

**MINISTRY OF ATTORNEY GENERAL  
BC HOUSING  
DECISION BRIEFING NOTE**

**PURPOSE:** For DECISION of David Eby, QC  
Attorney General and  
Minister Responsible for Housing

**ISSUE:**

As the sole shareholder of the Provincial Rental Housing Corporation, the Minister's approval is required to remove and appoint directors.

**DECISION REQUIRED / RECOMMENDATION: Option 1**

It is recommended the Minister sign the Special Resolution (Attachment 1) from the Provincial Rental Housing Corporation, removing previous Directors Michael Flanigan and Angela Grace Louise Cooke, and appointing Vincent Tong as a Director.

**SUMMARY:**

- The Attorney General and Minister Responsible for Housing is requested to sign a Special Resolution to remove and appoint directors for Provincial Rental Housing Corporation.

**BACKGROUND:**

- The Provincial Rental Housing Corporation (PRHC) is BC Housing's land holding company and was incorporated in 1961 under the *Business Corporations Act*.
- PRHC holds all of BC Housing's real estate assets and operates as a shell company with no employees. The BC Housing Executive serves as PRHC's board of directors. All of the operating activities of PRHC are carried out through BC Housing. All of PRHC's activities are reported through BC Housing.
- The board of directors for PRHC changes from time to time and the Special Resolution is necessary to effect the change in the board.

**Options**

**Option 1 (recommended):**

Sign the Special Resolution, approving PRHC's removal and appointment of Directors.

**Option 2:**

Do not approve the Special Resolution

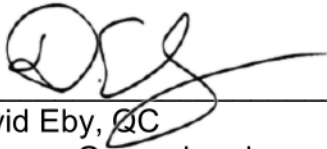


Barbara Carmichael, QC  
Acting Deputy Attorney General and  
Deputy Minister Responsible for Housing

**DATE:**

July 22, 2021

**RECOMMENDED OPTION APPROVED**



David Eby, QC  
Attorney General and  
Minister Responsible for Housing

**DATE:**

July 26, 2021

**Prepared by:**

Marie Weeks  
Advisor External & Comm Relations  
BC Housing  
604 456-8870

**Approved by:**

John Thomson  
A/Assistant Deputy Minister  
Office of Housing and Construction  
Standards  
236 478-2318

**Attachments (2):**

- 1. Provincial Rental Housing Corporation – Special Resolution
- 2. Provincial Rental Housing Corporation - Consent to Act

**PROVINCIAL RENTAL HOUSING CORPORATION**  
(the "Company")

Special resolution consented to in writing as of July 12, 2021, by the sole shareholder entitled to vote in person or by proxy at a general meeting of the Company:

Removal of Directors

**RESOLVED, AS A SPECIAL RESOLUTION, THAT** pursuant to the Articles of the Company and the provisions of the *Business Corporations Act* (British Columbia):

- a) Michael Flanigan be and is hereby removed as a director and officer of the Company, effective April 2, 2021; and
- b) Angela Grace Louise Cooke be and is hereby removed as a director of the Company, effective May 7, 2021.

Appointment of Directors

**WHEREAS** Vincent Tong consented to act as director of the Company effective July 12, 2021, as evidenced by the consent to act delivered to the Company.

**RESOLVED THAT** Vincent Tong, having consented in writing to act as a director, be elected as a director of the Company to hold office until the date of the next annual general meeting of the Company, or annual consent resolutions in lieu thereof, or until he ceases to hold office, so that the directors of the Company will be:

Shayne Arthur Ramsay  
Stephanie Allen  
Sara Liane Goldvine  
Stacey Samantha Lee  
Abbas Shabbir Barodawalla  
Armin Amrolia  
Michael Lawrence Pistrin  
Dale Leslie McMann  
Vincent Tong

Execution of Resolutions

These resolutions may be executed and delivered either in the original or in electronically transmitted form.

SIGNED by the Attorney General and  
Minister Responsible for Housing,  
THE HONOURABLE DAVID EBY,  
for and on behalf of Her Majesty the  
Queen in Right of the Province of  
British Columbia

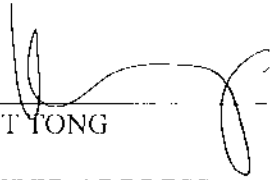
  
\_\_\_\_\_  
DAVID EBY

## CONSENT TO ACT

TO: PROVINCIAL RENTAL HOUSING CORPORATION (the "Company")

I hereby consent to act as a director of the Company, such consent to continue in effect until revoked by notice in writing to the Company and delivered to the Company or to a lawyer for the Company. I acknowledge that I am not disqualified under Section 124 of the *Business Corporations Act* (British Columbia), a copy of which is set out below, to act as a director.

Dated as of July 12, 2021.

  
\_\_\_\_\_  
VINCENT TONG

PRESCRIBED ADDRESS:  
1701 - 4555 Kingsway  
Burnaby, BC V5H 4V8

### BRITISH COLUMBIA BUSINESS CORPORATIONS ACT - PERSONS DISQUALIFIED AS DIRECTORS AND OFFICERS

- 124(2) *An individual is not qualified to become or act as a director of a company if that individual is*
- (a) *under the age of 18 years,*
  - (b) *found by a court, in Canada or elsewhere, to be incapable of managing the individual's own affairs,*
  - (c) *an undischarged bankrupt, or*
  - (d) *convicted in or out of British Columbia of an offence in connection with the promotion, formation or management of a corporation or unincorporated business, or of an offence involving fraud, unless*
    - (i) *the court orders otherwise,*
    - (ii) *5 years have elapsed since the last to occur of*
      - (A) *the expiration of the period set for suspension of the passing of sentence without a sentence having been passed,*
      - (B) *the imposition of a fine,*
      - (C) *the conclusion of the term of any imprisonment, and*
      - (D) *the conclusion of the term of any probation imposed, or*
    - (iii) *a pardon was granted or issued under the Criminal Records Act (Canada).*
- 141(3) *An individual who is not qualified under section 124 to become or act as a director of a company is not qualified to become or act as an officer of the company.*



**MINISTRY OF ATTORNEY GENERAL  
HOMELESSNESS POLICY AND PARTNERSHIPS BRANCH  
INFORMATION BRIEFING NOTE**

**PURPOSE:** For INFORMATION for David Eby, QC  
Attorney General and  
Minister Responsible for Housing

**ISSUE:**

s.12

Complex Care Housing framework and proposed initial sites will be implemented this fiscal year as part of Phase 1 of the Homelessness Strategy. s.12

s.12

New

health-focused housing will support a portion of the population experiencing homelessness in BC.

**SUMMARY:**

- Complex Care Housing will provide housing and health, mental health and substance use care for a portion of the homeless population experiencing complex mental health and substance use challenges and other complex health needs.
- A Complex Care Housing framework and initial sites will be implemented this fiscal year, this will aim to house 250-500 clients and includes: new supportive housing in congregate and scattered sites—designated for complex needs, transitional or stabilization housing and longer-term, assisted-living type residential settings. It is anticipated that the majority of the initial sites investment will be supportive housing for complex needs.

**BACKGROUND:**

- Complex Care Housing is a Ministry of Mental Health and Addictions (MMHA) mandate commitment and will provide housing and health, mental health and substance use care for a portion of the homeless population experiencing complex mental health and substance use challenges and other complex health needs, this housing can prevent people from maintaining safe, secure and stable housing in the traditional model of supportive housing.
- Complex Care Housing is a part of the Homelessness Strategy. The Complex Care Housing is also a setting where the Integrated Support Framework—another part of the Homelessness Strategy, will apply. For example, Housing, Cultural and Social Supports will be provided to clients in Complex Care Housing who are receiving MHSU care.
- Estimates of the homeless population requiring Complex Care Housing vary, ranging from 1-20 per cent of the homeless population. This could represent anywhere from 230-4,600 people based on the 2019 Homeless Cohort, where approximately 23,000 individuals experienced homelessness in BC between January – December 2019.

- Some communities with growing visible homeless populations are eager to partner with the Province to set-up Complex Care Housing as soon as possible.
- The proposal for Complex Care Housing includes three types of housing: new supportive housing in congregate and scattered sites—designated for complex needs, transitional or stabilization housing and longer-term, assisted-living type residential settings.
- The scattered site model—subsidizing market rental units with rental supplements and providing supports to clients, is based of the Mental Health Commission’s 2014 At Home / Chez Soi project<sup>1</sup>.
- The scattered site model of supportive housing is part of the Integrated Support Framework proposal, which would support those with different levels of intensity of need—not only the complex care sub-population, and ensure clients have access to health, housing, cultural and social supports.

s.12

## **DISCUSSION:**

- Complex Care Housing is part of the Homelessness Strategy and will help house and support a portion of the population at risk or experiencing homelessness with complex health, mental health and substance use needs and barriers to maintaining housing.
- Initial sites, including scattered site housing options will be implemented this fiscal year. <sup>s.12</sup>

s.12

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<sup>1</sup> Lauren B. Currie, Akm Moniruzzaman, Michelle L. Patterson, & Julian M. Somers (2014). At Home/Chez Soi Project: Vancouver Site Final Report. Calgary, AB: Mental Health Commission of Canada. Retrieved from: <http://www.mentalhealthcommission.ca>

### **INDIGENOUS PEOPLES CONSIDERATIONS:**

- Indigenous people are overrepresented in the homeless population, as well as with mental illness and/or substance use challenges due to the effects of colonization and systemic racism. It is very likely that First Nations, Métis and Inuit and urban Indigenous/people away from home are also overrepresented in the population of people with very complex needs.
- Engagement with Indigenous partners is planned as part of the Homelessness Strategy, funding will be requested to support engagement and partnership with Indigenous people, communities and organizations.
- Cultural supports are a core facet of the Integrated Support Framework which will:
  - Ensure accessible and inclusive cultural supports are integrated into different settings & designed to support the target population across settings.
  - Embed cultural safety and humility in all supports & settings.
  - Ensure a distinction-based approach for Indigenous supports, and that supports are Indigenous-led.

### **GBA+ OR DIVERSITY AND INCLUSION IMPLICATIONS:**

- Providing housing options is important to ensure safety and security of clients—women avoid accessing services, particularly if services are mixed gender, due to fears of violence and exploitation, or government involvement if they are homeless with children.
- Distinct approaches for women will need to consider services and supports that are safe and accessible, including for women of colour, transgender women, non-binary and two-spirit people and women who are homeless with children.

### **OTHER MINISTRIES IMPACTED/CONSULTED:**

- Ministry of Mental Health & Addictions

#### **Prepared by:**

Norris Miller  
Senior Policy Analyst  
Homelessness Policy & Partnerships Branch  
778-572-3782

#### **Approved by:**

John Thomson  
A/Assistant Deputy Minister  
Office of Housing and Construction  
Standards  
236 478-2318

**MINISTRY OF ATTORNEY GENERAL  
OFFICE OF HOUSING AND CONSTRUCTION STANDARDS  
DECISION BRIEFING NOTE**

**PURPOSE:** For DECISION of David Eby, QC  
Attorney General and  
Minister Responsible for Housing

**ISSUE:**  
Provision of data from 2021 homeless counts to participating communities.

**DECISION REQUIRED / RECOMMENDATION: Option 1**  
Sign the attached letters and send them to the mayors and councils.

**SUMMARY:**

- Data from the provincial homeless counts that were completed in 2021 is being provided to our partners in participating communities.
- The attached letters for the Minister's signature will provide the data to the mayors and councils of the communities where the counts occurred.

**BACKGROUND:**

- The Premier's 2017 mandate letter to Minister Simpson and Minister Robinson directed them to conduct a province-wide homeless count. In 2018, the Ministry of Municipal Affairs and Housing partnered with BC Housing and the Homelessness Services Association of BC (HSABC) to produce a report summarizing point-in-time homeless counts in 24 communities across BC.
- The second series of coordinated homeless counts in BC was to take place in March and April 2020. The Province funded counts in 16 communities; 8 were completed in March; the remaining 8 were postponed due to the COVID-19 pandemic and completed in April and May 2021. Another 9 communities completed counts in 2020 and 2021 with funding from the federal government and other sources.
- Summary data in the form of an infographic was sent to the local organizers of the 8 provincially funded homeless counts completed in 2020 and to mayors and councils and was posted on BC Housing's website.

**DISCUSSION:**

- Once approved, BC Housing will send the summary infographics for the 8 counts conducted in 2021 to the local organizers. The infographics will also be posted on BC Housing's website, once the mayors and councils have been notified.
- The infographics present the following data for each community:
  - The number of people who were sheltered and unsheltered
  - Age, gender, sexual orientation and trans experience
  - Racial and Indigenous identity

- Health concerns
  - Length of time homeless and reasons for housing loss
  - Length of time in community
  - Age when first homeless
  - Experience with foster care, youth group home, youth agreement
  - Sources of income
  - Services accessed
- Moving forward with this briefing note are letters addressed to mayors and councils for the Minister's signature (Attachment 1). These letters will include an infographic for each community. Some counts extended across more than one municipality, so there is a total of 10 letters.
- Attachment 2 shows the results of the homeless counts in the 16 provincially funded communities and the federally and independently funded communities which have released their data. HSABC is now preparing a summary report of all the counts, to be released in fall 2021.
- Policy staff and GCPE are preparing communication material to support the Minister with any follow-up conversations that may occur with local elected officials.

#### **INDIGENOUS PEOPLES CONSIDERATIONS:**

- The representation of Indigenous people in the homeless population is far greater than that within the general population. While Indigenous people account for 6 per cent of the provincial population as a whole, all communities in the 2021 provincial count had a higher proportion of respondents who were Indigenous. They were particularly high in these communities:

Campbell River	62 per cent
Port Alberni	65 per cent
Prince Rupert	87 per cent
Smithers	93 per cent
Vernon	40 per cent

#### **GBA+ OR DIVERSITY AND INCLUSION IMPLICATIONS:**

- Numerous groups within the population are disproportionately affected by homelessness and have distinctive experiences. In addition to Indigenous people, these include:
  - People with health, mental health and/or substance use challenges
  - Persons with disabilities, particularly those with physical and cognitive disabilities
  - Women, especially those subject to gender-based violence
  - Racialized people
  - Youth and young adults
  - LGBTQ2S+ individuals
- Many are considered "hidden homeless", so are underrepresented in homeless counts. The Ministry is pursuing complementary ways to quantify and document the experience of people who are less likely to be counted through the point-in-time method.

**OPTIONS:**

**Option 1:** Sign the attached letters and send them to the mayors and councils.

**(RECOMMENDED)**

Pros:

- Informs mayors and councils of the homelessness situation in their communities.
- Letters were sent to mayors and councils in the 2020 count communities.
- Keeps in good standing with communities.

Cons:

- None

**Option 2:** <sup>s.13</sup>

Pros:

- <sup>s.13</sup>

Cons:

- <sup>s.13</sup>

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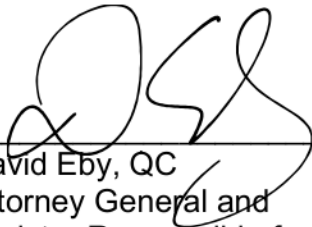


Richard J. M. Fyfe, QC  
Deputy Attorney General and  
Deputy Minister Responsible for Housing

**DATE:**

July 28, 2021

**OPTION <sup>1</sup> APPROVED**



David Eby, QC  
Attorney General and  
Minister Responsible for Housing

**DATE:**

July 30, 2021

**Prepared by:**

Bob Crane  
Senior Policy Analyst  
Homelessness Policy and  
Partnerships Branch  
778 679-9657

**Approved by:**

Cheryl May  
Assistant Deputy Minister  
Office of Housing and Construction  
Standards  
250 812-3345

**Attachments**

1. List of Addressees and Infographic Attachments
2. Draft Letter Example - Campbell River Letter and 2021 Homelessness Count
3. 2020-21 Homeless Count Summary

**ATTACHMENT 1 - 2021 HOMELESS COUNT LETTERS TO MAYORS AND COUNCILS**

Please attach 2021 Homeless Count infographics to the letters as shown:

<b>ADDRESSEE</b>	<b>INFOGRAPHIC ATTACHMENT</b>
Mayor Andy Adams City of Campbell River	Campbell River
Mayor Ed Mayne City of Parksville	Parksville/Qualicum
Mayor Brian Wiese Town of Qualicum Beach	Parksville/Qualicum
Board Chair Tyler Brown Regional District of Nanaimo	Parksville/Qualicum
Mayor John Vassilaki City of Penticton	Penticton
Mayor Sharie Minions City of Port Alberni	Port Alberni
Mayor Lee Brain City of Prince Rupert	Prince Rupert
Mayor Gladys Atrill Town of Smithers	Smithers
Mayor Karen Elliott District of Squamish	Squamish
Mayor Victor Cumming City of Vernon	Vernon



City of Campbell River  
301 St. Ann's Rd.  
Campbell River BC  
V9W 4C7

Dear Mayor Andy Adams,

I am writing to provide you with final results from the homeless count that was conducted in Campbell River in April 2021. The count was led by the Coalition to End Homelessness in collaboration with the Homelessness Services Association of BC (HSABC). HSABC organized counts on behalf of BC Housing and the Minister of Attorney General and Minister Responsible for Housing. The data from this count and others conducted across the province will be included in a provincial summary in fall 2021.

The final results show the number of people identified as experiencing homelessness, including those identified as sheltered and unsheltered. Data is also organized by age, gender, Indigenous and racial identity, health concerns, reasons for housing loss, and use of social services. Key limitations and methodological considerations are also provided. These results will be posted publicly on BC Housing's website at:  
<https://www.bchousing.org/research-centre/housing-data/homeless-counts>.

Our government is taking bold steps to tackle the housing crisis and deliver the affordable homes British Columbians need. In Budget 2018, we launched Homes for BC, government's 30-point housing plan and the largest investment in housing affordability in British Columbia's history – \$7 billion over 10 years. With new government funding and partnerships with municipalities and housing groups, we are working towards building 114,000 homes for people living in British Columbia. We have nearly 30,000 homes complete or underway for a range of people who are struggling to find a place to live, from people who are experiencing homelessness and seniors on fixed incomes, to middle-income families, students and individuals.

We know there's still more to do and that's why in Budget 2021, we announced an additional \$2 billion investment in development financing through BC's HousingHub to finance the construction of thousands of new homes for middle-income families.

If you have any questions about the count, you can contact Stefanie Hendrickson, at [campbellriverhousing@gmail.com](mailto:campbellriverhousing@gmail.com). We hope this data will assist you with the work you are doing to address homelessness in your community.

Yours truly,

David Eby, QC  
Attorney General and  
Minister Responsible for Housing

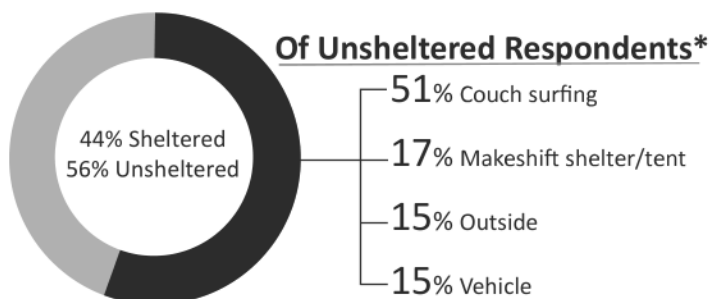
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The 2021 Point in Time homeless count occurred in Campbell River on the evening of April 8 and the day of April 9 to help provide an overall snapshot of homelessness in the community.

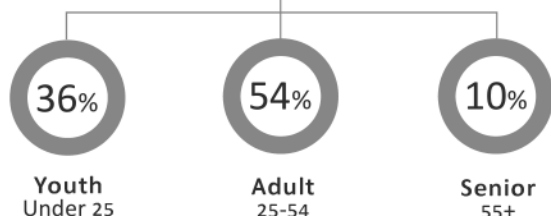
## 116

People were identified as experiencing homelessness compared to 81 in 2018.

Where did individuals stay the night of the count?



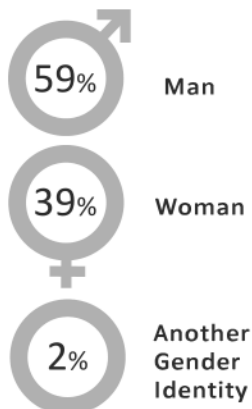
### AGE BREAKDOWN



**69%** Experienced homelessness for the first time as a youth

**45%** Had been in foster care, a youth group home, or under a youth agreement

### GENDER



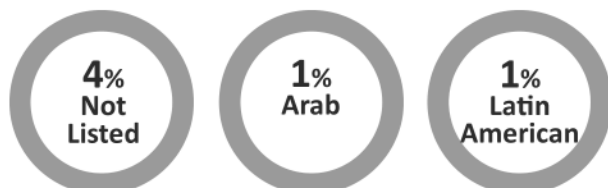
### SEXUAL ORIENTATION

**15%** of respondents identified as 2SLGBTQIA+

### TRANS EXPERIENCE

**2%** of respondents identified as having trans experience

### RACIAL IDENTITY



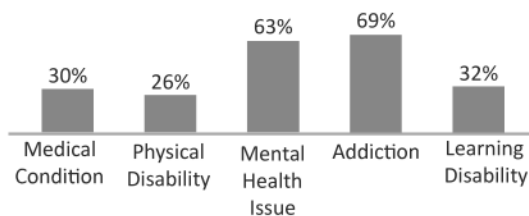
Not listed includes respondents who selected 'Not listed' and may have provided a write-in answer, e.g. nationality, ethnicity or religious group.

### INDIGENOUS IDENTITY

**62%** of respondents identified as Indigenous

Compared to 12% of the general population (2016 Census)

### HEALTH CONCERNS



**26%** Reported an acquired brain injury

**72%** Reported two or more health concerns

### LENGTH OF TIME HOMELESS

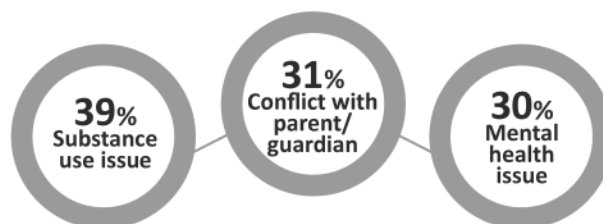
**22%** Under 6 months

**67%** 1 year or more

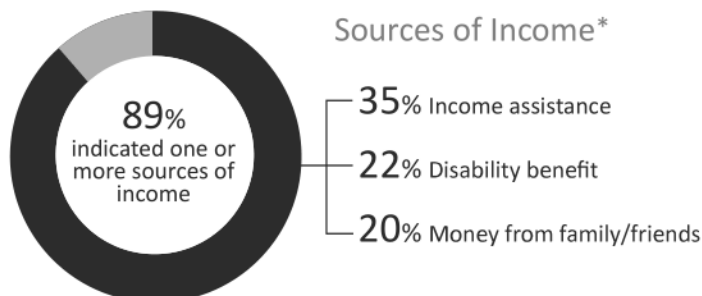
**76%** of respondents had been in the community for at least 1 year

**45%** of respondents had been in the community 10 years or more

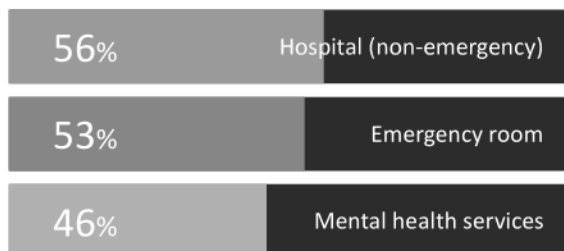
### REASONS FOR HOUSING LOSS\*



### INCOME



### SERVICES ACCESSED\*



\* Top responses highlighted

## Limitations and Methodological Considerations

Please note the following considerations in reviewing this data.

In the spring of 2020, the Province of British Columbia provided funding to conduct homeless counts in 16 B.C. communities. Due to the COVID-19 pandemic, only eight of the 16 communities were able to conduct their counts before March 17, 2020, when British Columbia's Provincial Health Officer declared a public health emergency under British Columbia's *Public Health Act*. The remaining eight communities completed their counts in 2021 with additional pandemic precautions.

The Homelessness Services Association of BC, with support from BC Non-Profit Housing Association and Urban Matters, coordinated these counts and prepared this report.

Data from counts in the count communities constitutes a benchmark to measure progress made to reduce homelessness over time.

