, we will be distributing to lawyers in the Selkirk area a pamphlet describing Legal Aid's services, which we would ask that you make available in your offices for use by the general public. If any problems occur during this transition, I would ask that you communicate directly either with myself or the Winnipeg Area Director, William Malcolm.



**30 March 1984**

NOTICE TO THE PROFESSION

Please be advised that the Head Office of Legal Aid Manitoba will be relocating as of April 2, 1984. The move affects the offices of the Executive Director, Assistant Executive Director, Winnipeg Area Director, Legal Accounts and the Public Interest Law Department. As of Monday, April 2, the new address will be, 402-294 Portage Avenue, Winnipeg, Manitoba, R3C 0B9, telephone number remains the same at 947-6501.

The Legal Aid offices at 325 Portage Avenue will be closed on Friday, March 30, 1984 to facilitate the move. The switchboard however will remain open that day.

**April 1, 1984**

MEMORANDUM TO LAWYERS PARTICIPATING IN LEGAL AID

This memorandum is to advise lawyers participating in the legal aid program, of recent Society policy and administrative changes and reconfirmation of certain practices currently in effect. For further guidance respecting other policies and issues not covered in this memorandum, the profession should refer to the last notice issued to participating practitioners under date of May 1, 1983. Lawyers who did not receive a copy of the May 1, 1983 notice or may have misplaced same, should contact our office and we will be glad to provide copies for you.

1. New Offices

The profession should be advised that the Society's Head Office, including the office of the Winnipeg Area Director and the Public Interest Law Department will be moving from 325 Portage Avenue to 402-294 Portage Avenue, R3C OB9 (Somerset Place) as of April 2, 1984. The Society's phone number remains unchanged at 947-6501. Because of the move, our offices will close Friday, March 30 and will re-open the morning of Monday, April 2 in our new premises. The telephone switchboard will remain open on March 30.

2. Selkirk-Interlake Area Director's Office

The Society's Selkirk-Interlake Area Director's office will close as of March 31, 1984. All applications for legal aid ordinarily taken from residents of the Selkirk-Interlake area are to be sent to the Winnipeg Area Director for processing after that date. Lawyers with offices in the Selkirk district will continue to make themselves available to take applications for legal aid from residents of the area and will refer people who require summary advice and assistance to the Law Society's toll free law phone-in number, which is, 1-800-262-8800.

3. Service of Documents

As the profession was earlier advised, the Society has established rates for the service of documents and is utilizing a process server for service in Winnipeg and the surrounding areas. The profession should be reminded that if they retain a process server, including the sheriff's office, whose rates exceed those established by the Society, that Legal Aid will reimburse the solicitor for the amount disbursed up to the legal aid approved rates. Lawyers who may wish to retain the Society's process server and take advantage of the lower rates are encouraged to contact our senior legal accounts officer, Jim Ramsay, for further information.

4. Receive and Report Allowance

Due to budgetary constraints, the Society will be reducing its discretionary receive and report allowance from \$15 to \$10 effective immediately. All accounts currently being processed for payment in April 1984 and thereafter and until further notice, will be affected by this

reduction. Accordingly, solicitors submitting statements of account, should forthwith include an amount of \$10 as an all-inclusive administrative fee.

5. Financial Eligibility Guidelines

The Society traditionally adjusts its financial eligibility guidelines as of April 1 each year. Until further notice, the guidelines currently in effect will remain unchanged and for the information of the profession, the guidelines are as follows:

<u>Family Size</u>	<u>Allowable Gross Annual Income</u>
1	\$ 9,500
2	12,000
3	13,200
4	14,300
5	15,400
6	16,500
7	17,600

The profession should be reminded that only area directors determine the financial eligibility of an applicant for legal aid. Solicitors submitting applications should not assume that a person is eligible for legal aid until a legal aid certificate issues or a responsible legal aid official advises that a certificate will issue. Legal Aid cannot honour any account for time expended by a solicitor, if the solicitor is not in possession of a valid legal aid certificate.

6. Change of Counsel

The profession should be reminded that the Society will not automatically issue a legal aid certificate where a client has requested a change of counsel. Area Director's must be satisfied as to the reasons why a client is requesting a change of counsel and solicitors submitting applications for clients requesting a counsel change must advise the area director as to the reasons for the request, otherwise a new certificate for legal aid will not issue.

7. Legal Aid Assistance to Recipients of Social Welfare

Legal Aid is not provided to applicants who will not directly benefit from the proceedings contemplated. In that regard, the policy of legal aid is to refuse applications from recipients of social assistance who apply for maintenance orders or enforcement of same, as the monies that may be recovered would not be to their direct benefit, but rather would be for the benefit of the welfare department, If there are corollary issues involved such as custody of children, then legal aid would be prepared to provide assistance, subject to the usual review of criteria of eligibility. The profession is therefore reminded, as a general rule, that applications from social welfare recipients dealing with orders of maintenance only, will be refused.

8. Travel Time and Expenses

Legal Aid's policy with regard to travel time and mileage disbursements, is that the authorization of such expenditures is within the discretion of the area director. Accordingly, the legal accounts department will not honour a claim for travel time or mileage disbursements on an account unless an authorization for same is provided by the area director who issued the certificate.

If there are any matters raised in this memorandum which require clarification or other policy matters, not referred to herein, I would encourage members of the profession to contact me directly at any time.

Robert Freedman  
Executive Director

**January 9, 1985**

To: Area Directors  
Supervising Attorneys

As of February 1, 1985, Regulations under the Law Fees Act of Manitoba will be amended, in order to provide for the waiver of fees to be paid for the filing of documents and service of documents, through the Sheriff's Office, in legal aid matters. To that effect, I am enclosing a copy of a memorandum to be circulated to the profession, which details procedures to be used after that date. The procedures apply to all staff as well as private bar solicitors and therefore it is extremely important that you review the procedures with your staff in order to avoid any misunderstanding. If you have any questions, please get back to me, Allan or Jim Ramsay as quickly as possible.

It should be noted that with regard to the service of documents through the Sheriff's Office, Community Law Centres in Winnipeg that do not ordinarily use the services of the Sheriff's Office can continue, for the time being at least, to use the services of Barry Asetline. Community Law Centres outside of Winnipeg that use the Sheriff's Office for the service of documents will get the service without any cost to Legal Aid.

It is important to stress that even though the new system takes effect February 1, it will apply to any certificate issued prior to that date which requires the filing of documents (or service of documents through the Sheriff's Office) after the date of implementation. Accordingly, after February 1, there should be no need to prepare and issue cheques for these disbursements. The only exception would be circumstances, where in emergency situations, a staff solicitor is required to file documents before a legal aid application is processed by the Area Director. In those cases, we will be requesting reimbursement from Court Services or the Sheriff's Office on a monthly basis supported by receipts for disbursements made. After the disbursements are incurred and the certificate issues, send Head Office the appropriate receipts with a completed voucher without delay. Please encourage your staff to ensure they are in receipt of a valid legal aid certificate number before filing documents wherever possible. Obviously, the new system will not apply to informal or non-certificate files and this is further reason to encourage your staff to keep these files to a minimum.

In addition to saving the Society money, it would also mean that the offices will be spending considerably less time preparing, processing and recording cheques and in that regard, the need to maintain your present bank balances will not be required. Sometime after February 1, our Accounting Department will advise you as to the reduction in your bank balances. It should be further noted that Head Office will be receiving on a weekly basis, copies of all vouchers processed in each of the provincial court offices, the Court of Appeal and applicable Sheriff's offices. The offices will be under instruction to ensure that the vouchers are sent to Head Office only. If for whatever reason you find that some offices are sending vouchers to your office, please ensure they are immediately sent to Head Office.

Once again, if there are any questions with regard to procedures to be used or how it affects your own office, please ensure that it is clarified with us as quickly as possible.

RF/cm

February 1985

MEMORANDUM TO THE PROFESSION

Please take note that effective February 1, 1985, Regulations under the Law Fees Act will be amended which will provide for the waiver of fees to be paid for the filing of court documents and service of documents through the Sheriff's office, in legally aided matters. This will apply to all courts and sheriff offices throughout the Province for all matters covered by valid legal aid certificates, whether in the hands of legal aid staff lawyers or members of the private bar.

As of that date, lawyers acting under legal aid matters will no longer be required to disburse monies when filing and serving documents (only applicable for service through Sheriff's offices). This will apply to all certificates presently in the hands of lawyers as well as new certificates issued.

After February 1, 1985 a lawyer will be required to complete a simple voucher form (a separate voucher form must be completed for each transaction). It is very important to correctly identify the legal aid certificate number on the voucher, in order for the cashier to process the transaction without payment. If for whatever reason a lawyer is not yet in receipt of a valid legal aid certificate he./she will be required to pay the normal fee and will be reimbursed by legal aid, in the usual manner (provided the solicitor subsequently receives a legal aid certificate). In those circumstances, when rendering statements of account, ensure that receipts issued by the courts and Sheriff's offices are enclosed, which will allow Legal Aid to seek reimbursement. It is important to note that if a lawyer disburses monies on the assumption he/she will receive a legal aid certificate and in fact, for whatever reason does not receive a certificate, then of course Legal Aid will not be responsible for the disbursements incurred.

Each of the court and sheriff offices throughout the Province, including the Court of Appeal, will have vouchers available as of February 1. All Legal Aid offices will have vouchers as well and lawyers can obtain a supply of vouchers from any of those offices. We do not expect the vouchers to be available until February 1.

We believe the system will be of benefit both to Legal Aid and to the lawyers undertaking legal aid work. The voucher has been designed to be simple to complete. Hopefully, it will save lawyers time in preparing cheques, maintaining accounting records, billing Legal Aid and carrying receivables for these disbursements. In order to avoid unnecessary problems, it is important that you understand very carefully the new procedures that will take effect as of February 1, 1985. If you have any questions, please contact Legal Aid for clarification.

**April 1, 1985**

TABLE OF CONTENTS

	<u>Page</u>
1. Application for Legal Aid.....	2
2. Computer Research.....	4
3. Fee Generating Matters.....	3
4. Financial Eligibility Guidelines.....	2
5. New Offices.....	1
6. Service of Documents.....	1
7. Winnipeg Area Director's Office.....	4



April 1, 1985

MEMORANDUM TO LAWYERS PRACTISING  
IN LEGAL AID

---

This memorandum is another in a series of annual practise updates to solicitors participating in the Legal Aid program. The last general memorandum to the profession was circulated on April 1, 1984 and copies of that memorandum are still available for distribution, upon request. We would urge all solicitors participating in the Legal Aid program to carefully review the items covered in this memorandum.

1. New Offices

The profession should be advised that the Society's Thompson Office will move on March 30, 1985 from the Provincial government building to 303-83 Churchill Drive. The new telephone number will be 778-6411. In the April 1, 1984 memorandum, reference was made to the closing of the Selkirk Interlake Area Director's office. The Selkirk office remains open to provide information and advice to residents of the Selkirk Interlake area, although all applications for legal aid continue to be sent to the Winnipeg Area Director's office for processing. The Selkirk Advice Office is situated at 407 Main Street, telephone number 482-7595.

2. Service of Documents

For budgetary reasons, the Society's policy with regard to service of documents changes as of April 1, 1985. As of that date, solicitors must use the Sheriff's office to effect the service of documents in all matters. The profession was earlier advised, that court offices throughout the Province, will process without payment, the filing of documents in legal aid matters. As the profession was advised, voucher forms are available in all court offices and in legal aid offices and all transactions are being processed without payment, provided that the solicitor identifies on the voucher a valid legal aid certificate number.

Similarly, the use of the Sheriff's office for the service of documents, will be processed without charge, by having the solicitor complete the same voucher, as noted above, by again identifying the appropriate legal aid certificate number. Please ensure that you identify the

appropriate legal aid certificate number on the voucher forms when filing court documents and using the Sheriff's office for service.

The profession should be advised, that area directors' will have the discretion to authorize the use of private process servers, in special or unusual circumstances. If for whatever reason, a solicitor cannot use the Sheriff's office for the service of documents, he/she must contact the Area Director in their region to seek authorization for use of a private process server. If such authorization is not obtained, Legal Aid will not be responsible for the costs incurred by the solicitor. In circumstances where a private process server is used, Legal Aid will only reimburse the solicitor for an amount equal to the approved rates for private process servers. The rates for private process servers will be revised as of April 1 and solicitors should inquire of the Area Director as to the new rate schedule in effect as of that date.

### 3. Applications for Legal Aid

The office of the Executive Director frequently receives applications for legal aid for appeal matters without sufficient supporting documentation. Before the Executive Director can process any application for appeal matters, he requires a detailed opinion from the solicitor as to the merits of the appeal and where applicable, copies of pre-sentence reports, home studies, criminal records and judgements. Failure to provide such information, where applicable, will result in considerable delay in processing the application for legal aid. Where appropriate, solicitors should advise clients to file their own notices of appeal, if it seems likely that Legal Aid will not be able to process an application for an appeal matter within the prescribed time period.

Solicitors are reminded to ensure that applications are properly completed, including information relating to an applicants income and expenses, with pay stubs or other proof of income attached.

#### 4. Financial Eligibility Guidelines

Until further notice, the financial eligibility guidelines currently in effect, will remain unchanged and for the information of the profession, the guidelines are as follows:

<u>Family Size</u>	<u>Allowable Gross Annual Income</u>
1	\$ 9,500
2	12,000
3	13,200
4	14,300
5	15,400
6	16,500
7	17,600

The profession should also be advised, that the Society's policies with regard to financial eligibility, other than eligibility based on annual income is being revised as of April 1. These policies refer to such matters as assets, debts, common-law relationships, room and board payments made by children to parents etc. (see attached memorandum). The newly revised policies, represents the first significant change since the policies were first established in 1974. Area Directors would be prepared to review these policies with interested members of the profession, although it must be stressed that only Area Directors and the Executive Director are responsible for determining legal aid eligibility.

With respect to the Society's policies on financial eligibility, the Society recently revised its direction to pay, which is attached, in appropriate circumstances, to the certificates for legal aid sent to solicitors. Solicitors must ensure that clients properly execute directions to pay or agreements to pay (on the face of the Legal Aid certificate). otherwise the legal aid certificate will not be valid.

The profession is further reminded, referring to the Legal Aid Regulations, that the Society must be advised of any change in the financial circumstances of the recipient for legal aid during the course of any proceeding. If a solicitor is made aware of any material change in the income or assets of a legal aid recipient, he/she must advise the area director forthwith.

The profession should also be advised, that in appropriate circumstances, the Society will take security for its costs and will register that security against an applicant's real property. This procedure, may occur in circumstances where there is substantial equity in real estate. In those circumstances, solicitors may be required to execute and register necessary documents, in order for Legal Aid to eventually recover its costs. Where area directors issue certificates which require the taking of security for legal aid costs, the area director will send to the solicitor the necessary documentation for execution, as well as instructions as to the process to be followed.

#### 5. Fee Generating Matters

In a recent Law Society of Manitoba mailing, the profession was invited to enter their names on panels being established by Legal Aid for referral in potential fee generating matters. The Society will be establishing two lists, a civil (non-domestic) list and a domestic list for solicitors who are prepared to represent people on a contingent fee basis. Copies of the notice circulated in March, are available by contacting either Legal Aid or the Law Society, Solicitors are encouraged to enter their names on the panel.

6. Computer Research

More and more solicitors are making use of computer research facilities, such as the facility through the University of Manitoba, the Law Society of Upper Canada and Quick Law. The profession is advised that prior authorization from an area director is required before expenditures can be incurred for computer research. Full information, including justification for the research and the estimated cost of same, must be provided to the area director.

7. Winnipeg Area Director's Office

The Winnipeg Area Director's office was recently reorganized. The Society's Deputy Director, Mr. Allan Fineblit, also assumed the position of Winnipeg Area Director. He is particularly responsible for processing applications for reciprocal matters with other provinces. Mr. Fineblit has two associates reporting to him: William Merrett is responsible for processing criminal and youth applications and Sheila Rogers is responsible for processing all civil applications. All applications for appeal matters and applications on behalf of groups and organizations must be submitted to the Executive Director.

If there are any matters covered in this memorandum that are not clearly understandable, please contact Legal Aid for clarification.

## FINANCIAL ELIGIBILITY GUIDELINES

The following are new financial eligibility criteria as approved by the Board of Directors.

- a. Common-law Relationships - Will continue to be treated as family units for the purpose of determining financial eligibility. A common-law relationship for these purposes is one where the parties are living as married in a relationship of some permanence, with an actual or reasonable expectation of some financial support or contribution.
- b. In a situation where parents are applying for legal aid and have children over 18 living at home, the income of these children will not be included in the income of the family unit. Any money paid by those children over 18 for room and board, will however, be included in the parents' income. Children living at home, over 18, will not be included as members of the family unit if they are earning income, but if they are dependent on their parents, then they will be included in the family unit.  
 If the applicant is over 18, but living at home, his/her eligibility will be determined on the basis of their own income and they will be treated as a family unit of one person. Their parents' income will not be considered.
- c. Cash or liquid assets will be considered on the basis of whether they are sufficient to pay for the legal services required without putting the applicant in an untenable situation. This will be dependent on the costs of legal services required, and the amount of the liquid assets and also, to some extent, on the nature of the representation required.
- d. Other assets will be considered on the same basis as cash or liquid assets but the Area Director will also look at whether the assets are justifiable (what need does the applicant have for the asset) and convertible (can they be readily sold or encumbered).
- e. Debts will be considered in the same manner as assets with a view to whether they are justifiable (what need does the applicant have for the asset) and convertible (can the asset which created the debt be sold or refinanced to reduce the debt payments).
- f. The Society will continue to deduct child care and maintenance payments from gross income in determining financial eligibility.

**July 18, 1985**

NOTICE TO THE PROFESSION

Legal Aid invites members of the Bar to enrol on two panel lists we are establishing. The lists will be provided to clients seeking Legal Aid assistance in matters which appear to be fee generating. Before Legal Aid will consider handling such a case, the client will be required to see at least two lawyers on the list to determine if one of them will handle the matter on a contingent fee basis,

Legal Aid will maintain two lists of lawyers, a civil (non-domestic) list and a domestic list. If you wish to enrol on these lists you should write to the Executive Director, Legal Aid Manitoba, 402-294 Portage Avenue, Winnipeg, Manitoba, R3C 0B9, specifying which list you would like to be on. Lawyers may enrol on both lists if they choose. It is not necessary to be on the Legal Aid panel in order to enrol on these lists.

Enrolment on the lists does constitute an undertaking that the lawyer is willing, in appropriate circumstances, to handle contingent fee cases. By enrolling on the list, a lawyer also undertakes, when contacted by clients in these circumstances, to advise Legal Aid in writing whether or not he/she is prepared to handle the matter on a contingent fee basis.

If at least two lawyers on the appropriate list advise Legal Aid that they are unwilling to handle the case on that basis, Legal Aid will review the matter to determine if it is an appropriate one to be handled on a Legal Aid basis.

If a lawyer is prepared to handle the matter on a contingent fee basis, he/she should advise Legal Aid, and he/she is free to make private arrangements with the client without further Legal Aid involvement.

**April 1, 1986**

MEMORANDUM TO LAWYERS ON THE LEGAL AID PANEL

Legal Aid Annually circulates a memorandum to lawyers enrolled on the Legal Aid panel highlighting significant changes in policy, procedures or areas of concern that have arisen over the past twelve months. This memorandum deals with the following topics in the order set out below. For more information contact Legal Aid's Head Office or your local Area Office.

