



LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA



Sonia Furstenau, MLA
Cowichan Valley

Honourable David Eby
Attorney General

June 24, 2019

I am writing to you about an issue that concerns our constituents in the Cowichan Valley in relation to legal aid services.

In supporting parents in their dealings with the Ministry of Children and Family Development, we have noted a significant imbalance in the legal services provided by the government to represent families in provincial court compared with the Crown's legal representation. The imbalance is linked to the disproportionate salaries the legal aid lawyer and the lawyer representing the crown are paid, and the staff and other resources available to each of them.

The impact of this unfair pay structure gives the public the impression that the Crown is doing more to protect its own interests than that of those who are eligible for legal aid services. Moreover, as you know, those who are most likely to require legal aid representation for child protection matters and who are thus impacted by this imbalance are Indigenous families.

Can you please let me know what your ministry is doing to increase salaries and resources for legal aid lawyers to make the legal representation provided by the government and for the government are equitable?

Sincerely,

Sonia Furstenau
MLA for Cowichan Valley

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Ms. Sonia Furstenau, MLA
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Dear Ms. Furstenau:

Thank you for your correspondence of June 24, 2019, regarding funding for legal aid lawyers in British Columbia. I appreciate you writing to relay concerns relating to the constituents in the Cowichan Valley.

Increasing access to justice is an important priority of the ministry, including improving and supporting legal aid. In *Budget 2018*, government announced a significant investment of \$26 million over the following three fiscal years to expand legal aid, including family law services. This included the \$1 million authorized for tariff incentives. On October 31, 2018, LSS announced a \$500 incentive payment for each family and child protection contract accepted by a lawyer in a community where LSS has difficulty placing cases with local lawyers.

In addition, the government has committed to fund up to \$2 million in 2019/20 to pilot legal clinics in up to eight communities throughout British Columbia. The clinics will provide free legal advice and advocacy to ensure British Columbia's most vulnerable citizens have equal access to justice. The ministry also continues to consider recommendations from reviews and reports, to inform initiatives such as the Indigenous Justice Strategy and BC's Poverty Reduction Plan. Taking these steps demonstrates government's commitment to increasing access to justice and continuing to make key improvements to legal aid in British Columbia.

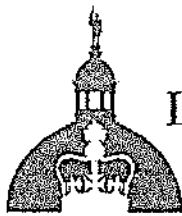
On March 29, 2019, I announced that government and LSS made \$8 million available for bonus payments to legal aid lawyers and committed to a formal process to develop a long-term agreement with legal aid lawyers collectively. These investments are the highest provincial investments in legal aid in sixteen years.

Thank you for writing.

Yours truly,

David Eby, QC
Attorney General

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LEGISLATIVE ASSEMBLY of BRITISH COLUMBIA



Sonia Furstenau, MLA

Cowichan Valley

Honourable David Eby
Attorney General

July 30, 2019

Dear Minister Eby,

Thank you for your letter received July 15 in which you outline the list of your commitments to improving access to justice and the legal-aid pay structure. However, this response did not adequately answer my question about the inequity in pay for both prosecutorial and defence representation in provincial court.

In the Cowichan Valley riding, we have double the provincial average of child apprehensions, the majority of which take place in Indigenous families. When these families attend court, many of them are represented by taxpayer-funded legal-aid services, with limited per-case funding. Meanwhile, the Ministry of Children and Family Development is represented by taxpayer-funded crown lawyers who have access to more resources and are paid significantly higher salaries. This creates a significant and unfair advantage to the Crown over families who cannot afford private lawyers.

I have spoken with many family lawyers about this question of unequal representation. They are unanimously of the view that to achieve fair representation the Crown should provide lawyers for both defence and prosecution, at equal pay and with equal resources. They believe this will have the additional benefit of reduced court times and cost savings.

Access to justice is only part of the solution. Equal representation must be included if families—specifically Indigenous families—are to trust that government is working in their best interest.

I look forward to hearing your thoughts and insights on this issue, and what changes you will make to ensure families are fairly represented in provincial court.

Sincerely,

Sonia Furstenau
MLA for Cowichan Valley

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Dear Sonia Furstenau:

Thank you for your response of July 30, 2019, further to my letter of July 15, 2019, relaying further concerns related to the constituents in the Cowichan Valley and the rate of pay for legal aid lawyers in provincial courts.

As you may know, lawyers who provide legal aid services in British Columbia, including legal representation in family law and child protection matters, are not salaried government employees. Instead, the Legal Services Society (LSS) compensates lawyers in private practice for the services they provide to legal aid clients primarily through a tariff-based system. As articulated in my previous letter, in March 2019, government and LSS made \$8 million available for a bargaining incentive bonus payment to legal aid lawyers to prevent a withdrawal of services. The agreement to make these bonus payments committed government and the Association of Legal Aid Lawyers (ALL) to a formal process to develop a longer-term agreement for future funding.

This investment and commitment to negotiating with ALL illustrates the importance government places on the compensation for legal aid lawyers. I look forward to sharing further details when an agreement is finalized.

Government recognizes the challenges for British Columbians who are facing the possible government removal of children from the family home. Another example of action taken to support these families is the funding of Parent Legal Centres (PLCs) across British Columbia, including one in Duncan. PLCs focus on helping parents where a child is at risk of being removed from a family home or has been removed by social workers because of safety concerns. By providing help early on, including when social workers first contact a family about concerns, the centres hope, when appropriate, to keep more families together and resolve issues out of court.

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The PLCs are a response to the fact that over 60 per cent of children in care in British Columbia are Indigenous. PLCs provide lawyer services, such as legal advice and representation at mediations and other collaborative meetings. An Aboriginal advocate also provides support throughout the process, including giving information, advocating on behalf of clients and connecting parents to other services such as counselling, addictions treatment or housing.

I believe these investments illustrate that our government is committed to ensuring British Columbians are given appropriate and proportionate legal services to address their family law issues.

I appreciate your raising this issue to my attention, and will take your perspective into account as our government continues to work to deliver the services British Columbians count on.

Yours truly,

David Eby, QC
Attorney General

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