- › Point-in-Time (PiT) homeless counts provide a snapshot of people who are experiencing homelessness in a 24-hour period, their demographic characteristics, service use and other information.
  - › For the purpose of counts conducted in the provincially funded B.C. communities, an individual was defined as experiencing homelessness if they did not have a place of their own where they paid rent and could expect to stay for at least 30 days. This included people who:
    - › Stayed overnight on the night of the count in homeless shelters, including transition houses for women fleeing violence and youth safe houses, people with no fixed address (NFA) staying temporarily in hospitals, jails or detox facilities (defined as “sheltered”); and,
    - › Stayed outside in alleys, doorways, parkades, parks and vehicles or were staying temporarily at someone else's place (couch surfing) and/or using homelessness services (defined as “unsheltered”).
  - › During the count, we conduct surveys with people who identify as experiencing homelessness. In areas where surveys are not possible, and to support the PiT count, we collect additional information from shelter operators, hospitals, jails and BC Housing.
  - › PiT counts are an undercount and represent only those individuals identified during a 24-hour period.
    - › This is because not everyone experiencing homelessness can be found and not everyone who is found consents to be surveyed.
    - › While PiT counts are an accepted methodological tool, the numbers are understood to be the minimum number of people who are experiencing homelessness on a given day in that community.
    - › Please note the percentages are based on the number of people who responded to survey questions and not the total number of people identified as experiencing homelessness.
- 



## ATTACHMENT 2 2020-21 HOMELESS COUNT SUMMARY

Community	Count funding	Current count		Previous count		Change <sup>2</sup>	
		Year <sup>1</sup>	Total	Year	Total	#	%
Campbell River	Prov	2021	116	2018	81	+35	+43
Capital Regional District <sup>3</sup>	Fed	2020	978	2018	931	+47	+5
Comox Valley	Prov	2020	132	2018	117	+15	+13
Cranbrook	Prov	2020	63	2018	29	+34	+117
Duncan/Cowichan Valley	Prov	2020	129	2017	150	-21	-14
Fort St. John	Prov	2020	76	2018	61	+15	+25
Fraser Valley	Ind	2020	895	2017	606	+289	+48
Kamloops <sup>4</sup>	Fed	2021		2018	195		
Kelowna	Fed	2020	297	2018	286	+11	+4
Merritt	Prov	2020	43	2018	11	+32	+291
Metro Vancouver	Fed	2020	3,634	2017	3,605	+29	+1
Nanaimo <sup>3</sup>	Fed	2020	421	2018	301	+120	+29
Nelson	Fed	N/A		2018	115		
Parksville/Qualicum	Prov	2021	87	2018	42	+45	+107
Penticton	Prov	2021	114	2018	108	+6	+6
Port Alberni	Prov	2021	125	2018	147	-23	-15
Prince George <sup>4</sup>	Fed	2021		2018	160		
Prince Rupert	Prov	2021	118	2018	71	+47	+66
Quesnel	Prov	2020	121	N/A			
Salt Spring Island	Ind	2021	139	2018	115	+24	+21
Sechelt/Gibsons	Prov	2020	84	2018	57	+27	+47
Smithers	Prov	2021	33	2018	29	+4	+14
Squamish	Prov	2021	107	N/A			
Terrace	Ind	2021	85	2019	71	+14	+20
Vernon	Prov	2021	224	2019	151	+73	+48
Williams Lake	Prov	2020	51	2018	43	+8	+19

<sup>1</sup> 2020 counts occurred in March, before the start of the COVID 19 pandemic. 2021 counts occurred in April and May.

<sup>2</sup> Changes in percentage may be due to variety of factors, including increase/decrease of people experiencing homelessness, as well as methodological differences such as weather and volunteers. Counts conducted in 2021 reflect COVID-19 impacts.

<sup>3</sup> The totals for the Capital Regional District and Nanaimo counts in this table are lower than the totals reported by the count organizers. Their totals include people living in transitional housing, which are not included in the provincial and other counts. Transitional housing residents have been deducted from the total counts in their reports. The totals reported by the CRD were 1,523 (2020) and 1,525 (2018). The Nanaimo totals were 433 (2020) and 335 (2018).

As well, the Nanaimo count identified 17 hidden homeless (couch surfers) who completed surveys but were not included in the total. All the other counts include couch surfers, so they have been included in the above total for Nanaimo. There was no data on couch surfers in the 2018 count report, so the above 2018 and 2020 totals are not comparable. To calculate the percentage change between these years, the report totals of 335 and 433 were used.

Further adjustments may be made for the provincial summary based on analysis of the raw data.

<sup>4</sup> Counts were completed in 2021 but data is not yet available.

**MINISTRY OF ATTORNEY GENERAL  
HOUSING POLICY BRANCH  
DECISION BRIEFING NOTE**

**PURPOSE:** For DECISION of David Eby, QC  
Attorney General and  
Minister Responsible for Housing

**ISSUE:**  
Receiving the Short-Term Rentals Advisory Group Final Report

**DECISION REQUIRED / RECOMMENDATION:**

Option 1: <sup>s.13</sup>

s.13

**SUMMARY:**

- The Joint UBCM-Provincial Advisory Group on Short-term Rentals has completed their work and written a final report, which is being presented to the UBCM Executive at a virtual meeting on July 16, 2021.
- The final report contains a series of requests from the perspective of local governments to the Province, including a provincial regulatory framework and other supports to help local governments implement and enforce policies on short-term rentals.
- The Advisory Group's requests fall under the jurisdictions of the Minister of Finance, Minister of Municipal Affairs, and Attorney General and Minister Responsible for Housing. Staff from Municipal Affairs and Housing have been attending Advisory Group meetings throughout the process.

**BACKGROUND:**

- The Joint UBCM-Provincial Advisory Group on Short-term Rentals ("Advisory Group") was formed in 2019 following the Rental Housing Task Force's recommendation to the Province to work with local governments to develop, implement and enforce short-term rental rules to better protect long-term rental stock.
- The Advisory Group formed in early 2020 and met twice, followed by a hiatus until April 2021 during the COVID-19 pandemic. From April through June 2021, the Advisory Group met virtually and completed their discovery and discussion processes, culminating in a final report addressed to UBCM and the Province.

- s.13

## **DISCUSSION:**

The Advisory Group's final report contains six priorities identified as important in addressing the effects of the short-term rental industry on long-term housing in B.C. communities:

1. Provincial legislation regulating short-term rental platforms and hosts
2. Improving data sharing between platforms and local governments
3. Improving the fairness and consistency of taxation on short-term rentals
4. New or improved regulatory tools for local governments
5. Capacity supports for local governments
6. Improving the availability and quality of data on the secondary rental market

From these six priorities the Advisory Group identified 13 requests to the Province for actions that would support local governments. The major request is for the Province to introduce a provincial regulatory framework similar to what has been introduced for ride-sharing (Uber, Lyft, etc.) to increase accountability, safety, and protection of long-term housing.

Some of the requests, such as implementing split-classification of properties for taxation purposes, have been raised before by UBCM <sup>s.13; s.16</sup>

<sup>s.13; s.16</sup>

Staff from Municipal Affairs and Finance have advised during the Advisory Group's process of forming these priorities that challenges exist in implementing some of the requests. The Advisory Group is aware of those challenges and opted to keep those items in the final report as they reflect the input of local governments on this topic. Further policy work by the affected Ministries is necessary before the Province indicates any agreement or intention to act upon the requests.

## **INDIGENOUS PEOPLES CONSIDERATIONS:**

- This issue has not been examined specifically for Indigenous Peoples considerations.

## **GBA+ OR DIVERSITY AND INCLUSION IMPLICATIONS:**

- This issue has not been examined specifically for GBA+ or Diversity and Inclusion Implications.

## **OPTIONS:**

1. <sup>s.13</sup>

2. Formally receive the Advisory Group's final report directly as the Attorney General and Minister Responsible for Housing and provide a copy for information to the Ministers of Finance and Municipal Affairs. This option may be easier to schedule given summer holiday timelines. <sup>s.13</sup>

s.13

#### OTHER MINISTRIES IMPACTED/CONSULTED:

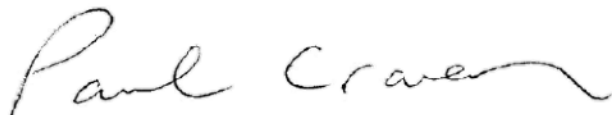
- Ministry of Finance: staff were consulted to provide input to the Advisory Group on property tax and MRDT policy matters. <sup>s.13</sup>

s.13

s.13

Minister Robinson was the active Minister for Municipal Affairs and Housing when the Advisory Group was struck.

- Ministry of Municipal Affairs: staff from the Planning and Land Use Management Branch participated in Advisory Group meetings and provided some feedback on the final report. Minister Osborne was one of the original local government participants in the Advisory Group prior to her election as MLA and appointment as Minister.
- Ministry of Tourism, Arts and Culture: staff from Tourism have been engaged by Housing Policy Branch in 2019; as any changes to the short-term rental industry will potentially affect tourism outcomes, further consultation with Tourism staff will be useful following the Province's receipt of the final report.



Paul Craven  
A/Deputy Attorney General and  
Deputy Minister Responsible for Housing

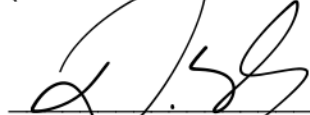
**DATE:**

July 19, 2021

#### RECOMMENDED OPTION APPROVED

or **OPTION 2 APPROVED**

(whichever fits best for the options presented)



David Eby, QC  
Attorney General and  
Minister Responsible for Housing

**DATE:**

July 27, 2021

#### Prepared by:

Susan Low  
Senior Policy Analyst  
Housing Policy Branch  
778-698-1690

#### Approved by:

John Thomson  
A/Assistant Deputy Minister  
Office of Housing and Construction  
Standards  
250 812-1915

**Attachment(s)**

1. Priorities for Action on Short-Term Rentals: Report of the Joint UBCM-Province Advisory Group on Short-Term Rentals, June 30, 2021.



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# PRIORITIES FOR ACTION ON SHORT-TERM RENTALS

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## **Report of the Joint UBCM-Province Advisory Group on Short-Term Rentals**

FINAL REPORT

June 30, 2021

Supported by

Housing Policy Branch

Office of Housing and Construction Standards

Ministry of Attorney General and Minister responsible for Housing

## Executive Summary

The Province's Rental Housing Task Force recommended in December 2018 that the Province work with local governments to develop, implement, and enforce short-term rental rules to better protect long-term rental stock (Recommendation #11). In the May 2019 response to the Task Force recommendations, the Province agreed to address this recommendation in 2020 through further consultation with stakeholders and local governments. In fall 2019 the Province and UBCM established a Joint Advisory Group on Short-Term Rentals. The purpose of this group was established as follows:

The Advisory Group will facilitate discussions with local governments about the impacts of STRs and tools for addressing them. Information generated by the Advisory Group will help **inform the Province's consideration of potential policy approaches to STRs**, including possible measures to support local governments interested in taking further actions to address STR impacts.

Housing affordability and availability are topics of utmost concern for all levels of government in British Columbia. The Advisory Group is particularly concerned about impacts of short-term rentals on long-term rental housing. While these impacts are hard to measure with available data set, the diversion of housing units from long-term supply is a significant problem affecting housing in many communities. The Advisory Group's work is informed by the need to take sensible precautionary steps to avoid negative outcomes for British Columbians.

The Advisory Group considered input from experts in various aspects of provincial legislation, research on short-term rental activity and broader rental housing data, and a series of stakeholder organizations. Through the Advisory Group's discovery and discussion process, a series of principles and outcomes were articulated that guided the identification of possible measures for the Province to consider. These principles were: recognition of regional differences, subsidiarity, fairness, future-proofing, and evidence-based policy balanced by precaution. The outcomes address various stakeholder viewpoints and seek to recognize both the opportunities and drawbacks presented by short-term rental platforms.

The priorities and requests to the Province in this report are intended to spark further discussion and exploration of potential policy approaches in the areas of platform accountability or regulation, data sharing, taxation, local government regulatory tools, capacity, and broader efforts to improve data sources and analysis on rental housing.

This Report represents the work done by the Advisory Group to understand the impacts of short-term rentals and suggest priorities and ideas to inform the Province's future work in this area. This report does not indicate formal endorsement by UBCM or the Province of these proposals.

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## Background

Short-term rentals are the rental of a home, or room within a home, for a temporary stay (usually fewer than 30 consecutive nights). While vacation rentals and in-home bed-and-breakfasts have been a part of tourism accommodation for decades, the short-term rental industry saw significant growth with the advent of online platforms such as Airbnb and HomeAway (now VRBO).

The broad access and ease of transactions provided by these platforms led to a shift in the frequency of use and types of accommodation being listed for short-term use, with units not previously considered “tourism-oriented” being made available to travellers. The online accommodation bookings industry continues to evolve and grow despite the COVID-19 pandemic reducing worldwide travel, and hosts are now able to offer broader “experiences” and adjacent services via these platforms.

This shifting landscape in the accommodations industry has affected communities differently throughout the province. Impacts causing concern include:

- **Housing Availability:** The use of housing units for travellers has reduced long-term rental housing capacity at a time when housing availability and costs are already under pressure. While many short-term rental hosts use part of their primary residences for hosting, other types of spaces such as basement suites or accessory dwelling units also appear frequently on the platforms. Existing data on vacancy in the primary rental market (purpose-built apartments) shows no consistent correlation with short-term rental listings or bookings activity, but the true impact of short-term rentals is in the secondary market (other housing forms), which is more fluid and difficult to measure. The lack of consistent definition of what constitutes a “permanent dwelling” and limited capacity of local governments to monitor listings makes it nearly impossible to determine the actual scale of diversion from rental housing stock in a statistical sense, but observations by local governments indicate there is a significant unmeasured threat to long-term housing. As 70% of B.C.’s renter households rely on secondary rental market housing, and in some communities up to 100% of rental housing is in the secondary market, there is a strong case for responding to the potential impacts of short-term rentals even in lieu of appropriate data sources.
- **Housing Affordability:** The potential for earning revenue from short-term rental use of properties (whole or in part) often supports higher property prices than local incomes can support. This impacts housing cost in the rental market due to price competition and may be driving up the purchase price of homes in the resale market, as buyers are willing to pay a premium for units (especially condos) with potential for short-term rental use. Data to isolate and attribute this impact is not readily available, but anecdotal evidence appears in numerous B.C. communities.
- **Land Use:** In some cases, previously residential-use properties have been converted to commercial use despite local land use policies. Where short-term rentals represent a full-time business model, these properties are no longer serving their intended purpose as dwellings for local residents. In other communities (especially remote areas), the ease of promoting vacation rentals of properties has attracted tourism for which local governments are not equipped to regulate or support with infrastructure.

- **Public Impacts:** Increasing transient use of properties without oversight by hosts has contributed to noise, parking, garbage, safety, and disruption complaints. In some cases, short-term rental activity has been linked to public health risks via out-of-region visitors contributing to COVID-19 outbreaks.
- **Local Government Capacity:** Between the staff and Council time required to consult, evaluate options, and adopt short-term rental policies, and the licensing and enforcement staff time required to monitor listings and properties, regulating short-term rentals represents a significant (and new) imposition on local government capacity.

Short-term rentals also offer some benefits to communities and travellers:

- **Interim Worker Housing:** Employees arriving in a community for new employment, or for a temporary assignment, may use short-term rental housing while arranging for a permanent residence or to avoid occupying a rental unit only for a short period, freeing that unit up for a long-term residential tenant.
- **Tourism:** Short-term rentals provide some benefits to communities that are seeking to expand their tourism economies as a diversification strategy:
  - Short-term rentals expand tourist accommodation capacity, particularly in places with emerging tourism sectors where traditional lodging businesses have not yet established sufficient capacity.
  - Family travel: short-term rental units may be larger and provide more facilities that support families with children or specific accommodation needs, compared to hotels/motels. This opens up tourism in a community to different demographic segments.
  - Sports/group travel: teams or groups wishing to travel together may find an entire home with several bedrooms a more affordable way to travel for tournaments or events compared to the cost of booking multiple hotel rooms. Kamloops and Burnaby are two examples of communities with significant special event facilities where attendance may exceed local hotel capacity.
- **Economic Activity:** Hosts earn additional income on their short-term rentals (which may or may not be reported on tax returns) and visitors contribute in other ways to local economies through hospitality and experiences in the host community.

The challenge for the Province and local governments is to find a balance in regulating short-term rental activity to enhance the benefits and opportunities presented by the industry while reducing the detrimental effects on housing and neighbourhood livability.

An increasing number of local governments in B.C. have developed policies, or are in the process of doing so, to respond to the new opportunities, challenges, and impacts that short-term rentals bring to their communities. The Union of BC Municipalities (UBCM) identified short-term rentals as an ongoing issue of concern for local governments in 2016. Workshops and resolution discussions on the topic were featured at UBCM conventions in 2016, 2017, and 2018. A UBCM Special Committee on Housing included a series of

recommendations to address short-term rental regulation and taxation in the January 2018 report “*A Home for Everyone: A Housing Strategy for British Columbians*”.

## Participating Organizations

The Advisory Group formed in January 2020 with representatives of nine local governments and participants from UBCM and the Ministry of Municipal Affairs and Housing (as it was then), and now also includes the Ministry of Attorney General and Minister responsible for Housing. Communities represented on the group were (in alphabetical order):

- City of Burnaby
- Islands Trust
- City of Kelowna
- City of Nelson
- Regional District of Thompson-Nicola
- Village of Tofino
- City of Vancouver
- City of Victoria
- Resort Municipality of Whistler

## Process

The Advisory Group held in-person meetings in February and early March 2020, including presentations and discussions to inform the group’s members about community objectives, housing impacts as measured by available data, and legislative context. The group heard presentations from:

- Housing Policy Branch (Ministry of Municipal Affairs and Housing)
- Residential Tenancy Branch (Ministry of Municipal Affairs and Housing)
- Property Tax and Assessment Branch (Ministry of Municipal Affairs and Housing)
- Tax Policy (Ministry of Finance)

The onset of the COVID-19 pandemic put the Advisory Group’s process on hold during the spring and summer of 2020. Group members shared, via email, updates on the impacts of the pandemic on their communities and observations about how the short-term rental activity in their community changed (or not) while travel was affected by public health orders. Following the fall 2020 election, housing policy moved under the mandate of the Ministry of Attorney General and Minister responsible for Housing. The Advisory Group reconvened in April 2021.

Virtual meetings comprised the second stage of the Advisory Group’s deliberations. In addition to local government representatives sharing the expertise and experiences from their own communities, the Advisory Group received presentations and written submissions from:

- Housing Policy Branch (Ministry of Attorney General and Minister responsible for Housing)

- Tourism Vancouver
- BC Hotel Association
- BC Real Estate Association
- Harvard Business School (on the evolution of short-term rentals and online accommodation platforms)

The Advisory Group participated in a virtual collaboration session on May 12 which captured and delved into numerous themes that had emerged from the presentation and discussions held throughout this process. A draft of this report was provided to government relations personnel from Airbnb and Expedia (owner of the VRBO platform) for comment and feedback to the panel prior to this report being finalized.

## Principles

The Advisory Group identified five principles that inform the outcomes and priorities presented in this report.

- **Recognition of Regional Differences:** Economic and housing conditions vary among regions and communities. Any proposed outcomes or actions need to recognize and allow for these differences, including the need to balance needs within a community (e.g. tourism, economic development, housing).
- **Subsidiarity:** Law-making and implementation are often best achieved at a level of government that is most effective and closest to the issues affected. The federal, provincial, and local governments have different but overlapping roles in housing policy and land use planning. Subsidiarity as a guiding principle encourages complementary legislation while accommodating local circumstances.
- **Fairness:** As much as possible and where feasible, all businesses operating in an industry within a given market should be subject to the same restrictions and requirements under the law. Similarly, residents in a community should be subject to the same expectations and have access to the same types of protections or benefits.
- **Future-Proof:** The travel industry was evolving prior to the COVID-19 pandemic, which caused an abrupt and dramatic change to how and why people seek and use accommodation. The online accommodation booking industry is dynamic and any legislation or programs implemented in 2021 or 2022 need to consider the rapid changes and market reach of this platform-based industry. Relying only on local governments to adopt bylaws and pursue enforcement of this industry has already produced a fragmented regulatory landscape.
- **Evidence Based Policy balanced by Precaution:** Outcomes and priorities should be informed by multiple types of evidence, including quantitative data, qualitative research, observations, and experiences of governments in B.C., Canada, and elsewhere. Where the available data or evidence falls short of the reliability necessary for conclusive analysis, governments should exercise caution but also act to prevent likely harms.

# Outcomes

Drawing from the perspectives and experience of local government representatives from a diverse range of communities, the Advisory Group identified a series of important outcomes of potential legislation or programs for various stakeholders. These outcomes will be achieved by complementary and collaborative work across orders of government.

- B.C. households seeking rental housing are not excluded from finding and affording housing that meets their needs as a result of suitable units being repurposed or developed specifically for short-term rentals instead of long-term tenancies.
- Local governments are able to set and enforce land use policies that designate residential property primarily for the purpose of providing long-term residences, while allowing ancillary uses that are aligned with community objectives.
- Local governments have sufficient and timely access to short-term rentals data, and capacity to enforce the land use policies and regulatory schemes set in their jurisdiction.
- All operators within the industry are subject to a clear and consistent regulatory structure, with the same level of accountability to B.C. communities.
- Businesses operating accommodation services via online platforms are held accountable for the same safety, labour practices, neighbourhood impacts, and taxes as accommodation providers operating in more traditional business models (e.g. hotels, motels, B&Bs, campgrounds, etc).
- Hosts, travellers, and neighbours are kept safe and have enjoyable experiences (or fewer negative experiences) resulting from short-term rental accommodations.
- Local governments and the Province have improved capability, through data sources and analysis, to understand the interaction between short-term rentals and the housing market.
- The Province continues to monitor and report on trends and impacts from the short-term rental industry to inform and support local governments.



## Priorities

The following needs and ideas emerged during the Group's process as the most likely actions to lead to the desired Outcomes, while being informed by and respectful of the Principles described above. The Advisory Group acknowledges these ideas and priorities will likely require further analysis and collaboration to determine feasibility. Numerous other jurisdictions have introduced more stringent legislation and requirements for the short-term rental industry. Actions to address the impact of short-term rentals in British Columbia may carry some risk, but this needs to be balanced against the significant pressures facing rental housing in many communities.

### Provincial Platform Regulation and Accountability

**Priority:** Where local governments have enacted regulatory tools, such as requiring business licenses for the operation of a short-term rental, these policies are only as strong as the capacity of the local government to enforce them. Platforms have a direct business relationship with their hosts which provides a greater opportunity to detect and deter non-compliant activity.

The Province has greater capacity to use legislative authority to regulate all online accommodation platforms offering services within the province. This framework could echo the provincial regulation of other travel or real-estate related industries such as travel agencies, home inspectors, and ride-hailing (e.g. Lyft, Uber, etc.). The parameters of a provincial framework need to be explored further, but the Advisory Group considers there to be many potential inclusions that would significantly address negative impacts of the short-term rental industry:

- Commercial operators (hosts with numerous short-term rental properties possibly listed across platforms and across communities) could be required to register as businesses through the B.C. Corporate Registries.
- While some platforms provide a field where hosts can display their business license or permit information, this could become a mandatory inclusion for all listings in B.C. where local governments have permit or license requirements. There needs to be validation of this information so that hosts are not providing false data simply to get their listing online. The Province could hold platforms accountable through provincial regulation to validate this information with local governments.
- Hosts could be asked to commit to a statutory declaration to the Province, via their platform, that their listing is compliant with provincial and local government requirements.
- Hosts could be held accountable to the province for standards regarding safety/hygiene, insurance, and consumer protection.

**Rationale:** Regulation of an industry at the provincial level, to the extent where common objectives exist, provides for greater clarity for the industry and efficiency for enforcement. A provincial regulatory framework is more future-proofed than relying on individual local governments to

keep abreast of advances in the technology and business models of online accommodation platforms and then update bylaws or policies in a patchwork form across the province.

Provincial regulation of other industries, such as ride-sharing, travel agencies, payday loans, and home inspections among others, provide standards that are intended to protect all British Columbians from safety and financial hazards that could be common if business activities are left unregulated. This applies to the customers in an industry as well as labour practices.

**Requests:**

1. Introduce a **provincial regulatory framework**, similar to those in place for ride-sharing and other regulated industries, for platform accountability and information validation for online accommodation platforms and short-term rental hosts.

## Data Sharing

**Priority:** Local governments need data on short-term rentals that allows them to understand STR activity in their community, develop bylaws or policies to support community objectives, and enforce those bylaws or policies. The Province needs data on short-term rentals to understand trends across the province, monitor impacts on the housing market, and enforce tax policy.