1. Applications for Legal Aid
2. Appeals to the Court of Appeal. and Supreme Court of Canada
3. Financial Eligibility
4. Recoveries from Clients
5. Emergency Legal Aid Applications
6. Acknowledgment of Certificates
7. Amendments to Legal Aid Certificates
8. Change of Counsel.
9. Filing and Service of Documents
10. Extraordinary Disbursements
11. Counsel in Other Jurisdictions
12. Change in Client Circumstances
13. Certification of Accounts
14. Duty Counsel Billings
15. Payment for Travel, Time and Expenses
16. Taxation Reviews and Appeals
17. Fee Generating Panel List
18. Reference Materials Available
19. New Executive Director

## 1. APPLICATIONS FOR LEGAL AID

Legal Aid applications in criminal, youth and urgent civil matters are regularly processed by the area office within 48 hours from the date on which they are received. Non-urgent civil matters are processed within ten days from the date on which they are received. This is only possible, when all relevant sections of the legal aid application are completed. Some areas which are often incomplete include information about an accused's prior record and the details of the offense in criminal matters and opinion as to the merits in civil matters. Failure to include a pay stub or other proof of income is another cause of delay.

## 2. APPEALS TO THE COURT OF APPEAL AND SUPREME COURT OF CANADA

Most Legal Aid applications should be directed to the Area Director in the area where the matter is to be heard. One exception to this has to do with appeals to the Court of Appeal, and Supreme Court of Canada. These applications should be sent to the Executive Director (the Executive Director also deals with applications for extraordinary remedies and applications by groups). Applications for appeals must include a detailed opinion as to the merits together with any supporting documentation such as predisposition reports, written decisions, orders, etc.

## 3. FINANCIAL ELIGIBILITY

Financial eligibility for Legal Aid is based on an applicant's ability to pay for the legal services they require. The first test of eligibility is the applicant's gross income. In order to ensure a certain degree of uniformity throughout the Province, Legal Aid has adopted financial eligibility guidelines. Each Area Director, however, has discretion to grant legal aid to persons whose income exceeds the guidelines based on their entire financial situation. In some cases, a person whose income exceeds the Legal Aid guidelines may be asked to contribute toward the cost of the legal services they require (called an "Agreement to Pay").

At present the financial eligibility guidelines begin at \$9500 gross income per year for a single person. The guideline for a family unit of two is \$12,000, for three \$13,200, and it increases by \$1100 for each additional family member after that. Please note that these guidelines may be changed in the next few months and a separate notice will be sent out if that happens.

Gross income does not include the money received from family allowance. Child care expenses and maintenance payments are deducted from gross income.

If an applicant has cash or liquid assets, he/she may be ineligible for legal aid, if the asset is sufficient to pay for the legal services required without putting the applicant in an untenable situation. Other assets will be considered on the same basis, but area directors also consider whether the assets are justifiable (what need does the applicant have for the asset) and convertible (can they be readily sold or encumbered). Debts are considered in the same manner as assets.



Common-law relationships continue to be treated as family units for the purpose of determining financial eligibility. A common-law relationship is one where the parties are living as married in a relationship of some permanence, with an actual or reasonable expectation of some financial support or contribution.

#### 4. RECOVERIES FROM CLIENTS

Legal Aid sometimes asks clients to contribute toward the cost of the legal service they require. This may be where their income exceeds the financial eligibility guidelines. In those circumstances, a client is asked to sign an Agreement to Pay usually over a period of several months. In cases where it appears the client may recover some money as the result of the proposed proceedings, Legal Aid may ask the client to sign a Direction to Pay instructing the client's lawyer to repay Legal Aid its costs out of any money recovered. In cases where the client owns real estate which he/she does not wish to dispose of, Legal Aid may ask the client to sign a Charge on Land permitting Legal Aid to encumber the land for its costs.

Agreements to pay, directions to pay and charges on land will be sent with the Legal Aid certificate. The Legal Aid certificate is not effective unless those documents are signed by the client and returned to Legal Aid, together with the Legal Aid certificate. Counsel should also note Section 15 of the Legal Aid Act. This section provides that any money recovered by or on behalf of an applicant shall be paid to Legal Aid. This Section applies whether or not the client has signed a direction to pay. In practise we only require a lawyer to pay to us an amount sufficient to cover his/her fees and disbursements. Any other money recovered can be returned to the client. In cases of hardship, clients can contact the Area Director for a refund of part or all of the contribution.

#### 5. EMERGENCY LEGAL AID APPLICATIONS

In urgent situations, Legal Aid can provide telephone authorization for counsel to begin acting. In those circumstances, counsel should have available information about the circumstances of the case and the applicant's financial situation and should telephone the Area Director in the area where the matter is to be heard.

#### 6. ACKNOWLEDGEMENT OF LEGAL AID CERTIFICATES

Legal Aid certificates must be signed by the lawyer to whom they are issued and returned to the Area Director within 30 days. Legal Aid's practise is to send out a reminder letter after 30 days and to cancel the Legal Aid certificate after 60 days. If the certificate requires an Agreement to Pay, Direction to Pay, or Charge on Land to be signed, it must be returned with the Legal Aid certificate. Unless the Legal Aid certificate (and where appropriate, Agreement to Pay, Direction to Pay or Charge on Land) are signed and returned to the area office within 60 days, subsequent statements of account submitted cannot be paid. If the Legal Aid certificate has been returned within 60 days, it is effective from the date on which the Legal Aid application was first taken.

## 7. AMENDMENTS OF LEGAL AID CERTIFICATES

When new matters arise on an existing legal aid certificate that were not contemplated when the certificate issued or would not ordinarily be contemplated for this type of matter, an amendment should be sought from the Area Director. In domestic matters it is not necessary to seek an amendment for interim relief including interim ex parte relief. Matters such as bail reviews or appeals of interim orders do however require an amendment. Similarly, if a certificate is issued for a separation and a client wishes to proceed for a divorce, an amendment would be required.

## 8. CHANGES OF COUNSEL

The Legal Aid Act provides that certificates are issued to lawyers and not law firms. A lawyer may decline to act on any legal aid certificate which is issued to him/her, but, in those circumstances, the Legal Aid certificate should be returned to the Area Director unsigned with an appropriate covering letter. Under no circumstances should a legal aid certificate simply be sent to another lawyer without the approval of the Area Director. A lawyer may delegate work on a legal aid certificate to another lawyer in their firm, provided it is only with respect to interlocutory or other preliminary steps in the matter. Similar delegation is permissible to graduates-at-law within the same firm. Other than for interlocutory or preliminary steps, a solicitor may not delegate a legal aid matter to another lawyer except under exceptional circumstances and then only with the consent of the applicant and the approval of the Area Director. Delegation of a legal aid certificate is covered by Section 13 of the Legal Aid Act.

If a client indicates that they wish a change of lawyer, they should write to the Area Director, outlining the reason for the change. Because of the structure of the tariff, it is often a duplication of expense to Legal Aid to permit a change of lawyer. As such, unless there is a valid reason for a change of lawyer, it will not be authorized. Lawyers should not take steps to withdraw from the record and the like until they have been advised by Legal Aid that the change of counsel has been authorized.

## 9. FILING AND SERVICE OF DOCUMENTS

The Regulations under The Law Fees Act provide for the waiver of fees to be paid for the filing of court documents or the service of documents and escort services through the Sheriff's office in legally aided matters. This applies to all courts and Sheriff's offices throughout the Province.

All service of documents in legally aided matters should be effected through the Sheriff's Office. Under special circumstances where a private process server is required, prior authorization must be obtained from the Area Director.

When filing documents or arranging for service in legal aid matters, a voucher form should be filed in lieu of payment. Voucher forms are available in all of the court offices and require the Legal Aid certificate number before they will be accepted.

There may be circumstances where documents have to be filed or serviced before a legal aid certificate issues. In those cases the Lawyer should pay the fees and bill Legal Aid for them in the ordinary course. When submitting such a bill, please include the original receipt and the suit number. It should also be noted that interim billing is permissible for disbursements which total in excess of \$50.00.

#### 10. EXTRAORDINARY DISBURSEMENTS

Extraordinary or unusual disbursements which would not be contemplated when a certificate issues, must be approved by the Area Director. Examples of extraordinary disbursements are medical reports, computer research, hiring of a private investigator and the like. Transcripts, in appeal cases do not require special authorization, although transcripts in other kinds of cases usually do. Counsel are reminded to request the Legal Aid rate when ordering transcripts in legal aid matters.

#### 11. COUNSEL IN OTHER JURISDICTIONS

Legal Aid has an agreement with all the other Legal Aid plans in Canada. If a Manitoba resident requires counsel in another jurisdiction in a civil matter, provided the client is eligible for legal aid in Manitoba, the other jurisdiction will appoint a lawyer on his/her behalf if it is a matter which falls within their range of coverage. If counsel in other jurisdictions in Canada is required, contact the Winnipeg Area Director. While Legal Aid Manitoba does not have any formal, arrangements with other jurisdictions outside of Canada, we may be able to obtain informal assistance from them.

#### 12. CHANGE IN CLIENT CIRCUMSTANCES

Regulation 39 under the Legal Aid Act, requires counsel to notify the Area Director of any change in a legally aided client's circumstance which may affect their continuing eligibility.

#### 13. CERTIFICATION OF ACCOUNTS

All accounts submitted to Legal Aid Manitoba must contain the following certification:

"I certify that the Legal Aid to which reference is made herein was rendered by me, or by such other named person as is specifically stated herein, and that the disbursements set out herein were paid or liability therefore incurred, and they were necessary and proper, and that I have not heretofore received any reimbursement for any of them."

#### 14. DUTY COUNSEL BILLINGS

Statements of account on duty counsel services, should be accompanied by Form 12 duty counsel reports with regard to each individual seen. Some lawyers prefer simply to include a reporting letter which provides the same information as contained in the Form 12. This is also acceptable. Whatever reporting form is used, duty counsel should be sure to specify whether the client assisted was an adult or a young person charged under the Young Offenders Act.

15. PAYMENT FOR TRAVEL TIME AND EXPENSES

Unless specifically indicated on the face of the legal aid certificate, lawyers will not be paid for travel time or expenses. We normally authorize same in cases having a mandatory life sentence. In all other cases it is in the discretion of the Area Director. In most cases, travel time and expenses will be authorized where no other counsel, is available in the area where the matter is to be heard. Travel expenses and/or travel time may be authorized in some circumstances where the lawyer practises in the same area where the client resides. Ultimately, however, the matter rests with the Area Director's discretion and unless specifically authorized on the face of the certificate or by way of amendment, travel time and travel expenses will not be paid.

Where travel time or expenses are not authorized, Regulation 96 under the Legal Aid Act prohibits a lawyer from charging the applicant or someone on his/her behalf for those costs.

16. TAXATION REVIEWS AND APPEALS

The Tariff of Fees (Schedule I to the Regulations under the Legal Aid Act) provides for the amounts to be paid under legal aid certificates. Note 3 to the Tariff provides that those fees apply except in extremely unusual circumstances. Lawyers wishing an increase beyond the tariff should apply in writing at the time their account is submitted and provide a detailed explanation of why such an increase is justified.

Legal Aid has recently changed its procedure with regard to requests for increases in the tariff amounts. The Executive Director now makes an assessment as to the amount, if any, of the increase and sends this amount to the Lawyer making the request with an explanatory letter. Should the lawyer be dissatisfied with this decision, an appeal is available to the Legal Aid Board of Directors.

17. FEE GENERATING PANEL LIST

Legal Aid maintains a list of lawyers who are prepared to handle appropriate cases on a "fee out of recovery" or a "contingency" basis. Where it appears that there may be sufficient proceeds of settlement to warrant a private lawyer handling a case on such a basis, clients are sent this list and asked to see at least two lawyers on the list to determine whether they will handle the matter privately.

Lawyers who wish to have their names on this list, and who have not already done so, can write to the Executive Director specifying whether they want to be on the Domestic list, the Civil (Non-Domestic) list or both.

18. REFERENCE MATERIALS AVAILABLE

The following information is available from Legal Aid's Head Office, free of charge to lawyers on the Legal Aid Panel:

- a. the Legal Aid Tariff
- b. the Legal Aid Act
- c. the Regulations under the Legal Aid Act
- d. the Legal Aid brochure containing the financial eligibility guidelines and Legal Aid office addresses
- e. Legal Aid's staff list with addresses and phone numbers

19. NEW EXECUTIVE DIRECTOR

Robert Freedman, the Executive Director for Legal Aid for the past six years, has resigned his position effective May 2, 1986. Allan Fineblit, formerly the Director of Law Centres has been appointed as the new Executive Director, effective May 3, 1986.

**1 October 1986**

To: All Legal Aid Panel Members

Date: October 1, 1986

From: Allan Fineblit  
Executive Director

I am enclosing a copy of the Legal Aid Tariff which is being applied to all legal aid certificates for which the legal aid application was taken after July 1, 1986. As you may be aware, the Legal Aid Domestic Tariff was restructured as of April 1, 1986. This restructuring was intended to bring the tariff structure more in line with present domestic law practice and procedure. It will also have the overall effect of increasing the domestic tariff by approximately 15%.

The July 1, 1986, tariff increase is in addition to the domestic tariff increase. The tariff has, since 1981, been based on a \$35.00 hourly rate, subject to certain maximums and block fees. As of July, the hourly rate will be \$40.00 (a 14% increase) and the block fees and maximums have been adjusted accordingly.

You may recall, that at the same time the Attorney-General announced the increase to \$40.00 per hour, he also announced future increases for April 1, 1987 to \$45.00 per hour and April 1, 1988 to \$50.00 per hour. For that reason we have only printed a limited supply of the tariff brochures. Hang onto the enclosed copy - we don't have very many more.

If there is anything in this tariff that you don't understand or would like to discuss, please feel free to call me or anyone in our Legal Accounts department.

I am enclosing a brief memo which may be helpful to you. It describes some of our policies and procedures which may not be known to you or which may have changed recently.

In general, I want to invite you to participate actively in the Legal Aid program. Over 500 private bar lawyers submitted bills to Legal Aid last year and were Paid almost \$5,000,000 in total. I believe "the new improved" tariff goes some way toward addressing the legitimate concerns of many lawyers. I hope to have a chance to meet . with many of you over the next year, both formally and informally to talk about Legal Aid and any concerns you may wish to raise. In the meantime, I would like to hear from you about any Legal Aid issue you want to discuss.

Allan Fineblit  
Executive Director  
Enclosures

SOME LEGAL AID POLICIES AND PROCEDURES  
YOU SHOULD KNOW ABOUT

FINANCIAL ELIGIBILITY:

As of July 1, 1986, new financial eligibility guidelines came into effect. These guidelines are established as policy by our Board of Directors to assist area directors in determining eligibility. Please remember that they are only guidelines and Area Directors look at an applicant's total financial situation. Persons earning more than the guidelines may qualify for legal aid. The new financial eligibility guidelines are definitely higher than before. They are based on gross annual income and family unit size. They are as follows:

<u>Family Size</u>	<u>Gross Annual Income</u>
1	\$ 9,839
2	12,981
3	17,365
4	20,010
5	23,318
6	25,468
7	25,032

BROCHURE:

Legal Aid publishes a brochure which among other things sets out the financial eligibility guidelines and the address and phone number of all legal aid offices around the province. If you would like some copies of this brochure for your office, please let us know. Please note that the address for the Ellen Street Community Legal Services office will be changing as of December 1st to 635 Broadway.

WHO TO TALK TO:

Applications for legal aid should be directed to the Area Director in the area where the matter is to be heard. Requests for amendments, authorization for extraordinary disbursements, such as medical reports and appraisals, authorization for bail reviews, waiver of costs and the like should be directed to the Area Director who issued the legal aid certificate.

Matters to be heard in Winnipeg, South Eastern Manitoba, and the Selkirk-Interlake area are dealt with by one of two Associate Area Directors in Winnipeg. Bill Merrett generally deals with criminal matters and Bill Dunn deals with civil (including domestic) matters. If you are unable to reach one of them, the other may be able to assist you. If neither is available for urgent matters, Sheila Rogers, Legal Aid's Deputy Director or Allan Fineblit, the Executive Director can be

contacted. Please note also that Bill Merrett looks after Legal Aid's duty counsel program and Bill Dunn is responsible for applications for matters requiring counsel outside of Manitoba. All these people are located at Legal Aid Manitoba's Head Office (402-294 Portage Avenue, Winnipeg, 947-6501).

In the Brandon area and South Western Manitoba, The Area Director is Bill Congdon, located at our Brandon office. For matters to be heard in the Dauphin and Parklands area, the Area Director is Dan Jamieson, located in our Dauphin office. For Northern Manitoba, the Area Director is Lorne Giesbrecht. The Area Director's office is located in The Pas.

Applications for extraordinary remedies (certiorari, habeas corpus, etc..) for appeals to the Court of Appeal, Federal Court of Appeal, and Supreme Court of Canada, should be sent to the Executive Director. All bills should be sent to Legal Aid's Head Office in Winnipeg. Billing information is available from the Senior Legal Accounts Officer, James Ramsay, or any of the Legal Accounting Department staff.

#### EMERGENCIES:

Because of the large volume of applications (over 25,000 per year) it takes some time to process them. They go faster if all requested information on the legal aid application form is included. If you need an answer in a hurry, please feel free to call the Area Director. Area Directors can provide authorization to proceed in an urgent or emergency matter over the telephone.

#### MORE LEGAL AID:

If you would like to do more Legal Aid work than you are presently doing (or less; or different kinds of cases), contact the Area Director in your area. They will do everything they can to accommodate your preferences.

#### MORE MONEY:

Legal accounts are taxed in accordance with the Tariff of Fees in effect at the time the application was taken. Remember the enclosed Tariff of Fees does not apply to certificates where the application was taken before July 1, 1986.

If you are submitting a bill and you feel there are special circumstances warranting a fee in excess of the tariff, you should ask in your covering letter to have the tariff maximum raised. Have a look at Note 3 on page 1 of the enclosed tariff. Fees can only be increased in extremely unusual circumstances. Please be sure to tell us what they were when you make your request. If you are unsure as to how to bill for something, please call the Legal Accounts Department in Winnipeg.



Interim bills can be submitted for disbursements totalling in excess of \$50. A recent change in the application of the criminal tariff should be noted. Legal Aid will now pay \$40.00 for the extra appearance required on a consent committal.

#### APPEALS:

Any decision made by an Area Director can be appealed to the Executive Director, and any decision of the Executive Director can be appealed to the Legal Aid Board. Appeals to the Executive Director are usually dealt with quickly, but appeals to the Board are only heard once a month.

#### FILING FEES AND SERVICE OF DOCUMENTS:

All documents in Legal Aid matters should be served by the Sheriff's Office, unless approval is obtained from the Area Director. The Sheriff's office will not charge a fee for serving of documents on Legal Aid matters if you give them a Legal Aid fee voucher (blank vouchers are available free of charge from the Queen's Bench or Sheriff's offices). To complete a Legal Aid fee voucher, you will need a certificate number. If you don't have your certificate number, pay the fees and bill Legal Aid, but be sure to submit the original receipt with your bill.

Similarly no filing fees are payable in the Court of Queen's Bench for Legal Aid matters, Once again a fee voucher must be used. As of August 7, 1986, no CDR fee is payable in Legal Aid matters.

#### CHANGE OF COUNSEL:

Because of the tariff structure, changes of counsel cost Legal Aid money. Of course a legal aid client is free to change counsel if they wish, but you should be aware that Legal Aid will only issue a legal aid certificate to the new counsel if the client has a valid reason for the change.

**November 21, 1986**

Dear Legal Aid Panel Member:

Your name is presently on the Legal Aid Panel list along with over 800 other lawyers, As lawyers' practises change over the years, interests and availability may also change. We are trying to update our information about you in order to ensure that to the best of our abilities, we are sending you the kind and frequency of legal aid referrals that meet both your needs and the needs of our clients. It would be appreciated if you could take a minute to complete and send back the enclosed brief questionnaire.

Yours truly,

Allan Fineblit  
Executive Director

AF / cm  
Enclosure

PANEL MEMBERS INFORMATION SHEET

Name:

Firm Name:

Street Address:                      City:                      Postal Code:

Telephone:

Please indicate which of the following best describes the amount of Legal Aid work you would like to receive.

1.          I only want Legal Aid certificates where I have sent in the application myself confirming that I will act.
2.          I only want legal aid certificates where I have been requested.
3.          I am prepared to handle most legal aid certificates sent to me in the areas indicated below.
4.          I no longer wish to be on the legal aid panel. Please remove my name,
5.          Other (please specify)

Please indicate which type of legal aid case you would be prepared to handle (check as many as you like).

- |                                            |                                                    |
|--------------------------------------------|----------------------------------------------------|
| 1. <input type="checkbox"/> All types      | 7. <input type="checkbox"/> Administrative Law     |
| 2. <input type="checkbox"/> Adult Criminal | 8. <input type="checkbox"/> Immigration            |
| 3. <input type="checkbox"/> Young Offender | 9. <input type="checkbox"/> Other (please specify) |
| 4. <input type="checkbox"/> Duty Counsel   |                                                    |
| 5. <input type="checkbox"/> Family Law     |                                                    |

Are there any communities (other than where your office is located) where you regularly attend and where you would be prepared to handle legal aid cases without travel time or expenses? If so, which communities?

When clients apply for legal aid on a matter which appears to be fee generating they are provided with a list of lawyers willing to take on matters on a "contingent fee" or "fee out of proceeds" basis. Do you want to be on that list? -

Civil List                       Domestic List

Do you speak any languages other than English and French?

Which:

Any other comments or suggestions about Legal Aid and how we can improve our service would be welcome:

Thank you for your help, please return this to:

Executive Director  
 Legal Aid Manitoba  
 402-294 Portage Avenue  
 Winnipeg, Manitoba  
 R3C 0B9

Dear New Legal Aid Panel Member:

You recently indicated your intention to enroll in the Legal Aid panel. In order for us to have a better idea of exactly what you are interested in doing (both the amount and type of work), I would appreciate it if you could complete the enclosed questionnaire and return it to us as soon as possible.

Yours truly,

Allan Fineblit  
Executive Director

Dear Legal Aid Panel Member:

Sometime ago we sent you a questionnaire to assist us in updating our legal aid panel information. We haven't yet heard back from you. If you sent your response in within the last few days, please ignore this letter, We did receive some responses back without any name on them and if you sent in your response sometime ago, it is possible your name wasn't on it and I would appreciate your taking the time to fill in another questionnaire. Your cooperation will assist us to ensure that you receive the type and quantity of legal aid work that you are interested in receiving,

Yours truly,

Allan Fineblit  
Executive Director

AF/cm  
Enclosure

**March 1987**

Dear Legal Aid Panel Member:

Re: Legal Aid Tariff of Fees

You will recall that the Attorney-General announced increases to the Legal Aid tariff in April and July of 1986. The latter change included an increase in the hourly rate from \$35.00 to \$40.00 an hour. At the same time the Attorney-General announced that as of April 1987 the tariff would increase to \$45.00 an hour and in April 1988 it would increase to \$50.00 an hour.

We have now been advised that because of the financial situation the Province finds itself in, they are unable to proceed with the tariff increase to \$45.00 an hour on April 1, 1987. We have been advised that the tariff increase will take place as of October 1, 1987.

While the Profession will no doubt be disappointed with the delay in implementation of the increase, I want to remind you that there have been a number of positive changes in both the taxation process and the tariff in the last few years. Legal Aid did not support postponement of the tariff increase but we do appreciate the financial circumstances which make this necessary.

You have our commitment that any matters within our control such as the administration of the tariff and the interpretation of it, will be handled in the most liberal and expeditious manner.

In the next few months we will be attempting to reorganize and revise the tariff in anticipation of the increase in the hourly rate which will now come into effect in October. Legal Aid will be meeting with representatives of the Bar to discuss the tariff generally and the proposed changes. In the meantime if you have any questions about this, please feel free to contact me, or our Executive Director, Allan Fineblit.

Yours truly,

Doug Yard  
Chairperson

**May 1987**

---

MEMO TO THE PROFESSION

From time to time the Court of Queen's Bench sees fit to appoint amicus curiae to represent the best interests of children in family matters. Legal Aid Manitoba has agreed to pay counsel on a legal aid tariff basis in those cases until March 31, 1988, when the matter will once again be reviewed.

Legal Aid, in consultation with the judges of the Court of Queen's Bench is in the process of preparing a panel of lawyers who are willing to act in those types of cases, Anyone wishing to have their name on that panel is asked to write to me indicating their interest.

Allan Fineblit  
Executive Director



## MEMO TO THE PROFESSION

May 1987

Re: Expedited Transcripts

As you know a special rate is charged for transcripts in Legal Aid matters. The Legal Aid rate for expedited transcripts, as prescribed by Order-in-Council, is \$1.95 per page for Original and \$.25 per page for each additional copy. Some court reporters have been charging \$1.95 per page for additional copies. In these cases, please ensure that you pay only the rate prescribed by Order-in-Council (\$.25 per page) as Legal Aid will only be able to reimburse you at this rate,

Re: Fee Generating Cases

Many of you are enrolled on two panels Legal Aid maintains for potential fee generating cases. When an applicant for Legal Aid appears, to have a matter which a private lawyer might handle on a fee out of the recovery, the applicant is given the appropriate list (civil or domestic) and has to see at least two lawyers on that list before Legal Aid will be granted. When you enrolled on that list it was agreed that you would provide the client or us with a brief letter indicating whether you are prepared to take the case on that basis,

It was also intended that you would not charge a fee for the assessment. If you are not in a position to do this without a fee please advise. We will want to let applicants know this, since most are unable to pay fees.

If you are not now on these panel lists, but wish to enroll, please write me indicating which list (civil, domestic, or both) you wish to have your name on.

If you want any additional information, please call or write at your convenience.

Allan Fineblit  
Executive Director

NOTICE TO THE PROFESSION

Re: Vital Statistics Records

Legal Aid has negotiated a waiver of all fees under the Vital Statistics Act. This includes free certified copies of registration of births, marriage and death required for court purposes and waiving of fees usually required for corrections to records, delayed registrations, adoption registrations and changes required by declaratory orders under the Family Maintenance Act. The only exception is for fees under the Change of Name Act or the Marriage Act, where the normal fee must be paid.

Commencing June 1, 1987, no fees will be payable to Vital Statistics for Legal Aid matters, A special application form must be used (similar to the existing application) and the Legal Aid certificate number must be noted thereon. A sample application form is enclosed. Additional copies are available, free of charge, from any Legal Aid office.

Instead of certificates, Vital Statistics will supply certified copies of the registration which are acceptable for filing in court and provide additional information not currently available on the existing certificates.

Please ensure that you use this application for all Legal Aid matters as any disbursement after June 1, 1987 to Vital Statistics will be taxed from your account unless there are unusual circumstances. If you have any questions about this or if you encounter any problems, please call me or your local Area Director.

Allan Fineblit  
Executive Director

**June 1987**

**POSITION AVAILABLE  
SUPERVISING LAWYER**

Legal Aid Manitoba has a position available for a Supervising Lawyer at its Main Street Community Law Centre. The office delivers legal services to low income people, primarily in the area of family law, but with some caseload in the areas of criminal law, youth law and civil litigation. The office also does some work in poverty law areas such as welfare, mental health, workers compensation, landlord and tenant and consumer law.

The supervising lawyer is responsible for supervising the overall activity of the office and its staff (7 lawyers, 1 para-legal, 2 students and 5 support staff). The supervising lawyer is expected to carry a reasonable caseload in addition to the supervisory and administrative responsibilities.

The successful candidate should have good skills in law office administration and human resource management, Good legal skills are also important, particularly in the family law area, but are of a lower priority to the other skills mentioned.

The successful candidate will also be expected to participate as a member of the management team of Legal Aid Manitoba generally. The Main Street office will be placing greater emphasis on preventative law work and skills in that area are an asset. Other assets include facility in languages other than English, the ability to work with low-income people, and a creative, and energetic and enthusiastic attitude.

The salary range is \$50,214 to \$61,165 per year with excellent benefits which include payment of Law Society fees, a dental plan, a pension plan, group life insurance and a disability plan. Persons interested in more information should contact Sheila Rogers at the number below. Applications in writing should be sent to Sheila Rogers at the address below accompanied by a resume on or before June 26, 1987. All inquiries and applications will be treated confidentially.

June 1987

## October 1987

Dear Legal Aid Panel Member:

Re: Legal Aid Tariff of Fees

I am pleased to enclose a copy of the new Legal Aid Tariff of Fees, Also enclosed is one of our new pamphlets. The pamphlet contains the new financial eligibility guidelines which came into effect on October 1, 1987. You are reminded that these are only guidelines and Area Directors look at an applicant's full financial situation in assessing eligibility. Additional copies of this pamphlet are available free of charge (in English or French) from this office.

The Tariff of Fees represents a change both in the hourly rate (increased to \$45,00 an hour) and the tariff structure itself, Structural changes result from requests from the profession for a simplified billing procedure and complaints about the necessity for itemized billing,

The Tariff was developed in consultation with the Profession. It was approved and funded by the Provincial Government and will be cost-shared by the Federal Government. Overall the new tariff will pay an additional \$700,000 per year to the private bar. Some tariff items have actually been reduced and others have been increased significantly. We believe that these changes will provide a fair tariff, simplified billing procedures and significantly more money to the private bar. Let me now describe some significant features of the tariff:

- the tariff is applicable to legal aid applications dated on or after October 1, 1987. Prior files (including any work done on those files after October 1, 1987) must be billed using the tariff applicable at the time the certificate was issued.

- most items are block fee items - a set fee is payable regardless of the actual time expended. These block fee items are based on historical averages (adjusted to reflect the change in the hourly rate).

- in order to eliminate extremes, the block fees do not apply for less than three hours of work and in cases where much more time has been expended than the block fee contemplates, we have the discretion to increase the fee.

- it was not possible to set a block fee for all tariff items. In those cases where there is no block fee, the hourly rate of \$45,00 per hour applies (in some cases up to a set maximum).

- Legal Aid will no longer "calendarize" lawyers accounts under the new tariff. Lawyers are free to organize their scheduling in any way they wish without penalty. The only exception is for the special rates payable for "additional half days". Legal Aid will only pay for two half-days on any given day,

- because we will no longer have a calendarization system, the tariff puts an onus on counsel to notify us when submitting a statement of account if there was a co-accused represented on a legal aid certificate by the same counsel or if there were two or more legal aid matters for the same individual dealt with together.

- the block fee means that in most situations where a legal aid recipient changes counsel, the cost to Legal Aid will be doubled. For that reason we will only approve change of counsel requests where there is a valid reason for the change. It would be prudent to check with the Area Director prior to going on the record in a change of counsel situation.

- the tariff provides a reduced hourly rate of \$25.00 per hour for travel time where authorized by an Area Director. As a result, travel time, although still in the Area Director's discretion, will be authorized more frequently than is our current practise.

- there is no longer a distinction made in the tariff between fees for Provincial Judges Court cases and Queen's Bench cases.

This tariff is new and very different. If you need help or want some information, please call me or our Legal Accounts staff. Because the tariff is so new, and so different, problems may come up which we didn't anticipate. If you bring these to my attention, I will do everything I can to solve those problems.

Yours truly,

Allan Fineblit  
Executive Director

AF/cm  
Enclosures

**June 1988**

SOME IMPORTANT CHANGES AT LEGAL AID

1. AUTHORIZATIONS:

The Board of Directors of Legal Aid have decided to reduce the number of matters which require Area Director approval. Extraordinary disbursements still require the approval of the Area Director who issued the certificate. Commencing immediately, however, authorization is not required.

- a. To order one medical report for up to a maximum of \$50.00 (\$75.00 if the doctor is a specialist) in family and civil cases only;
- b. To use a private process server in family law cases only for a maximum of two services, provided it is an emergency situation. In those cases counsel should certify when submitting their account that the disbursement was necessary because the situation was an emergency;
- c. To order transcripts for examinations for discovery (at Legal Aid rates) from official court reporters;
- d. To waive costs in the following circumstances:
  - i. where the client has signed an agreement to pay, a direction to pay, or charge on land and agrees to the waiver of costs, or,
  - ii. where counsel is satisfied the respondent has no means to pay costs, (having no assets and being unemployed).

In all other circumstances, Area Director approval is required to waive costs. Where costs are waived for one of the two reasons set out above, counsel should set out that reason in their closing report to Legal Aid.

2. FEE VOUCHERS:

For the last few years, payment of filing fees and for Sheriff's services in Legal Aid matters have not been required. Instead, counsel have been permitted to use a Legal Aid Fee Voucher in lieu of payment. These vouchers have, up till now, been distributed through the various courts and Sheriff's offices around the Province. Fee Vouchers will now be available through any Legal Aid office. Hopefully this will solve some of the distribution problems counsel have been experiencing.

3. WHO DOES WHAT AROUND HERE?:

There have been some changes of responsibility at Legal Aid's Head Office. Effective May 1, 1988, Bill Dunn is responsible for determining eligibility on applications for Supreme Court and Court of Appeal matters, requests for the appointment of junior counsel and all matters requiring out of Province counsel. Bill Merrett is now responsible for assessing eligibility on all other Legal Aid applications, (criminal and civil) for the Eastern Judicial District, Central Judicial District and Selkirk/Interlake areas.

4. SOME REMINDERS:

While I have your attention, let me harangue you about a few frequently forgotten matters:

- a . If costs are awarded in favour of your client, please send us a copy of the costs order as soon as possible after it is made. Also when you report out a civil or domestic file please indicate if costs were or were not awarded;
- b. When submitting Legal Aid applications, be sure to include a recent pay stub and be sure to fill out all relevant sections of the form;
- c . When sending in your bill for disbursements, please include copies of the invoices you paid for things like transcripts, medical reports and private process servers;
- d. When Legal Aid applications are being filled out for criminal matters, please be sure to include the applicant's prior record, (including approximate dates and dispositions) and brief details of the alleged offence;
- e. We need postal codes and birth dates - please don't leave those sections of the application form blank.

Allan Fineblit  
Executive Director

**July 1988****LEGAL AID BILLING SEMINAR**

You are invited to a noon hour seminar on how to prepare Legal Aid bills. There have been significant changes in the Legal Aid Tariff and there are things you can do to ensure a fast turn around time and maximize what you get paid.

The seminar will take place on Thursday, July 21, 1988 at noon at Legal Aid's Head Office in Winnipeg, 402-294 Portage Avenue. There is no charge for the seminar but you must register in advance, (no later than July 15, 1988), as space is very limited. We will even give you a free sandwich and a cup of coffee.

The seminar will be appropriate for lawyers who prepare their own legal aid bills or the clerical or accounting staff in your office who do this. The seminar will also cover recent practise, policy and personnel changes.

Note to out of Winnipeg lawyers: If you are unable to attend, but would like a seminar like this in your area, let us know. If there is significant demand we would be happy to do it.

**REGISTRATION FORM**

NAME:

FIRM:

ADDRESS:

PHONE:

Please send to Legal Aid Manitoba, 402-294 Portage Avenue, Winnipeg, Manitoba, before July 15, 1988.

**PLEASE MARK TO THE ATTENTION OF CYNTHIA**



**November 1988**

**MANITOBA FOSTER PARENTS' ASSOCIATION, INC,**  
 161 Mayfair Avenue, Winnipeg, Manitoba R3L 0A1  
 (204) 284-0843

**NOTICE TO THE LEGAL PROFESSION**

The Foster Parents' Association of Manitoba Inc. represents approximately 1600 foster parents licensed under the Child and Family Services Act. Because of their role as foster parents, our members are particularly vulnerable to allegations of criminal offences by the children in their care. As you may be aware we have recently concluded an agreement with the Provincial Government to pay the legal fees of foster parents in those circumstances at rates equivalent to the Legal Aid Tariff. We have contracted with Legal Aid Manitoba to provide technical and support services to us in administering this system.

As such we are writing to invite you to enroll on a panel of lawyers we are establishing, who are willing to act for foster parents charged with criminal offences arising out of their role as a foster parent, at Legal Aid rates. Of course our members will be free to hire any lawyer they choose, but if they wish to take advantage of Provincial Government funding, they will have to choose a lawyer from this panel.

If you would like to enroll on the panel, please complete the attached form and send it to us at the address below. Enrollment does not require a lawyer to take any specific case, but rather expresses a general willingness to take cases which may be referred from time to time, at the rates indicated.

-----  
 Name: \_\_\_\_\_ Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Phone No. \_\_\_\_\_ Signature: \_\_\_\_\_

Return to: Foster Parents' Association Inc.

c/o 402-294 Portage Avenue  
 Winnipeg, Manitoba R3C 0B9

**May 1989**

MEMO TO THE PROFESSION

EXPANDED ELIGIBILITY

Legal Aid Manitoba is pleased to announce the expansion of its eligibility criteria. This expansion is made possible by a grant from the Federal Department of Justice and continued funding from the Province and the Manitoba Law Foundation. This expanded eligibility program is expected to be in place for at least two years. It is our hope that this will bring Legal Aid services to the working poor who have traditionally been too "rich" for Legal Aid but too poor to afford the legal services they require.

Legal Aid has financial eligibility guidelines. Please keep in mind that these are only guidelines and eligibility is determined by an applicant's full financial situation including assets, debts and living expenses.

The guidelines have been expanded to include new guidelines for applicants who were not in the past eligible but will now receive service on a pay back basis. Applicants who fall into that category will be required to enter into an agreement to make monthly payments to Legal Aid. The guidelines are based on a gross annual income and are as follows:

Family Unit Size	Fully Eligible	Eligible With A Partial Contribution	Eligible With A Full Contribution
1	\$ 12,000	15,300	\$20,500
2	15,300	20,500	23,600
3	20,500	23,600	27,500
4	23,600	27,500	30,000
5	27,500	30,000	33,000
6	30,000	33,000	36,000
7	33,000	36,000	39,000

You are again reminded that these are not rules, but guidelines only, and Area Directors have considerable discretion and will depart from these guidelines in appropriate circumstances.

AF/cm

May 1989

^D

^F1^

Dear ^ F2 ^:

RE: Your application for Legal Aid

Legal Aid Manitoba looks at your income and your assets when deciding whether you are eligible for free legal services. Based on the information provided to us,, it appears that your family income is too far over the guideline of ^F3 ^ for a family unit of ^F4^ to allow Legal Aid to pay for your lawyer entirely.

However, the Legal Aid Plan in Manitoba is able to assist people who do not meet our financial eligibility guidelines but whose income is not great enough to enable them to hire a lawyer privately. Your income level suggests that you might be interested in such an arrangement. Basically, Legal Aid would require you to enter into an Agreement to Pay your lawyer's fees and out-of-pocket expenses at Legal Aid rates. You would be required to make monthly payments to Legal Aid and Legal Aid would be responsible for paying your lawyer.

We are asking you to pay \$^F5 ^ a month, starting on ^F6 ^. You will have to pay that amount on the same day of each and every month thereafter, until you have paid enough to cover the cost of your lawyer's bill.

Enclosed is an information sheet that should answer your questions about the Agreement to Pay arrangement. Please read it over carefully.

If you choose to enter into the Agreement, please contact your lawyer and arrange an appointment to sign the Agreement. We have sent your lawyer a certificate that authorizes him/her to act for you once you have signed the Agreement to Pay, The Agreement to Pay forms part of that certificate.

If you choose not to enter into this agreement, or if you have questions about the terms of the agreement, please contact this office at

Yours truly,

## INFORMATION SHEET

### AGREEMENT TO PAY

#### 1. **What is an “Agreement to Pay”?**

- It is an agreement between you and Legal Aid Manitoba, in which you agree to pay Legal Aid the actual cost of the legal services provided.
- It is offered to applicants whose income is too far above the financial eligibility guidelines to qualify for free legal services.