Types of data that are needed include property information (address, ownership, unit type, legal tenure), host details (including multiple-property hosts), bookings (frequency of use and income), licensing information (if any), and information on complaints relating to public safety or neighbourhood impacts such as noise or standards of property maintenance.

In addressing this priority, governments need to consider appropriate protection for the personal privacy of short-term rental hosts, as data collected for a business purpose may not be redacted under FOIPPA as personal information. As short-term rental activity indicates potential vacancy of properties, it presents a security and safety threat to hosts if their property information or demographic details are released through a Freedom of Information Request.

**Rationale:** Current practices require governments to contract with third-party data providers or assign staff to manually scan online accommodation platforms, which are costly and inefficient approaches that may not always yield accurate and complete data. Requiring all participants in the online accommodation industry to adhere to common standards of data-sharing provides fairness in the industry and reduces the burden of tracking property listings across multiple platforms.

**Requests:**

2. Require all online accommodation platforms to **make data available through a provincial interface** from which local governments can pull information on property listings, hosts, bookings, and complaints in their community.

3. Require online accommodation platforms to **validate business license or permit information** with local governments to avoid false information in listings.

## Taxation

**Priorities:** Undertaking a business activity, regardless of locale, should be subject to consistent taxation according to the law. Taxation provides revenue to governments to financially support (in part) the infrastructure and programs that create tourism opportunities and offset the potential negative impacts of the business activity, such as the pressures placed on local housing markets by short-term rentals. The collection and remittance of taxes does not prevent negative impacts on housing affordability and availability but is part of a coherent and aligned regulatory framework.

### **Tax Collection and Remittance**

The Province regulates that the process by which Provincial Sales Tax (PST) and Municipal and Regional District Tax (MRDT) are collected and remitted as applicable on sales of short-term accommodation provided in B.C., including all accommodation listed on an online accommodation platform. Short-term rental hosts are required to register for the PST and MRDT (if applicable) unless they only list their accommodation on a platform that is registered to collect PST and MRDT.

The Province has negotiated with Airbnb to collect and remit taxes on behalf of hosts, but there are numerous other platforms not participating in these agreements, and current legislation does not allow the Province to require platforms to collect PST and MRDT (only to register voluntarily). All platforms operating in this industry should be subject to the same requirements for short-term rental bookings in the province.

### **Using Tax Revenues to Address Short-term Rental Impacts**

Areas that have the MRDT in place can opt to direct tax revenues from online accommodation providers to housing purposes in their community, but not to the compliance and enforcement of short-term rental policies. Non-MRDT communities have more limited means to raise revenues to offset compliance and enforcement costs. Options to direct PST revenues from short-term rentals to the originating communities would support compliance and enforcement efforts.

The Advisory Group heard from industry stakeholders that the differing rates and coverage of MRDT is challenging for tourism operators and short-term rental hosts; making the MRDT consistent throughout the province could simplify administration and reduce confusion. Revisions to the MRDT could also yield tax revenue from short-term rentals that could support local communities to offset neighbourhood impacts by enabling more personnel to be allocated towards enforcement.

### **Addressing Commercial Use of Residential Property in Taxation**

UBCM has previously endorsed a members' resolution calling for the Province to amend legislation so that properties used for short-term rental accommodation may be eligible for split classification between Class 1 and Class 6 under the Assessment Act. This would be consistent with the split classification of strata accommodation properties and "bed and breakfast" residential properties. The Advisory Group acknowledges the challenges involved in applying classification to short-term rental listings, and in keeping with the principle of fairness, supports a wider use of split classification so that commercial accommodation activities are taxed fairly. Higher property tax rates for commercial properties raise revenue directly for local governments to apply to the regulation and enforcement of the industry.

**Rationale:** Applying a consistent expectation across the industry to collect tax at the point of booking provides for tax fairness among all accommodation hosts (short-term rentals, traditional B&Bs, hotels, etc). This promotes accurate and complete collection of tax revenues which may be applied towards compliance and enforcement efforts.

#### **Requests:**

4. Introduce legislation to **make tax collection at the point of booking a requirement** for online accommodation platforms.
5. **Share PST revenues from short-term rentals with the local governments** affected by the taxed business activity.
6. Investigate further changes to the MRDT to **increase consistency across the province** and expand the uses of tax revenue to offset impacts to housing and neighbourhoods.
7. Explore options to **expand split classification of properties** so that commercial use of property for short-term rental accommodation is reflected in property tax assessments.

### **Regulatory Tools for Local Governments**

**Priority:** Local governments have a variety of objectives that inform their policies on short-term rentals and need a flexible yet comprehensive suite of regulatory tools to help achieve those objectives. One of the most effective tools for addressing the impact of short-term rentals on housing availability and affordability is to prohibit listings that aren't within a host's principal residence. Additional conditions are used by local governments in response to specific community concerns, including having on-site or on-call property oversight, limiting the number of nights per year, and requiring off-street parking. The resource "Regulating Short-Term Rentals" published by Generation Squeeze provides an excellent reference for local governments seeking to identify options for their jurisdictions.

Some of the regulatory tools in use to implement this requirement include business licensing, temporary use permits, zoning bylaw definitions, and ticketing/fines. Yet not all local governments have access to the same tools, or some of these tools could be improved:

- Regional districts are currently required by the *Local Government Act* to request authority from the Province to issue business licenses. Enabling this authority by default would remove a barrier for regional districts wishing to adopt business licensing bylaws by choice, as a tool to manage short-term rentals and other industries as identified by the regional district. (The Province may also consider configuring the *Local Government Act* so that regional districts could adopt a licensing framework for specific industries instead of having to license all businesses).
- Increasing the allowable fines that can be levied through the Municipal Ticket Information system or Bylaw Enforcement System will enable local governments to apply deterrents to illegal short-term rental activity. Strata corporations are able to levy fines of up to \$1,000 *per day* for contraventions of strata bylaw prohibiting short-term rentals. This is a high fine in the context of a strata corporation, though it may be insufficient in other environments; some jurisdictions outside Canada are levying fines of \$1,000 for a first offence, \$5,000 for a second offence, and \$10,000 for a third offence.
- The Bylaw Enforcement Notice Adjudication process (Ministry of Attorney General) provides an avenue for citizens to dispute tickets; some communities have noted that after pursuing investigation and levying a bylaw notice to a short-term rental host who is not complying with local laws, the Provincial adjudicator may cancel the violation notice.

**Rationale:** Enabling local governments to use regulatory tools that fit their community's objectives acknowledges regional differences between communities and supports the principle of subsidiarity (placing regulations at the point closest to the resident/business that allows for efficient implementation).

**Requests:**

8. Amend the *Local Government Act* to **allow regional districts to implement business licensing**, by approval of the regional district board, as a tool to regulate short-term rentals.
9. **Increase the allowable fines** that local governments can levy against short-term rental hosts operating out of compliance.
10. Explore whether provincial bylaw notice adjudicators have sufficient information and awareness of short-term rental issues to understand these offences, **preventing undue cancellation of violation notices**.

## Capacity Supports for Local Governments

**Priority:** Local governments vary widely in their objectives for regulating short-term rentals and the extent or impact of short-term rental activity in their communities. They also vary in size, and organizational capacity to develop, consult on, implement and enforce policies relating to short-term rentals. Building on past collaboration and outreach, the Province and UBCM can continue to jointly support all local governments in learning about, implementing and enforcing short-term rental policies by providing opportunities for knowledge sharing and community-to-community peer support.

A useful model for this is the [BC Ideas Exchange](#), which focuses on local economic development practices and knowledge-sharing activities such as web-based toolkits, webinars and conference workshops. The [“Regulating Short Term Rentals” Toolkit](#) written by Third Space Planning with support from the Federation of Canadian Municipalities and others is an example of the type of content that can be shared with local governments.

Local governments have indicated the value of having knowledgeable people available to consult directly in addition to the plethora of written and online resources. Direct outreach to local governments helps bridge the capacity gap; this model is demonstrated by the Regional Economic Development Managers that support local governments through the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.

**Rationale:** Capacity for policy development and implementation is a major constraint facing local governments. Simply having the legislative authority to pass bylaws and implement licensing does not mean a local government (especially a small one) has the staff time or expertise to carry out research and consultation prior to policy implementation, to respond to public pressure from short-term rental hosts opposed to policies that limit their business opportunities, or to enforce policies that are passed by Council. The Province and UBCM can act jointly to support capacity development.

### Requests:

11. Allocate Provincial resources to collaborate with UBCM on an **outreach program to support local governments** in identifying and implementing policy options that address housing priorities and needs, including short-term rental regulation and enforcement.

## Improve Availability of Data on Short-Term Rentals and the Rental Market

**Priority:** Local governments and the Province need better data on both the availability and cost of housing in the rental market. Rental market data from CMHC pertains predominantly to the primary (purpose-built rental) market, and is only available at an annual frequency, which poses serious challenges and limitations to understanding the impacts of short-term rentals on the rental market. Data on the secondary rental market (i.e. basement suites, rental houses, etc.) is largely non-existent, thus measuring the impacts of short-term rentals more broadly remains an impossible task. Even where data exists, a further challenge comes in

distinguishing rental units that could potentially form permanent housing from properties that are unlikely to be used as permanent housing, even if removed from short-term rental use (e.g. temporary listings, remote vacation properties or residences located in designated tourist accommodation zones).

The Advisory Group is aware of the challenge of establishing data sources on the secondary rental market and raises this as a priority for the Province to work on with CMHC and using municipal data where available.

In addition to improving data on the secondary rental market, the Advisory Group noted that data on short-term rentals are not incorporated into the Housing Needs Reports required for all communities. If data-sharing becomes a requirement for online accommodations providers, this information can be included in Housing Needs Reports to help Councils recognize trends or challenges and adapt policies according to local needs.

**Rationale:** Through the Advisory Group process it became evident that gaps in data on the rental market made it difficult to measure and compare the impacts of short-term rentals on rental housing availability and cost in communities. Existing rental housing data from Canada Mortgage and Housing Corporation (CMHC) varies in coverage among communities, with data coverage of up to 55% in some larger metropolitan areas, but as little as 10% coverage in smaller communities. By contrast, it is known from Census data that roughly 70% of all renter households in British Columbia occupy rented dwellings in the secondary rental market, yet there are very few reliable data sources available to understand this very large segment of the rental market.

These data gaps confound meaningful discussions of what policies are really needed to address housing affordability across the spectrum of housing. The gaps also increase the risk that local government policies targeting short-term rentals will fail to respond to emerging trends in housing (or developing industries) or provide the necessary housing to meet future demands.

**Requests:**

12. Allocate Provincial resources and collaborate with the federal government (Statistics Canada and CMHC) and local governments **to improve the collection and analysis of data on secondary rental housing**, particularly as relates to short-term rental impacts.
13. **Expand the Housing Needs Reports data requirements** to include showing data on short-term rental listings and usage, utilizing platform data collected through a provincial regulatory framework.

**MINISTRY OF ATTORNEY GENERAL  
MULTICULTURALISM AND ANTI-RACISM DIVISION  
MEETING NOTE**

**PURPOSE:** For INFORMATION of Rachna Singh, Parliamentary Secretary for Anti-Racism Initiatives

**ISSUE:**

Meeting with the National Association for Japanese Canadians (NAJC) on July 23, 2021

**SUMMARY:**

- A meeting between the Parliamentary Secretary for Anti-Racism Initiatives (PS), Minister Dix, Minister Malcolmson and the National Association of Japanese Canadians (NAJC) to discuss health as part of the Province's next steps in developing a comprehensive plan to acknowledge historical wrongs against the community.

**BACKGROUND:**

- One of PS Singh's mandate commitments is to honour the Japanese Canadian community by providing lasting recognition of the traumatic internment of more than 22,000 Japanese Canadians during World War II.
- s.13
- This will be the third meeting in a series of four planned sessions on the following themes: Monuments (April 30th, 2021); Anti-Racism and Education (June 11th 2021); Health and Mental Wellness (July 23, 2021) and Heritage and Culture and Community Building (September 1, 2021).
- The NAJC considers the Seniors Health and Wellness recommendations to be a priority as emphasized in the July 2020 "NAJC Japanese Canadian Legacy Initiatives" document that was submitted to the Premier's Office, and further supported by analysis from the Institute of Fiscal Studies in Democracy (IFSD) submitted to NAJC in November 2020.
- On March 31<sup>st</sup>, 2021, the Ministry of Health distributed an initial \$2M grant to the Nikkei Seniors Care & Housing Society (Nikkei Seniors) as an interim measure to support Japanese Canadian organizations that support culturally sensitive elder care including assisted living. To deliver this funding, Nikkei Seniors have created a grant program for organizations, small groups and individuals to enhance programs and services for internment survivors in BC and across Canada. Projects should be completed by December 31, 2022.



## DISCUSSION:

- s.13
- The focus of the July 23<sup>rd</sup> meeting will be on Seniors Health and Wellness.  
s.13
- s.17
- The Ministry of Mental Health and Addictions has been invited to this meeting and can provide advice on creating a working group and directory for mental wellness, as well as provide advice on supporting existing and new mental health services for interment survivors and their families.
- Points that will require further internal discussion include:
  - s.12; s.13
  - The Ministry of Health has provided \$2M initial funding s.12; s.13  
s.12; s.13

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- Ministry staff have shared the NAJC's recommendations with the following ministries and will coordinate with them on individual meetings where applicable: Ministry of Health, Ministry of Mental Health and Addictions, Ministry of Education, Ministry of Tourism, Arts, Culture and Sport, Ministry of Forests, Lands, Natural Resources Operations and Rural Development, Ministry of Transportation and Infrastructure and BC Parks.

**Prepared by:**

Alison Dudley  
Executive Director  
Multiculturalism and Anti-Racism Division  
236-818-1150

**Approved by:**

Angela Cooke  
Associate Deputy Minister  
Housing, Construction Standards,  
Multiculturalism and Anti-Racism  
236-478-3768

## **BRIEFING NOTE**

**Multicultural Advisory Council, July 26, 2021**

**Vancouver Cabinet Office**

### **Briefing Note**

#### **What:**

Meeting with members of the Multicultural Advisory Council

#### **Who:**

Premier Horgan, Parliamentary Secretary for Anti-Racism Initiatives, Rachna Singh

#### **Council Members:**

- Amir Bajehkian (confirmed)
- Shelley Rivkin (confirmed)
- Christine Marie Anonuevo (tbc)
- Patricia Barkaskas (tbc)
- Michael Chang (tbc)
- Hira Rashid (regrets)
- Ismaël Traoré
- Hana Woldeyes (tbc)
- David Wong (tbc)
- Melanie Matining (regrets)
- Tracy Wideman (regrets)

#### **Executive Summary:**

The Multicultural Advisory Council meets with Parliamentary Secretary Singh on a quarterly basis to provide advice on anti-racism and multiculturalism initiatives.

## **BRIEFING NOTE**

**Multicultural Advisory Council, July 26, 2021**

**Vancouver Cabinet Office**

Members are keenly interested in the current anti-racism data legislation initiative, the future anti-racism act and the Police Act review.

### **Background:**

In 2021, MAC members have provided advice on the spring anti-racism public education campaign and the future engagement approaches for the anti-racism data legislation and anti-racism act.

MAC members will present recommendations to the Police Act review committee on July 27, 2021.

Two members (Amir Bajehkian and Ismaël Traoré) will also attend a meeting with the Ministry of Attorney General on July 30, 2021 to receive an update on the upcoming engagement process on the anti-racism data legislation and provide input on the “SenseMaker” virtual engagement tool that will be used as part of the engagement process.

Eight members’ terms are up for renewal in November 2021. Shelley Rivkin has recently advised that <sup>s.22</sup>

s.22

### **Key Messages:**

Thank you for all the advice you have provided on anti-racism initiatives throughout the pandemic.

## **BRIEFING NOTE**

**Multicultural Advisory Council, July 26, 2021**

**Vancouver Cabinet Office**

There is good momentum across government on anti-racism initiatives and we look forward to engaging you and benefiting from your expertise in the coming months and year.

We are especially excited about the upcoming engagement on the anti-racism data legislation initiative. We hope to table this legislation in Spring 2022.

Page 042 of 259 to/à Page 060 of 259

Withheld pursuant to/removed as

s.3

# Bi-Monthly Meeting Agenda

Meeting between the Human Rights Commissioner, Attorney General, Minister Beare,  
Parliamentary Secretary Singh

July 14, 2021  
8:00-9:00 am

Via Zoom s.15; s.17

**Attendees:**

Kasari Govender, Human Rights Commissioner

-other OHRC staff TBD

David Eby, QC, Attorney General

Lisa Beare, Minister of Citizens' Services

Rachna Singh, Parliamentary Secretary for Anti-Racism Initiatives

Richard Fyfe, Deputy Attorney General and Deputy Minister Responsible for Housing

Angela Cooke, Associate Deputy Minister, Housing, Construction Standards, Multiculturalism and Anti-Racism

Hayden Lansdell, Assistant Deputy Minister, Citizens' Services

Kathleen Assaf, Executive Director, Citizens' Services

Alison Dudley, Executive Director, Multiculturalism and Anti-Racism Division

Haiqa Cheema, Ministerial Advisor

[illegible]

**MINISTRY OF ATTORNEY GENERAL  
CORPORATE MANAGEMENT SERVICES BRANCH  
INFORMATION BRIEFING NOTE**

**PURPOSE:** For INFORMATION for Honourable David Eby, QC  
Attorney General and Minister Responsible for Housing

**ISSUE:**

The 2020/21 audited Public Accounts of the Province of British Columbia are to be released by August 31, 2021. The purpose of this note is to provide an overview of how the Ministry of Attorney General (AG) will be disclosed.

**BACKGROUND:**

- The Public Accounts will reflect that AG ended the fiscal year 2020/21 with a surplus in the operating budget of \$10.190 million. With the Adjustment for Prior Year's Accrual, the surplus reports as \$11.871 million (see Appendix A: Ministry Appropriation Schedule - AG Draft ADJ3-21).
- The Public Accounts are made available on the Ministry of Finance's web site <https://www2.gov.bc.ca/gov/content/governments/finances/public-accounts> upon their release.
- **Ministry Reorganization:**  
The Public Accounts will show a budget increase of \$501.864 million as indicated in the following table for the November 26, 2020 reorganization.

<b>Table 1: Program Reorganization</b>	<b>\$ Million</b>
Housing Vote	505.858
Housing Endowment Fund Special Account	12.884
Housing Corporate Services	0.677
Homelessness Action Plan	0.985
Multiculturalism and Anti-Racism (incl corporate support)	2.039
Liquor and Cannabis Regulation	(0.001)
Gaming Policy and Enforcement	(19.437)
Crown Agency Support Office and Associate Deputy Minister's Office	(1.141)
<b>Total Budget Increase – Government Reorganization</b>	<b>501.864</b>

- **Additional Operations Budget:** In fiscal 2020/21, Ministry of Attorney General received approval to access the Contingencies (All Ministries) and New Programs Vote for \$40.556 million, and the Contingencies (All Ministries) Pandemic Response and Economic Recovery Vote for \$310.229 million, and Special Account transfers for (\$0.027) million additional funding for operations.



As a result, the Public Accounts will show Ministry of Attorney General as having "Other Authorizations" totalling \$852.622 million including the reorganization (Table 1).

<b>Table 2: Contingencies and New Programs Vote:</b>	<b>\$ Millions</b>
Civil Resolution Tribunal (CRT) - Autoplan Care Enhancements	0.230
BC Housing Management Commission Reporting Framework	0.304
Community Social Services Recruitment and Retention	2.105
Court Services Operations	3.928
CRT - Vehicle Accident Claims	2.824
Digital Evidence Storage	9.810
Employee Leave Liability	0.778
Public Guardian and Trustee - <i>Health Care Consent and Care Facilities Admission Act</i>	0.240
Intersection Safety Camera	1.280
Information Systems Branch Operations	1.000
Law Foundation Legal Clinics	5.540
Legal Services Operations	0.500
Legalization of Cannabis	1.326
Major Cases	5.258
Independent Investigations Office Operations	0.099
Sustainable Services Negotiating Mandate	3.620
Tribunal Admin and Support Services	1.714
<b>Subtotal: Contingencies and New Programs Vote</b>	<b>40.556</b>
<b>Contingencies: Pandemic Response and Economic Recovery</b>	
Access Pro Bono	0.300
BC Housing COVID-19 Response	95.965
Court Services	15.000
Dispute Resolution for Families – Early Resolution Model	0.646
Family Justice COVID-19 Response	0.083
Justice Electronic Delivery Initiative (JEDI)	2.000
Multiculturalism and Anti-Racism Grant	2.587
Pandemic Response Measures in support of Homeless and Social Housing Populations	61.833
Temporary Rental Supplement	64.000
Temporary Rental Supplement Extension	65.065
Urgent Shelter and Encampment Response	2.750
<b>Subtotal: Contingencies: Pandemic Response and Economic Recovery</b>	<b>310.229</b>
<b>Statutory Appropriations and Special Account Balance</b>	
Public Guardian and Trustee Special Account Appropriation	0.213
Inter Account Transfers	(0.240)
<b>Subtotal: Statutory Appropriations and Special Account Balance</b>	<b>(0.027)</b>
Government Reorganization	501.864
<b>Total Other Authorizations</b>	<b>852.622</b>

- **Variances for 2020/21:** Notwithstanding the requirement for ministries to comply with budget limits, individual core businesses within ministries may report either net (under) or over-expenditures.

In fiscal 2020/21 several Ministry of Attorney General core businesses had variances; the information below identifies and describes these:

	<b>\$ Millions</b> (Surplus)/Shortfall
<b>Justice Services:</b> Surplus due to one time Legal Aid BC COVID related savings, partly offset by BC Family Maintenance Agency structural deficit.	(4.115)
<b>Court Services:</b> Deficit due to Abbotsford expansion and sheriff temporary market adjustment greater than <i>Financial Administration Act</i> recovery.	2.372
<b>Legal Services:</b> Deficit due to non-recoverable COVID legal costs and reduced recoverable legal fees due to the pandemic partly offset by COVID savings.	1.681
<b>Agencies, Boards, Commissions and Other Tribunals:</b> Surplus due to reduced claims volumes resulting in delayed hiring in the Civil Resolution Tribunal.	(0.378)
<b>Executive and Support Services:</b> Deficit due to centralized pressures in Information Systems Branch for IMIT Dynamics platform, Tribunal Transformation amortization and BC Prosecution Services digital storage.	0.414
<b>Homelessness Action Plan</b>	(0.044)
<b>Executive Support Services – Transfer from Ministry of Municipal Affairs:</b> Surplus due to hiring lags.	(0.337)
<b>Judiciary</b>	(0.016)
<b>Crown Proceeding Act</b>	(8.953)
<b>Public Inquiry Act:</b> Surplus due to pandemic delays and moving to remote work environment.	(0.814)
<b>Adjustment of Prior Year Accrual</b>	(1.681)
<b>Total Net (Surplus) / Shortfall</b>	<b>(11.871)</b>

- **Capital Expenditures for 2020/21:** In fiscal 2020/21, the Ministry of Attorney General received approval to access the Capital Contingencies for courthouse mandatory operating equipment, office equipment for the Superintendent of Professional Governance, and heavy equipment vehicles and fit-ups for Abbotsford Courthouse.

The Public Accounts will report Ministry of Attorney General's capital expenditures of \$7.057 million against a budget of \$7.033 million (see Appendix B: Annual Service Plan Report – Financial Summary). Capital contingencies access of \$2.571 million was off-set by \$2.547 million of capital funding re-profiled to out-years for a total other authorization of \$0.024 million. Capital contingencies was provided for the following initiatives:

- \$2.179 million for Courthouse Mandatory Operating Equipment; and
- \$0.392 million for Abbotsford Courthouse Heavy Equipment Vehicles and Fit-ups.

- **Detailed Schedules of Payments:** Additional schedules are available on the Internet in support of the Public Accounts. These schedules of payments include salary and travel expenses for Ministers and Deputy Ministers, Order in Council appointees and employees earning more than \$75,000, government transfers, payments to suppliers in excess of \$25,000, and a detailed listing of all purchases made on the Corporate Purchasing Card.

Payments to Attorney General's Minister will be reported in the Public Accounts as follows:

Member	Minister's Salary Increment	Minister's Travel	Capital City Allowance
Minister David Eby	\$49,839	\$6,769	\$9,283

Ministry financial staff have reviewed the supplementary schedules. There were no unexplained issues or sensitivities.

The Corporate Purchasing Card is used as an efficient way to make many small dollar purchases. Purchasing Card transactions for 2020/21 were routinely reviewed and the purchases sampled were for valid business purposes.