#### 2. **What are the advantages to me in entering into such an Agreement?**

- You will be able to make small, affordable monthly payments. An Agreement to Pay is much like a loan, only you are not charged interest.
- You will not be asked to pay your lawyer a lump sum retainer. Most lawyers require such a retainer before they will begin work on your case.
- Your lawyer will bill Legal Aid at a rate much lower than he or she would bill you privately. Currently the amount we pay is based upon a rate of \$45.00 per hour for a lawyer in private practice; for a staff lawyer employed directly by Legal Aid, that rate is usually a little bit less. Legal Aid will take care of paying your lawyer; you will not have to pay your lawyer anything for handling the case.
- Legal Aid also has arrangements with other government and court-related services that offer free or reduced-rate services for Legal Aid clients. Such arrangements are in place with the Sheriff's Office for service of court documents, with Court Reporters for copies of court transcripts, and with the Department of Vital Statistics for copies of birth, marriage or death certificates. These are common expenses that arise in many types of cases.

#### 3. **How much will the case cost me in total?**

- We have no way of knowing what the cost of any particular case will be at the beginning of a case. The cost of your case will depend on how much work your lawyer has to do on your behalf and a number of other factors including:
  - whether it is going to be contested (contested cases cost more);
  - how long the trial takes;
  - the disbursements your lawyer has to pay out medical reports, transcripts, blood tests and other disbursements can be expensive.

Legal Aid will approve those expenses if we feel they are necessary to your case.

- Some cases cost several thousand dollars while other cost less than \$100. The average criminal case now costs Legal Aid \$            and the average family law case costs us \$     . Your case may cost less or it may cost much more. It is important that you speak to your lawyer from time to time during the case about the likely cost to you.

- Legal Aid will review the likely cost of your case and the amount of your Agreement to Pay after your tenth payment.

- In some cases, you will have to keep making monthly payments, even after the case is over, until the full cost of the case is paid.

#### 4.     **How do I make the payments?**

- Send a cheque or money order, payable to Legal Aid Manitoba, to

Legal Aid Manitoba  
402-294 Portage Avenue  
Winnipeg, Manitoba  
R3C 0B9

- You can also make your payment in person at the same address between 8:30 a.m. and 5:00 p.m. Monday to Friday.

- please do not send cash through the mail.

#### 5.     **What happens if I don't make my payments?**

- If you have a good reason, call 947-6501 and ask to speak to the Collections Clerk. Explain your situation and we may be able to postpone or cancel your payment.

- if you don't pay and you haven't made arrangements with us, your certificate will be cancelled. This means that we will not pay your lawyer from that point on and he or she will be billing you. Legal Aid will also take proceedings to collect from you the money which we end up paying to your lawyer.

- You may also be denied Legal Aid in the future.

#### 6.     **What happens if I pay more than the case actually costs?**

- We will refund the difference to you as soon as we have received and paid your lawyer's final bill.

**7. What happens if I haven't paid enough money by the end of my case to cover my lawyer's bill?**

- You will have to continue making payments until the amount is paid in full.
- Legal Aid will take care of your lawyer's bill as soon we receive it, regardless of whether you have paid the full amount at that point.

**8. What if I don't agree with the amount Legal Aid pays my lawyer?**

- In most cases you will be required to pay that amount because Legal Aid is also required to pay certain fees depending upon the type of case. We emphasize that in nearly all cases the amount Legal Aid pays will be quite a bit less than you would pay if you hired a lawyer privately.
- Sometimes a lawyer will ask Legal Aid to pay more than the usual amount because a case was unusually difficult or took a lot of time to finish. In those cases, Legal Aid may agree to pay more but if we do so we will send to you a copy of the bill and the extra amount we intend to pay so that you can tell us if you disagree. We will then reconsider the bill based on what you tell us.

**9. What if my financial circumstances change?**

If your income or assets change during your case, please let us know or ask your lawyer to let us know. If your family income goes down we might be able to provide free legal aid from that point on. If your income goes up, you may no longer be eligible for legal aid.

**10. What if I want to change lawyers?**

- If you have a good reason, you can do so, but it will almost certainly cost you more money.
- Legal Aid pays a lawyer a "block fee" in all criminal and in many family cases. This means a lawyer receives a set amount for handling, for example, a divorce case. If there is a change of lawyers in the middle of a case, each lawyer involved is entitled to bill Legal Aid for that set amount. Under an Agreement to Pay, then, you would have to pay an amount equal to both bills.

**AGREEMENT TO PAY**

In consideration of my being granted Legal Aid, I agree to pay to the Legal Aid Services Society of Manitoba the sum of ^F1 ^ on the ^F2 ^ of ^F3 ^ and the ^F2^ of each and every month following until my case is paid for in full, and I hereby acknowledge receipt of and agree to the terms and contents of the Information Sheet provided to me.

**July 1989**

TO: LEGAL AID PANEL

FROM: ALLAN FINEBLIT  
EXECUTIVE DIRECTOR

RE: APPOINTMENTS UNDER SECTION 11 OF THE YOUNG OFFENDERS ACT      DATE: JULY 1989

Section 11 of the Young Offenders Act provides that where a young person wishes counsel and has been found ineligible for legal aid, a youth court judge may order the Attorney-General to appoint counsel on behalf of that young person. Legal Aid has been the agency that provided counsel to those young persons on behalf of the Attorney-General.

These appointments normally occur either in cases where the charges are relatively minor and do not fall within normal Legal Aid coverage or where the parents' financial circumstances are such as to disentitle the youth to legal aid. The number of these Section 11 appointments has grown. In particular we have become concerned about parents who, being aware of the Section 11 possibility, have declined to retain counsel privately even though they would be willing and able to do so. In our view this is unfair to lawyers who are being asked to work at a substantially reduced rate by people who are able to pay a normal legal fee. Of course it is also a needless expense to Legal Aid.

In response to this, our Board of Directors has decided to make a change in the way Section 11 appointments will be handled. Effective immediately all Section 11 appointments once ordered by the Youth Court judge, will be made by the Legal Aid Area Director. Counsel appointed may not be the one chosen by the young person.

If a Section 11 appointment is made, only the counsel appointed by the Area Director will be paid by Legal Aid. Counsel may wish to consider whether or not they wish to go on the record, until they are assured of this appointment.

This change applies only to young persons who are not eligible for legal aid.

AF/cm



**August 1990**

NOTICE TO THE PROFESSION

Legal Aid periodically issues notices to the profession updating policy procedure and personnel changes. This is another in that exciting series. Specific inquiries about the contents can be directed to Allan Fineblit at 985-8508 or your local Legal Aid office. More detailed information is contained in the Legal Aid Act and Regulations (available from the Queen's Printer). The Tariff of Fees is a schedule to the Regulations.

(Please note that this Notice is 2-sided).

INDEX

1. The G.S.T. and Legal Aid
2. Personnel Changes
3. New Phones
4. New Guidelines\*
5. Warrants\*
6. Changes of Counsel
7. Raising the Tariff
8. Billing Tips
9. Emergencies
10. Young Offenders
11. Amendments to Legal Aid Certificates
12. Timeliness
13. Supplementary Payment Changes\*
14. Legal Aid Panels
15. Authorizations: From Who and For What
16. New Board

\* Indicates important policy changes you should take notice of.

1. THE G.S.T. AND LEGAL AID

If you are confused about the proposed Goods and Services Tax and its impact on your Legal Aid practise, don't feel badly. Recently most lawyers in the Province received a brochure from the Federal Finance Minister titled, "Information for Professionals". The information in that brochure about Legal Aid and the G.S.T. is wrong.

As a result of lobbying by the Canadian Bar Association and by Legal Aid Plans across Canada, the G.S.T. Act was amended before it was passed by the House of Commons. Legal Aid services are no longer exempt. This means you bill Legal Aid in exactly the same way as you do your private clients. For G.S.T. purposes, Legal Aid files will be no different than private ones. (A further information package containing more detail explanation about G.S.T. billings to Legal Aid will be circulated in the fall.)

2. SOME PERSONNEL CHANGES

Area Directors are responsible for assessing eligibility for Legal Aid in their areas. Jim Parrott has been appointed Area Director for Northern Manitoba replacing Lorne Giesbrecht who has moved to Brandon to become the Westman Area Director.

3. NEW PHONES

Many of the phone numbers at Legal Aid's Winnipeg Offices and our Brandon Office have recently been changed. We now have direct numbers you can dial. The following is a list of some of the new phone numbers you will want to know about (if you lose this list, they are also included in the new telephone directory).

Administrative Office Central Switchboard	985-8500
TRACING APPLICATIONS	985-8506
Executive Director (Allan Fineblit)	985-8508
Deputy Director (Ronn Klassen)	985-8510
Legal Director (Bill Dunn)	985-8507
Winnipeg Area Director (Bill Merrett)	985-8509
Legal Accounts (Caryl UnRuh)	985-8516
Legal Accounts (Maureen Pearson)	985-8523
Legal Accounts (James Ramsay)	985-8517
Intake Worker (Valerie West)	985-8511
Intake Worker (Lorraine Braden)	985-8513
Intake Worker (Lorrie Makar)	985-8514
Intake Worker (Mavis Condon)	985-8512
Intake Worker (Lynn Loreth)	985-8530
Intake Worker (Vicky Colosimo)	985-8515

Broadway Office Central Switchboard	985-8570
Main Street Central Switchboard	985-8550
Youth Office Central Switchboard	985-8570
Brandon Office Central Switchboard	729-3484
Administrative Office Fax Number	944-8582
The Pas Office Fax Number	623-7501
Thompson Office Fax Number	778-5902

#### 4. NEW GUIDELINES

Legal Aid adjusts its guidelines annually based on Statistics Canada poverty levels. Because of our difficult financial circumstances, we froze our guidelines and have not increased them since October 1988. Effective July 1, 1990, our guidelines are being increased but only to the July 1989 Statistics Canada poverty levels. Our new guidelines are as follows:

Family Size	Fully Eligible	Partial Contribution	Full Contribution
1	\$12,000	\$14,000	\$213500
2	16,000	18,000	25,000
3	21,500	23,500	29,000
4	25,000	27,000	31,500
5	29,000	31,000	35,000
6	31,500	33,500	38,000
7	35,000	37,000	41,000

Please keep in mind that these are guidelines only and they are based on gross income (before deductions). Legal Aid looks at an applicant's full financial picture including their debts, expenses and assets in determining eligibility.

#### 5. WARRANTS

Here's the problem. A person is charged with a criminal offence and at some point fails to come to court. A warrant issues. Some lawyers have the practice of billing their file immediately (even if it appears likely that the client will reappear in short order). When the client reappears we receive a new legal aid application. Because of the block fee tariff this would result in double the cost to Legal Aid.

We have tried to discourage this practice by refusing to issue a new certificate. Instead we issue a duplicate reporting form and have been paying only for additional services. It has proved to be difficult for lawyers to differentiate work done on the block fee and is inconsistent with the concept of a block fee tariff.

As of August 1, we will discontinue that practice. Instead when a warrant issues we will not accept a bill for a period of three months. If after three months the client does not reappear, the file can be billed out. If your client does reappear within the three months, you should continue with your existing certificate and if circumstances warrant you can ask for a tariff increase (see Section 7).

#### 6. CHANGES OF COUNSEL

If a client changes counsel it costs us money. Usually it doubles the cost because both counsel bill the full block fee. For that reason Legal Aid will not approve a change of counsel unless there is a good reason. It is probably good practice to wait for Legal Aid's response before taking any action on a request to change counsel, as there is a good chance the request will be turned down.

#### 7. RAISING THE TARIFF

The block fee tariff is based on averages. There will be files where you put in more hours than the block fee contemplates. On some files you will put in less. It should average out. It is expected however that circumstances may arise where a block fee is inappropriate. The tariff deals with this in two ways.

If you put less than three hours into a file, the block fee does not apply. Even if you put in more than three hours we may reduce the block fee (see Note 5b of the Tariff) if it seems grossly inappropriate.

More frequently we are asked to increase the tariff. Note 5(a) of the tariff provides that "in extremely unusual circumstances" the block fee can be increased. Decisions are based on two factors; How much time you put in and why the case was unusual. Factors like aggravation, a difficult client, a feisty lawyer on the other side or the degree of success (unless they relate to the time put in to the file) are not usually relevant. Please keep in mind that the block fee is based on averages and this process is intended only for cases where the tariff is grossly inadequate.

#### 8. BILLING TIPS

- In domestic and civil matters we can't process your account without copies of any orders that have been obtained. We encourage you to send us copies of the orders and judgments (including divorce judgments) as soon as possible if costs have been awarded since it helps us to try and collect those costs.

- You don't have to pay filing fees in the Court of Queen's Bench on Legal Aid matters. You don't have to pay for service through the Sheriff's Office on Legal Aid matters. If for some reason you do pay send us the original receipt with your bill and we can collect the money back

from the Court or the Sheriff's Office. We cannot collect back the Central Divorce Registry (C.D.R.) portion of the filing fee unless we have the C.D.R. number. If you pay a filing fee which includes a C.D.R. fee, send the original receipt and the C.D.R. number. The C.D.R. number can be obtained by writing to the Court of Queen's Bench.

- The tariff defines "contested" matters as those which are contested at the trial of the matter. If a hotly contested matter ends up in an uncontested hearing, it should be billed as an uncontested matter although you may want to ask for an increase in the tariff (see Section 7)

- The tariff defines "interim proceedings" as those initiated by a Notice of Motion and Affidavit and which result in a hearing. Interim applications which do not proceed to hearing or which are not commenced by a Notice of Motion and Affidavit, should not be billed under that tariff item.

- Legal Aid will not pay for what are traditionally seen as operating costs. The most common charge that is erroneously billed is for "faxing". The only charge like this which Legal Aid does pay for is in-office photocopying and postage. We also pay long distance cost relating to faxed messages.

#### 9. EMERGENCIES

In emergency situations please call the Area Director. Legal Aid can provide telephone authorization for urgent matters and if you need to file documents, we can provide you with a Legal Aid certificate number to enable you to use a fee voucher.

#### 10. YOUNG OFFENDERS

Section 11 of the Young Offenders Act provides that where a young person wishes counsel and has been found ineligible for legal aid, a youth court Judge may order the Attorney-General to appoint counsel on behalf of that young person. Legal Aid is the agency that provided counsel to those young persons on behalf of the Attorney-General. Some parents, being aware of the Section 11 possibility, have declined to retain counsel privately even though they could easily afford to. In our view this is unfair to lawyers who are being asked to work at a substantially reduced rate by people who are able to pay a normal legal fee. Since July 1989, once a Section 11 order is made, Legal Aid Area Directors select which counsel to appoint. Counsel appointed may not be the one chosen by the young person. Hopefully this will serve to encourage parents who are able to pay counsel privately to do so.

#### 11. AMENDMENTS

Since the introduction of the block fee tariff in October 1987, we have been issuing more amendments in criminal matters. I want to try and clarify our policy regarding these.

The purpose of an amendment is to prevent duplication in billing. Before October 1987, lawyers were required to submit itemized bills. This enabled us to tell if matters were dealt with together. For example if client Jones is charged with a break and enter and a legal aid certificate issues, and one month later she is charged with another, it is likely that both will be dealt with together.

The tariff says that no block fee applies and Jones' lawyer will only be paid for the additional work on the second charge. If we issue a new certificate for the second charge, we have no way of knowing if the charges are dealt with together or separately.

In practise then here's what to expect. If new charges arise before old ones are billed out, Legal Aid will issue an amendment in most cases, even if it appears likely that the charges will be dealt with separately.

If the charges are dealt with separately, two separate block fees can be billed (unless the certificate specifically says otherwise). If the charges are dealt with together, you can only bill for one block fee plus any additional, non-duplicated services on the additional charges (up to the block fee maximum). These additional services should be itemized.

One thing to note. If some of the charges have been disposed of and it appears there will be a large time gap before the others are to be dealt with, on request, we will issue a new certificate for the outstanding charges. This permits you to bill for the work done without having to wait a long time for the others to be concluded.

## 12. TIMELINESS

From time to time we get complaints about how long it takes to make decisions. Usually this relates to payment of bills.

Try and keep in mind that we have the same size staff now as we had in 1980. In 1980 we taxed and paid under 7000 accounts. Last year we taxed and paid over 18,000. In 1980 we processed just over 14,000 applications for legal aid and last year we processed over 33,300 applications for legal aid. I guess the point is: try and bear with us; we are doing the best we can.

First priority is given to the processing of applications. All applications are ordinarily processed within two to four working days provided the application is properly completed. (Criminal and urgent civil applications are processed fastest) Use the application form as a guide and fill in all appropriate sections. Attach all the supporting material (pay stubs, opinions, etc.) the application asks for. Don't leave sections blank. If a client has no money in the bank, put in a zero, Prior record, birth date, postal code, details of the offense and opinions in civil matters are all frequently omitted. A properly completed legal aid application ensures timely processing and a quick decision.

Second priority is given to applications that have been refused and are appealed to the Executive Director. They are usually processed within two to four working days. Applications or appeals that have been refused by the Executive Director and are being appealed to the Legal Aid Board of Directors are given third priority. It should be noted however that the Board only meets once a month so it can take a while for a Board decision.

Taxing of bills is the next priority. Currently it takes four to six weeks to tax and pay a bill. We are working on reducing that period to four weeks by the end of the year. The next priority is given to requests to increase the tariff and lowest priority is given to bills that have been taxed and are appealed to our Board. These can take up to three months to deal with.

### 13. SUPPLEMENTARY PAYMENT CHANGES

Effective August 1st, Legal Aid will no longer pay supplementary accounts for less than \$10.00. This arises most often when a lawyer neglects to bill for a small disbursement until sometime after the account is closed. Because it costs us between \$5.00 and \$10.00 to process each account, we are no longer able to pay these small amounts. Because these accounts slow down payment of regular accounts, you will benefit to some degree from this change, because you should get paid faster on your regular accounts.

A further note: All supplementary accounts must be submitted within 30 days after the file is closed or they can't be paid regardless of the amount.

### 14. LEGAL AID PANELS

If you are receiving this notice, you are already on the Legal Aid panel. You may wish however to enroll on one of the special panels lists we have available (if you haven't done so already). Legal Aid maintains two "contingency panels". Clients who apply for legal aid with potentially fee generating matters are provided with a panel list of lawyers who will periodically take cases on a contingency or "fee out of proceeds" basis. Clients are asked to attend on a couple of those lawyers to determine if they will handle the case on that basis. One panel is for general civil cases and the other is for domestic cases. If you would like to enroll on either of those panels (or both) please write to the Executive Director.

Legal Aid also maintains a panel of lawyers who are prepared to act as child advocates. This panel is provided to the Court of Queen's Bench Judges who make the specific appointments. Once an appointment is made a legal aid certificate will issue. You can get your name on that panel by writing to Legal Aid.

### 15. AUTHORIZATIONS FROM WHOM AND FOR WHAT

Change of counsel must be authorized by your local Area Director. (See Section 6). Changes to the nature of the representation you are providing need authorization from your local Area

Director. Changes include new charges, or a change for example from a separation to a divorce. Usual disbursements such as psychiatric reports or private investigators require authorization. This authorization should be obtained from the local Area Director. Bail reviews require authorization from your local Area Director.

Ordering a medical report up to a maximum of \$50 (\$75 if the doctor is a specialist) in family and civil cases does not require prior approval. Similarly the use of a private process server, in family law cases only, for a maximum of two services, provided it is an emergency situation, does not require prior approval. In those cases counsel should certify when submitting their account that the disbursement was necessary because the situation was an emergency.

Ordering transcripts of examinations for discovery (at Legal Aid rates) from official court reporters does not require prior approval.

Counsel do not need approval to waive costs in legal aid matters in two circumstances. If the client has signed an Agreement to Pay, Direction to Pay or Charge on Land, and agrees to the waiver of costs or where counsel is satisfied the respondent has no means to pay costs (having no assets and being unemployed). In all other circumstances, Area Director approval is required to waive costs. Where costs are waived for one of the two reasons set out above, counsel should set out that reason in their closing report to Legal Aid.

16. NEW BOARD

The Board of Directors sets policy for Legal Aid. The members of the Board are:

Jane Evans (Chair)  
 Daryl Diamond (Vice-Chair)  
 Learie Peters  
 Roger Kane  
 Emily Crewsori  
 Randy McNicol  
 Aaron Berg  
 Perry Schulman  
 Bert Dacquay  
 Heather Pullan  
 Geordie Little  
 Norm Yusim

PLEASE NOTE THAT POLICY CHANGES WERE DISCUSSED IN ADVANCE WITH THE BAR ASSOCIATION LEGAL AID LIAISON COMMITTEE AND THE LAW SOCIETY LEGAL AID LIAISON COMMITTEE. THE ASSISTANCE AND ADVICE OF THESE COMMITTEES IS APPRECIATED.



**November 15, 1990**

**NOTICE TO THE PROFESSION**

**RE: TRANSCRIPTS**

It will no longer be necessary to pay for transcripts on legally aided matters, Instead payment can be made by using a Legal Aid fee voucher of the type currently being used to file documents in the Court of Queen's Bench or for service through the Sheriff's office.

This change is effective immediately. If you require a supply of fee vouchers, please contact your local area office or Cynthia Keller at the address and number listed below.

Allan Fineblit  
Executive Director

**December 1990**

MEMORANDUM TO THE PROFESSION

Legal Aid and the G.S.T.

The purpose of this memorandum is to clarify how the G.S.T. will affect your legal aid billings. The short answer is: not at all.

We are very pleased to advise you that Legal Aid Manitoba has succeeded in obtaining a favourable ruling from Revenue Canada with regard to our status. Revenue Canada has ruled that we will be treated "as government". What this means is that in effect we are a zero-rated service. We think this is the best possible result from your point of view.

It will not be necessary to bill us for the G.S.T. or to remit the G.S.T. to Revenue Canada with respect to fees in Legal Aid matters. Because services to Legal Aid Manitoba are in effect a zero-rated supply, you will be entitled to FULL INPUT TAX CREDITS.

What this in effect means is that you will receive full credit for all the G.S.T. costs of your practise, but will not be put to the trouble of billing Legal Aid for the G.S.T. or remitting it to Revenue Canada on Legal Aid files.

The only slight variation is with respect to disbursements. You will have to pay the G.S.T. on disbursements. You can then claim an input tax credit for the G.S.T. paid. Legal Aid should be billed only for the cost of the disbursement itself (not the G.S.T.).

Here is an example,

You bill Legal Aid \$400 for legal fees. In addition you ordered a medical report for which you were billed \$100 plus \$7.00 for the G.S.T. Pay the Doctor \$107. Claim a \$7.00 input tax credit and bill Legal Aid \$400 for fees and \$100 for disbursements.

Please note that Revenue Canada has published and distributed a number of brochures on the application of the G.S.T. to Legal Aid. Regrettably those brochures contain inaccurate information as it relates to Legal Aid Manitoba and should be disregarded.

If you have any questions about Legal Aid and the G.S.T. please call me.

Allan Fineblit  
Executive Director

**April 1991**

NOTICE TO THE PROFESSION

Legal Aid is a bureaucracy. We have to be in order to provide service to over 70,000 people a year. It can be frustrating dealing with a bureaucracy because we have so many policies and procedures that it's impossible to keep up on all of them. The purpose of this notice is to update you on some policy and procedure changes or to clarify some policies which have generated some confusion.

Specific inquiries about the contents can be directed to Allan Fineblit, at 985-8508 or your local Legal Aid office. More detailed information is contained in the Legal Aid Act and Regulations and the Tariff of Fees which is a schedule to those Regulations.

Please note that this is a two-sided notice.

INDEX

	Page
1. Tariff	2
2. Directions to Pay	2
3. Amendments	2
4. G.S.T.	3
5. Changes of Counsel	3
6. Information	4
7. Travel Time and Expenses	4
8. Financial Eligibility Guidelines	4
9. Warrants	5
10. Supplementary Payments	5
11. Raising the Tariff	5
12. Appeals	5
13. Court Reporters	6

1. Tariff

The Minister of Justice has announced a tariff reduction effective February 5, 1991. You should know that the Legal Aid Board does not support this reduction and has in fact been seeking a general tariff increase. Because the tariff is established by Regulation, amendments to it are within the control of the Lieutenant Governor in Council.

The reduction will apply to matters for which the Legal Aid application was completed on or after February 5, 1991. (The application date is noted on the top right hand corner of the Legal Aid Certificate).

The reduction applies to only part II Section IC of the Tariff dealing with guilty pleas, stays of proceedings, warrants and withdrawal of counsel. For less serious charges (category C offences) the tariff amount we pay is reduced from \$250 to \$200.

No other section of the tariff was affected by the change.

2. DIRECTIONS TO PAY

When it appeared that a client might recover some money on a legal aid file, we were in the practise of asking you to get your client to sign a form called a "Direction to Pay", directing you to pay any money recovered back to us to cover our costs.

This always was a duplication, since the Legal Aid Act (Section 17) requires any money recovered to be turned over to Legal Aid on account of our fees and disbursements. In an attempt to eliminate unnecessary paper work, we will no longer be sending out Directions to Pay. Section 17 of the Legal Aid Act will still apply and your clients will still be required to turn over any money recovered to us on account of our fees and disbursements.

3. AMENDMENTS

Our policy regarding amending Legal Aid certificates changed when we moved to a block fee tariff in October 1987. Part I, Section 9 of the block fee tariff says that where matters are dealt with together, you are only entitled to one block fee in an additional amount only for separate and distinct work on any other matters. In order to apply this section, we changed our amendment procedure. This has been unpopular and confusing. Some of the unpopularity arises from the confusion. This section is intended to clarify how the amendment policy is supposed to work.

It most often arises in criminal cases. An accused has a legal aid certificate on one charge and a new charge comes up before the first is dealt with. Instead of issuing a new certificate, we issue an amendment. The two charges are dealt with together and the lawyer bills the block fee

on the first matter and itemizes any additional services on the second, (e.g. a second bail application).

That's how it's supposed to work. Here are some of the problems you have complained about. What if the matters are not dealt with together? In that case you get two block fees.

What if one matter is dealt with and the second is set for trial months from now. Can you bill the first matter? The tariff only allows interim bills for disbursements. If however the second matter is set for trial more than two months after the first has been disposed of, we will allow you to bill the first matter and will issue a new certificate for the second.

What if you know from the outset that the matters will be dealt with separately? Will we issue separate certificates? No. Our experience is that no matter how it looks at the outset, the vast majority of matters end up being dealt with together. Do amendments cost you money? Not really. You are paid exactly the same amount whether you have an amendment or a separate certificate. If you had a separate certificate, part I, Section 9 would apply and you would be paid in exactly the same way.

Amendments can be very confusing especially if you have a client who keeps getting reinvolved! This is true. Remember, no matter how many charges, the basic rule is always the same: if matters are dealt with separately, bill separate block fees. If they are dealt with together bill one block fee and itemize the separate work on each new matter.

#### 4. GST

Legal Aid is treated as government for GST purposes. These means that we are in effect zero rated and should not be billed for GST on fees or disbursements. Our GST Registration # is R107863847.

Note. Some lawyers are still including the GST in bills to us for long distance phone charges and courier costs. The GST portion should be claimed by you as an input tax credit and should not be billed to us.

#### 5. CHANGES OF COUNSEL

From time to time clients want to change counsel. While clients have the right to choose counsel in the first instance, once a lawyer is in place, we will rarely allow them to change. The reason is cost. A block fee tariff means that changes of counsel usually doubles the cost of a case. If a client wants to change counsel, you should make it clear to them that Legal Aid will, in all likelihood, not appoint a new lawyer for them.

#### 6. INFORMATION

Some of you are forgetting to provide the following information on Legal Aid applications:

- opinions as to merit in civil and domestic matters;
- detailed prior record in criminal matters (including dates and dispositions);  
     details of the allegations against your client;
- and birthdates

7. TRAVEL TIME AND-EXPENSES

If there are lawyers available in a community, Legal Aid will generally not pay another lawyer to travel to that community. (We will issue a legal aid certificate, but will not pay travel time or expenses). There are exceptions. For very serious matters we will pay travel time and expenses to any lawyer an applicant chooses.

Where an applicant resides in a place different from where the matter is to be heard, and cannot easily instruct counsel in the other community, an Area Director may authorize travel time and/or expenses.

There may be other circumstances where an Area Director in their discretion may authorize travel time and/or expenses on specific files. Where travel time or expenses are authorized, it will be shown on the face of the certificate.

Travel time and expenses will usually be authorized where there is no lawyer available in the community where the matter is to be heard.

8. FINANCIAL ELIGIBILITY GUIDELINES

The current financial eligibility guidelines are as follows:

Family Size	Fully Eligible (Gross Income)	Partial Contribution (Gross)	Full Contribution (Gross)
1	\$12,000	\$14,000	\$21,500
2	16,000	18,000	25,000
3	21,500	23,500	29,000
4	25,000	27,000	31,500
5	29,000	31,000	35,000
6	31,500	33,500	38,000
7	35,000	37,000	41,000

9. WARRANTS

Where an accused in a Legal Aid matter fails to show up for court and a warrant issues, counsel should keep their file open for three months before sending us a bill. If the accused is not in contact with counsel during that period, counsel can close their file and bill Legal Aid. If the accused is subsequently arrested, a new Legal Aid certificate will issue.

10. SUPPLEMENTARY PAYMENTS

Sometimes after a file is billed and paid, a lawyer discovers an unbilled disbursement. Legal Aid will not pay supplementary bills under \$10.00.

All supplementary accounts must be submitted within 30 days after the file is billed or they can't be paid regardless of the amount.

11. RAISING THE TARIFF

The block fee tariff is based on averages. There will be files where you put in more hours than the block fee contemplates. Some files you will put in less. It should average out. It is expected however that circumstances may arise where a block fee is inappropriate. Note 5(a) of the tariff provides that, "in extremely unusual circumstances" the block fee can be increased.

We frequently receive requests to increase the tariff where more time has been put than the tariff allows. This is not a basis to increase the block fee tariff. Only in extremely unusual circumstances will the tariff be increased. The time put in must grossly exceed the tariff before an increase can be granted.

12. APPEALS

If you are unhappy with the way your bill was taxed, or you didn't get the tariff increase that you requested, you can appeal to our Board. The appeal should be in writing and should set out the nature of your appeal and anything you wish to rely upon. You will be notified about an appeal date.

You can choose to have your appeal dealt with on the written material alone or to have an in-person or telephone appeal hearing. Even if you are choosing to have an in-person hearing, you should provide, in advance of that hearing, the information on which you wish to rely in written form.

If you are not available on the proposed date, the matter can be put over only once. This is a change from past practise, where we allowed appeals to be put over indefinitely. If you can't make the second date, your appeal can be dealt with by someone else on your behalf, or it can be dealt with based on the written submission, but it cannot be put over more than once.

13. COURT REPORTERS

Transcripts ordered from official court reporters can now be paid for with Legal Aid Fee Vouchers.

In addition, Legal Aid has entered into an agreement with Four Seasons Reporting Services Ltd. to provide private reporting services in the City of Winnipeg. Effective immediately, all private reporting services should be arranged through Four Seasons Reporting Services Ltd., who can be reached at 91 Ashford Drive, Winnipeg, Manitoba, R2N 1K7 or by calling 256-2343. They will provide private reporting services and will bill you at a specially reduced Legal Aid rate. You should indicate that the matter is a legally aided matter, so that you can receive the reduced rate. If Four Seasons Reporting Services Ltd. is not available to provide the services at the time required, you are free to use any other service you wish and to pay their standard rates. When submitting an account for payment to a private reporting service other than Four Seasons, please confirm on your report that you first checked with Four Seasons as to their availability.

We recognize this will not be well received by some of you who have developed a working relationship with other reporting firms. It is however a substantial cost saving for Legal Aid and given the difficult economic times, we are taking all the steps we can to minimize our expenditures. Our contract with Four Seasons requires that they provide first quality service both in terms of the quality of transcripts and the timeliness with which they will be prepared. Should you encounter any difficulty with the quality of the service, please let us know.



**JUNE 1991**

MEMO TO THE PROFESSION  
POLICY MANUAL

Legal Aid is a bureaucracy. We have to be in order to deal with over 70,000 people a year in a reasonably timely and efficient way. Those of you who deal, with Legal Aid on a regular basis will know that there is a fairly large body of policy that has developed over the years regarding interpretation of the Legal Aid Act and Regulations and the tariff. It must be confusing to those who do a lot of Legal Aid work and more confusing to those who only do it periodically.

From time to time, Legal Aid sends out notices to the profession which deal with one or many policy matters. Unfortunately, these are not organized in any way and are not regularly made available to panel members. We want to try a new approach. We will begin circulating policy papers which will be numbered consecutively in the top right hand corner and have the date on which they were issued in the bottom right hand corner. You can keep these either in a file or a binder if you like. When policies are changed, we will send replacement pages. Over time, these will form a manual which you can keep as a reference. When enough of these have been issued, we will send you an index. Enclosed you will find two such policy papers dealing with changes of counsel and closing a file before it's complete.

Allan Fineblit  
Executive Director

## LEGAL AID POLICY ON CHANGES OF COUNSEL

### The Issue:

Legal Aid clients from time to time ask to change lawyers. While Legal Aid strongly supports the right of a client to choose counsel, once that choice is made, Legal Aid is reluctant to approve a change of counsel.

Changes of counsel are costly to Legal Aid because of the block fee tariff. They also take a considerable amount of administrative time and effort.

### The Policy:

Changes of counsel will only be permitted where there is a valid reason. General reasons such as "I have lost confidence in my lawyer" will not be sufficient to have Legal Aid approve a change of counsel.

While each individual lawyer must decide whether he or she can continue to represent a client who has lost confidence, the decision of the individual lawyer will not affect the decision of the Area Director. If the first lawyer chooses to withdraw, to send the file to a new lawyer, or to close their file, the Area Director may still refuse to appoint a new lawyer. This may leave the client unrepresented. A better practise might be to advise the client that Legal Aid may not approve the change and to keep your file open pending the advice of the Area Director.

Similarly, a new lawyer may not wish to get on the record without hearing from Legal Aid, since it may be that a new Legal Aid certificate will not be approved.

### How to Bill:

Where a client does change counsel, Legal Aid will require an itemized (rather than a block fee account) from both the old lawyer and the new lawyer. In those circumstances, Legal Aid will only pay for the hours worked up to the tariff maximum. In appropriate circumstances, lawyers can of course ask for an increase in the tariff maximum.

LEGAL AID POLICY ON CLOSING A FILE BEFORE IT'S COMPLETE

The Issue:

Frequently a lawyer has to give up a file before it's complete. Sometimes this is a result of an action that is not within the lawyer's control, such as clients disappearing, or an unforeseen conflict arising.

In a circumstance where a lawyer is required to give up a legal aid file due to his or her own deliberate action, there is a duplication of cost to Legal Aid Manitoba because of the block fee tariff. Some examples of this are where a lawyer decides to join a new firm and now has a conflict of interest, a lawyer decides to leave the practise before his or her work is completed, or a conflict of interest arises which should have been foreseen from the outset.

How To Bill:

In these circumstances described above, Legal Aid will require an itemized account and will pay for work done up to a maximum of the block fee provided for in the tariff. The lawyer can of course seek an increase in the block fee in appropriate circumstances.

July 1991

**DECEMBER 1991****MEMO TO THE PROFESSION  
POLICY UPDATES**

Enclosed are policy updates of importance to lawyers handling legal aid cases. In July of 1991, we began a series of policy memos and this will form the third and fourth in that series.

Ultimately this series of memos will form a Legal Aid Policy Manual for your reference. If anyone wishes copies of the first two policy memos dealing with our policy on "Changes of Counsel" and on "Closing a File Before It's Complete", can contact my secretary at the number below.

Allan Fineblit  
Executive Director

LEGAL AID POLICY ON COSTS

The Issue:

Costs are frequently awarded in legal aid cases. The Legal Aid Act provides that those costs are payable to Legal Aid. Only a portion of these costs are collected by Legal Aid.

This policy change is designed to enhance Legal aid's recovery of costs, while at the same time putting more money into the hands of the private bar.

The Policy:

Effective immediately whenever costs are awarded in a legal aid matter, counsel collecting those costs on behalf of Legal Aid will be entitled to keep 25% of any amount collected above and beyond any payment under the Legal Aid Tariff.

Note:

You are reminded that Area Director approval is not required to waive costs when the other side is on Legal Aid, on social assistance or in your opinion, unable to pay costs. Area Director approval is also not required where your client has some form of contributory arrangements such as an agreement to pay, expanded eligibility contract or charge on land.

How to Bill:

Complete your account to Legal Aid as you normally would. Add to the total amount you are billing for fees, 25% of any costs collected. Then show a credit on your account for that amount (25% of the costs collected). When you send in your account, include your cheque for the balance of the costs collected. Your account will be taxed and paid in the ordinary way.

The following illustrates how your account might look:

Fees for uncontested divorce As per tariff Item IV 4	\$380
Additional fee: 25% of costs collected (total \$400)	\$100
Disbursements: Photocopying 200 pages	<u>\$ 20</u>
Total Fees and Disbursements	\$500
Less: Transferred from trust account	(\$100)
Balance:	\$400

If you have any questions about how to bill your account relating to costs (or any other matter) contact the Legal Aid Accounts Department at 985-8500.

December 1991

## LEGAL AID

### TAXATION PRACTICES

#### The Issue:

The volume of bills requiring taxation and payment at Legal Aid has tripled in the past 10 years and as a result we are not meeting our target of a maximum turnaround time of 30 days. We are making some changes to our legal accounts procedures to improve turnaround time.

#### The Changes:

Routine accounts will receive a less thorough review. We are satisfied that the Legal Aid bar bills (no pun intended) are prepared honestly and carefully. In order to be able to demonstrate to our funders that proper safeguards are in place, we will introduce spot audits of some accounts. The audits will be both random and targeted at specific problem areas. These audits will be a much more thorough review than the usual taxation process and may include ordering transcripts, reviewing court pockets and interviews with clients.

In order to be able to rely on a less thorough review of most accounts, any abuse uncovered by our auditor will be treated seriously. While we don't expect to find any, appropriate cases would be referred to the Law Society or the criminal authorities.

#### Note:

One area that will be the subject of targeted audits are "contested" matters. The tariff defines "contested" as "contested at the trial of the matter". Hotly contested matters which ultimately are settled before trial should not be billed as contested. You may however wish to request an increase in the uncontested tariff for such matters.

**March 1992**

**MEMO TO THE LEGAL AID PANEL**

**LEGAL AID TARIFF**

You probably have already heard the bad news about the Legal Aid tariff, Legal Aid has been advised that the Lieutenant-Governor in Council passed an amendment to the Regulations under the Legal Aid Act which reduces the criminal legal: aid tariff. No changes have been made to the civil or domestic tariffs,

I am advised that the changes were made in order to save money. Legal Aid gets, by statute, 50% of the revenue of the Manitoba Law Foundation. Because of declining interest rates, Legal Aid's grant from the Foundation will be down \$800,000 for the 1992/93 fiscal year. The Province has agreed to make up that shortfall, but in order to reduce the cost of doing this, they have made changes to the Legal Aid tariff.

The Board of Directors of Legal Aid strongly opposed the tariff reduction. The Provincial government was adamant that unless a better alternative could be provided, the tariff reduction would go ahead.

Our Board met with representatives of the Bar Association and the Law Society Legal Aid Liaison Committee. We were unable to come up with acceptable alternatives that would save the kind of money that was being asked of us.

Our Board has written to the Minister of Justice asking that if these tariff reductions do take place, it be understood that should the economy improve or should revenue from the Manitoba Law Foundation increase, it would be our expectation that the government would put that money into restoring the tariff cuts.

The amendments to the tariff apply to certificates for which the Legal Aid applications are dated April 1, 1992 or later. The application date is printed on the top right hand corner of the legal aid certificate.

The tariff cuts are as follows:

1. Category C - guilty pleas, stays of proceedings, issuance of a warrant,, or withdrawal of counsel before a hearing,, has been reduced from \$200 to \$150.
2. Category B - guilty pleas,, stays of proceedings, issuance of a warrant, or withdrawal of counsel before a hearing, has been reduced from \$450 to \$350.