- **Travel Expenditures:** The ministry has reviewed travel expenditures for the year and no unusual items were found. There were six individuals with total travel claims in excess of \$15,000. The travel claims threshold was \$30,000 in the prior year and was reduced due to COVID-19 travel restrictions.

s.15; s.17; s.22

- **Balanced Budget and Ministerial Accountability Act (BBMAA):**  
As per section 3 of the *Balanced Budget and Ministerial Accountability Act* (BBMAA) each member of the Executive Council's salary must be reduced by 20%.

Payment of ½ of holdback for achieving collective responsibilities:

Half of this 20% reduction will be restored on the day after the 2020/21 Public Accounts are released if a surplus was estimated in the main estimates for 2020/21 and a surplus of at least 50% of the amount estimated is realized.

Due to the COVID-19 pandemic, this 10% percent collective holdback will not be released in 2020/21.

Payment of ½ of holdback for achieving individual responsibilities:

For ministers whose actual results meet the expected individual results, the other 10% of the holdback will be restored following the release of the Ministerial Accountability Report and Public Accounts.

For BBMAA reporting purposes, the ministry's revised budget is \$947,030 million compared to adjusted actuals of \$892,330 million. Spending is within the revised budget target and your 10% individual holdback will be released for 20/21 (see Appendix C: BBMAA Reconciliation).

**Prepared by:**

Ed Sykora  
Director, Financial Planning and Analysis AG  
Corporate Management Services Branch  
Phone: 778-974-5205

**Approved By:**

Richard J.M. Fyfe, QC  
Deputy Attorney General

**Reviewed By:**

Caryn Fischer  
Chief Financial Officer  
Attorney General  
Corporate Management Services Branch  
Phone: 778-974-2918

Tracy Campbell  
Assistant Deputy Minister and EFO  
Corporate Management Services Branch

## Appendix A - Ministry Appropriation Schedule

### Ministry of Attorney General—(Unaudited)

Description	Total Appropriations		
	Estimated \$	Other Authorizations \$	Total \$
<b>Justice Services</b>			
Voted Appropriation(s)			
Justice Services.....	150,110,000	8,540,000	158,650,000
	<b>150,110,000</b>	<b>8,540,000</b>	<b>158,650,000</b>
<b>Prosecution Services</b>			
Voted Appropriation(s)			
Prosecution Services.....	146,429,000	6,036,000	152,465,000
	<b>146,429,000</b>	<b>6,036,000</b>	<b>152,465,000</b>
<b>Court Services</b>			
Voted Appropriation(s)			
Court Services.....	120,948,000	20,236,803	141,184,803
	<b>120,948,000</b>	<b>20,236,803</b>	<b>141,184,803</b>
<b>Legal Services</b>			
Voted Appropriation(s)			
Legal Services.....	27,314,000	1,036,000	28,350,000
	<b>27,314,000</b>	<b>1,036,000</b>	<b>28,350,000</b>
<b>Agencies, Boards, Commissions and Other Tribunals</b>			
Voted Appropriation(s)			
Agencies, Boards, Commissions and Other Tribunals.....	35,678,000	5,008,000	40,686,000
British Columbia Utilities Commission.....	1,000		1,000
	<b>35,679,000</b>	<b>5,008,000</b>	<b>40,687,000</b>
<b>Liquor and Cannabis Regulation</b>			
Voted Appropriation(s)			
Liquor and Cannabis Regulation.....	1,000	(1,000)	0
	<b>1,000</b>	<b>(1,000)</b>	<b>0</b>
<b>Gaming Policy and Enforcement</b>			
Voted Appropriation(s)			
Gaming Policy and Enforcement Operations.....	19,436,000	(19,436,000)	0
Distribution of Gaming Proceeds.....	1,000	(1,000)	0
	<b>19,437,000</b>	<b>(19,437,000)</b>	<b>0</b>
<b>Executive and Support Services</b>			
Voted Appropriation(s)			
Minister's Office.....	900,000		900,000
Corporate Services.....	23,739,000	10,459,000	34,198,000
	<b>24,639,000</b>	<b>10,459,000</b>	<b>35,098,000</b>
<b>Judiciary</b>			
Voted Appropriation(s)			
Superior Courts.....	20,069,000		20,069,000
Provincial Courts.....	63,503,000		63,503,000
	<b>83,572,000</b>	<b>0</b>	<b>83,572,000</b>
<b>Crown Proceeding Act</b>			
Voted Appropriation(s)			
Crown Proceeding Act.....	24,500,000		24,500,000
	<b>24,500,000</b>	<b>0</b>	<b>24,500,000</b>
<b>Independent Investigations Office</b>			
Voted Appropriation(s)			
Independent Investigations Office.....	9,075,000	99,163	9,174,163
	<b>9,075,000</b>	<b>99,163</b>	<b>9,174,163</b>

Ministry of Attorney General—(Unaudited)—Continued

Actual Expenses by Group Account Classification							Variance
Salaries and Benefits	Operating Costs	Government Transfers	Other Expenses	Internal Recoveries	External Recoveries	Total	Actual to Appropriation
\$	\$	\$	\$	\$	\$	\$	\$
27,553,585	13,457,784	129,496,376	111,032	(10,003,192)	(6,080,706)	154,534,879	(4,115,121)
27,553,585	13,457,784	129,496,376	111,032	(10,003,192)	(6,080,706)	154,534,879	(4,115,121)
151,983,090	7,523,250		1,542,783	(8,456,249)	(128,329)	152,464,545	(455)
151,983,090	7,523,250	0	1,542,783	(8,456,249)	(128,329)	152,464,545	(455)
114,255,934	37,905,771		1,418,645	(5,304,977)	(4,718,174)	143,557,199	2,372,396
114,255,934	37,905,771	0	1,418,645	(5,304,977)	(4,718,174)	143,557,199	2,372,396
86,359,812	43,463,521		555,726	(98,130,071)	(2,217,987)	30,031,001	1,681,001
86,359,812	43,463,521	0	555,726	(98,130,071)	(2,217,987)	30,031,001	1,681,001
22,684,942	9,672,313		10,701,531	(173,000)	(2,577,041)	40,308,745	(377,255)
9,755,510	4,742,576	1,846	15,000		(14,514,932)	0	(1,000)
32,440,452	14,414,889	1,846	10,716,531	(173,000)	(17,091,973)	40,308,745	(378,255)
						0	0
0	0	0	0	0	0	0	0
						0	0
						0	0
0	0	0	0	0	0	0	0
773,571	31,268		32,511			837,350	(62,650)
11,332,074	31,402,744		116,219	(8,000,488)	(176,000)	34,674,549	476,549
12,105,645	31,434,012	0	148,730	(8,000,488)	(176,000)	35,511,899	413,899
16,319,824	3,626,146		9,583	(139,637)		19,815,916	(253,084)
58,447,542	6,549,453	12,200		(1,268,855)	(22)	63,740,318	237,318
74,767,366	10,175,599	12,200	9,583	(1,408,492)	(22)	83,556,234	(15,766)
			15,547,156			15,547,156	(8,952,844)
0	0	0	15,547,156	0	0	15,547,156	(8,952,844)
7,600,534	1,550,408		25,123	(1,902)		9,174,163	0
7,600,534	1,550,408	0	25,123	(1,902)	0	9,174,163	0

## Ministry of Attorney General—(Unaudited)—Continued

Description	Total Appropriations		
	Estimated \$	Other Authorizations \$	Total \$
<b>Statutory</b>			
<b>Housing (Transfer from Ministry of Municipal Affairs)</b>			
Voted Appropriation(s)			
Housing.....		787,222,274	787,222,274
Building and Safety Policy.....		2,378,000	2,378,000
Residential Tenancy.....		11,900,000	11,900,000
	0	801,500,274	801,500,274
<b>Creative Sector, Multiculturalism and Sport (Transfer from Ministry of Tourism, Arts, Culture and Sport)</b>			
Voted Appropriation(s)			
Multiculturalism.....		4,625,909	4,625,909
	0	4,625,909	4,625,909
<b>Income Assistance (Transfer from Ministry of Social Development and Poverty Reduction)</b>			
Voted Appropriation(s)			
Income Assistance – Program Management.....		985,000	985,000
	0	985,000	985,000
<b>Executive and Support Services (Transfer from Ministry of Municipal Affairs)</b>			
Voted Appropriation(s)			
Corporate Services.....		677,000	677,000
	0	677,000	677,000
<b>Public Guardian and Trustee Operating Account</b>			
Statutory Appropriation(s)			
Public Guardian and Trustee Operating Account.....	10,355,000	213,161	10,568,161
	10,355,000	213,161	10,568,161
<b>Housing Endowment Fund (Transfer from Ministry of Municipal Affairs)</b>			
Statutory Appropriation(s)			
Housing Endowment Fund special account.....		12,884,000	12,884,000
	0	12,884,000	12,884,000
<b>Statutory Account</b>			
Statutory Appropriation(s)			
Public Inquiry Act.....	10,136,000		10,136,000
Payments Based on Contributions.....			0
	10,136,000	0	10,136,000
<b>Transfer from General Account to Public Guardian and Trustee Operating Account</b>	(10,355,000)	(240,000)	(10,595,000)
	(10,355,000)	(240,000)	(10,595,000)
	651,840,000	852,622,310	1,504,462,310
<b>Adjustment of Prior Year Accrual.....</b>			0
<b>Total Expense.....</b>	<b>651,840,000</b>	<b>852,622,310</b>	<b>1,504,462,310</b>
<b>Breakdown of Other Authorizations—</b>			
Contingencies (All Ministries) and New Programs – General Programs.....	40,556,240		
Contingencies (All Ministries): Pandemic Response and Economic Recovery.....	310,228,909		
Statutory Appropriation – Special Account.....	213,161		
Government Reorganization.....	501,864,000		
Inter-account transfers.....	(240,000)		
	<b>852,622,310</b>		

The Budget provided to the Legislative Assembly presents the plans of a ministry or special office to a program level of detail and is based upon anticipated activities at the beginning of the year. Actual demands and spending may not entirely accord with those original plans. Amounts are, therefore, voted in the Legislative Assembly at the Vote level and ministries and special offices are free to move budget within the constraints of the total vote to accomplish the primary goals of the vote. Spending variances within a vote frequently represents such a reallocation of budget between programs.

Ministry of Attorney General—(Unaudited)—Continued

Actual Expenses by Group Account Classification							Variance—
Salaries and Benefits	Operating Costs	Government Transfers	Other Expenses	Internal Recoveries	External Recoveries	Total	Actual to Appropriation
\$	\$	\$	\$	\$	\$	\$	\$
2,296,439	1,011,391	787,394,511	127,260	(2,777,000)	(851,201)	787,201,400	(20,874)
2,318,603	222,260				(236,358)	2,304,505	(73,495)
10,599,579	2,021,852			(627,062)		11,994,369	94,369
15,214,621	3,255,503	787,394,511	127,260	(3,404,062)	(1,087,559)	801,500,274	0
969,153	549,893	3,150,986		(44,123)		4,625,909	0
969,153	549,893	3,150,986	0	(44,123)	0	4,625,909	0
945,387	1,045				(5,000)	941,432	(43,568)
945,387	1,045	0	0	0	(5,000)	941,432	(43,568)
356,135				(15,818)		340,317	(336,683)
356,135	0	0	0	(15,818)	0	340,317	(336,683)
26,567,026	6,784,141		939,329	(2,212)	(23,720,123)	10,568,161	0
26,567,026	6,784,141	0	939,329	(2,212)	(23,720,123)	10,568,161	0
		12,884,000				12,884,000	0
0	0	12,884,000	0	0	0	12,884,000	0
268,069	9,054,039	498				9,322,606	(813,394)
514,523	128,873				(643,396)	0	0
782,592	9,182,912	498	0	0	(643,396)	9,322,606	(813,394)
			(10,595,000)			(10,595,000)	0
0	0	0	(10,595,000)	0	0	(10,595,000)	0
551,901,332	179,698,728	932,940,417	20,546,898	(134,944,586)	(55,869,269)	1,494,273,520	(10,188,790)
(508,055)	(680,207)		(500,272)		7,272	(1,681,262)	(1,681,262)
551,393,277	179,018,521	932,940,417	20,046,626	(134,944,586)	(55,861,997)	1,492,592,258	(11,870,052)



## Appendix B: Annual Service Plan Report – Draft

### Financial Summary

	Estimates	Other Authorizations <sup>1</sup>	Total Estimated	Actual	Variance
<b>Operating Expenses (\$000)</b>					
Justice Services	150,110	8,540	158,650	154,535	(4,115)
Prosecution Services	146,429	6,036	152,465	152,465	0
Court Services	120,948	20,237	141,185	143,557	2,372
Legal Services	27,314	1,036	28,350	30,031	1,681
Agencies, Boards, Commissions and other Tribunals	35,679	5,008	40,687	40,309	(378)
Liquor and Cannabis Regulation	1	(1)	0	0	0
Gaming Policy and Enforcement	19,437	(19,437)	0	0	0
Executive and Support Services	24,639	10,459	35,098	35,512	414
Judiciary	83,572	0	83,572	83,556	(16)
<i>Crown Proceeding Act</i>	24,500	0	24,500	15,547	(8,953)
Independent Investigations Office	9,075	99	9,174	9,174	0
Housing	0	801,500	801,500	801,500	0
Multiculturalism and Anti-Racism	0	4,626	4,626	4,626	0
Homelessness	0	985	985	941	(44)
Executive and Support Services	0	677	677	340	(337)
Public Guardian and Trustee Operating Account	10,355	213	10,568	10,568	0
Housing Endowment Fund	0	12,884	12,884	12,884	0
Statutory Account					
<i>Public Inquiry Act</i>	10,136	0	10,136	9,322	(814)
Transfer from General Account to PGT Operating Account	(10,355)	(240)	(10,595)	(10,595)	0
<b>Sub-Total</b>	<b>651,840</b>	<b>852,622</b>	<b>1,504,462</b>	<b>1,494,272</b>	<b>(10,190)</b>
Adjustment of Prior Year Accrual <sup>2</sup>	0	0	0	(1,681)	(1,681)
<b>Total</b>	<b>651,840</b>	<b>852,622</b>	<b>1,504,462</b>	<b>1,492,591</b>	<b>(11,871)</b>
<b>Ministry Capital Expenditures (Consolidated Revenue Fund) (\$000)</b>					
<b>Prosecution Services</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>9</b>
<b>Court Services</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,564</b>	<b>2,564</b>

<b>Agencies, Boards, Commissions and other Tribunals</b>	10	0	10	0	(10)
<b>Executive and Support Services</b>	5,740	24	5,764	3,509	(2,255)
<b>Judiciary</b>	920	0	920	858	(62)
<b>Public Guardian and Trustee Operating Account</b>	363	0	363	117	(246)
<b>Total</b>	<b>7,033</b>	<b>24</b>	<b>7,057</b>	<b>7,057</b>	<b>0</b>
<b>Capital Plan (\$000)</b>					
<b>Housing</b>	0	395,819	395,819	268,600	(127,219)
<b>Total</b>	<b>0</b>	<b>395,819</b>	<b>395,819</b>	<b>268,600</b>	<b>(127,219)</b>

<sup>1</sup> “Other Authorizations” includes Supplementary Estimates, Statutory Appropriations, Government Reorganization, and Contingencies. Amounts in this column are not related to the “estimated amount” under sections 5(1) and 6(1) of the *Balanced Budget and Ministerial Accountability Act* for ministerial accountability for operating expenses under the Act.

<sup>2</sup> The Adjustment of Prior Year Accruals of \$1.681 million is the reversal of accruals in the previous year.

## Appendix C - AG BBMAA Reconciliation

### Ministry of Attorney General

In Thousands

Estimates - Schedule F \$ 947,030

Ministerial Appropriation Schedule Total Expense \$ 1,492,592

Less: Statutory Spending	9,323
Special Accounts Spending	23,444
Contingencies	350,785

Add: Inter-account transfer	10,595
Capital Spending	268,600

Actual Expense Before Restructuring

1,388,235

Allocation of Actuals due to restructuring

(495,905)

Total Expense for BBMAA reporting

892,330

Variance for BBMAA (Over) Under

\$ 54,700

**MINISTRY OF ATTORNEY GENERAL  
COURT SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for David Eby, QC  
Attorney General and The Honourable Mitzi Dean, Member of the  
Legislative Assembly (MLA) for Esquimalt-Metchosin and Minister of  
Children and Family Development.

**ISSUE:** Local Government Bylaw Adjudication Program (City of Colwood).

**SUMMARY:**

- The Local Government Bylaw Adjudication Program is governed by the *Local Government Bylaw Notice Enforcement Act* (LGBNEA) and Bylaw Notice Enforcement Regulation (Regulation). It came into force in 2004. The program only applies to local governments who are prescribed in the Regulation.
- The bylaw adjudication program allows minor bylaw infractions to be heard out of court at an adjudication hearing. More serious bylaw disputes, such as health and safety issues, continue to be heard in court.
- On July 5, 2021, the City of Colwood requested the Ministry of Attorney General to add the City to the Bylaw Notice Enforcement Regulation to allow for the City to use the bylaw adjudication program.
- An Order in Council (OIC) is required to prescribe this local government in the Regulation.
- s.12 The anticipated effective date for this OIC is September 29, 2021.

**BACKGROUND:**

- The use of the bylaw adjudication program eliminates the role of courts and court registries in the administration and hearing of minor bylaw disputes (fines less than \$500).
- Users have found the program simplifies the dispute process, reduces ticket dispute time, and is convenient (disputants may choose to dispute in person, by writing or on the phone).
- Even though there are 104 local governments currently enrolled in the program, only 17 local governments used the program by scheduling an adjudicator in fiscal year 2020/21.
- In last three fiscal years, an average of 6 local governments have joined the program each fiscal year (9 in 2020/21, 6 in 2019/20, and 5 in 2018/19).
- Under the LGBNEA and Regulation, the adjudication of “disputes” (initiated by a person who wishes to challenge a “bylaw notice”) is carried out by adjudicators appointed by the Deputy Attorney General. The “roster organization”, which is an entity designated by the Attorney General, is responsible for assigning an

adjudicator to hear each dispute; to do so it draws from one or more rosters that it is responsible for maintaining.

- When an individual wishes to dispute a bylaw infraction notice they contact the local government for a review. The ticket is sent to a screening officer for review. If the individual is unsatisfied with the decision of the screening officer, they may choose to apply for adjudication.
- The adjudicator is scheduled by the roster organization which is responsible for maintaining one or more rosters of adjudicators.
- The adjudicator's ruling is final and binding. There is no appeal and review is limited to judicial review on procedural or jurisdictional issues.
- If after the hearing, the bylaw notice is upheld, the fine plus an adjudication fee (\$25), is applicable and payable.
- The City of Colwood passed a Council Resolution on June 28, 2021 to request the Ministry of Attorney General to add the City to the Bylaw Notice Enforcement Regulation to allow for the City to practice adjudication under *the Local Government Bylaw Notice Enforcement Act*.
- This request was formally communicated to Ministry of Attorney General staff on July 5, 2021.
- Once the OIC is approved and comes into effect, the City will be able to practice bylaw adjudication.
- The City may contact the Ministry of Attorney General's Tribunal Transformation & Supports Office (the roster organization) to arrange for an adjudicator hearing by an adjudicator for any bylaw disputes under this program.

#### **OTHER MINISTRIES AND ORGANIZATIONS CONSULTED:**

- Ministry of Municipal Affairs; and
- Union of British Columbia Municipalities (UBCM).

#### **Prepared by:**

Alvin Lau  
Senior Policy Analyst  
Court Services Branch  
Ministry of Attorney General  
250-415-3759

Erin Turner  
Director  
Court Services Branch  
Ministry of Attorney General  
250-419-8852

#### **Approved by:**

Jenny Manton  
Assistant Deputy Minister  
Court Services Branch  
Ministry of Attorney General  
250-419-8836

**MINISTRY OF ATTORNEY GENERAL  
JUSTICE SERVICES BRANCH  
DECISION BRIEFING NOTE**

**PURPOSE:** For DECISION of David Eby, QC  
Attorney General and Minister Responsible for Housing

**ISSUE:** Independent Investigations Office (IIO) 2020/2021 Annual Report

**DECISION REQUIRED/ RECOMMENDATION:** Approval of the IIO 2020/2021 Annual Report (Appendix A)

**SUMMARY:**

- The IIO is statutorily required to submit an annual report to the Attorney General (AG) each year for approval.
- Upon AG approval, the IIO will make the annual report publicly available on its website.

**BACKGROUND:**

- The IIO is a civilian-led body established as a police force under the *Police Act* to investigate incidents of death or serious harm involving police officers and special constables in BC. It has been operational since September 2012.
- The Chief Civilian Director (CCD) of the IIO is ultimately accountable to the AG and functionally accountable to the Deputy Attorney General (DAG) through a Mandate Letter in order to maintain independence from policing matters that are the responsibility of the Deputy Solicitor General and the Director of Police Services.

**DISCUSSION:**

*IIO Annual Report Process*

- Section 38.12(c) of the *Police Act* requires the IIO to provide an annual report to the AG that includes: statistical information respecting the number, frequency, types, and outcomes of investigations and related trends.
- The CCD Mandate Letter sets out additional content requirements to be included in the IIO annual report, including basic budget information.

*2020/2021 Annual Report*

- The 2020/2021 annual report summarizes the IIO's activities in the ninth fiscal year of operation.
- The annual report notes that in the 2020/2021 fiscal year the IIO received 339 notifications of incidents that could potentially involve serious harm or death (an increase of 97 from the previous fiscal).

- Of the 339 notifications, the IIO commenced 232 investigations<sup>1</sup> (an increase of 39) and 106 were marked as advice files, and no investigative steps were undertaken as it was determined that the incidents did not meet the IIO's mandate to investigate.
- Of the 232 investigations that commenced in 2020/21, 183 investigations have concluded, 49 remained in the active investigative phase at fiscal year-end.
- 104 investigations were concluded with some form of public information being provided during the fiscal year. This represents a 33% increase in IIO's public reporting compared to 2019/20.
- Of the 104 concluded investigations:
  - 52 were closed with the release of a public report;
  - 44 were closed with the release of a media release (a notable increase of 33 from the previous fiscal); and
  - eight investigations were referred to Crown Counsel for consideration of charges.
- The IIO has observed an overall 40% increase in notifications and a 20% increase in investigations, compared to 2019/20.
- Other notable references in the annual report include:
  - The percentage of subject officers who provided some form of written statement was approximately 30%, exceeding the IIO's goal of 25%;
  - The IIO is making progress towards establishing the first Indigenous Civilian Monitor to build greater trust, communication, and collaboration;
  - The IIO Certified Oversight Investigator Training Program received final approval from the Director of Police Services; and
  - Five additional investigators were certified through the IIO Investigator Certification Program.

#### **INDIGENOUS PEOPLES CONSIDERATIONS:**

- The IIO's newly created roles of Indigenous Civilian Monitor and Community Liaison are intended to increase communication and collaboration with BC's diverse and multicultural communities, including Indigenous communities. These individuals will

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<sup>1</sup> One investigation into a Nova Scotia wrongful conviction matter is not included in the number of investigations for statistical purposes

be selected from within the community to provide advice to the IIO in meeting the cultural and communication needs of the affected person, their family and the broader community.

## OPTIONS:

**Option1 (RECOMMENDED):** Approve the IIO 2020/2021 Annual Report.

Option 2: Approve the IIO 2020/2021 Annual Report subject to the AG's revision.

Option 3: Do not approve the IIO 2020/2021 Annual Report.

## OTHER MINISTRIES IMPACTED/CONSULTED:

- N/A



Barbara Carmichael ,QC  
Acting Deputy Attorney General and  
Acting Deputy Minister Responsible for Housing

## DATE:

July 20, 2021

## RECOMMENDED OPTION APPROVED



David Eby, QC  
Attorney General and  
Minister Responsible for Housing

## DATE:

July 27, 2021

## Prepared by:

Louis Chen  
Senior Policy Analyst  
Justice Services Branch  
778-698-9798

## Approved by:

Natalie Hepburn Barnes  
Executive Director  
Policy and Legislation Division  
Justice Services Branch  
250-896-4377

## Approved by:

Sherri Lee  
Director of Criminal Justice Policy  
Policy and Legislation Division  
Justice Services Branch  
778-974-3676

## Approved by:

Paul Craven  
Acting Assistant Deputy Minister  
Justice Services Branch  
778-698-9333

## Attachment(s)

Appendix A – IIO 2020/2021 Annual Report





# ANNUAL REPORT 2020-2021

**Integrity ▪ Respect**  
**Impartiality ▪ Teamwork**  
**Professionalism**

**IIO INDEPENDENT**  
Investigations Office of BC

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12<sup>th</sup> Floor, 13450 -102<sup>nd</sup> Avenue  
Surrey, B.C. V3T 5X3

**TOLL-FREE:** 1.855.552.4622

**LOCAL:** 604.586.5668

**EMAIL:** [info@iiobc.ca](mailto:info@iiobc.ca)

**TWITTER:** @iiobc

**MINISTRY OF ATTORNEY GENERAL AND MINISTER RESPONSIBLE FOR  
HOUSING  
JUSTICE SERVICES BRANCH  
DECISION BRIEFING NOTE**

**PURPOSE:** For DECISION of David Eby, QC  
Attorney General and Minister Responsible for Housing

**ISSUE:** 2020/21 Legal Aid BC (LABC) Annual Service Plan Report (ASPR).

**DECISION REQUIRED / RECOMMENDATION:**

- **Option 1 (RECOMMENDED):** Approve the LABC 2020/2021 ASPR as presented.