3. Category A - guilty pleas, stays of proceedings or issuance of a warrant, or withdrawal of counsel before a hearing has been reduced from \$650 to \$500.
4. Preliminary hearings or transfer hearing,, first half-day hearing rate has been reduced from \$350 to \$300 for Category C matters.
5. The rate for the first half day of trial has been reduced from \$600 to \$450 for Category C matters and from \$900 to \$750 for Category B matters.
6. The half-day rate for trials or preliminary hearings (all categories) has been reduced after the third day of trial or preliminary hearing, by \$ 50 per half day.

It is estimated that the effect of these tariff reductions will be to save \$255,000 next year and \$510,000 in every year thereafter. It is our estimate that this will result in a ten to 15 percent reduction in the amount that a lawyer who has a criminal law practice will receive from Legal Aid. This is obviously a very difficult blow to those of you who practice criminal law and we will continue to work with your representatives toward the goal of a fair Legal Aid tariff.



**April 10, 1992**

CHAIRMAN OF THE BOARD OF DIRECTORS

April 10, 1992

Dear Legal Aid Panel Member:

You will recently have received from our Executive Director a letter outlining cuts to the criminal legal aid tariff effective April 1, 1992. Those reductions, as you probably know, were made on the initiative of the provincial government to cover shortfalls projected as a result of significant decreases in the funds provided to Legal Aid Manitoba from the Manitoba Law Foundation. As a result of these reductions, some lawyers among you have withdrawn and others are considering some form of withdrawal of service from Legal Aid Manitoba.

The Board of Directors is very concerned with respect to the short term and long term effects of any significant withdrawal of services by the private bar. Ultimately, any such withdrawal will hurt mostly the legal aid clients, the majority of whom are at or below the poverty line and who have no choice but to seek assistance through Legal Aid. We are concerned also that a withdrawal of service may prompt a move by the government towards a staff delivery system, with far reaching long term effects including elimination of freedom of choice of counsel. There have been some who have suggested that withdrawal of service is the only option. The purpose of this letter is to suggest to you that there may be other options to explore which might alleviate the situation.

The Board of Directors of Legal Aid Manitoba does not support any reduction in the Legal Aid Tariff. The reality is, however, that in spite of an increase this year in the funding from the government, we project that revenues will still not be sufficient to cover the expenses of Legal Aid. The government has implemented the tariff reductions to meet the projected deficit. Our challenge is to find other ways of decreasing expenses or increasing revenues to alleviate the shortfall.

Some alternatives we are pursuing may produce benefits over the long term. For example, the Province might seek federal funding through the Department of Indian Affairs in respect of legal aid services provided to some aboriginal clients. Another idea is to negotiate an amendment in the cost sharing formula between the Federal government and the Province in respect of criminal legal aid. In addition we are looking at various ways in which Legal Aid might provide certain services in a more cost efficient way. Unfortunately, none of these alternatives can be put in place in time to show results for the current fiscal year.

In the short term, various options are being considered:

1. To help offset the effect of the tariff reductions, the Board is reconsidering the proposal to allow a "stand-by fee" or some other kind of extra billing for certain kinds of legal aid cases. Provided that appropriate safeguards are put in place to protect the legal aid clients, this may allow more

money to the private bar without cost to the government. The Board has asked the Executive Director to consult with representatives of the Bar and of government to explore this idea further.

2. In the past, instead of a tariff reduction, a holdback has been taken from fees otherwise payable on legal aid cases. The holdback is retained until it is determined whether or not there are sufficient revenues to allow that holdback portion then to be paid. If not, the holdback is retained. one advantage of this option is that if revenues turn out to be better than expected, the Bar does not suffer any reduction in payments for Legal Aid. The other is that with a holdback, the tariff remains as it was and unless a holdback is imposed next year, payments to the Bar would continue in accordance with the tariff. This is particularly important if some of our long term initiatives come to fruition.
3. One way of reducing the cost of legal aid cases might be to eliminate increases in fees beyond the block fee tariff, currently available at the discretion of Legal Aid.
4. In some other jurisdictions such as Ontario, a charge is levied against all members of the Bar to support Legal Aid. The levy against each lawyer needed to cover the shortfall projected for this year is \$150.00, and \$300.00 for each year thereafter, until other initiatives eliminate the need for such levy. The contribution could be in cash or in kind, ie. by each lawyer offering to do one legal aid case for free. While we understand that for various reasons some elements of the Bar strongly oppose any suggestion of a levy, it is one possible short term solution.

Any of options 1 through 3 might be applied to one portion of the tariff only, or to all types of legal aid work. If no one option is in itself appropriate to address the situation, perhaps some combination of these, or other proposals, would do so.

None of these options have been approved by the Provincial government or by any official representatives of the Manitoba bar. We offer them to you only as some suggestions which are currently being considered as alternatives to the reduction of the criminal tariff, or as ways of addressing the negative impact to the Bar of such a reduction. We would like to see a solution which would allow Legal Aid Manitoba to continue in its present form. If you have other suggestions, the Board would certainly be interested to hear them.

Apparently, some of you feel that there is nothing to lose by withdrawal of service, and that somehow the imposition of a staff lawyer model is inevitable. We certainly do not have any special knowledge of the government's plans. We think it unlikely, however, that there is any long term strategy for Legal Aid Manitoba. Rather, it appears that the possibility of moving to a staff lawyer system has been considered as one means of saving significant amounts of money. (Studies done several years ago have indicated that the average cost per case is less if done by a staff member than by the private bar. Although subsequent tariff reductions result in less of a differential today, it remains a consideration currently.) If other ways can be found to reduce the government revenues required to support Legal Aid, the perceived need to move to a staff lawyer system is eliminated.

If, on the other hand, the Bar were to withdraw service for legal aid cases, recent reports in the media confirm that the immediate response of the government may be to implement a staff lawyer model.

The Board of Legal Aid is committed to preserving freedom of choice of counsel wherever possible. We are prepared to explore any avenue which reasonably might bring about a resolution which will preserve the system which we have. We would urge you to work with us towards that goal.

Should any of you have recommendations as to other options which we might pursue, please contact myself or our Executive Director, Allan Fineblit, through the Legal Aid office.

Sincerely,

**S. JANE EVANS**  
Chair  
Board of Directors

**May 8, 1992**

**NOTICE TO THE PROFESSION**

As a result of discussions between representatives of the Defense Lawyers' Association and the Minister of Justice, Cabinet has approved elimination of the tariff reduction announced earlier. The Legal Aid Board has agreed to replace the reduction with a holdback.

The holdback will apply to all criminal cases with applications dated May 18 or later. Unfortunately, the Regulations which permit a holdback, say that it cannot be applied retroactively and cannot come into effect until ten days after mailing the notice to the profession.

The reduced tariff will apply to all cases with applications dated between April 1, 1992 and May 17, 1992. It's a bit confusing, but it's the best we could do.

The holdback will be 12% and only applies to criminal files. The holdback does not apply to disbursements, A sample bill might read: Guilty Plea Category C, \$200 less 12%: \$176.

If money is available in the Legal Aid fund at the end of the fiscal year (March 31, 1993) the holdback will be repaid on a pro rata basis,

If you need help figuring this out, contact our Legal Accounts Department (or me) at the number below.

Allan Fineblit  
Executive Director

**JULY 1992**

**MEMO TO THE PROFESSION**

**PRACTICE UPDATES**

Enclosed are two practice updates to lawyers handling legal aid cases. In July 1991 we began a series of Practice policy memos and this will form the fifth and sixth in that series,

Ultimately this series of memos will form a legal aid policy manual for your reference. If anyone wishes copies of the first four memos dealing with our policies on changes of counsel, on closing a file before it's complete, on costs and on spot audits, please contact my secretary at the number below,

Allan Fineblit  
Executive Director

**LEGAL AID****TRANSCRIPT BILLINGS****The Issue:**

Legal Aid has a contract with Four Seasons Reporting Services to provide reduced rate transcripts on legal aid matters for the Winnipeg area. Lawyers in the Winnipeg area working on a legal aid file who require the use of a reporter should contact Four Seasons first to determine if they are available on the proposed date. If they are available, lawyers are required to use them.

Some lawyers have not been able to pay Four Seasons promptly because of delays in Legal Aid's payment of accounts.

**The Change:**

Beginning immediately, invoices will be sent by Four Seasons to the lawyer who will certify the accuracy of the account and return it to Four Seasons. Four Seasons will submit the account directly to Legal Aid and be paid by Legal Aid.

## LEGAL AID

### FAST TRACK ACCOUNTS

#### The Issue:

The volume of bills coming into Legal Aid has tripled in the last ten years and we have no additional staff to handle that volume, As a result, it takes too long to pay the lawyer's bills and many lawyers are experiencing cash flow problems as a result of this.

#### The Changes:

Lawyers are now offered the option of sending in "Fast Track" accounts. These accounts when received will not be taxed, They will be paid as billed immediately after being received. Ten percent (10%) of fast track accounts will be audited and the remainder will be paid promptly without any check or review whatsoever. At this time, only a limited number of accounts are available for fast tracking, but suggestions would be appreciated as to what other types of accounts would be appropriate for this process.

#### Note:

Fast tracking relies on the integrity and attention to accuracy of the lawyers using it. We are confident based on our experience that we can rely on the integrity of the lawyers on our panel. Some lawyers are inattentive to proper billing requirements because they rely on the Legal Aid taxing process to spot errors. Fast tracking can only be available to those who bill carefully because 90% of the bills will not be taxed. A lawyer who bills inaccurately (identified through the audit) will have to submit future bills in the ordinary way.

#### Which Accounts:

Currently, fast tracking will only be available for three types of accounts. It is our hope to expand it significantly as we get some experience with it.

1. Criminal accounts - all Category B and C guilty pleas, stays of proceedings, warrants, and withdrawals where the disbursements are \$5,00 or less can be billed as a fast track account. Fast tracking can't be used for accounts where separate block fees are being billed on one certificate, or where an itemized account is required.

Note also that criminal fast tracking only applies to new certificates where the application was dated after May 18, 1992 (look at the top right hand corner of the certificate for the application date).

2. Domestic accounts - all uncontested proceedings where there are no interim orders being billed and where disbursements do not exceed \$20 can be billed as a fast track account for domestic matters. Fast tracking can be used for accounts where the application was dated after October 1, 1987 (look at the top right hand corner of the certificate for the application date).
3. Interim disbursements - bills for interim disbursements which exceed \$50 but do not exceed \$500 can be billed as a fast track account if they are for photocopying, postage, long distance, courier, pre-approved medical reports or blood tests. A fast track interim disbursement accounts cannot be used for filing fees or service of documents (you should be using a Legal Aid fee voucher for these whenever possible) or transcripts not ordered through Four Seasons Reporting,

How To Bill:

Attached to this notice is a fast track billing form. Please make as many copies as you think you will need. Complete the fast track billing form and send it in together with your completed Form 6 reporting form. If you have to make alterations to the form, then it is probably not a fast track account and should be billed in the ordinary way. Only accounts using this form will be fast tracked.



**LEGAL AID MANITOBA**

<b>DOMESTIC FAST TRACK</b>		Certificate #
- WAS THE APPLICATION DATED OCTOBER 1, 1987 OR LATER?		Your File #
<b>IF NOT, DO NOT USE THIS FORM.</b>		Client
- DO DISBURSEMENTS EXCEED \$20.00?		
<b>IF YES, DO NOT USE THIS FORM.</b>		
<b>FEES</b>	<b>UNCONTESTED PROCEEDING [ ]</b>	<b>\$ 380.00</b>
DISBURSEMENTS	Photocopying      Pages at \$.10/pg	\$
(Remember, No G.S.T.)	Long Distance (No. G.S.T.)	\$
	Postage	\$
	Courier	\$
	Other (Specify)	\$
	Total Disbursements	\$
	<b>(CANNOT EXCEED \$20.00)</b>	

<b>INTERIM DISBURSEMENTS FAST TRACK</b>		Certificate #
		Your File #
- ARE DISBURSEMENTS MORE THAN \$50.00, BUT LESS THAN \$500?		
<b>IF NOT, DO NOT USE THIS FORM. (Remember no G.S.T.)</b>		Client
	Photocopying      Pages at \$.10/pg	\$
	Long Distance (No. G.S.T.)	\$
	Postage	\$
	Courier	\$
	Pre-approved medical report	\$
	Blood Tests	\$

**LEGAL AID MANITOBA**

<b>CRIMINAL FAST TRACK</b>		Certificate #	
- WAS THE APPLICATION DATED MAY 18, 1992 OR LATER?		Your File #	
<b>IF NOT, DO NOT USE THIS FORM.</b>		Client	
- DO DISBURSEMENTS EXCEED \$5.00?			
<b>IF YES, DO NOT USE THIS FORM.</b>			
- WAS THIS A GUILTY PLEA [ ] STAY [ ] WARRANTS (After 3 months) [ ] OR WITHDRAWAL [ ]?			
<b>IF NOT, DO NOT USE THIS FORM.</b>			
FEES:			
CATEGORY B \$450 less 12% holdback	[ ]	\$ 396.00	
Or			
CATEGORY C \$200 less 12% holdback	[ ]	\$ 176.00	
DISBURSEMENTS	Photocopying	Pages at \$.10/pg	\$
(Remember, No G.S.T.)	Long Distance (No. G.S.T.)		\$
	Postage		\$
	Courier		\$
	Other (Specify)		\$
	Total Disbursements		\$
	<b>(CANNOT EXCEED \$5.00)</b>		

**CERTIFICATION**

I CERTIFY that the Legal Aid to which reference is made herein was rendered by me, or by such other named person as is specifically stated herein, and that the disbursements set out herein were paid or liability therefor incurred, and they were necessary and proper and that I have not heretofore received any reimbursement for any of them.

Date

\_\_\_\_\_

Signature

**February 1993**

**MEMO TO THE PROFESSION**

**HOLDBACK**

As of May 18, 1992, Legal Aid imposed a 12% holdback on all criminal files to replace a tariff reduction which had been announced by government at an earlier date. While it wasn't certain at the time, it was contemplated that the holdback would likely be in place for at least two years. We anticipate a shortfall in revenue from the Manitoba Law Foundation this year and the government has indicated that they may not be in a position to make up that revenue and as such, it will be necessary to re-impose the holdback of 12% on legal aid certificates issued between April 1, 1993 and March 31, 1994,

We are not yet able to determine whether any of the money held back during this current year will be paid back to the profession. Our year end is March 31, 1993 and we will make a determination shortly after that, whether some or any of that money can be paid back.

## **REQUEST FOR PROPOSALS**

### **YOUNG OFFENDERS**

When a youth is denied legal aid either because they are not financially eligible or because of the minor nature of the offence, and the youth still wants counsel, the Young Offenders Act requires that the judge order the Attorney-General to appoint counsel for that youth (often called Section 11 appointments). Legal Aid has always acted as agent for the Attorney-General and appointed and paid counsel. Last year over 1400 such cases were handled by Legal Aid.

Legal Aid wants to reduce the amount it is spending for these cases without jeopardizing the high quality of service currently provided. We believe that while the tariff is generally too low, there are significant efficiencies in volume and that many of these cases lend themselves to that. We have identified approximately 500 of these cases that would be suitable for referral in blocks.

#### **THE REQUEST:**

We are seeking proposals from lawyers or firms who are willing to handle Section 11 appointments in one or more blocks of 50 cases each. While the purpose of this exercise is to save money, the lowest price will not necessarily be selected, as quality of service is an important consideration.

#### **PRICING:**

There are no limitations on how you might want to price your proposal. That price could include fees and disbursements or some disbursements (e.g. postage and photocopying) or fees only with disbursements billed in the ordinary way.

Keep in mind when costing your proposal, that these cases will tend to be less serious types and our experience is that there is considerable efficiency in handling them.

#### **HOW TO MAKE A PROPOSAL:**

Send your proposal to:

Executive Director  
Legal Aid Manitoba  
402-294 Portage Avenue  
Winnipeg, MB R3C 0B9  
**CONFIDENTIAL**

Proposals must be submitted before February 15, 1993. All proposals will be kept confidential.

Your proposal should tell us:

- who will provide the service (including their background and experience)
- any geographical limits on the cases you are willing to take;
- the number of blocks of 50 cases you are proposing to handle;
- detailed pricing (see "PRICING" above);
- any other information you consider relevant.

#### **QUESTIONS:**

Call Allan Fineblit at 985-8508.

## LEGAL AID SERVICES TO PORTAGE LA PRAIRIE

Legal Aid Manitoba wishes to enhance its service delivery to the Central Judicial District, particularly in the domestic law area. In order to do this, and with the assistance of the Federal Department of Justice and ongoing provincial support, we are proposing to enter into a contract with a private practitioner or firm to deliver Legal Aid services to that area.

The contract price shall be set at \$40,000. Proposals will be judged on type and quality of service, rather than the price, The contract would be for a one-year term. The deadline for proposals is 15 September 1992.

Proposals should be submitted in confidence to Allan Fineblit, Executive Director, Legal Aid Manitoba, 402-294 Portage Avenue, Winnipeg, MB R3C 0B9, For more information, contact Allan Fineblit or Bill Dunn at 985-8500.

Proposals should tell us what services you are prepared to provide and how you would do it, Proposals should consider the following areas:

- (1) Service to the Portage la Prairie Women's Shelter;
- (2) Service to the Agassiz Centre for Youths;
- (3) Service to the Portage la Prairie Women's Jail;
- (4) Duty counsel - Portage la Prairie adult  
Portage la Prairie youth  
- Amaranth adult  
Amaranth youth
- (5) Legal Aid certificate work where there is no choice of counsel,

Interested parties should provide information about yourself or your firm in the following areas:

- lawyers to deliver the service;
- practice background of those lawyers;
- whether a new office or an existing office would be used;
- the location of the office, office hours and staffing ratio;
- on call and after-hour availability;
- practice preferences,

Proposals are welcome from lawyers currently practising in Portage la Prairie or any other community.

**March 1993**

**MEMO TO THE PROFESSION**

**DOMESTIC TARIFF ADJUSTMENT**

Effective April 1, 1993, there will be two adjustments to the domestic tariff. These adjustments were developed in consultation with representatives of the Domestic Bar and while they will save Legal Aid some money, they were not intended primarily as a cost saving exercise. Furthermore, any money saved as a result of this change (approximately \$100,000) will be used to increase other areas of the domestic tariff which are in need of it,

The Province is currently looking at options to make increases and you will be hearing from me shortly with information as to where the increases will take place, In that regard, if you have any suggestions, I would be most pleased to hear from you.

These are the tariff adjustments that will apply to certificates issued after April 1, 1993, The first has to do with contested matters (domestic tariff Item #5 (a)). The current tariff item does not differentiate between matters contested by way of viva voce evidence and matters contested by way of affidavit evidence. As of April 1, matters contested by way of viva voce evidence will still be paid \$800 for the first half day, but where the contested matter proceeds by way of affidavit evidence, the tariff item will be reduced to \$380 for the first half day.

The second tariff adjustment relates to interim proceedings. Domestic tariff item #2(a) which pays \$125 for each interim uncontested proceeding will be raised to \$150, The tariff however will limit the number of those proceedings that we will pay for to a maximum of one,

There will be no limit on the number of contested interim proceedings, but the tariff for the second and subsequent interim proceedings will be reduced from \$250 for each proceeding to \$150 for each of the second and subsequent interim proceedings.

You are reminded however, that the Executive Director does have a discretion to increase the tariff in appropriate circumstances, While the tariff will only pay for one uncontested proceeding, if there are a large number of interim uncontested proceedings, you can certainly ask for an increase.

You will be hearing from us shortly with regard to the good news part of this memo - how the money will be used to increase other parts of the tariff.

March 1993

## MEMO TO THE PROFESSION

### FAST TRACK ACCOUNTS

#### BACKGROUND:

Approximately one year ago, Legal Aid introduced the concept of fast track accounts. Accounts which meet the criteria for fast track accounts can be billed on a special form and are paid as a priority. Only 10% of these accounts are actually checked and the remaining 90% are paid as billed,

Lawyers who don't have fast track billing forms, can obtain one by contacting Cynthia Keller at 985-8534.