**DISCUSSION:**

- The *Budget Transparency and Accountability Act* (BTAA) provides the legislative framework for planning, reporting and accountability for BC Government organizations. The BTAA requires the Minister Responsible to publish three-year service plans and annual reports for Crowns annually.
- Typically, by convention, annual reports are made public along with the Public Accounts, no later than August 31. Public Accounts have already been released so the annual reports will be released immediately upon completion. It is not expected that the Legislature will be in session at this time, so the annual reports must be filed with the Office of the Clerk of the Legislative Assembly on the day they are to be made public (i.e., instead of tabling them in the Legislature).
- The attached LABC ASPR has been approved by the LABC Board, ministry staff in Justice Services Branch and Corporate Management Services Branch, CABRO and Treasury Board Staff (TBS).
- CABRO comments were predominantly minor editorial changes, ensuring performance measure targets were presented as they were published in the 2020/21 Service Plan (per BTAA requirement), and responding to some questions to expand the analysis of a few of the Discussion Results sections of the report
- The LABC's Audited Financial Statements are included in the ASPR. Unlike the Annual Service Plan, there is no requirement that TBS formally approve them, as there is no forward-looking budget component to them. However, TBS has reviewed and approved this ASPR.

**INDIGENOUS PEOPLES CONSIDERATIONS:**

- N/A

**OPTIONS:**

**Option 1 (RECOMMENDED):** Approve the LABC 2020/21 ASPR as presented.

- Implications for Consideration: Ministry has all the required information and meets central reporting timelines.

**Option 2:** s.13

**Option 3:**

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- TBS and CABRO staff in the Ministry of Finance reviewed and provided comments on drafts of the ASPR.



---

Richard J. M. Fyfe, QC  
Deputy Attorney General

**DATE:**

---

July 30, 2021

**Recommended**  
**OPTION \_\_\_ APPROVED**



---

David Eby, QC  
Attorney General

---

July 30, 2021

**Prepared by:**

Nicole Norman  
Policy Analyst  
Justice Services Branch  
778-698-1757

**Approved by:**

Wendy Jackson  
A/Executive Director  
Justice Services Branch  
778-974-3680

**Approved by:**

Paul Craven  
A/Assistant Deputy Minister  
Justice Services Branch  
778-698-6333

**Attachment**

- LABC Board Chair-signed ASPR 2020/21/20

**Legal Aid BC**

**2020/21**  
**Annual Service Plan Report**  
**August 2021**



For more information on Legal Aid BC contact:

400 – 510 Burrard Street  
Vancouver, BC V6C 3A8

604-601-6000

Or visit our website at

[legalaidsbc.ca](http://legalaidsbc.ca)

Published by Legal Aid BC



## Board Chair's Accountability Statement



The *Legal Aid BC 2020/21 Annual Service Plan Report* compares the corporation's actual results to the expected results identified in the *2020/21 – 2022/23 Service Plan* created in February 2020. I am accountable for those results as reported.

A handwritten signature in black ink, appearing to read 'Karen Christiansen'.

Karen Christiansen, FCPA, FCA  
Chair, LABC Board of Directors  
July 23, 2021

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## Letter from the Board Chair & CEO

We are pleased to present Legal Aid BC's (LABC) 2020/21 Annual Service Plan Report summarizing our efforts to advance our Service Plan goals and in support of the government's [Mandate Letter](#) dated December 2019.

In 2020/21, much of our work focussed on ensuring British Columbians could access legal aid services during the COVID-19 pandemic. We were acutely aware that the pandemic would have a greater impact on individuals like our clients, who were at greater risk of exposure to the virus and may also have difficulty accessing virtual services.

We quickly adapted our service delivery methods to ensure clients still received legal aid while keeping staff, services, and clients safe. People could apply for legal aid not only by phone, but via lawyers and community agencies who partnered with us to take applications electronically on our behalf. The Parents Legal Centres (PLCs) for early resolution of child protection matters were also re-opened in fall 2020 to provide in-person services by appointment only.

We enhanced public legal information on our websites, increased availability of online and phone advice services, and provided technical and educational support to lawyers who had to quickly adapt to virtual service delivery, such as virtual bail.

LABC also increased family law coverage by retooling its limited representation service to better meet the needs of clients during the pandemic, which saw a rise in family problems. The service provided legal assistance for a broader range of family law issues than covered under our standard representation service, and financial eligibility was temporarily loosened to facilitate access to legal assistance when courthouses were closed and it was difficult to connect clients with duty counsel services.

We worked with the Provincial Court and Ministry of Attorney General (MAG) to ensure the Provincial Court Family Rules were successfully implemented at the Surrey courthouse. Duty counsel was critical during this time, and ensured our clients received the advice services they needed to participate in the new early resolution model.

In addition, we worked closely with the BC First Nations Justice Council (FNJC) and MAG, enabling the smooth transfer of responsibility for Gladue reports to the FNJC.

We recognize that LABC employees faced many challenges working in a remote environment over the past year and appreciate how well they adapted to supporting the function of the organization and by continuing to serve so many clients in need of help. We also became stronger as a justice community by working together with a shared goal that British Columbians would not be left without recourse when faced with legal issues.

Likewise, the LABC Board was exceptionally diligent in addressing matters arising out of an uncertain year.

Finally, we would like to thank the Attorney General and ministry staff for its close collaboration with us during a difficult time. We appreciate their ongoing commitment to legal aid, which allowed us to help so many low-income people with their legal problems during the pandemic.

Karen Christiansen, FCPA, FCA



Chair, LABC Board of Directors  
July 23, 2021

Mark Benton, QC



Chief Executive Officer, LABC  
July 23, 2021

## **Purpose of the Annual Service Plan Report**

The Annual Service Plan Report is designed to meet the requirements of the *Budget Transparency and Accountability Act* (BTAA), which sets out the legislative framework for planning, reporting and accountability for Government organizations. Under the BTAA, the Crown Corporation's Board is required to report on the actual results of the Crown's performance related to the forecasted targets documented in the previous year's Service Plan.

## **Purpose of the Organization**

Created by the *Legal Services Society Act* in 1979, Legal Aid BC (LABC) is a non-profit organization that is a separate legal entity from government (see *Our Mandate*). Our priority is to serve the interests of people with low incomes. LABC is funded primarily by the provincial government and receives grants from the Law Foundation of British Columbia and Notary Foundation of British Columbia.

Legal representation services are available for financially eligible people with serious family, child protection, or criminal law problems. Legal representation is also available for people who face a refugee or deportation hearing, a Mental Health Review Panel or BC Review Board hearing, or who have a prison issue for which the Charter of Rights and Freedoms establishes a right to counsel. LABC also helps clients get early legal assistance and engage collaboratively to resolve their child protection issues through ten PLCs across BC.

LABC provides legal advice services through criminal and family duty counsel in and out of courthouses across BC, immigration duty counsel for people in detention at the Canada Border Services Agency's enforcement centre in Vancouver, the Family LawLINE, and the Brydges Line telephone service for people who may be or have been arrested. LABC also provides family advice lawyers at various locations to support the work of the MAG's family justice counsellors, who are trained to help people with family law matters resolve issues about guardianship, parenting arrangements, contact and support.

Public legal education and information (PLEI) is integral to our services. PLEI includes legal information, triage, and community referrals. Legal information and outreach services are delivered by intake workers, legal information outreach workers (LIOWs), Aboriginal community legal workers (ACLWs), local agents, and community partners. We provide information through our LABC website, Family Law in BC website, Aboriginal Legal Aid in BC website, and MyLawBC website. We provide legal education through training workshops, conferences, and webinars, and produce a wide range of publications in various languages, that readers can order at no cost. We reach hundreds of intermediaries and advocates each year so that they are better able to help people with low incomes solve their legal issues.

Our network of regional offices, PLCs, local agents, and community partners works to ensure access to legal aid and other justice services throughout BC. We take legal aid applications at more than 50 locations throughout BC, referring eligible clients to lawyers in compliance with coverage and eligibility policies and guidelines.

## Strategic Direction

The strategic direction set by Government in 2017, and expanded upon in the Board Chair's [2020 Mandate Letter](#) from the Minister Responsible, shaped the goals, objectives, performance measures and financial plan outlined in the [2020/21 Legal Aid BC Service Plan](#) and actual results reported on in this annual report.

The global COVID-19 pandemic resulted in many shifts in priorities, structures and operations across the public sector. Any changes to Legal Aid BC's goals, objectives, performance measures or financial plan to align with the strategic direction established by Government in late 2020 are presented in the 2021/22 Service Plan.

## Operating Environment

The COVID-19 pandemic had sudden and significant impacts on the operation of the justice system and access to justice, and those impacts continued throughout the 2020/21 fiscal year as public health orders were implemented and revised in response to evolving circumstances. Responding to the pandemic required significant changes to legal aid operations and services to ensure continued support for our clients.

Internally, LABC transitioned almost all staff to working remotely and developed a policy framework to support working from home during and post-pandemic. LABC conducted a review of its business systems, processes, policies and practices to support a new Flexible Workplace Model, and identified ways to increase the efficiency and effectiveness of how we provide services to our clients and our staff.

The pandemic also had significant impact on how our courts and justice system partners operate, which required focused direction, strong alignment and ongoing engagement between LABC, tariff lawyers, other public sector organizations and the Government of British Columbia.

With the closure of courthouses across the province, in-person legal advice services provided by LABC criminal and family law duty counsel could not continue. LABC adapted public-facing services to offer remote service options, expanded digital services, provided timely public legal information and raised awareness of how legal aid could help during the pandemic. As the courts transitioned to virtual court proceedings, LABC changed the way it provides legal advice services for self-represented litigants and collaborated with community partners across the province to help our clients access legal aid virtually. After the initial lockdown period, LABC PLCs re-opened and provided limited in-person client services, where required, adhering to all safety plans.

The transition to virtual court proceedings included a cross-sector reworking of bail procedures and a major review of in-custody duty counsel services. Planning for the implementation of virtual bail hearings in region 5 (the North) began in January 2021 and LABC was a key participant with other justice system stakeholders in implementing bail procedures that ensure appropriate services and effective representation of clients are maintained.

This year the FNJC, MAG and LABC took steps to begin implementation of the 2020 BC First Nations Justice Strategy. The strategy, developed by the FNJC and First Nations communities and endorsed by the Province of BC, mandates actions to reform the current justice system and restore

First Nations legal traditions and structures. Under the strategy, LABC transitioned Gladue services to the FNJC at the end of the 2020/21 fiscal year.

## Report on Performance: Goals, Objectives, Measures and Targets

### Goal 1: LABC advances reconciliation with Indigenous people by improving access to justice

This goal articulates our aim to improve Indigenous access to justice. We can achieve this outcome through our work with Indigenous people, the ministry, and other stakeholders. In 2018/19, LABC launched a new Indigenous Services Division to lead the organization in this work, which includes advancing the justice provisions of the TRC Calls to Action, the UN Declaration on the Rights of Indigenous Peoples, and Grand Chief Ed John's report on child welfare.

#### Objective 1.1: Ensure the cultural competence of staff and service providers

##### Key Highlights

- Hosted National Aboriginal History Month Lunch and Learn (virtual) sessions, and an online cedar weaving workshop (two-part workshop, offered twice to two cohorts).
- Provided two training sessions on *Diversity and Inclusion – Unconscious Bias* at the 2020/21 Intake Conference, which was attended by LABC staff and service providers. Both sessions included content relating to Indigenous people.
- Provided bursaries for tariff lawyers to attend the following conferences: Pacific Business & Law Institute's Indigenous Child Welfare Conference, Continuing Legal Education Society of British Columbia's (CLEBC's) Wrapping Our Ways: Indigenous Child Welfare Conference, and CLEBC's Aboriginal Law Conference 2020.

Performance Measure(s)	2017/18 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
1.1a Percent of Indigenous clients who say they received culturally appropriate legal aid services <sup>1</sup>	67% <sup>2</sup>	— <sup>3</sup>	— <sup>4</sup>	54% <sup>5</sup>	70% <sup>6</sup>	— <sup>7</sup>

<sup>1</sup> Data Source: Biennial LABC Client Survey

<sup>2</sup> This performance measure was introduced in the 2018/19 – 2020/21 Service Plan, and LABC set the baseline for this measure by using the result from the client survey in 2017/18.

<sup>3</sup> Client survey was ready to be sent out in March 2020, but due to the COVID-19 lockdown, LABC decided to postpone the survey to 2020/21.

<sup>4</sup> In the 2020/21 – 2022/23 Service Plan, there was no target for 2020/21 because the biennial client survey was scheduled for 2019/20. In the 2020/21 – 2022/23 Service Plan, the 2019/20 Forecast was 69%.

<sup>5</sup> Due to COVID-19 changes in service delivery, LABC was unable to sample family duty counsel clients; this may affect comparability of results from 2020/21 with results from previous years.

<sup>6</sup> This target was set when the biennial client survey was scheduled for 2019/20 and 2021/22.

<sup>7</sup> LABC has set a 2022/23 Target in the [2021/22 – 2023/24 Service Plan](#).

### Discussion of Results

LABC identifies specialized training for staff and service providers as a key strategy to achieving this objective. LABC believes that Indigenous clients can provide the most meaningful assessment of whether our services are culturally appropriate. In 2020/21, LABC sought direct feedback from



1,051 clients on their experience of our services, through an online survey (1,015 clients) and by phone (36 clients).

54% of Indigenous clients strongly agreed (41%) or agreed (13%) that Legal Aid provided them with services that were appropriate for their cultural values and beliefs. In addition, 75% of Indigenous clients strongly agreed (59%) or agreed (16%) that they were treated in an unbiased and non-discriminatory way. Among the 19% of Indigenous clients who disagreed that LABC provided culturally appropriate services, 65% of those respondents suggested that LABC could better address cultures/beliefs by providing services in different languages or in different ways appropriate for that culture. These results point to the continued need for identifying ways LABC can enhance the cultural appropriateness of our services for Indigenous clients.

## Objective 1.2: Increase the accessibility and quality of legal aid services for Indigenous people

### Key Highlights

- PLCs engaged with Indigenous organizations to determine the need for PLC services in their community. As a result of those meetings, LABC entered into agreements with 26 organizations across the province to set up network locations (virtual community clinics) that will enable clients to access PLC services through new technology funded by LABC. Most of the clinics are affiliated with Indigenous services or agencies.
- Coordinated 215 Gladue reports and completed the Gladue report writer mentorship program with 24 Gladue writers receiving mentorship.
- Completed and published *Guide for the Legal Review of Gladue Reports* (February 2021) and *Best Practices for Writing Gladue Reports and Understanding Gladue Principles* (March 2021).
- Started an Indigenous Legal Needs Assessment focussed on finding meaningful ways to reduce the overrepresentation of Indigenous women in the criminal justice system as both accused and victims.

Performance Measure(s)	2017/18 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
1.2a Percent of Indigenous clients who say legal aid met their needs overall <sup>1</sup>	76% <sup>2</sup>	— <sup>3</sup>	— <sup>4</sup>	67% <sup>5</sup>	78% <sup>6</sup>	— <sup>7</sup>

<sup>1</sup> Data Source: Biennial LABC Client Survey

<sup>2</sup> In the *2021/22 – 2023/24 Service Plan*, LABC modified this performance measure and restated the 2017/18 Baseline.

<sup>3</sup> Client survey was ready to be sent out in March 2020, but due to the COVID-19 lockdown, LABC decided to postpone the survey to 2020/21.

<sup>4</sup> In the 2020/21 – 2022/23 Service Plan, there was no target for 2020/21 because the biennial client survey was scheduled for 2019/20. In the 2020/21 – 2022/23 Service Plan, the 2019/20 Forecast was 78%, which was set in relation to the 2017/18 Baseline (76%) and the tracking methodology in place at that time.

<sup>5</sup> Due to COVID-19 changes in service delivery, LABC was unable to sample family duty counsel clients; this may affect comparability of results from 2020/21 with results from previous years.

<sup>6</sup> This target was set when the biennial client survey was scheduled for 2019/20 and 2021/22.

<sup>7</sup> LABC has set a 2022/23 Target in the [2021/22 – 2023/24 Service Plan](#).

## Discussion of Results

LABC identifies Indigenous people's access to high quality legal aid services as an essential component of access to justice. We believe Indigenous clients can provide the most meaningful assessment of whether our services are accessible to them and meet their legal needs. The COVID-19 pandemic and resulting public health orders had a significant impact on the accessibility of legal aid services; with the closure of courthouses and service locations across the province, in-person services ceased. The justice system had to adapt and shift to remote service delivery.

The 2020/21 result of 67% shows that Indigenous clients say LABC services are meeting their legal needs at a comparable or higher rate than all clients, as reported in Performance Measure 2.2a. This result also shows a slight increase over the restated 2017/18 baseline of 63%. The baseline was restated in the [2021/22 – 2023/24 Service Plan](#) so that results on this measure are presented in the same way as Performance Measure 2.2a, for consistency and comparability. The 2020/21 result for Performance Measure 1.2a (67%) reports on the top two scores (4 and 5 on a 5-point scale, with 5 being "strongly agree"), rather than the top 3 scores which are included in the 2017/18 baseline of 76%.

## Objective 1.3: Increase LABC's engagement with Indigenous people and communities to improve their access to justice

### Key Highlights

- Shifted to virtual engagement due to pandemic restrictions on in-person meetings and gatherings.
- PLC staff participated in 693 engagement activities with Indigenous communities. PLCs held virtual open houses, enabling the community to "come into" the PLCs and meet staff, despite the pandemic restrictions. PLCs also continued to stay connected to surrounding Indigenous communities and shared information about PLC services and ensured that communities knew that PLCs remained "open" and able to assist clients.
- Established an Indigenous Advisory Committee for the Indigenous Legal Needs Assessment, to guide the development of the assessment process and provide input on the recommendations arising out of the assessment data.

Performance Measure(s)	2017/18 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
1.3a Number of people reached through engagement activities LABC held with Indigenous people and communities <sup>1</sup>	1,786	5,070 <sup>2</sup>	2,000 <sup>3</sup>	2,185	2,250 <sup>4</sup>	2,400 <sup>4</sup>

<sup>1</sup> Data Source: LABC operational data (annual measure)

<sup>2</sup> In 2019/20 LABC refined engagement tracking methodology for improved consistency across LABC locations, leading to a 'bump up' in the volume from baseline.

<sup>3</sup> Target for 2020/21 was set in 2018/19 based on the tracking methodology in place at that time.

<sup>4</sup> LABC restated the targets for 2021/22 and 2022/23 in the [2021/22 – 2023/24 Service Plan](#).

## Discussion of Results

The COVID-19 pandemic had a profound impact on LABC engagement activities with Indigenous people and communities. In-person engagement – the most effective and preferred form of engagement – was not possible due to public health orders and community responses to the pandemic (focus on establishing safety plans and protocols and ensuring the health and safety of community members; many communities, particularly in rural and remote areas, were closed to visitors). Despite the shift to virtual engagement, LABC exceeded the target set for 2020/21 but did not approach the level of results achieved in 2019/20. The impacts of COVID-19 on engagement activities are expected to continue into 2022.

## Goal 2: LABC delivers services tailored to people's needs

This service-focused goal is based on evidence that legal aid services tailored to people's needs will be more likely to help clients achieve early and lasting resolutions to their legal problems. LABC plans to adapt current services to better ensure that clients' unique needs — such as mental health, domestic violence, or poverty issues — are understood and addressed.

### Objective 2.1: Increase the accessibility of legal aid services to address people's interrelated needs

#### Key Highlights

- Launched a new, free [Remote Child Support Mediation service](#) to help people with child support issues during the pandemic. This free service supported people with low incomes who did not qualify for legal aid representation services.

Performance Measure(s)	2018/19 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
2.1a Number of clients provided legal aid services or referred to other services for interrelated needs <sup>1</sup>	4,826 <sup>2</sup>	7,145 <sup>3</sup>	TBD	7,073 <sup>3</sup>	TBD <sup>4</sup>	TBD

<sup>1</sup> Data Source: LABC client information system and other operational data (annual measure)

<sup>2</sup> During 2020/21, LABC developed a more reliable method for capturing data on this performance measure, to include results for all services where client information is recorded for referrals made or support for interrelated needs is provided. In the [2021/22 – 2023/24 Service Plan](#), LABC has restated the 2018/19 Baseline using this method.

<sup>3</sup> The 2019/20 and 2020/21 Actuals reflect the more reliable method for capturing data on this performance measure that was developed in 2020/21.

<sup>4</sup> During Q4 of 2020/21, LABC set the 2021/22 Target at 7,400 based on year-to-date data available at that time.

## Discussion of Results

Clients' legal problems often arise from or lead to interrelated needs such as health, housing or debt. By working with service providers to help clients get support for these issues, LABC can improve client outcomes as well as reduce clients' use of justice, health, and social services over the long term. This performance measure reports the number of referrals given to applicants and clients for LABC representation services, PLCs, expanded criminal and family duty counsel services, and the Family LawLINE. It also includes support for interrelated issues provided directly to PLC clients by Advocates and Aboriginal Community Legal Workers at the PLCs.

In 2020/21, LABC developed a more reliable method for capturing data on this performance measure, to include results for all services where client information is recorded for referrals made or support for interrelated needs is provided. The 2019/20 and 2020/21 actuals reported here reflect that more reliable method. Despite the shift to virtual service delivery during the pandemic, the 2020/21 results are close to the same level as 2019/20.

## Objective 2.2: Support more people to achieve timely and lasting resolutions to their legal problems

### Key Highlights

- In October 2020, LABC broadened the scope of our Family Limited Representation Contracts (FLRC), on a trial basis, to connect more clients with lawyers in lieu of in-person family duty counsel services that ceased in response to the COVID-19 pandemic. This included a temporary increase in the financial eligibility threshold so more people could get a lawyer's help, whether or not their case involved court. The number of clients accessing the FLRC more than doubled in 2020/21 over the previous year (from about 450 to 950).
- About twice as many clients accessed Criminal Early Resolution Contracts (CERCs) in 2020/21 over 2019/20 (from about 1200 to 2400), highlighting the importance of this service to clients during the pandemic.

Performance Measure(s)	2017/18 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
2.2a Percent of clients who say legal aid met their needs overall <sup>1</sup>	55% <sup>2</sup>	— <sup>3</sup>	— <sup>4</sup>	60%	59% <sup>5</sup>	— <sup>6</sup>

<sup>1</sup> Data Source: Biennial LABC Client Survey

<sup>2</sup> 2017/18 was the first time "Percent of clients who say legal aid met their needs overall" was measured by client survey.

<sup>3</sup> Client survey was ready to be sent out in March 2020, but due to the COVID-19 lockdown, LABC decided to postpone the survey to 2020/21.

<sup>4</sup> In the 2020/21 – 2022/23 Service Plan, there was no target for 2020/21 because the biennial client survey was scheduled to be conducted in 2019/20. In the 2020/21 – 2022/23 Service Plan, the 2019/20 Forecast was 57%.

<sup>5</sup> This target was set when the biennial client survey was scheduled for 2019/20 and 2021/22.

<sup>6</sup> LABC has set a 2022/23 Target in the [2021/22 – 2023/24 Service Plan](#).

## Discussion of Results

A key objective of delivering services tailored to people's needs is to help them find early and stable resolutions to their legal problems. LABC uses survey responses to determine whether clients believe their issues have been resolved through the use of legal aid services. Results for this performance measure in 2020/21 surpassed the baseline by 5% and exceeded the 2019/20 Forecast of 57% in the 2020/21 – 2022/23 Service Plan, which was set when the client survey was scheduled for 2019/20. This 5% increase in the percentage of clients who say legal aid met their needs overall exceeded our expectations for the year. In addition, our client survey also measures overall client satisfaction with a result of 66% in 2020/21, which is a further indication that our services are assisting clients to achieve timely and lasting resolutions to their legal problems. We continue to strive to improve these results by adapting our current services to better ensure that clients' unique needs are understood and addressed.

### Goal 3: LABC operates a cost-effective, quality-assured legal aid plan

Operating a cost-effective, quality-assured legal aid plan will help us achieve optimum benefit for the people we serve within our funding envelope.

#### Objective 3.1: Increase staff's and service providers' ability and capacity to provide quality services

##### Key Highlights

- Provided extensive online training to enable staff to deliver services remotely during the pandemic.
- Provided bursaries for tariff lawyers to attend training offered by external agencies (for example: Canadian Bar Association of BC, CLEBC, and Trial Lawyers Association of BC). Bursaries were approved and provided for 44 courses and a total of 1,489 hours of training to increase tariff lawyers' ability to provide quality services. 216 tariff lawyers attended at least one course.

Performance Measure(s)	2018/19 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
3.1a Number of staff and service providers who participated in an LABC-sponsored training program to increase their ability to provide quality services <sup>1</sup>	356 <sup>2</sup>	391 <sup>2</sup>	501	521	548 <sup>3</sup>	602 <sup>3</sup>

<sup>1</sup> Data Source: Operational data (annual measure)

<sup>2</sup> The 2018/19 baseline and the 2019/20 actuals include only one category of LABC service provider (tariff lawyers). The 2020/21 target and actuals, and the targets for future years, include two additional LABC service provider categories (Community Partners and Local Agents).

<sup>3</sup> The targets for 2021/22 and 2022/23 were revised during 2020; see the [2021/22 – 2023/24 Service Plan](#) for revised targets.

## Discussion of Results

To assess progress on this objective, LABC tracks the number of staff and service providers who undertake training to increase their ability to provide quality services. In previous years, LABC has tracked and included data for staff and tariff lawyers. In 2020/21, LABC included two additional service providers (LABC Community Partners and Local Agents) to fully reflect the LABC-sponsored training programs offered to increase the ability to provide quality services to our clients. The 2020/21 Actuals exceeded the 2020/21 Target because, due to the pandemic, LABC delivered virtual training events which allowed more people to attend than would be the case with in-person training.

### Objective 3.2: Increase the availability of qualified staff and service providers in all regions

#### Key Highlights

- Participated in ongoing consultations with the Association of Legal Aid Lawyers and MAG on proposed legal aid policy changes intended to better serve clients and tariff lawyers.
- Provided extensive online training to support managers and supervisors to hire and onboard new staff remotely and to keep their teams engaged virtually during the pandemic.
- Provided multiple online training sessions with a focus on staff safety and supporting staff to work from home during the pandemic.

Performance Measure(s)	Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
3.2a Percent of lawyers satisfied with the overall support provided by LABC <sup>1</sup>	68% (2005)	75%	—	—	70%	—
3.2b Overall employee engagement <sup>2</sup>	70 (2008)	66	—	—	—	TBD <sup>3</sup>

<sup>1</sup> Data Source: Biennial Tariff Lawyer Survey

<sup>2</sup> Data Source: Triennial LABC Workplace Environment Survey, which uses a 5-point survey scale and produces “average score” results.

<sup>3</sup> During 2020/21, LABC set the 2022/23 Target at 70 based on the 2019/20 Actuals (66) which LABC obtained after the 2020/21 – 2022/23 Service Plan was published.

## Discussion of Results

LABC continues to use two long-standing performance measures to track our progress on this objective. Although these are proxy measures, lawyer satisfaction and employee engagement are strong indicators of our ability to attract and retain staff and service providers. The agreement negotiated with the Association of Legal Aid Lawyers in 2019/20 combined with the quality assurance program positively impacted lawyer satisfaction, leading to results which significantly

exceeded the 2019/20 Forecast of 65%. There are no targets or actuals for 2020/21 because the Biennial Tariff Lawyer Survey is conducted every two years (in 2019/20 and 2021/22) and the Triennial LABC Workplace Environment Survey is conducted every three years (in 2019/20 and 2022/23).

### Objective 3.3: Increase the timeliness of LABC service delivery

#### Key Highlights

- Maintained access to intake services through the Call Centre when in-person intake shut down due to COVID-19, with a significant increase in Call Centre volume: incoming calls during 2020/21 increased by 9% compared to 2019/20, and the number of calls answered increased by 19%.
- Augmented intake options by implementing a new electronic applications process allowing criminal lawyers to apply for legal aid on behalf of clients who, due to barriers or other challenges, were unable to contact LABC. The electronic application process for advocates, piloted before the pandemic for family law applications, expanded to more intermediaries including Indigenous agencies and criminal lawyers.

Performance Measure(s)	2016/17 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
3.3a Percent of approved applicants receiving a representation contract within the same day of applying <sup>1</sup>	56%	53%	56%	49%	TBD <sup>2</sup>	TBD

<sup>1</sup> Data Source: LABC client information system (annual measure)

<sup>2</sup> During Q4 of 2020/21, LABC set the 2021/22 Target at 55% based on year-to-date data available at that time.

#### Discussion of Results

The pandemic had a negative impact on our results for this performance measure. A significant proportion of LABC clients who receive a representation contract within the same day of applying are in-custody clients. During 2020/21, the percentage of in-custody clients declined by about 5%, lowering the number of contracts issued on the same day as application. This decline in the percentage of in-custody clients was due to the impacts of COVID-19 (not as many people were getting arrested, to keep them out of jail as much as possible to avoid COVID-19 outbreaks in jails). It was also more difficult to find lawyers willing to represent clients during the pandemic, especially in the area of family law.

### Objective 3.4: Reduce indirect costs

#### Key Highlights

- LABC reviewed current administrative practices and began implementation of efficiency gains in 2020/21.

- In addition, a work from home operational review took place.

Performance Measure(s) %	2018/19 Baseline <sup>1</sup>	2019/20 Actuals <sup>1</sup>	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
3.4a Indirect costs as a percentage of total funding received <sup>1,2</sup>	12% <sup>3</sup>	8%	8% <sup>4</sup>	9%	TBD	TBD

<sup>1</sup> Data Source: LABC audited financial statements. Performance measure is the sum of indirect expenses divided by total funding received, expressed as a percentage.

<sup>2</sup> In the [2021/22 – 2023/24 Service Plan](#), LABC presented the performance measure for indirect costs in absolute dollars, consistent with the 2021/22 LABC Mandate Letter.

<sup>3</sup> Figures in the [2021/22 – 2023/24 Service Plan](#) include Amortization.

<sup>4</sup> 2020/21 Target figures are consistent with the 2020/21 Q3 Forecast.

## Discussion of Results

In 2020/21 there was an increase in incremental COVID-19 operating expenses (as defined by the Office of the Comptroller General) to accommodate working from home and one-time Ministry approved initiatives. However, the actual indirect costs at 9% were at or near the target of 8%. The figures in the table above are rounded to zero decimal places, but when presented to one decimal place, the 2020/21 target is 8.4% and the 2020/21 actual indirect costs are 8.5%, only 0.1% over the target. Without incremental COVID-19 operating expenses, LABC would have met the target for indirect costs in 2020/21. The incremental COVID-19 operating expenses were partially offset by budgeted staff reductions realized through attrition.

## Goal 4: LABC influences systemic changes that improve the outcomes of people who use our services

This goal articulates our intention to bring about the justice system changes required to improve outcomes for our clients. LABC needs to influence and innovate to achieve these fundamental changes.

### Objective 4.1: Increase LABC's influence on changes that improve access to justice

#### Key Highlights

- LABC was a key participant in the accelerated implementation of the early resolution model under the new Provincial Court family law rules at the Surrey courthouse. LABC received additional funding to implement additional duty counsel and legal aid resources required by the new rules.
- In response to the pandemic, the courts shifted to virtual services. LABC supported that pandemic response by supporting the implementation of virtual bail, providing virtual advice services, and regularly updating our websites to provide current information about justice system changes in response to the evolving situation.



Performance Measure(s)	2005 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
4.1a Percent of the public that supports the provision of legal aid services <sup>1</sup>	89%	—	>90%	89%	—	>90%

<sup>1</sup> Data Source: Biennial LABC Public Opinion Poll

## Discussion of Results

The level of public support for legal aid is a primary indicator of the value BC residents place on legal aid services and the contribution of these services to a fair and efficient justice system. This measure is linked to public awareness of legal aid services and helps demonstrate the importance of legal aid in ensuring access to justice for the people of BC.

The 2020/21 results match the baseline for this performance measure and are just under the target for this year, continuing the consistent, positive results shown through our biennial public opinion poll.

## Objective 4.2: Promote innovations that help people resolve their legal issues

This objective recognizes that LABC will drive systemic change by supporting, developing, and implementing innovative justice services that improve the outcomes of people who use them.

### Key Highlights

- Added Family Limited Representation Contracts and digital early resolution services to innovative services in 2020/21.

Performance Measure(s)	2017/18 Baseline	2019/20 Actuals	2020/21 Target	2020/21 Actuals	2021/22 Target	2022/23 Target
4.2a Number of clients accessing innovative legal aid services who resolve their legal issues <sup>1</sup>	248 <sup>2</sup>	1,137 <sup>3</sup>	>300	2,062 <sup>4</sup>	>300 <sup>5</sup>	>300 <sup>5</sup>

<sup>1</sup> Data Source: LABC client information system

<sup>2</sup> For the purposes of this measure “innovative” services are defined as key specialized services. Baseline data includes results from Vancouver PLC and Expanded Criminal Duty Counsel.

<sup>3</sup> As new specialized services are implemented and new service locations are added, they are included in “innovative” services for this performance measure. 2019/20 Actuals includes clients from all 10 PLC locations (Campbell River, Duncan, Kamloops, Prince George, Smithers, Surrey, Terrace, Vancouver, Victoria and Williams Lake), clients from Port Coquitlam Expanded Criminal Duty Counsel, and clients who received a Criminal Early Resolution Contract.

<sup>4</sup> 2020/21 Actuals includes the following key specialized services: all 10 PLC locations; Criminal Early Resolution Contracts; Family Limited Representation Contracts; and digital early resolution services such as online dispute resolution, remote mediation and online tools.

<sup>5</sup> LABC restated the 2021/22 and 2022/23 Targets in the [2021/22 – 2023/24 Service Plan](#).

## **Discussion of Results**

This measure demonstrates the growing impact of our innovative legal aid services. The significant growth in 2020/21 reflects the inclusion of Family Limited Representation Contracts and the increase in Criminal Early Resolution Contracts. Both of these contract types increase access to justice for people who would otherwise be ineligible for representation services, either for financial reasons or because their matter is not serious enough to meet standard legal aid coverage criteria. Digital early resolution services such as online dispute resolution and remote mediation assist people who are not eligible for representation services to resolve their legal issues.

## Financial Report

For the auditor's report and audited financial statements, [see Appendix D](#). These can also be found on the [Legal Aid BC website](#).

### Discussion of Results

The following discussion of LABC's financial results for the year ending March 31, 2021 should be read in conjunction with LABC's audited financial statements including accompanying notes. The financial statements have been prepared in accordance with the accounting requirements of section 23.1 of the *Budget Transparency and Accountability Act* of the Province of British Columbia based on the Canadian Public Sector Accounting Standards (PSAS).

### Revenue

LABC receives the majority of its revenue from the following sources: the Provincial government, the Law Foundation of British Columbia, and the Notary Foundation of British Columbia. Total revenue for 2020/21 was \$105.4 million compared to the 2019/20 total revenue of \$105.7 million. The provincial government provides the largest portion of revenue. In 2020/21, the provincial government provided \$100.1 million to LABC (2019/20 \$99.4 million).

### *Government of British Columbia funding*

The funding received from the provincial government is governed by a three-year Memorandum of Understanding (MOU) between LABC and the MAG April 1, 2020 – March 31, 2023. The MOU outlines the roles and responsibilities for LABC and the ministry, the types of services LABC can provide with provincial government funding, and the priorities for allocating that funding. The MOU defines how criminal cases are to be categorized and funded.

There are three criminal case categories:

- **Category A:** Within the approved budget within which cases will be accounted for where the total of the fees and disbursements is less than or equal to \$75,000.
- **Category B:** Within the approved budget within which a case will be accounted for where the total of the fees and disbursements exceeds \$75,000 and are less than or equal to \$175,000, or where it is a Court Appointed Counsel Case or a Charter Required Counsel Case. These cases are funded by a restricted contribution, and any surplus in these cases is transferred to deferred contributions. In the case of an annual shortfall in Criminal Category B cases, LABC must first apply any Category A surplus to the shortfall. LABC must then transfer funds from the Deferred Contribution Fund, if any, to offset any remaining shortfall. If a shortfall still remains, LABC must enter into a discussion with the MAG.
- **Category C:** Within the approved budget within which a case will be accounted for where the total of the fees and disbursements exceeds \$175,000, or where the case is one in which the rate payable to counsel exceeds LABC's enhanced fee rate. These cases are funded through a special funding agreement with the MAG.

### ***Other Funding***

Both the Law Foundation and the Notary Foundation provide annual grants to LABC. The Law Foundation and the Notary Foundation funds are not included in the MOU. The *Notaries Act* requires the Notary Foundation to contribute 55 percent of their interest revenue to LABC. As a result of the global pandemic, interest rates were at historical low levels. The Notary Foundation provided \$0.7 million to LABC in 2020/21, compared to \$2.4 million in 2019/20. The Law Foundation provided \$3.5 million in 2020/21 compared to \$3.4 million in 2019/20.

### **Expenses**

LABC's expenses totalled \$105.4 million in 2020/21, a decrease of \$3.3 million from 2019/20. The decrease in expenses compared to last year is a result of COVID-19 impact on court operations, partially offset by increased expenses as a result of LABC's operational response to the pandemic. Of the total expenses, \$69.6 million was for the tariff programs, \$19.9 million for salaries and benefits, \$4.0 million for building and amortization, and \$11.9 million for other costs. See Audited Financial Statements — Note 10, Expenses by object.

### ***Tariff and Program expenses***

The financial statements are prepared in accordance with Canadian PSAS, and as a result expenses are consolidated and reported by program. The tariff expenses reported in the financial statements include payments to the private bar, any direct service contracts, and an allocation for both public services and tariff direct support costs.

To determine the costs for tariff, LABC estimates the liability for services provided by the private bar using an actuarial model. This model includes actual costs based on invoices received, and estimated costs for work performed on all unbilled contracts made during the fiscal year. The tariff accrual and corresponding tariff expenses are subject to change within a range of plus or minus ten percent from the amounts recorded in the financial statements due to uncertainties regarding both timing and costs. The estimate of this level of variability is in itself subject to many uncertainties, and the outcome of individual matters is not predictable with assurance, due in part to the ongoing effects of the COVID-19 pandemic on the court system. The estimated tariff liability at the end of 2020/21 is \$11.5 million (2019/20 \$10.4 million). An independent actuary review is performed every three years. The next review will be February 2022, with the results reported for the 2021/22 fiscal year. See Audited Financial Statements — Note 5 (b), Tariff and Note 19 – Measurement uncertainty.

The society does not record a liability, and related accounts receivable, for certain legal services performed but not yet billed to the society as the amount cannot be estimated reliably. For these legal cases, the related costs are fully reimbursed to the society based on the terms of agreements with either the Province of British Columbia or the Government of Canada.

## Financial Summary

\$ millions	2019/20 Actual	2020/21 Budget	2020/21 Actual	2020/21 Variance
<b>Revenue</b>				
Contribution from Province	99.4	101.1	100.1	(1.0)
Other Income & Recoveries	6.3	4.9	5.3	0.4
<b>Total Revenue</b>	<b>105.7</b>	<b>106.0</b>	<b>105.4</b>	<b>(0.6)</b>
<b>Expenses</b>				
Criminal tariff	52.5	54.9	53.4	(1.5)
Family tariff	21.6	24.1	21.7	(2.4)
Child Protection tariff	6.7	7.7	5.8	(1.9)
Immigration and refugee tariff	4.3	2.7	3.7	1.0
Justice Initiatives	7.2	5.3	7.2	1.9
Indirect (Administration)	8.0	6.4	9.0	2.6
Publishing	2.3	2.3	2.5	0.2
Community engagement	0.9	1.0	0.8	(0.2)
Indigenous services	1.3	1.6	1.3	(0.3)
Other contribution	3.9	0.0	0.0	0.0
<b>Total Expenses</b>	<b>108.7</b>	<b>106.0</b>	<b>105.4</b>	<b>(0.6)</b>
<b>Net Income</b>	<b>(3.0)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Total Liabilities</b>	17.9	19.0	19.2	0.2
<b>Capital Expenditures</b>	1.4	1.0	0.1	(0.9)
<b>Accumulated Surplus</b>	<b>0.9</b>	<b>0.5</b>	<b>0.9</b>	<b>0.4</b>

**Note 1:** The above financial information was prepared based on current Generally Accepted Accounting Principles.

**Note 2:** Consistent with Public Sector Accounting Standards (PSAS) and section 23.1 of the *Budget Transparency and Accountability Act* of the Province of British Columbia, when expenses support a range of service delivery activities, they are allocated to those service activities.

**Note 3:** For a detailed breakdown of Indirect (Administration), see Appendix D: Auditor's Report and Audited Financial Statements — Note 11, Administration expense and Note 19, Comparative Figures.

**Note 4:** 2020/21 Budget figures are based on Legal Aid BC's 2020/21-2022/23 Service Plan.

## **Variance and Trend Analysis**

LABC's revenue decreased by \$0.3 million during the fiscal year compared to last year. The decrease was due primarily to the global pandemic. The global pandemic, COVID-19, has significantly disrupted economic activities in BC. This is a difficult time for the legal system. The society is responding by taking steps to ensure that, wherever possible, access to justice continues despite any interruptions to the courts as a result of COVID-19, and to support providers during this challenging time.

The disruption from the pandemic was initially expected to be temporary. Given the dynamic nature of these circumstances, the duration of disruption to the society's operations and related financial impacts cannot be reasonably estimated at this time other than the disruption is elongating.

## **Risks and Uncertainties**

LABC's largest risk is fluctuating demand and costs for services. LABC cannot predict the demand for tariff services, nor the pace at which cases are billed. The ability to control costs and manage demand continues to be critical to meeting budget targets.

The biggest tariff risk is in criminal as it is the largest proportion of tariff program expense (over 63 percent). The MOU outlines three categories of criminal cases and the funding to help mitigate the risk of the larger cases (Category B and Category C).

## **Capital Expenditures**

Capital expenditures are required to assure the continued operations of LABC. These expenditures include information systems, cyber security, lawyer billing systems, leasehold improvements, and office equipment. The major capital expenditure for the fiscal year was the replacement of infrastructure. LABC invested \$0.1 million in capital programs. See Audited Financial Statements – Schedule 1 – Tangible Capital Assets.

## **Appendix A: Additional Information**

### **Organizational Overview**

Mandate: <https://lss.bc.ca/about/ourMandate>

Who We Are, and Our Vision, Mission, and Values: <https://lss.bc.ca/about>

Legal Aid Services: [https://lss.bc.ca/legal\\_aid](https://lss.bc.ca/legal_aid)

Legal Aid Locations: [https://lss.bc.ca/legal\\_aid/legalAidLocations](https://lss.bc.ca/legal_aid/legalAidLocations)

### **Corporate Governance**

Board Governance: <https://lss.bc.ca/about/ourGovernance>

Senior Management: <https://lss.bc.ca/about/ourExecutive>

### **Contact Information**

Legal Aid BC

400 – 510 Burrard Street

Vancouver, BC V6C 3A8

604-601-6000

[legalaid.bc.ca](https://legalaid.bc.ca)

## Appendix B: Legal Information and Education Services

	2020/21	2019/20	2018/19
Aboriginal community legal worker client assists	175	197	496
LIOW worker client assists	9,698	6,077 <sup>1</sup>	5,019
PLEI publications distributed	16,107	113,861	101,522
LABC website users	213,646	203,911	207,923
LABC website sessions	389,433	376,001	396,120
Family Law in BC website users	615,294	731,364	814,396
Family Law in BC website sessions	869,190	1,015,402	1,135,983
Aboriginal Legal Aid in BC website users	20,182	18,985	14,275
Aboriginal Legal Aid in BC website sessions	26,058	24,379	18,642
MyLawBC website users	51,522	38,263	42,759
MyLawBC website sessions	71,376	54,000	59,897
Total intermediaries reached through LABC workshops and conferences	1,567	1,570	2,133
Direct one-to-one client assists by community partners	10,433	11,136	9,990

<sup>1</sup> This number was reported as 4,495 in the 2019/20 Annual Service Plan Report (ASPR). It is restated here so that all years reported include client assists at multiple locations and modalities (in-person and by phone, email, online live chat, and mail). The 2019/20 results previously reported incorrectly excluded client assists at Vancouver Downtown Community Court.



## Appendix C: Other Performance Highlights

The following tables show the number of individuals who applied for representation services (service requests) and the number of individuals who received a representation contract (contracts). The contract issued rate is the percent of applicants who received a contract.

Volumes for 2020/21 show the significant impact of the COVID-19 pandemic on expressed demand for legal aid services. Volumes of service requests dropped by 13% overall, with declines seen in all areas of except Family and Administrative Appeals. Requests for family representation services rose steadily starting in the fall and ending 5% higher for the year than 2019/20, with a 4% increase in contracts issued – a clear indicator of the toll taken on families by the pandemic.

### *Clients Served*

Area of Law	2020/21		2019/20		2018/19	
	Service Requests	Contracts	Service Requests	Contracts	Service Requests	Contracts
Criminal	20,267	16,756	24,256	20,221	23,926	19,221
Family	8,515	4,566	8,131	4,400	7,951	4,158
CFCSA <sup>1</sup>	2,641	1,838 <sup>2</sup>	2,925	2,085 <sup>2</sup>	3,018	2,286
Immigration	1,444	1,035	2,480	1,941	2,029	1,603
Appeals of Administrative Tribunal Decisions <sup>3</sup>	146	67	93	17	94	15
<b>Total</b>	<b>33,013</b>	<b>24,262</b>	<b>37,885</b>	<b>28,664</b>	<b>37,018</b>	<b>27,283</b>

\* All volumes in this table reflect both standard and appeal service requests and contracts.

<sup>1</sup> LABC provides services to eligible clients facing child protection issues under the CFCSA.

<sup>2</sup> Includes PLC cases and contracts referred to the private bar.

<sup>3</sup> These are judicial appeals and prerogative writ applications that do not fit strictly into other areas of law but involve a challenge to the applicant's liberty or security. Most of them are prison law cases, but some mental health law cases and cases involving liberty interests are included. The significant increase in 2020/21 over previous years is attributable to a number of COVID-19 prison law cases that happened early in the fiscal year.

***Contract Issued Rate***

Area of Law	2020/21	2019/20	2018/19
Criminal	83%	83%	80%
Family	54%	54%	52%
CFCSA <sup>1</sup>	70%	71%	76%
Immigration	72%	78%	79%
Appeals of Administrative Tribunal Decisions <sup>2</sup>	46%	18%	16%

<sup>1</sup> Includes PLC cases and contracts referred to the private bar.

<sup>2</sup> These are judicial appeals and prerogative writ applications that do not fit strictly into other areas of law but involve a challenge to the applicant's liberty or security. Most of them are prison law cases, but some mental health law cases and cases involving liberty interests are included. The significant increase in 2020/21 over previous years is attributable to a number of COVID-19 prison law cases that happened early in the fiscal year.

LABC offers a wide variety of advice services. These services help us support clients when they do not meet the eligibility requirements for legal representation. We make it easier for clients to access legal aid by providing advice by phone and by situating duty counsel lawyers in courthouses.

The following table shows the impact of the COVID-19 pandemic on clients' ability to access our legal advice services during the pandemic. While LABC shifted some in-person duty counsel advice services to phone services, the volume of assists provided by these services dropped by 30% to 50%. In comparison, pre-existing phone services like Family LawLINE saw a significant increase in client volume.

***Legal Advice Services***

	2020/21	2019/20	2018/19
<b>Criminal Advice Services</b>			
Criminal duty counsel client assists <sup>1</sup>	53,064	75,347	71,666
Indigenous Court duty counsel client assists <sup>2</sup>	470	613	693
Brydges Line calls handled	19,278 <sup>3</sup>	16,494	16,794
<b>Family Advice Services</b>			
Family duty counsel client assists	15,495	32,699	35,102
Expanded family duty counsel Victoria unique clients <sup>4</sup>	801	1,373	N/A
Family LawLINE unique clients	4,658	3,859 <sup>5</sup>	3,774
<b>Immigration Advice Services</b>			
Immigration duty counsel client assists	524	1,068	1,036

<sup>1</sup> Client assists represents the number of times clients have been assisted rather than the unique number of clients. An individual client can receive services multiple times.