The purpose of this Notice is to advise as to a small change in the fast track accounts and to also make you aware of some of the problems with fast track billing the audit has identified. The success of fast tracking (and it has been a success) relates to the Bar taking responsibility for the accuracy of their accounts, since 90% are unchecked in any way.

#### THE CHANGE:

Commencing immediately, the limit on disbursements under a fast track criminal account will be increased from \$5.00 to \$10.00 for certificates issued by the Brandon, Dauphin and northern area offices. Those certificate numbers will have a letter designation of either B, D or N. This is to reflect the additional long distance costs of practices outside of Winnipeg.

#### SOME PROBLEMS:

The random audits have identified some ongoing problems with fast track billing, They are as follows:

- fast tracking only applies to matters where one block fee is being billed. Files which contain amendments or where more than one block fee is being billed for with respect to the same certificate, must be billed in the ordinary way;
- criminal fast track bills are only permitted for files where the application is dated after May 18, 1992;
- some lawyers have been submitting fast track accounts where the certificate or cancellation notice indicates an itemized account is required;
- some lawyers have been including GST on their disbursement fast track accounts;

- some lawyers have been submitting interim disbursement accounts and then final accounts in order to overcome the maximum dollar amounts permitted for fast track accounts. This is not acceptable;
- criminal matters where a warrant has issued must be held for three months before a bill can be submitted. This requirement applies to fast track accounts as well.



**23 September 1993**

TO: ALL STAFF

FROM: ALLAN

DATE: SEPTEMBER 23, 1993

---

I enclose three Notices to the Profession regarding policy changes at Legal Aid. While these changes were primarily directed to the private Bar, they apply to staff as well. I would ask that you take note of them.

Enclosures

September 1993

**NOTICE TO THE PROFESSION****POLICY MANUAL**

Enclosed please find several notices regarding developments at Legal Aid. The notice is dealing with maintenance enforcement proceedings, service of documents and child welfare proceedings numbered 10, 11 and 12 and are part of a continuing series of Policy Memos, which will ultimately be bound into a Policy Manual.

If you have any questions about any of the contents, please feel free to call me.

Allan Fineblit  
Executive Director

AF/ck

**NOTICE TO THE PROFESSION  
OCTOBER 1993**

**MAINTENANCE ENFORCEMENT PROCEEDINGS**

**THE ISSUE:**

A number of lawyers have indicated that in their view there is no useful reason to have counsel appear before the Deputy Registrar and Maintenance Enforcement proceedings.

**THE CHANGE,**

Effective immediately Legal Aid will no longer pay for representation in maintenance enforcement proceedings before the Deputy Registrar.

**NOTE:** Legal Aid will continue to provide representation (where authorized) for matters involving maintenance enforcement before the Master.

## MEMO TO THE PROFESSION

### SERVICE OF DOCUMENTS

#### THE CURRENT PRACTICE:

All documents in Legal Aid cases are to be served by the Sheriff's office and service fees are to be paid for by way of a Legal Aid voucher. Where service by the Sheriff is not possible, any private process server is being used. The bill for the private process server includes the reason why a private process server was used rather than the Sheriff's office.

#### THE PROBLEM:

When private process servers are used, the range of prices is very wide and we are spending more than we have to.

#### THE CHANGE:

As a result of a tender process, Legal Aid has obtained a very good rate from one firm for private process serving in the City of Winnipeg. As such whenever the Sheriff's office cannot be used for service in Winnipeg, this firm should be used.

The firm is:

Gotcha Process Servers  
564 Ottawa Avenue  
Winnipeg, MB R2K 1L3

Phone: 955-9876

Attention: Charles Smith

We are satisfied that the quality of service will be good and the firm is capable of handling all of the work in a timely way. However, if you have problems, please let us know. When contacting Gotcha, please advise them that it is a Legal Aid matter to ensure they charge the reduced rate.

#### IMPORTANT NOTE:

All service must be done by the Sheriff's Office. Gotcha should only be used where the Sheriff's office is not able to provide adequate service for some reason. When billing for services done by Gotcha, you must still indicate the reason the Sheriff's office was not used.

**MEMO TO THE PROFESSION**  
**CHILD WELFARE MATTERS**

THE ISSUE:

Child welfare cases are long and costly. We have had a number of complaints about cases going to trial, where the case has no merit, or with separate counsel where the positions of the parties are the same or where the lawyer has no recent contact with their client before the trial. While we do not wish to interfere with the lawyer's conduct of these cases, we do want to make sure that our limited resources are not being used where they don't have to be.

THE NEW PROCEDURE:

Whenever a child welfare matter is set for trial, the Area Director should be provided with a brief status report setting out the following:

1. A brief description of the merits of the case and the issues for trial;
2. What efforts to settle have been made;
3. When did you last have contact with your client;
4. Are there other parties represented by separate counsel who do not have a conflicting position with your client.

**30 November 1993****MEMO TO THE PROFESSION**

**TO: WINNIPEG CRIMINAL LEGAL AID PANEL MEMERS**

**FROM: ALLAN FINEBLIT - EXECUTIVE DIRECTOR**

**DATE: NOVEMBER 30. 1993**

**RE: EARLY SCREENING**

---

In cooperation with the Crown, we are running a small pilot project in Courtroom 302 at the Law Courts Building (the out of custody docket court). For the months of January, February and March, Legal Aid will not issue certificates for matters in that Courtroom until the Crown has screened the charge and determined what charges they are proceeding with and whether or not they will be seeking jail. They have agreed to do this in a timely way for all matters where a legal aid application has been taken. On the first appearance, you or your client should indicate to the Crown that you require a Crown Position Sheet. By the next appearance date, the Crown will provide you with a form which indicates the Crown's position as to which charges they are proceeding on and whether or not they will be seeking jail. This should be forwarded to Legal Aid with the application and we will make a decision as to whether or not we will issue a legal aid certificate. If you encounter difficulties or have questions about how this will operate from the Legal Aid end, please contact William Dunn at 985-8507. or from the Crown end, Rob Finlayson, 945-3228.

AF/ck

**CROWN POSITION SHEET**

TOP PORTION TO BE COMPLETED BY DEFENCE COUNSEL

ACCUSED: CHARGE(S)

CROWN COUNSEL:

DEFENCE COUNSEL (IF KNOWN):

NEXT APPEARANCE DATE:

THE CROWN WILL BE PROCEEDING WITH THE FOLLOWING CHARGES:

 AS LAID OTHERCROWN POSITION  
RE: DISPOSITION WILL BE SEEKING JAIL WILL NOT BE SEEKING JAIL REMAIN SILENT NOT ABLE TO SAY AT THIS TIMEIN THE EVENT OF A GUILTY PLEA THE CROWN WOULD BE PREPARED TO ACCEPT  
THE FOLLOWING:

DATE

SIGNATURE

**December 1993**

## REQUEST FOR PROPOSALS

## LEGAL AID SERVICES TO PORTAGE LA PRAIRIE

December 1993

Last year Legal Aid Manitoba entered into a contract to deliver services to the Portage la Prairie area. We were pleased with the results of that contract but one of the lawyers involved has left the province and so we are again inviting tenders from private practitioners or firms to provide legal aid services to the Central Judicial District for a twelve month period.

Proposals should tell us what services you are prepared to provide and how you would do it. Proposals may be submitted on just the criminal and youth law aspect of the legal aid work, just the family law aspect, or both. Proposals should consider the following areas:

- (1) On-site and on-call service to the Portage la Prairie Women's Shelter;
- (2) On-site or on-call service to the Agassiz Centre for Youths and the Women's Jail;
- (3) Duty counsel to Portage la Prairie adult court and Portage la Prairie youth court;
- (4) Certificate work for s. 11 YOA appointments in Portage la Prairie;
- (5) Certificate work for domestic cases where there is no choice of counsel.

Interested parties should provide information about yourself or your firm in the following areas:

- lawyers to deliver the service;
- practice background of those lawyers;
- whether a new office or an existing office would be used;
- the location of the office, office hours and staffing ratio;
- on-call and after-hour availability;
- practice preferences.

Proposals should be submitted in confidence to Bill Dunn, Legal Aid Manitoba, 402-294 Portage Avenue, Winnipeg MB R3C 0B9. Proposals will be judged on type and quality of services offered, as well as price. The contract may be extended for a further twelve month period without retendering.

For more information, contact Allan Fineblit or Bill Dunn at 985-8500. Deadline for proposals is December 15, 1993.



**February 1994**

**MEMO TO THE PROFESSION**

**RE: REGULATION CHANGES AND THE FUTURE**

Please note that effective February 4, 1994, the Regulations under the Legal Aid Act have been amended by the Provincial Government. In particular, Schedule I (the Tariff) has been changed in the following ways:

1. The criminal tariff establishes three categories of offenses (A, B and C) and different payment amounts for each category. Since these categories were created, the law has changed, charging practices have changed and new offenses have been created. We have had extensive consultations with representatives of the Bar and it was suggested that changes be made.

Charges of aggravated sexual assault, sexual assault with a weapon and importation of drugs have been moved from Category A to Category B. Charges of assault with a weapon, sexual assault and trafficking have been moved to Category C. Charges of criminal negligence cause bodily harm, possession for the purpose of trafficking, sexual exploitation and sexual interference have been moved from Category C to Category B.

2. The tariff amount for leave to appeal to the Supreme Court has been reduced from \$700 to \$400. While this will affect only a handful of cases, it was intended to reflect the significant changes in procedures in applications for leave that have taken place since the tariff rate was established.
3. The notes to the tariff have been expanded to provide that where a matter is not taken to completion or handled from the outset, only half the tariff rate is payable. This is obviously the most significant tariff change and requires some explanation.

A review of our files indicate that in a significant number of cases, we pay twice or more for the same service. This may be because the client loses contact or a client changes counsel or because a lawyer leaves their practice.

Changes of counsel are particularly problematic. We don't want to deny clients their choice of counsel, or force lawyers to work with unwilling clients, but we usually double our costs when a client changes counsel.

There are some positive aspects to be noted. In almost all circumstances, changes of counsel will be approved without hassle or delay. A lawyer who completes a distinct tariff item, such as an interim order or a preliminary hearing, will be paid the full tariff for that item. Itemized accounts will no longer be required when changes of counsel take place. Criminal lawyers will no longer have to hold files for three months after a warrant issues.

This amendment has been made in consultation with representatives of the Criminal and Family Bar. Some of those consulted expressed concern that this penalizes lawyers for the action of their clients. Penalty is not the intent. The concept is based on the fact that it is more work to finish a case than to leave it part way. Under the current tariff, both are paid the same amount.

Some lawyers expressed concern that a substantial amount of work is sometimes done before a client changes lawyer or loses contact. While this is certainly true, there are also many cases where very little is done before or after the change. Under the tariff, a lawyer can request a discretionary increase in appropriate circumstances and we will try and recognize the cases of legitimate unfairness in this way. We have also tried to take into account some of the input we have had from representatives of the Bar with respect to this change and will apply a liberal interpretation to the changes (see examples 3, 9 and 11 following).

Please note that these changes only apply to certificates where the application is dated February 4 or later. The application date is shown on the top right hand corner of the certificate. At the end of this memo there is a series of examples as to how these changes will work.

The message our Board wants you to have is that your participation is valued and, while continuous news of change will be frustrating, it is motivated by a desire to preserve the core of the Legal Aid system of which you are a fundamental part.

## EXAMPLES

### HOW TO BILL INCOMPLETE CASES

Remember: The principle is that we will pay one block fee for each case, even if more than one lawyer takes it through to conclusion.

#### CRIMINAL

1. A client changes lawyers part way through a Category B matter which results in a guilty plea. Both lawyers have put in at least three hours work. Both will be paid \$225. The total paid will be the same as if there had not been a change of lawyer.
2. A change of lawyer takes place after a preliminary hearing on a Category B matter. Because these are distinct tariff items, there will be no split fees and the first lawyer will be paid \$450 for the half day preliminary hearing and the second lawyer will be paid \$1100 for their one day trial. Once again, the total paid will be the same as if there had not been a change of lawyer.
3. A client changes counsel on a Category C matter after a bail review and the second lawyer takes the matter to a half day trial. The first lawyer has put in 3 hours of work aside from the bail review. The first lawyer will be paid \$200 for the bail review, as well as half of the \$200 block fee for the substantive matter.

Technically, the second lawyer would be entitled to half of the block fee for a trial (\$300), but we will pay the second lawyer \$600 for the trial less \$100 which has been paid already to the first lawyer with regard to the substantive matter. The total cost to Legal Aid will then be \$800, which is the same as what it would have been had the client not changed lawyers.

4. A client who is being represented on a Category B offence doesn't show up on one of his remand dates and a warrant issues. The first lawyer can bill the matter and will be paid \$225. A few weeks later the client is rearrested and either returns to the same lawyer or in the alternative finds a new lawyer who disposes of the matter by way of a guilty plea. The second lawyer would be paid one-half of the block fee or \$225.
5. A client changes lawyers and is being represented by a second lawyer on a Category B matter, but before the matter can be disposed of, the client once again wants a change of lawyer. After the first change of lawyer, Legal Aid will be very reluctant to grant a second change of lawyer and in those circumstances will (unlike the first change) inquire into the reasons. If however a change is granted and the third lawyer disposes of the matter by way of guilty plea, then both the second and the third lawyer will each be paid one-half of the block fee or \$225. The result is that there will not be a reduction below 50% in a multiple change of counsel situation. (This assumes that all three lawyers have put in at least a minimum requirement of 3 hours work.) Here the total payment will be higher than if there was no change, but this should not happen often.
6. A lawyer develops a conflict of interest after three hours work has been done, which was not foreseeable from the outset. The new lawyer takes this Category C matter to a half day trial. The first lawyer will be paid \$100 and the second lawyer will be paid \$600 less the \$100 which

had been paid to the first lawyer. Again, the principle is one block fee for one case and the total paid for this case will be the same as if the first lawyer had done all the work.

## DOMESTIC

7. A client is being represented by a lawyer on a divorce and changes counsel after the lawyer has done three hours work. The new counsel obtains an uncontested interim order of access and ultimately obtains a final order of divorce. The first lawyer would be paid half of the block fee (\$190) for the uncontested matter and the second lawyer would be paid \$150 for the interim order and half of the block fee for the final order for a total of \$340. The total payment for the case is \$530 - the same as if one lawyer acted throughout.

8. A client retains a lawyer for a separation and the lawyer obtains an interim uncontested restraining order and a second interim order, uncontested, for financial disclosure before the client changes lawyers. Previously, that lawyer would be paid \$150 for one of the interim orders and the second interim order would be treated as the substantive matter for which they would have been paid \$380. After the change, the first lawyer will be paid \$150 for the first interim order and one-half of the \$380 for the second interim order for a total of \$340.

The new lawyer also obtains an interim uncontested order dealing with access and ultimately takes the matter to final hearing on the issue of maintenance, custody and access. The matter is resolved by way of a consent order. The second lawyer would be paid one-half of the block fee (\$380). The tariff provides that only one uncontested interim order will be paid for. In cases where there has been a change of counsel, we will however pay for one interim uncontested order obtained by each counsel. As such, the new lawyer would be paid \$150 plus one-half of the block fee for a total of \$340. The total paid to both lawyers in this case will be \$150 more than had one lawyer handled the case all the way through.

9. A lawyer acting in a child welfare matter puts in more than three hours work before the client changes counsel. The new counsel takes the matter to a contested two day hearing. The tariff pays \$1550 for a contested two day hearing. Technically, this block fee should be reduced in half, but instead, we will simply reduce it by the \$190 that has been paid to the first lawyer and the second lawyer will be paid \$1360. The total payment will be the same as if one lawyer handled the whole case.

10. A lawyer acting for a client in separation proceedings develops a conflict of interest that was not foreseeable from the outset. That lawyer has already obtained an interim uncontested custody order. Under the previous tariff, the interim order would have been treated as the substantive matter and a tariff of \$380 would have been paid. Instead, the tariff payment here will be \$190.

A new lawyer is appointed who obtains an uncontested interim order and a final uncontested order. The second lawyer will be paid \$150 for the interim order and \$190 for the final order. The total paid will be the same as if the conflict had not developed.

11. A lawyer is acting for a client in a legal aid domestic case and either loses contact with the client, the client reconciles with her spouse or directs the lawyer not to proceed any further. The tariff amendment contemplates that in these circumstances the lawyer should be paid half of the block fee of \$380.

We will however accept the advice of the representatives of the bar that we consulted and pay the half tariff only when the lawyer has put in less than 5 hours of work. If a lawyer has put in more than 5 hours of work, they can itemize their time and will be paid for all of the work they did up to a maximum of the full block fee.

In these circumstances if the client comes back, Legal Aid may or may not issue another legal aid certificate depending on the circumstances. If Legal Aid issues another certificate to a different lawyer, that lawyer will be paid a full block fee with no reduction. If Legal Aid issues a new certificate to the original lawyer, that lawyer will be paid the difference between what had been paid on the first certificate and what is payable on the second. Suppose the lawyer had been paid for 6 hours on the first certificate (\$270), the reconciliation fails and the client returns to that same lawyer to complete the matter. The fee for completing the matter will be reduced by the \$270 already paid.

Note: this does not refer to a situation where a lawyer obtains an interim order and that interim order gives the client **all** of the relief that is necessary and in the opinion of the lawyer, there is no significant advantage to proceeding to a final order which would be the same as the interim order. In those circumstances, the lawyer will be paid the full block fee of \$380 as in our view the matter is completed and the tariff amendments do not apply to those circumstances.

**March 1994**

**NOTICE TO THE PROFESSION**

**RE: HOLDBACK, SEXUAL ASSAULT,  
DISCRETIONARY INCREASES AND SPECIAL PANELS**

We have not yet been told what our budget grant from the Province will be for our fiscal year which begins April 1, 1994. We know we will need more money next year and we don't expect to get it. The reason we will need more money next year is because the certificates issued to the private bar this year are up by almost 4%. The average cost per case of those certificates is also up (in spite of the holdback and other cost control measures taken by our Board). The Manitoba Law Foundation grant will be lower than this year's. Because our reading of the situation is that we will not get more money from the Province, we have to take some steps now to reduce our expenditures for next year to something around the same level as this year.

**THE HOLDBACK**

The Legal Aid Board has decided to continue the holdback on certificates issued after April 1, 1994 for one further year. The "good" news is that the holdback will continue to apply only to criminal certificates and will remain at the 12% level.

We are not yet able to say if there will be any payback on the 1993/94 holdback. That will depend to a large degree on the bills that come in to Legal Aid in the next few weeks.

**DISCRETIONARY INCREASES**

The Legal Aid tariff is part of the Regulations under the Legal Aid Act. It is set and amended by the Lieutenant-Governor in Council. Note 5(a) to the tariff permits an increase in the block fees prescribed by the tariff "in extremely unusual circumstances".

Legal Aid will lose all funding for those increases on certificates issued after April 1, 1994. There are two ways our Board could have responded to this. They could have either asked Cabinet for an amendment to the Regulations deleting Note 5 (a) , or they could leave it there and apply the words "extremely unusual circumstances" strictly.

In considering what to do, our Board noted that there is no funding left for this, so that any increase given will have to be found somewhere else at Legal Aid. This suggests a tariff amendment eliminating discretion would be preferable. On the other hand there clearly will be some cases that cry out for an increase - cases that are truly "extremely unusual". Fairness (yes... the word is still in our vocabulary) suggests that we should keep some discretion for those cases.

Our Board decided to try and keep discretion available. This notice however is intended to make the Legal Aid panel aware that past practice with regard to discretionary increases will end on April 1, 1994. Any certificate with an application dated April 11 1994 or later, will be subject to a very strict interpretation of Note 5(a). The money to pay any discretionary increase granted on certificates issued after that date, will have to be found internally.

Please note that if there is a significant saving achieved through this, it will mean that there is money left over to pay back the holdback.