<sup>2</sup> Data is also included in the criminal duty counsel client assists data

<sup>3</sup> Calls to the Brydges Line increased in the second half of the year following a switch to a new service provider. The increase may reflect a different way of counting calls from the previous provider. In 2021, call data will come from a new software application, which may affect the count.

<sup>4</sup> Data for 2018/19 is included in 'Family duty counsel client assists'

<sup>5</sup> In October 2019 LABC switched to a new system for tracking LawLINE clients. Data for 2019/20 includes data from two systems and may double count some clients.

## **Appendix D: Auditor's Report and Audited Financial Statements**

Financial statements of

**Legal Services Society**

March 31, 2021

# Legal Services Society

March 31, 2021

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## Management's Report

### Management's Responsibility for the Legal Services Society Financial Statements

The Legal Services Society (the "society") financial statements as at and for the year ended March 31, 2021 (the "financial statements") have been prepared by management in accordance with Section 23.1 of the Budget Transparency and Accountability Act of the Province of British Columbia, and the integrity and objectivity of these statements are management's responsibility. Management is also responsible for all of the notes to the financial statements and schedules, and for ensuring that this information is consistent, where appropriate, with the information contained in the financial statements. A summary of the significant accounting policies are described in Note 2 to the financial statements. The preparation of financial statements necessarily involves the use of estimates based on management's judgment, particularly when transactions affecting the current accounting period cannot be finalized with certainty until future periods.

Management is also responsible for implementing and maintaining a system of internal controls to provide reasonable assurance that reliable financial information is produced. The internal controls are designed to provide reasonable assurance that assets are safeguarded, transactions are properly authorized and recorded in compliance with legislative and regulatory requirements, and reliable financial information is available on a timely basis for preparation of the financial statements.

The Board of Directors is responsible for ensuring that management fulfills its responsibilities for financial reporting and internal control, and exercises these responsibilities through the Finance Committee. The Board of Directors reviews internal financial statements on a quarterly basis and external audited financial statements yearly. The Board of Directors also discusses any significant financial reporting or internal control matters prior to their approval of the financial statements.

The external auditors, Deloitte LLP, conduct an independent examination, in accordance with Canadian generally accepted auditing standards, and express their opinion on the annual financial statements. The external auditors have full and free access to the financial records of the society and meet with management and the Board of Directors when required. The accompanying Independent Auditor's Report outlines their responsibilities, the scope of their examination and their opinion on the financial statements.

On behalf of the society



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Mark Benton, QC  
Chief Executive Officer



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Chris Earle, CPA, CMA, C. Dir  
Vice President, Finance and Corporate  
Services

## Independent Auditor's Report

To the Directors of  
Legal Services Society

### Opinion

We have audited the financial statements of Legal Services Society (the "Society"), which comprise the statement of financial position as at March 31, 2021, and the statements of operations and accumulated surplus, changes in net debt and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies (collectively referred to as the "financial statements").

In our opinion, the accompanying financial statements of the Society for the year ended March 31, 2021 are prepared, in all material respects, in accordance with the financial reporting provisions of Section 23.1 of the Budget Transparency and Accountability Act of the Province of British Columbia.

### Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards ("Canadian GAAS"). Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are independent of the Society in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Emphasis of Matter - Basis of Accounting

We draw attention to Note 2 to the financial statements, which describes the basis of accounting. The financial statements are prepared to assist the Society in complying with the financial reporting provisions of Section 23.1 of the Budget Transparency and Accountability Act of the Province of British Columbia. As a result, the financial statements may not be suitable for another purpose. Our opinion is not modified in respect of this matter.

### Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation of the financial statements in accordance with the financial reporting provisions of Section 23.1 of the Budget Transparency and Accountability Act of the Province of British Columbia, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Society's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Society or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Society's financial reporting process.



## **Auditor's Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian GAAS will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Society's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Society's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Society to cease to continue as a going concern.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.



Chartered Professional Accountants  
May 14, 2021  
Vancouver, British Columbia

**Statement of financial position**

as at March 31, 2021

	2021	2020
<b>Financial assets</b>		
Cash (note 17)	\$ 11,307,741	\$ 8,330,509
Investments (notes 4 and 17)	—	1,904,925
Accounts receivable (note 17)		
Government of British Columbia (note 14)	1,336,132	620,114
Government of Canada	1,125,684	926,690
Other	2,642,116	1,917,564
<b>Total financial assets</b>	<b>16,411,673</b>	<b>13,699,802</b>
<b>Liabilities</b>		
Accounts payable and accrued liabilities (note 17)		
General (note 5a)	3,087,115	2,724,105
Tariff (note 5b)	14,972,983	13,894,778
Employee future benefits (notes 6(b) and 17)	217,800	224,800
Long-term liabilities (notes 7 and 17)	914,999	1,058,451
<b>Total liabilities</b>	<b>19,192,897</b>	<b>17,902,134</b>
<b>Net debt</b>	<b>(2,781,224)</b>	<b>(4,202,332)</b>
<b>Non-financial assets</b>		
Tangible capital assets (Schedule 1)	3,304,777	4,560,560
Prepaid expenses	415,914	581,239
<b>Total non-financial assets</b>	<b>3,720,691</b>	<b>5,141,799</b>
<b>Accumulated surplus (note 8)</b>	<b>\$ 939,467</b>	<b>\$ 939,467</b>
Contractual obligations (note 13)		
Economic dependence (note 15)		
Contingent liabilities (note 16)		

The accompanying notes and supplementary schedule are an integral part of these financial statements.



Jean Whittow, QC  
Chair of the Board of Directors



Karen Christiansen, FCPA, FCA  
Chair of the Finance Committee

**Statement of operations and accumulated surplus**

for the year ended March 31, 2021

	<b>Budget (note 12)</b>		<b>2021</b>	<b>2020</b>
<b>Revenue</b>				
Government of British Columbia (notes 9 and 14)	\$ 106,824,000	\$ 100,106,710	\$ 99,361,547	
Law Foundation	3,250,000	3,477,837	3,430,340	
Department of Justice — Canada	—	82,778	35,678	
Notary Foundation	500,000	713,020	2,398,470	
Investment income	50,000	164,592	175,816	
Miscellaneous	487,000	807,881	327,358	
<b>Total revenue</b>	<b>111,111,000</b>	<b>105,352,818</b>	<b>105,729,209</b>	
<b>Expenses (notes 10, 14 and 19)</b>				
Criminal tariff	56,423,337	53,393,540	52,454,030	
Family tariff	24,480,589	21,681,935	21,634,222	
Child protection tariff	7,690,527	5,794,281	6,723,750	
Immigration and refugee tariff	3,285,690	3,659,893	4,260,941	
Justice Innovation and Transformation Initiatives	7,423,408	7,182,927	7,152,251	
Publishing	2,130,904	2,538,750	2,326,848	
Community engagement	808,160	791,454	925,350	
Indigenous services	1,389,755	1,322,126	1,305,063	
Other contribution (note 8)	—	—	3,940,000	
Administration (note 11)	7,478,630	8,987,913	8,006,982	
<b>Total expenses</b>	<b>111,111,000</b>	<b>105,352,818</b>	<b>108,729,437</b>	
<b>Deficit for the year</b>	<b>—</b>	<b>—</b>	<b>(3,000,228)</b>	
<b>Accumulated surplus at beginning of year</b>	<b>939,467</b>	<b>939,467</b>	<b>3,939,695</b>	
<b>Accumulated surplus at end of year (note 8)</b>	<b>\$ 939,467</b>	<b>\$ 939,467</b>	<b>\$ 939,467</b>	

The accompanying notes and supplementary schedule are an integral part of these financial statements.

**Statement of changes in net debt**

for the year ended March 31, 2021

	<b>Budget (note 12)</b>	<b>2021</b>	<b>2020</b>
Deficit for the year	\$ —	\$ —	\$ (3,000,228)
Acquisition of tangible capital assets	(1,050,000)	<b>130,956</b>	(1,374,809)
Amortization	1,163,000	<b>1,124,827</b>	2,363,110
	(113,000)	<b>1,255,783</b>	988,301
Acquisition of prepaid expenses	—	<b>(511,262)</b>	(581,239)
Use of prepaid expenses	—	<b>676,587</b>	4,608,567
	—	<b>165,325</b>	4,027,328
<b>Decrease (increase) in net debt</b>	(113,000)	<b>1,421,108</b>	2,015,401
<b>Net debt at beginning of year</b>	(4,202,332)	<b>(4,202,332)</b>	(6,217,733)
<b>Net debt at end of year</b>	\$ (4,315,332)	\$ <b>(2,781,224)</b>	\$ (4,202,332)

The accompanying notes and supplementary schedule are an integral part of these financial statements.

**Statement of cash flows**  
for the year ended March 31, 2021

	2021	2020
<b>Cash provided by (applied to) operating activities</b>		
Deficit for the year	\$ —	\$ (3,000,228)
<b>Items not involving cash:</b>		
Amortization	1,124,827	2,363,110
Long term liabilities	(143,452)	449,411
<i>Changes in non-cash working capital:</i>		
Accounts receivable	(1,639,564)	197,231
Accounts payable and accrued liabilities	1,441,215	425,200
Prepaid expenses	165,325	4,027,328
Employee Future Benefits	(7,000)	(3,000)
<b>Total change from Operating activities</b>	<b>941,351</b>	<b>7,459,280</b>
<b>Cash applied to capital activities</b>		
Purchase of tangible capital assets	130,956	(1,374,808)
<b>Total change from Capital activities</b>	<b>130,956</b>	<b>(1,374,808)</b>
<b>Cash provided by investing activities</b>		
Investments redeemed	1,904,925	5,044,819
<b>Total change from Investing activities</b>	<b>1,904,925</b>	<b>5,044,819</b>
Increase in cash	2,977,232	8,129,063
Cash at beginning of year	8,330,509	201,446
Cash at end of year	\$ 11,307,741	\$ 8,330,509

The accompanying notes and supplementary schedule are an integral part of these financial statements.

## **Notes to the Financial Statements**

### **for the year ended March 31, 2021**

#### **1. Overview**

The Legal Services Society (the “society”) was established under the Legal Services Society Act on October 1, 1979 (as revised on May 31, 2007). The society is governed by a Board of Directors, of which five are appointed by the Province of British Columbia (the province) and four are appointed by the Law Society. The society operates within the framework of a Memorandum of Understanding (MOU) with the province. The MOU is renewed every 3 years and outlines the roles, budget and planning processes as well as prioritization for allocating funding. The purpose of the society is to:

- assist individuals to resolve their legal problems and facilitate access to justice,
- establish and administer an effective and efficient system for providing legal aid to individuals in British Columbia, and
- provide advice to the Attorney General respecting legal aid and access to justice for individuals in British Columbia.

The society is not subject to income taxes.

The global pandemic, COVID-19, has significantly disrupted economic activities in BC. This is a difficult time for the legal system. The society is responding by taking steps to ensure that, wherever possible, access to justice continues despite any interruptions to the courts as a result of COVID-19, and to support providers during this challenging time.

The disruption from the pandemic was initially expected to be temporary. Given the dynamic nature of these circumstances, the duration of disruption to the society’s operations and related financial impacts cannot be reasonably estimated at this time other than the disruption is elongating.

#### **2. Basis of presentation**

These financial statements are prepared by management in accordance with the accounting requirements of section 23.1 of the Budget Transparency and Accountability Act of the province. This section requires the accounting policies and practices of government organizations to conform to generally accepted accounting principles for senior governments in Canada, as modified by any alternative standard or guideline that is made by the Treasury Board.

In November 2011, a Treasury Board regulation was issued that requires tax-payer supported organizations to adopt the accounting policies for restricted contributions described in note 3(a). These accounting policies are significantly different from Canadian Public Sector Accounting Standards (“PSAS”) which require that government transfers with stipulations are recognized as revenue in the period the transfer is authorized and all eligibility criteria have been met, except when and to the extent that the transfer gives rise to an obligation that meets the definition of a liability. Such liability is reduced, and an equivalent amount of revenue is recognized, as the liability is settled.

## **2. Basis of presentation (continued)**

The accounting policy described in note 3(a) is different from PSAS with respect to the timing of revenue recognition for government transfers. The impact on the financial statements of the society as at and for the year ended March 31, 2021 is not significant.

## **3. Significant accounting policies**

### **(a) Revenue recognition**

Revenues are recognized in the period in which the transactions or events that give rise to the revenues occur. All revenues are recorded on an accrual basis, except when the accruals cannot be determined with a reasonable degree of certainty or when their estimation is impracticable.

Government transfers received for the purpose of developing or acquiring a depreciable tangible capital asset are deferred and recognized as revenue at the same rate as the amortization, and any impairment, of the tangible capital asset. Other government transfers are recognized as revenue in the period they authorized, any eligibility criteria are met and when any stipulation or restriction the transfer is subject to is met.

Restricted contributions received or receivable are deferred and amortized into revenue as the related expenses are incurred.

### **(b) Expenses**

Expenses are reported on an accrual basis. The cost of services incurred during the year is expensed.

### **(c) Tariff expenses**

Tariff expenses include amounts billed by lawyers to the society and an estimate of services performed by lawyers but not yet billed to the society.

### **(d) Employee future benefits**

- i. The society's employees belong to the Municipal Pension Plan, which is a multi-employer contributory pension plan. The society records its pension expense as the amount of employer contributions made during the fiscal year (defined contribution pension plan accounting). This method is used because the plan records accrued liabilities and accrued assets for the plan in aggregate, resulting in no consistent and reliable basis for allocating the obligation, assets, and costs to individual employers participating in the plan.
- ii. The cost of non-vested sick leave benefits is actuarially determined using the projected benefit method and management's best estimate of salary escalation, future utilization of the benefits, long-term inflation rates, and discount rates.

### 3. Significant accounting policies (continued)

#### (e) Tangible capital assets

Tangible capital assets are recorded at cost, which includes amounts that are directly related to the acquisition, design, construction, development, improvement, or betterment of the asset.

The estimated useful lives of assets are re-assessed on an annual basis. Tangible capital assets are amortized on a straight-line basis over the estimated useful life of the asset as follows:

Assets	Per year
Furniture	10 – 20%
Equipment	20%
Computer equipment	25 – 33%
Computer software	20 – 33%
Client Information System	20%
Leasehold improvements	Lower of lease term and useful life

Tangible capital assets are written down when conditions indicate that they no longer contribute to the society's ability to provide services, or when the value of future economic benefits associated with the tangible capital assets is less than their net book value. The net write-downs (if any) are accounted for as expenses in the statement of operations.

#### (f) Lease inducements

Lease inducements are recognized on a straight-line basis over the term of the lease as a reduction in premises expense.

#### (g) Prepaid expenses

Prepaid expenses include computer software licenses, and deposits. These items are charged to expense over the periods expected to benefit from them.

#### (h) Financial instruments

The society's financial instruments consist of cash, investments, accounts receivable, and accounts payable and accrued liabilities. Accounts receivable and accounts payable and accrued liabilities are initially recorded at fair value and subsequently measured at cost. Investments, which may comprise guaranteed investment certificates, provincial bonds, corporate bonds, and structured bank notes, are initially recorded at fair value and subsequently measured at amortized cost. Any premium or discount related to a financial instrument measured at amortized cost is amortized over the expected life of the instrument using the effective interest method.

All financial assets are tested annually for impairment. When financial assets are impaired, impairment losses are recorded in the statement of operations. A write-down of a portfolio investment to reflect a loss in value is not reversed for a subsequent increase in value.



### 3. Significant accounting policies (continued)

#### (h) Financial instruments (continued)

The fair values of the society's cash, accounts receivable, and accounts payable and accrued liabilities generally approximate their carrying amounts due to their short term to maturity. The fair values of the society's investments are disclosed in note 4.

#### (i) Measurement uncertainty

The preparation of financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Areas where estimates are significant to the financial statements include the tariff liabilities and expenses (note 17). Other areas where estimates are made include accounts receivable, estimated useful lives of tangible capital assets and the resulting amortization, non-vested sick leave benefits, and contingent liabilities.

Estimates are based on the best information available at the time of the preparation of the financial statements and are reviewed annually to reflect new information as it becomes available. Measurement uncertainty exists in these financial statements. Actual results could differ from those estimates.

### 4. Investments

As of March 31, 2021, the society held no investments (2020 — \$1,904,925). All investments matured during the year.

### 5. Accounts payable and accrued liabilities

#### (a) General

	2021	2020
Trade payables	\$ 1,981,469	\$ 1,088,403
Payroll payables	1,105,646	1,635,702
<b>Total</b>	<b>\$ 3,087,115</b>	<b>\$ 2,724,105</b>

#### (b) Tariff

	2021	2020
Submittals approved, not paid	\$ 1,608,437	\$ 1,125,478
Submittals not approved	1,908,145	2,379,630
Accrual (note 18)	11,456,401	10,389,670
<b>Total</b>	<b>\$ 14,972,983</b>	<b>\$ 13,894,778</b>

## **5. Accounts payable and accrued liabilities (continued)**

The society uses an actuarial model to estimate legal services performed but not yet billed to the society. Management estimated the liability to be approximately \$11,456,401 (2020 — \$10,389,670). This estimate, included in the above table, incorporates average case costs and service billings for similar cases, based on historical experience over a two-year period. Actual costs could differ from this estimate (notes 3(i) and 18).

The society does not record a liability, and related accounts receivable, for certain legal services performed but not yet billed to the society as the amount cannot be estimated reliably. For these legal cases, the related costs are fully reimbursed to the society based on the terms of agreements with either the Province of British Columbia or the Government of Canada.

## **6. Employee future benefits**

### **(a) Pension plan**

The society and its employees contribute to the Municipal Pension Plan (jointly trustee pension plan). The Board of trustees for this plan, representing plan members and employers, is responsible for administering the pension plan, including investing assets and administering benefits. The plan is a multi-employer defined benefit pension plan. Basic pension benefits are based on a formula. As at December 31, 2016, the Municipal Pension Plan had approximately 195,921 active members and 100,956 retired members.

Every three years, an actuarial valuation is performed to assess the financial position of the plan and adequacy of plan funding. The actuary determines an appropriate combined employer and member contribution rate to fund the plan. The actuary's calculated contribution rate is based on the entry-age normal cost method, which produces the long-term rate of member and employer contributions sufficient to provide benefits for average future entrants to the plan. This rate may be adjusted for the amortization of any actuarial funding surplus and will be adjusted for the amortization of any unfunded actuarial liability.

The most recent valuation, conducted as at December 31, 2018, showed the plan's basic account, which pays lifetime pensions, was 105.1 per cent funded with actuarial assets of \$58.53 billion and actuarial liabilities of \$55.66 billion. There is a surplus of \$2.87 billion. In addition, the rate stabilization account, which was set up to help offset potential future contribution rate increases, has a balance of about \$2.5 billion.

The society paid \$1,305,282 (2020 — \$1,226,551) for employer contributions to the plan during the year ended March 31, 2021.

### **(b) Non-vested sick leave**

Employees are credited days per year, ranging from six to ten days, for use as paid absences in the year due to illness or injury. Employees are allowed to accumulate unused sick day credits each year, up to the allowable maximum provided in their respective employment agreement.

Accumulated credits may be used in future years to the extent that the employee's illness or injury exceeds the current year's allocation of credits. The use of accumulated sick days for sick-leave compensation ceases on termination of employment and employee unused sick bank is not paid out at retirement. The benefit cost and liabilities related to the plan are included in the financial statements.

## 7. Long-term liabilities

### Lease inducements

Lease inducements were provided under an operating lease by the property owner to finance tenant improvements.

	2021	2020
Leasehold inducements	\$ 914,999	\$ 1,058,451
Less: current portion	(143,452)	(143,452)
Long-term portion	\$ 771,547	\$ 914,999

## 8. Accumulated surplus

The Board of Directors has authorized the following restrictions on the accumulated surplus:

- In March 2019, the Board of Directors, the Association of Legal Aid Lawyers and the province entered into a Memorandum of Understanding (“MOU”) to prevent a withdrawal of service by the Legal Aid lawyers. The society paid \$3,940,000 to the Law Foundation on March 29, 2019.
- The payment to the Law Foundation on March 29, 2019 was recognized as an expense during the year ended March 31, 2020 over the term of the MOU negotiations.

## 9. Restricted contributions

### 2021

	Opening deferred contribution	Approved budget	Additional contributions	Recognized in operations	Closing deferred contribution
Government of British Columbia — Category B	\$ —	\$2,568,000	\$ —	\$ —	\$ —

### 2020

	Opening deferred contribution	Approved budget	Additional contributions	Recognized in operations	Closing deferred contribution
Government of British Columbia — Category B	\$ —	\$1,813,000	\$1,139,209	\$2,952,209	\$ —

## 9. Restricted contributions (continued)

The society's Memorandum of Understanding (MOU) with the Ministry of the Attorney General provides for restricted funding for exceptional matters commencing with the 2003 fiscal year. The MOU was renewed effective April 1, 2020, and provides clarification on criminal case classification and funding of these cases.

There are now three categories:

- **Category A:** Within the approved budget within which a case will be accounted for, where the total of the fees and disbursements is less than or equal to \$75,000.
- **Category B:** Within the approved budget within which a case will be accounted for, where the total of the fees and disbursements exceeds \$75,000 and is less than or equal to \$175,000, or where it is a court-appointed counsel case, or a charter-required counsel case. These cases are funded by a restricted contribution, and any surplus in these cases is transferred to deferred contributions. In the case of an annual shortfall in Criminal Category B cases, the society must first apply any eligible base criminal tariff surplus to the shortfall and then to deferred contributions.
- **Category C:** Within the approved budget within which a case will be accounted for, where the total of the fees and disbursements exceeds \$175,000, or where the case is one in which the rate payable to counsel exceeds the society's enhanced fee rate. These cases are funded through a special funding agreement with the Ministry of the Attorney General.

## 10. Expenses by object

The following is a summary of expenses by object:

	2021 Budget	2021 Actual	2020 Actual
Lawyer fees	\$ 57,919,400	\$ 53,272,871	\$ 50,209,857
Duty counsel fees	13,983,365	11,190,398	11,860,497
Disbursements	5,213,600	5,146,158	7,888,099
<b>Total tariff costs</b>	<b>77,116,365</b>	<b>69,609,427</b>	<b>69,958,453</b>
Salaries and benefits	19,758,287	19,886,119	18,803,352
Grants and contracted services	5,104,561	5,990,990	4,512,973
Computers	1,236,468	2,980,665	2,515,852
Premises	3,081,186	2,750,920	3,073,635
Local agents	1,683,700	1,709,691	1,712,831
Amortization	1,449,846	1,124,827	2,363,110
Office	802,217	633,415	1,088,103
Miscellaneous	624,656	537,994	369,157
Board expenses	167,508	124,975	114,375
Travel	86,206	3,795	277,596
Other contribution	-	-	3,940,000
<b>Total</b>	<b>\$ 111,111,000</b>	<b>\$ 105,352,818</b>	<b>\$ 108,729,437</b>

## 11. Administration expense

The administration expense includes the following expenditures in support of legal aid:

	2021 Actual	2020 Actual
Executive Office	\$ 1,880,126	\$ 1,242,264
Finance and Office Services	1,856,780	1,923,331
Strategic Policy, Planning and Human Resources	2,881,364	2,791,369
IT Operation Services	2,369,643	2,050,018
<b>Total</b>	<b>\$ 8,987,913</b>	<b>\$ 8,006,982</b>

## 12. Budgeted figures

The operating budgeted figures, presented on a basis consistent with that used for actual results, were approved by the Board of Directors on June 24, 2020, and submitted to the Ministry of the Attorney General on June 26, 2020 and were approved on July 23, 2020.

### 13. Contractual obligations

The society has the following contractual obligations.

	Premises leases	Operating costs	Total
2022	1,776,556	1,811,688	3,588,244
2023	1,780,975	129,300	1,910,275
2024	1,810,052	—	1,810,052
2025	1,657,923	—	1,657,923
2026	1,381,287	—	1,381,287
Thereafter	2,799,034	—	2,799,034
<b>Total</b>	<b>\$ 11,205,826</b>	<b>\$ 1,940,988</b>	<b>\$ 13,146,814</b>

Operating costs are service delivery contracts that are renewed over several years.

At year-end, the liability for future costs of legal services to be performed beyond the fiscal year, for which the society is currently committed, is estimated by management to be approximately \$30.8 million (2020 — \$30.3 million). This estimate uses the same methodology as described in note 5 for tariff payables.