### **SPECIAL PANELS**

Legal Aid maintains three special panels. We are updating those panels and you are invited to register on any or all. Two of the panels are "fee generating" panels. Where a person applies for legal aid in a case which appears to be fee generating (either on a delayed payment or a contingency basis), we ask a client to first see two or three lawyers from that panel to determine if they will take the case on some kind of a fee from proceeds basis. one panel is for general civil cases and one for domestic cases.

In order to register for either or both, you must be willing to take appropriate cases on that basis (there is no requirement to take any individual case) and to provide clients who are referred and for whom you decline to act, a letter confirming that you are not willing to act accompanied by very brief reasons.

The third panel is used by Queen's Bench (and in some areas, provincial court) judges, to appoint counsel to represent children in appropriate family cases. Legal Aid will issue a certificate to pay counsel, when such an appointment is made from this panel.

You can register for any of the three panels by writing to the Executive Director.

### **SEXUAL ASSAULT**

A few weeks ago, we advised you that in consultation with representatives of the Bar, the various categories of offenses in the Legal Aid tariff were adjusted (some up and some down) . Sexual assault was reduced from Category B to Category C.

Many of you have told us that this was a bad idea. We accept your advice. We will in due course amend the tariff to provide that sexual assault, where the Crown proceeds by indictment, is a B category offense. In anticipation of the amendment, we will begin immediately to pay for indictable sexual assaults as if they were B category matters.

**June 1994****MEMO TO THE PROFESSION****JUNE 1994****1. BAIL REVIEWS AND EXTRAORDINARY DISBURSEMENTS**

In order to be paid for a bail review, it must be authorized by the Area Director. Extraordinary disbursements such as psychiatric reports must also be authorized by the Area Director. To expedite the authorization process, counsel are encouraged to fax the attached forms to the appropriate Area Director who will fax back the response (usually the same working day). To ensure a prompt reply, please ensure all relevant sections are completed.

**2. REGULATION CHANGES**

The Legal Aid Regulations have recently been amended. Most of the changes were of a "housekeeping nature". One exception is a change to Section 30 of the Regulations, which now requires certificates to be renewed after six years. Certificates more than 6 years old that have not been renewed will no longer be considered valid.

Don't panic! This change is not retroactive. No existing certificate, no matter how old, will expire until 6 years from now. (December 31, 1999)

**3. BLOOD TESTS**

Legal Aid has entered into an exclusive contract with Helix Biotech to do blood testing on legal aid files. There are several advantages to this. Helix will bill Legal Aid directly. Helix does DNA testing and the results are superior to HLA results.

Helix is providing more draw sights throughout the Province than are currently available. Time is not as critical for DNA sampling, so older samples are testable. Also less blood is required for DNA testing, which is important for newborns.

Enclosed are: Helix Biotech information sheet, instructions on how to arrange a blood test and a testing request form.

Blood tests will require the approval of the local Area Director and a copy of that approval should be included with your request to Helix.

**4. VITAL STATISTIC FORMS**

For the last several years, Legal Aid has had a fee waiver from Vital Statistics. Whenever a marriage or birth certificate was required, a special legal aid application form was used and no fee was payable. Vital Statistics has become a Special Operating Agency of Government. This means they will no longer waive fees. Legal Aid files will instead be charged a reduced fee of \$14 per certificate.



Commencing July 1, 1994, all Vital Statistical application forms must be accompanied by a \$14 payment. Please continue to use the special Legal Aid application form to obtain the reduced fee.

The payment can of course be billed to Legal Aid in the ordinary way as a disbursement. To accommodate this, the maximum disbursements permitted for civil fast track bills has been increased from \$20 to \$30.

We apologize for the inconvenience this causes, but it is not a matter over which we have any control.

**5. GOVERNMENT AIR TRAVEL**

Lawyers using Government Air service on Legal Aid business, must provide the Legal Aid certificate number when booking their flight. This will permit us to audit the accounts we receive from Government Air. While this has always been the requirement, we are expecting Government Air to apply this requirement more strictly from now on.

**6. COST AWARDS**

Lawyers on legal aid cases who obtain cost awards are reminded that the lawyer can keep 25% of any costs collected above and beyond anything Legal Aid pays for conduct of the case. Simply deduct 25% and send us the balance with an account indicating the amount you have charged and that it is paid in full.

Allan Fineblit  
Executive Director

DISBURSEMENT AUTHORIZATION REQUEST

LEGAL AID FAX #944-8582

YOUR FAX# \_\_\_\_\_

DATE: \_\_\_\_\_

LAWYER'S NAME: \_\_\_\_\_

CLIENT'S NAME: \_\_\_\_\_

CERTIFICATE NO.: \_\_\_\_\_

TYPE OF DISBURSEMENT: \_\_\_\_\_

AMOUNT OF DISBURSEMENT: \_\_\_\_\_

Will this cost be shared with opposing party? [ ] YES [ ] NO

REASON:(How will this disbursement help your client?)

\_\_\_\_\_  
TO BE COMPLETED BY LEGAL AID ADMINISTRATION:

APPROVED: [ ] YES [ ] NO

Conditions: \_\_\_\_\_

Further Details Required: \_\_\_\_\_

\_\_\_\_\_  
AREA DIRECTOR: \_\_\_\_\_ DATE: \_\_\_\_\_

\_\_\_\_\_  
NOTE: MEDICAL REQUESTS UNDER \$ 100.00 DEEMED ESSENTIAL BY COUNSEL DO NOT REQUIRE PRIOR AUTHORIZATION

**REQUESTS FOR BAIL REVIEW AUTHORIZATIONS**

LEGAL AID FAX #944-8582

YOUR FAX# \_\_\_\_\_

DATE: \_\_\_\_\_

LAWYER'S NAME: \_\_\_\_\_

CLIENT'S NAME: \_\_\_\_\_

CERTIFICATE NO.: \_\_\_\_\_

CHARGES: \_\_\_\_\_  
\_\_\_\_\_

REASON FOR DENIAL OF BAIL:(Advise if applicant is pending on other charges) \_\_\_\_\_  
\_\_\_\_\_

RECORD: \_\_\_\_\_  
\_\_\_\_\_

BAIL RELEASE PLAN TO BE ADVANCED TO Q.B.: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TO BE COMPLETED BY LEGAL AID ADMINISTRATION:**

APPROVED: [ ] YES [ ] NO

Additional Information Required (see att'd): \_\_\_\_\_  
\_\_\_\_\_

AREA DIRECTOR: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_

NOTE: Opposing Crown bail reviews do not require prior authorization



# DNA PATERNITY TESTING

Helix Biotech Corporation offers a DNA testing service that accurately determines parentage and other relationships. DNA testing provides results which are much more accurate than any other testing method.

Helix Biotech's service is convenient, fast, economical, and precise.

## **What is DNA testing?**

DNA testing is based on Deoxyribonucleic Acid (DNA), the genetic material present in almost every cell in the body. Although humans share 99% of DNA, 1% is unique to any one individual. It is these differences which are identified and then compared by the DNA testing procedure. It demonstrates a unique DNA pattern for each individual. These patterns, called DNA profiles, are similar in appearance to the bar codes found on products in the supermarket. A DNA pattern of a child is inherited from both parents. Half of a child's DNA is acquired from each parent. By comparing the three patterns involved, skilled scientists, using a sophisticated computer analysis system, can determine whether or not a child is the true offspring of either or both of the two possible parents.

## **What samples are needed?**

Only a small blood sample (1-5 ml) is required for a DNA test. Usually, a blood sample from the child and both putative parents is required. Blood collection can be arranged by appointment at Helix Biotech or at any of its 300 affiliated labs across Canada and abroad.

## **How is Chain of Custody Maintained?**

Evidence of parentage not only requires DNA results but also irrefutable evidence of the origin of the blood samples. Therefore, all individuals are required to bring acceptable identification (drivers licence, birth certificate etc.) to the appointment and will be fingerprinted at the time of blood collection. To facilitate visual identification, it is preferable that the mother, child and alleged father attend the appointment at the same time.

## **How well is DNA testing accepted internationally?**

DNA testing is accepted in Canada, Australia, Europe and the United States, where over 71,000 cases were reported in 1992.

## **Who will perform the test and how long does it take?**

Each analysis will be performed at Helix Biotech Corporation in Richmond B.C. Only highly qualified and specially trained staff will carry out the analysis. Results are usually available within three to four weeks from the time blood samples from all parties are received.

## **How is confidentiality guaranteed?**

Information obtained is treated in strict confidence. All samples are alpha-numerically coded and the results, along with a detailed explanation will only be provided to pre-determined parties.

## **What question will the DNA test answer?**

Paternity can be established with certainty with results indicating either 0.00% or greater than 99.8% probability of paternity. DNA testing can also be used to determine the relationships between other family members such as siblings, aunts, nieces, nephews, and grandparents and to evaluate whether or not twins are identical.

### HELIX BIOTECH CORPORATION

215-7080 River Road, Richmond, B.C. V6X 1X5 Phone (604) 270-7468 Toll free 1-800-563-4363 Fax (604) 270-8208  
315 Lakeshore Rd. E., 2nd floor, Oakville, Ont. L6J 1J3 Phone (416) 842-0671 Toll free 1-800-395-4995 Fax (416) 849-7312

INTERNATIONAL  
**HELIX BIOTECHNOLOGIES**

2150-7060 River Road, Richmond, B.C. Canada V6X 1X5 : (604)270-7468 Toll Free 1-800-563-4363 Fax: (604)270-8208

DNA PATERNITY TESTING -HOW TO ARRANGE T TEST WITH HELIX BIOTECH

**Arrange payment/funding:**

Complete funding for the test must be arranged before setting up an appointment. Funding may be arranged through Legal Aid Manitoba or directly with the client.

If Legal Aid Manitoba is paying, Helix Biotech requires a copy of the letter from Legal Aid authorizing the funds . The cost is \$785 if Legal aid is paying for all three parties. If Legal Aid is paying for half the cost, it will be \$395.00. Please note that all Legal Aid costs are GST exempt. Helix will bill Legal Aid Manitoba directly.

If the client is paying privately for his/her portion of the cost, the payment must be held in the solicitor's trust or submitted directly to Helix Biotech prior to the appointment. Please note that Helix will accept a cheque, money order or Visa or Master Card credit cards. The costs for half a case is \$430.00 plus GST (\$460.10). If the client gets a doctor's referral he/she will be GST-exempt. If your client is interested in this procedure, Helix can supply Doctor's Referral Forms upon request.

**Complete Request form:**

Once payment arrangements have been made, please complete "REQUEST FOR PATERNITY TESTING" form and forward to Helix, along with a copy of the Legal Aid authorization. Helix will then set up appointment(s) for all parties at the most convenient lab location. Helix will then advise each law firm of the set appointment date. Please note that we prefer that all parties attend at the same time so that each party can visually identify the other. However, if this is not possible, due to geographical separation or animosity, Helix will arrange two separate appointments.

**Advise client of appointment and identification procedures:**

Once Helix has advised you of the appointment(s), we ask that you advise your client(s) in turn. Please ensure that each person follows correct identification procedures when attending the appointment. Each adult must bring photo ID and the mother should bring a birth certificate or medical card for the child. A fingerprint of each person will be taken at the appointment. If the client cannot attend the appointment, they should give Helix notification of 24 hours. If an appointment is missed without prior notification, there will be a \$50 no-show charge. This charge may be waived in certain instances.

**Wait for results:**

Once Helix has received all blood samples for a case, a letter will be sent to both lawyers advising of the expected date of completion. The processing time is 3-4 weeks after receipt of the blood samples. Interpretive and statistical conclusions will be included with the final written report and will be released to both lawyers unless Helix is otherwise notified.

If you have any questions about these procedures, please call 1-800-563-GENE (4363)

**September 1994**

**FAMILY LAW BOOKLET**

The Family Law Branch of the Department of Justice has recently revised the publication, "Family Law in Manitoba". The last publication was in 1985. The revised booklet is suitable for distribution to clients and provides general information about family law in Manitoba. Supplies of the booklet can be obtained from Legal Aid Manitoba at a cost of \$2.00 each. For larger volume orders (100 or more), the price is \$1.50 per book and, for orders in excess of 200, the price is \$1.00.

The booklet is also available in French (Le droit de la famille au Manitoba) . orders should be directed to Cynthia Keller at Legal Aid Manitoba administrative offices 402-294 Portage Avenue, Winnipeg, MB R3C 0B9 or by phone at 985-8534.

**March 1995****NOTICE TO THE PROFESSION**

MARCH 1995

Enclosed please find three notices regarding the following:

1. Request for proposals regarding young offenders work;
2. Criminal holdback;
3. A reminder about recoveries.

If you require further information about any of the material enclosed, please contact Allan Fineblit at 985-8508.



## REQUEST FOR PROPOSALS

### YOUTH CASES

In 1993 Legal Aid Manitoba tendered 11 blocks of 50 youth cases (youths charged under the Young Offenders Act). We expect to have 10 more blocks of 50 cases available in the next year and are now soliciting proposals from the Bar for those cases.

Almost all the cases involve youths charged under the Young Offenders Act with summary conviction offenses who are not facing jail on conviction. These cases will be heard in Winnipeg and generally represent the most minor types of offenses and circumstances.

#### HOW TO MAKE A PROPOSAL:

Your proposal should contain the following information:

1. Are you prepared to receive more than one block? How many?
2. What will you charge per case? Your price should be inclusive of "ordinary" disbursements, such as postage and photocopying.
3. Who will do the work? Include information about the lawyer's experience doing youth work.

#### WHAT YOU NEED TO KNOW:

1. Price is important and so is quality. The lowest bid may not be chosen (see #3 above).
2. Any bids which appear to be in conclusion will not be accepted.

If you have any questions, contact Allan Fineblit at 985-8508. The proposal should be sent marked:

#### PERSONAL AND CONFIDENTIAL

Allan Fineblit  
Executive Director  
Legal Aid Manitoba  
402-294 Portage Avenue  
Winnipeg, MB R3C 0B9

Deadline for submission is April 7, 1995.

**REQUEST FOR PROPOSALS****CRIMINAL HOLDBACK****1995/96**

While we will not know for certain for another few months, I expect there will be little or no repayment of the 1994/95 holdback. We are projecting that we will pay approximately \$8,350,000 to approximately 550 lawyers in that year. This represents \$200,000 more than in the previous years and will use up all of our money.

The Legal Aid Board considered the situation for next year and has decided to reimpose the holdback at the same level (12%) on criminal certificates issued on or after April 1, 1995.

The situation for next year both in terms of our projected revenue and expenditures looks quite good and for that reason, the necessity for a holdback will likely be revisited by our Board part way through the year, with a view to reducing or eliminating it if current projections hold.

## **REMINDER ABOUT RECOVERIES**

We have noted lately that some of you may be unaware of provisions in the Legal Aid Act and Regulations, which require you and your client to turn over any money recovered in a legal aid funded case to us. This requirement is noted on the face of every Legal Aid certificate.

Legal Aid may refund some or all of the money to your client. You need not send all of it to us, just enough to cover your bill - but make sure you include in that amount any interim payments you have received.

Failure to send us the money means two things. We likely will not be able to pay your bill. If the money was sent directly to your client and they do not pay us, they may be disentitling themselves to Legal Aid in the future. Your cooperation in complying with these statutory requirements would be appreciated.

**April 7, 1995**

**REQUEST FOR PROPOSALS**

**FAMILY LAW**

Each year Legal Aid sends approximately 8000 family law cases to private lawyers. Approximately 2000 of these are cases where the client has no choice of counsel. Many of these are quite simple and straight forward. We would like to identify 200 of these cases and send them to lawyers in blocks of 25 each. You are invited to submit a proposal to receive one or more of these blocks.

**WHAT YOU NEED TO KNOW:**

1. The current average cost of all legal aid family cases (including the more complex ones) is \$535. This figure includes disbursements,
2. Almost all the cases will be divorces, separations, and variations. There will be no child welfare cases included. You will get paid the agreed amount, regardless of whether the parties reconcile early on, instruct you not to proceed, or decide at some point to change counsel,
3. Beware! While we will only refer cases that appear to be simple, we cannot guarantee that they will stay that way, Once you take on the case, we will expect you to finish it, for the agreed upon price, even if it gets complicated,
4. Quality is important. The lowest bid may not be accepted (see #3 below)

**HOW TO MAKE A PROPOSAL:**

Your proposal should contain the following information:

1. Are you prepared to receive more than one block? How many?
2. What will you charge per case? Your price should be inclusive of "ordinary" disbursements, such as postage and photocopying.
3. Who will do the work? Include information about the lawyer's experience doing family law work.

If you have any questions, contact Allan Fineblit at 985-8508. The proposal should be sent marked:

**PERSONAL AND CONFIDENTIAL**

Allan Fineblit  
Executive Director  
Legal Aid Manitoba  
402-294 Portage Avenue  
Winnipeg, MB R3C 0B9

Deadline for submission is April 7, 1995.

**MAY 29, 1995**

**JOBS AT LEGAL AID**

We are reorganizing our Winnipeg Community Law Offices. Several of the lawyers who work for Legal Aid outside of Winnipeg will be moving into Winnipeg. We are inviting applications for those jobs outside of Winnipeg as well as for some new jobs we are creating in Winnipeg.

1. We will be opening an Aboriginal Law Centre in Winnipeg focusing on the legal needs of our aboriginal clients in the areas of criminal and family law. We are looking for 2 lawyers to do criminal law, with an emphasis on diversion and family law with a focus on mediation. Preference will be given to candidates with skills in appropriate aboriginal languages and good familiarity with aboriginal culture.

2. We expect to have a vacant Supervising Attorney and Area Director position in The Pas. We are looking for a highly motivated and skilled lawyer to fill this position.

Supervising lawyers must have experience in criminal and/or family law and be able to supervise lawyers, paralegals and support staff. The successful candidate should also have excellent administrative skills.

3. We expect to have a staff lawyer position in each of Dauphin, Thompson and The Pas. Staff lawyers should have experience in criminal and/or family law, experience dealing with low income clients and a willingness to travel.

4. We have 2 Winnipeg staff lawyer positions we are seeking to fill on a one year term basis. These jobs will be of interest to a junior lawyer with experience in either criminal, family, or youth law.

**THE FOLLOWING INFORMATION APPLIES TO ALL OF THE ABOVE:**

- The deadline for applications is **JUNE 16, 1995**

- Applications should be in writing, with a resume attached and directed to:

**CONFIDENTIAL FOR:**

Allan Fineblit  
Executive Director  
402-294 Portage Avenue  
Winnipeg, MB R3C 0B9

- The salary range depends on experience. For a staff lawyer the range is from \$29,334 to \$72,399 per year and for supervising lawyers the range is from \$62,848 to \$76,030 per year. There is also an excellent benefits package included with most of these positions.

- Applications will be kept confidential.

- Please specify which job(s) you are applying for.

- Affirmative action is an important selection factor. Ability to practise in English and French is also an asset.

- For more information call Allan Fineblit, at 985-8508 or Ronn Klassen, at 985-8510.

**JUNE 1995**

NOTICE TO THE PROFESSION  
EARLY SCREENING

In April 1994, the Crown and Legal Aid instituted a Province-wide system of early screening of charges. The Crown completed a Crown Position sheet which was submitted to Legal Aid to assist in our assessment of eligibility.

Over the past year or so, a number of you have expressed concerns about the effectiveness of this program and more importantly, about the headaches it was causing you. We have made every effort to try and adjust the program to solve some of the problems it was causing you. I'm not sure we succeeded.

After consulting with the Department of Justice, our Board has decided that we should stop the Program. Effective July 1, 1995, we will no longer require Crown Position sheets in order to assess eligibility.

Counsel are reminded that they should still take steps to complete all sections of the Legal Aid application form and to provide us with sufficient information (such as particulars and prior record) to enable us to assess eligibility for legal aid. I recognize that for many of you early screening has been unpleasant and problematic and your goodwill throughout has been much appreciated.

AF/ck