### 14. Related parties

The society is related to the Province of British Columbia and its ministries, agencies, and Crown corporations. In this relationship, the province provided funding in the amount of \$100,106,710 (2020 — \$99,361,547), and the society is responsible for providing legal aid to individuals throughout British Columbia. At year-end, the province owed the society \$1,336,131 (2020 — \$620,114).

Certain members of the Board of Directors provide tariff services to the society. These services are provided in the regular course of business under the same terms and conditions as other lawyers. The total amount paid for their services during the year was \$132,376 (2020 — \$159,079). All payments to Board members are reviewed by the finance committee on a quarterly basis.

### 15. Economic dependence

In 2021, the society received 95% (2020 — 94%) of its operating revenue from the Province of British Columbia.

### 16. Contingent liabilities

The nature of the society's activities is such that there is usually pending or prospective litigation at any time against the society. With respect to claims at March 31, 2021, management believes the society has valid defences and appropriate insurance coverage in place. Accordingly, no provision has been made in these financial statements for any liability that may result. In the event that any of these claims are successful, management believes they will not have a material effect on the society's financial position or results from operations.

## 17. Risk management

### Credit risk

Credit risk is the risk of loss resulting from failure of an individual or group to honour their financial obligations. The society's accounts receivable are due primarily from government organizations and other organizations with limited credit risk. The society's cash and investments are held at Canadian chartered banks and Canadian financial institutions, respectively. In management's opinion, the society is not exposed to significant credit risk.

The society regularly assesses the collectability of its receivables. At year-end, there were no significant accounts receivable that were past due or impaired.

The society's maximum exposure to credit risk is \$16,411,673 (2020 - \$13,699,802).

### Liquidity risk

Liquidity risk is the risk that the society will not be able to meet its financial obligations as they fall due. The society's approach to managing liquidity risk is to ensure that it will have sufficient working capital and cash flow to fund operations and settle liabilities when due. Additionally, the society has a line of credit available with a maximum authorized limit of up to \$1.0 million with a Canadian chartered bank. The interest rate per annum is the bank's prime rate. At March 31, 2021, the society has \$nil drawn against this line (2020 — \$nil).

The maturity of the society's financial assets and liabilities as at year-end was as follows:

### 2021

	On demand	Up to 1 year	1 to 3 years	Total
<b>Financial assets</b>				
Cash	\$ 11,307,741	\$ —	\$ —	\$ 11,307,741
Accounts receivable	—	5,103,932	—	5,103,932
<b>Total financial assets</b>	<b>\$ 11,307,741</b>	<b>\$ 5,103,932</b>	<b>\$ —</b>	<b>\$ 16,411,673</b>
<b>Liabilities</b>				
Accounts payable and accrued liabilities	—	6,603,697	—	6,603,697
Tariff accrual	—	11,456,401	—	11,456,401
Other liabilities	—	361,252	771,547	1,132,799
<b>Total liabilities</b>	<b>\$ —</b>	<b>\$ 18,421,350</b>	<b>\$ 771,547</b>	<b>\$ 19,192,897</b>

**17. Risk management (continued)****Liquidity risk (continued)****2020**

	On demand	Up to 1 year	1 to 3 years	Total
<b>Financial assets</b>				
Cash	\$ 8,330,509	\$ —	\$ —	\$ 8,330,509
Investments	—	1,904,925	—	1,904,925
Accounts receivable	—	3,464,368	—	3,464,368
<b>Total financial assets</b>	<b>\$ 8,330,509</b>	<b>\$ 5,369,293</b>	<b>\$ —</b>	<b>\$ 13,699,802</b>
<b>Liabilities</b>				
Accounts payable and accrued liabilities	—	6,229,213	—	6,229,213
Tariff accrual	—	10,389,670	—	10,389,670
Other liabilities	—	368,252	914,999	1,283,251
<b>Total liabilities</b>	<b>\$ —</b>	<b>\$ 16,987,135</b>	<b>\$ 914,999</b>	<b>\$ 17,902,134</b>

**Market risk**

Market risk comprises three types of risk: currency risk, interest rate risk, and other price risk.

**(a) Currency risk**

Currency risk is the risk that the value of a financial instrument will fluctuate due to changes in foreign exchange rates. The society is not exposed to significant currency risk.

**(b) Interest rate risk**

Interest rate risk is the risk that the society's cash flow will change due to future fluctuations in market interest rates.

**(c) Other price risk**

Other price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk or currency risk). The society is not exposed to significant other price risk.



## 18. Measurement uncertainty

Program area		Amount reported	Measurement uncertainty	Range
Tariff accrual ( <i>note 5b</i> )	Min	\$ 11,456,401	\$ (1,145,640)	\$ 10,310,761
	Max	\$ 11,456,401	\$ 1,145,640	\$ 12,602,041
Tariff and transcript expenses ( <i>note 10</i> )	Min	\$ 69,609,427	\$ (1,145,640)	\$ 68,463,787
	Max	\$ 69,609,427	\$ 1,145,640	\$ 70,755,067

Variability in the tariff accrual can arise from the rate at which cases proceed and unanticipated changes in the average cost per case. In management's opinion, the tariff accrual and corresponding tariff expenses are subject to change within a range of plus or minus ten percent from the amounts recorded in these financial statements due to uncertainties regarding both timing and costs. The estimate of this level of variability is in itself subject to many uncertainties, and the outcome of individual matters is not predictable with assurance, due in part to the ongoing effects of the COVID-19 pandemic on the court system.

During the year ended March 31, 2019, the society engaged an independent actuarial firm to review the tariff accrual model. The review concluded that, in the aggregate, the tariff model remains appropriate for determining the amount to be accrued. The next review will be in January 2022, with the results reported in the March 31, 2022 financial statements.

## 19. Comparative Figures

Certain comparative figures have been reclassified to conform to the current year's presentation. These reclassifications are summarized as follows:

Expense Category	As originally reported	Reclassification	As currently presented
Criminal tariff	\$ 49,842,907	\$ 2,611,123	<b>\$ 52,454,030</b>
Family tariff	20,677,504	956,718	<b>21,634,222</b>
Child Protection tariff	6,268,370	455,380	<b>6,723,750</b>
Immigration and refugee tariff	4,106,360	154,581	<b>4,260,941</b>
Administration	\$12,184,784	\$ (4,177,802)	<b>\$ 8,006,982</b>

**Schedule 1 – Tangible Capital Assets****2021****Cost**

	Balance, beginning of year	2021 Additions	2021 Disposals	Balance, end of year
Furniture	\$ 1,107,829	\$ —	\$ —	\$ 1,107,829
Equipment	687,981	—	—	687,981
Computer equipment	1,278,758	117,416	—	1,396,174
Computer software	2,822,884	—	248,371	2,574,513
Client Information System	5,811,214	—	—	5,811,214
Leasehold improvements	3,892,736	—	—	3,892,736
<b>Total</b>	<b>\$ 15,601,402</b>	<b>\$ 117,416</b>	<b>\$ 248,371</b>	<b>\$ 15,470,447</b>

**Accumulated amortization**

	Balance, beginning of year	2021 Additions	2021 Disposals	Balance, end of year
Furniture	\$ (1,068,580)	\$ (20,672)	\$ —	\$ (1,089,252)
Equipment	(602,236)	(32,443)	—	(634,679)
Computer equipment	(1,116,206)	(65,925)	—	(1,182,131)
Computer software	(2,380,029)	(83,244)	—	(2,463,273)
Client Information System	(5,281,052)	(362,458)	—	(5,643,510)
Leasehold improvements	(592,740)	(560,085)	—	(1,152,825)
<b>Total</b>	<b>\$ (11,040,843)</b>	<b>\$ (1,124,827)</b>	<b>\$ —</b>	<b>\$ (12,165,670)</b>

**Net Book Value**

	2021	2020
Furniture	\$ 18,577	\$ 39,249
Equipment	53,302	85,746
Computer equipment	214,043	162,552
Computer software	111,240	442,855
Client Information System	167,704	530,162
Leasehold improvements	2,739,911	3,299,996
<b>Total</b>	<b>\$ 3,304,777</b>	<b>\$ 4,560,560</b>

**Schedule 1 – Tangible Capital Assets (continued)****2020****Cost**

	Balance, beginning of year	2020 Additions	2020 Disposals	Balance, end of year
Furniture	\$ 1,107,829	\$ —	\$ —	\$ 1,107,829
Equipment	687,981	—	—	687,981
Computer equipment	1,278,758	—	—	1,278,758
Computer software	2,793,084	30,712	912	2,822,884
Client Information System	5,811,214	—	—	5,811,214
Leasehold improvements	2,547,728	1,345,008	—	3,892,736
<b>Total</b>	<b>\$ 14,226,594</b>	<b>\$ 1,375,720</b>	<b>\$ 912</b>	<b>\$ 15,601,402</b>

**Accumulated amortization**

	Balance, beginning of year	2020 Additions	2020 Disposals	Balance, end of year
Furniture	\$ (1,047,908)	\$ (20,672)	\$ —	\$ (1,068,580)
Equipment	(569,728)	(32,508)	—	(602,236)
Computer equipment	(1,062,023)	(54,183)	—	(1,116,206)
Computer software	(2,296,784)	(83,245)	—	(2,380,029)
Client Information System	(3,428,222)	(1,852,830)	—	(5,281,052)
Leasehold improvements	(273,068)	(319,672)	—	(592,740)
<b>Total</b>	<b>\$ (8,677,733)</b>	<b>\$ (2,363,110)</b>	<b>\$ —</b>	<b>\$ (11,040,843)</b>

**Net Book Value**

	2020	2019
Furniture	\$ 39,249	\$ 59,921
Equipment	85,746	118,253
Computer equipment	162,552	216,735
Computer software	442,855	496,300
Client Information System	530,162	2,382,992
Leasehold improvements	3,299,996	2,274,660
<b>Total</b>	<b>\$ 4,560,560</b>	<b>\$ 5,548,861</b>

**MINISTRY OF ATTORNEY GENERAL  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION of Honourable David Eby, QC,  
Attorney General and Minister responsible for Housing

**ISSUE:** Proposed Public Consultation Plan: Civil Jury Trials

**DECISION REQUIRED / RECOMMENDATION:**

**Recommendation:** Approve the proposed consultation plan and notification.

**BACKGROUND / DISCUSSION:**

The following engagement plan is proposed for public consultation relating to civil jury trials:

- Posting of the attached notification (“Review of Civil Jury Trials in British Columbia”), framing the scope of the consultation, to the government (Justice Services Branch) web site, along with the BC Law Institute’s options paper (revised to remove any sensitive information).
  - Regarding the notification, note, particularly:
    - the reference to Option 4 of the BCLI options paper (extension of the current suspension of civil jury trials) not being under consideration by the ministry; and
    - the commitment that, if the decision is to retain civil jury trials, that the ministry will engage further on options for reforms.
- The notification and options paper will be posted as soon as the revisions to the paper are finalized, and the web site prepared; anticipated to be in the next couple of weeks. The consultation period will be for approximately 5-6 weeks, depending on when the paper is posted. (The consultation period should extend into September, recognizing the potential for limited attention over the summer holiday months.)
- The ministry will advise the BC Supreme Court; BC Supreme Court Civil and Family Rules Committee; Law Society of BC; Canadian Bar Association (BC Branch); and Trial Lawyers Association of BC, so that they are aware of the consultation.
- Government Communications and Public Engagement is planning an Information Bulletin for when the materials are posted.

**INDIGENOUS PEOPLES CONSIDERATIONS:**

- The proposed consultation is public in nature. Ministry staff will consider whether Indigenous partners should also be specifically notified of the consultation.

**OTHER MINISTRIES IMPACTED/CONSULTED:**

N/A

**DATE:**

July 29, 2021



Richard J. M. Fyfe, QC  
Deputy Attorney General and  
Deputy Minister Responsible for Housing

**RECOMMENDATION APPROVED**

**DATE:**

July 30, 2021



Honourable David Eby, QC  
Attorney General and  
Minister responsible for Housing

**Prepared by:**

Andrea Buzbuzian  
Legal Counsel  
Justice Services Branch  
778-974-3682

**Approved by:**

Natalie Hepburn Barnes  
A/Executive Director  
Justice Services Branch  
250-896-4377

**Approved by:**

Paul Craven  
A/Assistant Deputy Minister  
Justice Services Branch  
778-698-9333

**Attachment**

**Appendix A**-Notification of consultation, "Review of Civil Jury Trials in British Columbia"

## REVIEW OF CIVIL JURY TRIALS IN BRITISH COLUMBIA

In response to the COVID-19 pandemic and its impact on the courts, government amended the Supreme Court Civil Rules to suspend civil jury trials until October 8, 2022.

The Ministry of Attorney General is now reviewing the possibility of permanent reforms relating to civil jury trials in British Columbia. To inform this review, the ministry requested that the British Columbia Law Institute (BCLI) carry out comparative legal research on civil jury trials and outline options for reform. The outcome of this review is reflected in the BCLI paper, “Civil Juries in British Columbia: Anachronism or Cornerstone of the Civil Justice Process”:

[link to paper]

To further the review, the ministry is requesting feedback on the policy options set out in the BCLI paper, specifically on **Options 1, 2 and 3**:

1. Retain the civil jury with or without implementation of rationalizing reforms and increasing the monetary threshold for jury trial.
2. Restrict jury trial to specified causes of action.
3. Abolition of civil juries.

While the paper includes an Option 4, which is to extend the current suspension of civil jury trials indefinitely or until a remote date several years away, it is not under consideration as the suspension is already in place until October 2022 and a decision about the future of civil juries is desired.

Should the outcome of the ministry’s review be that civil jury trials should be retained, the ministry will engage further on whether and how they could be reformed.

Please provide feedback by [mid-Sept.] to the Policy and Legislation Division, Justice Services Branch, by email to: [PLD@gov.bc.ca](mailto:PLD@gov.bc.ca).

Please note that submissions may be subject to disclosure under freedom of information legislation.

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Withheld pursuant to/removed as

s.12 ; s.13 ; s.14

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s.12 ; s.14



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s.12 ; s.13 ; s.14

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s.12 ; s.14

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s.12

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s.14

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s.14 ; s.16

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s.14

**MINISTRY OF ATTORNEY GENERAL  
JUSTICE SERVICES BRANCH  
DECISION BRIEFING NOTE**

**PURPOSE:** For DECISION of Richard J. M. Fyfe, QC  
Deputy Attorney General and Deputy Minister Responsible for Housing

**ISSUE:** Remuneration recommendations for upcoming Electoral Boundaries Commission.

**DECISION REQUIRED/ RECOMMENDATION:**

A decision is needed on the Ministry's recommendation to the Appointee Remuneration Committee (ARC) with respect to remuneration for the two members of the Electoral Boundaries Commission (EBC) who may be eligible for remuneration for their work on the commission.

**Recommendation – Option 1:** Recommend to the ARC the following per diem amounts for commissioners:

- \$1,000 per day for the chair of the commission (if the chair needs to be remunerated) and
- \$500 per day for the commissioner nominated by the Speaker.

**SUMMARY:**

- Treasury Board Directive 2/20 applies to Electoral Boundaries Commissions. Section 8 of the directive provides that the remuneration rate for commissioners will be reviewed and approved by the ARC when required.
- Prior to the 2014/15 omission, detailed consideration was made of the remuneration rate for the chair to arrive at a recommendation of \$1,000 per day; less consideration was made of the rate for the Speaker's nominee.
- Public Sector Employers Council (PSEC) staff advise that any increases higher than the average rate of inflation would be harder to justify to the ARC.

**BACKGROUND:**

- The Act requires that the Lieutenant Governor in Council must make an Order in Council (OIC) appointing the next EBC by no later than October 24, 2021.
- The Act requires that the EBC be composed of the provincial Chief Electoral Officer (CEO); a sitting or retired judge of the BC Supreme Court or BC Court of Appeal; and a third person nominated by the Speaker of the Legislative Assembly after consultation with the Premier and Leader of the Opposition.

- The CEO is not remunerated separately for the CEO's work on the EBC.
- The chairs of the last two EBCs (2005-08 and 2014/15) were sitting judges of the BC Supreme Court and therefore were not paid a per diem for their work on the EBC; rather, they continued to draw their salary as judges. If a retired judge is appointed, that person will require remuneration.
- The Act specifies that the LGIC must appoint one member as chair. By convention, the judge or retired judge has always been appointed the chair of the commission.
- For the last two EBCs (2005-08 and 2014/15), the third member chosen by the Speaker was paid a per diem of \$430 per day.
- Practice is that the appointing OIC for the commissioners specifies their per diem; as such, their pay rates are easily accessible public information.

## **DISCUSSION:**

### 2014 process for determining remuneration

- In 2014, the Treasury Board Directive respecting Crown agencies (TBD 3/11) applied to the EBC.
- The Ministry's opinion at the time was that if the directive was applied to the commission, the directive would not provide for adequate compensation for the EBC chair. The Ministry's memo to the ARC stated that "the directive does not provide for remuneration that is adequate for the role of the EBC and the nature of the persons required to be appointed to it."
- The Ministry applied to the ARC for an exception from the directive, and requested approval of the proposed rates of \$1,000 per day for the chair and \$430 for the other member.
- The Ministry argued that the closest relevant comparator to the role of the chair of the EBC was a commission of inquiry under the *Public Inquiry Act*, but that a lower rate for an EBC chair (compared to a public inquiry chair, at \$1,500 per day) was justifiable because the EBC does not hear evidence under oath or conduct hearings into critical incidents that may result in findings of misconduct against individuals.
- The \$430 rate for the third commissioner was likely recommended simply because that was the rate at the time of the 2005-08 commission.



### Considering rates for the 2021/22 Commission

- The updated Treasury Board Directive 2/20 provides that the Directive's remuneration guidelines apply to the Electoral Boundaries Commission, except for the classification and remuneration rate.
- The Directive states that the remuneration rate will be reviewed and approved by the ARC when required.
- As such, a decision is sought as to what the Ministry would like to recommend to the ARC as remuneration rates for the upcoming commission.
- As general context regarding the work of the commission, the commission must produce two reports within an 18-month time frame.
- The types of activities the commission does are: hold planning meetings; receive briefings and orientations on legal and practical issues with electoral boundaries; travel to and attend public hearings across the province (sometimes two hearings in a day); and develop recommendations for electoral boundaries.
- For this commission process, the public hearings are likely to be very contentious in rural BC due to the recent legislative changes that removed the statutory guarantee of a minimum of 17 electoral districts in three defined regions in the Act. There is a perception that the commission will set out to increase the geographic size of rural electoral districts in order to achieve stronger representation by population/voter parity.
- As general context regarding the work of the commissioners, there are very significant legal issues surrounding electoral boundaries that require individuals with an acumen for understanding and applying constitutional principles to their work.
- It is critically important that all commissioners are perceived to be free of any potential partisan bias.
- The chair has significant responsibility for overall management and organization of the commission, chairing meetings, making leadership-type decisions, and more public accountability for commission's process and products.
- The role of the Speaker's nominee is likely to be more of a supporting role, compared to the Chair. In the past, the Speaker's nominee has been a person who is not a trained expert in either the law or in electoral matters (a reverend in 1998/99; a public school teacher and administrator in 2005-08; a former RCMP commissioner in 2014/15).

- Ministry staff are currently working with Elections BC to develop a potential budget proposal for funding the commission process (including remuneration). The Ministry would bring the proposal to Treasury Board in Sept/Oct. 2021, and would be based on the assumption that once appointed, the commissioners will accept a joint proposal from Elections BC and the Ministry that Elections BC provide secretariat support to the commission, as was done in 2014/15.
- The arrangement is strongly supported by Elections BC, with the CEO advising the Select Standing Committee on Finance and Government Services in June 2021 that Elections BC would welcome the opportunity to provide support to the next commission. Ministry staff likewise support this arrangement as it yields considerable administrative efficiencies and cost-savings.

#### Next steps

- Following a Deputy Attorney General decision on this briefing note, staff will draft for the Deputy's signature a memo to the ARC outlining the Ministry's recommendation.
- The ARC does not generally meet in person or hold meetings on set dates, so there should be no particular timing considerations for bringing the recommendation forward for ARC's decision. PSEC advises that the Ministry should be able to get a decision from ARC over the summer.
- The proposed per diem rates would be incorporated into the EBC budget proposal under development by the Ministry of Attorney General, in consultation with Elections BC, for presentation to Treasury Board early in Fall 2021.
- As a related issue, Ministry staff are concurrently working to coordinate an approach to identifying potential commissioners by connecting with the Crown Agencies and Board Resourcing Office (CABRO), the Minister's Office and the Premier's Office.
- Ministry staff recommend targeting the October 5, 2021 Cabinet meeting for Cabinet to review and approve the OIC appointing the commissioners. In practice, making that Cabinet meeting would require that a decision on commission appointees should be well in hand by the first week of September.

#### **INDIGENOUS PEOPLES CONSIDERATIONS:**

- N/A.

## OPTIONS:

**Option 1 (RECOMMENDED):** Same remuneration rate for the chair (\$1,000 per day) as recommended and approved for the 2014/15 commission; a higher amount than last time (\$500 per day) for commissioner nominated by the Speaker.

The proposed increase would take into account a roughly 2% per year increase since 2014, which is consistent with the usual rate of inflation over the past years. \$500 per day also puts the rate for the commissioner nominated by the Speaker at half that of the Chair/judicial appointee.

### Pros

- The rate of pay for the Speaker's nominee has not been adjusted since the 2005-08 commission.<sup>1</sup>
- There is precedent for setting the remuneration rate for the Speaker's nominee at half that of the Chair – in 1998/99, commissioners were paid an hourly rate, with the Speaker's nominee being paid half that of the Chair.
- \$1,000 is likely adequate for the chair; additionally, that figure may not even be relevant in practice if a sitting judge is appointed.
- Government has indicated an interest in ensuring BC's diversity is represented on the commission. Opportunities to do that are limited with only two appointments available. Given the current gender and racial composition of the judiciary, it may be more likely that the Speaker's nominee will be a person representing BC's diversity. A considerably lower rate of pay for a commissioner who is a woman, Indigenous person and/or racialized person may not be consistent with government's policy preferences around pay equity.

### Cons

- Choice of recommended new rate for the other commissioner may be seen as arbitrary or out of step with the actual responsibilities of the third commissioner.
- Higher expenses may be seen as out-of-touch by the public.
- A proposal to increase the rate by 2% per day is not clearly justified by reference to the pay rates for individuals in other similar positions (though there are no directly relevant comparators for the role of the third commissioner on an EBC).

## **Option 2:** s.13

s.13

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<sup>1</sup> As further background, for the 1998/99 commission, the retired judge was paid \$300/hour and the Speaker's appointee was paid \$150/hour, so the ratio at that point was the retired judge/chair being paid double the Speaker's appointee. To compare to compensation for later commissions, converted to a day rate and assuming a 7.5 hour day, those rates would be \$2,250/day and \$1,125/day. However, it is not known how frequently commissioners would have worked a full work day. Likely some work days would have exceeded 7.5 hours with travel and multiple public hearings factored in, while others would have just been a shorter single meeting.

Pros  
s.13

Cons  
s.13

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- PSEC provided information how 2014/15 commission remuneration was established, and on the process to follow for making a recommendation to the ARC for this upcoming commission.
- PSEC provided general advice on potential rates of remuneration under consideration by the Ministry for recommending to the ARC. PSEC noted that pay rates for other public sector tribunals may not be very accurate comparators to the role of commissioner, so it is difficult judge whether the Speaker's nominee is undercompensated relative to other types of appointments. PSEC suggested that increases of more than 2% per year would be difficult to justify to ARC.

**OPTION 1 APPROVED**

**DATE:**



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Richard J. M. Fyfe, QC  
Deputy Attorney General and  
Deputy Minister Responsible for Housing

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July 29, 2021

**Prepared by:**

Alayna van Leeuwen  
Senior Policy Analyst  
Justice Services Branch  
778-698-4224

**Approved by:**

Natalie Hepburn Barnes  
Acting Executive Director  
Policy and Legislation Division  
Justice Services Branch  
250-896-4377

**Approved by:**

Paul Craven  
Acting Assistant Deputy Minister  
Justice Services Branch  
778-698-9333

**MINISTRY OF ATTORNEY GENERAL  
JUSTICE SERVICES BRANCH  
INFORMATION BRIEFING NOTE**

**PURPOSE:** For INFORMATION for David Eby, QC  
Attorney General and Minister Responsible for Housing  
For INFORMATION for Honourable John Horgan  
Office of the Premier

**ISSUE:**  
Designating judges to make Emergency Protection Orders (EPOs) under the *Federal Family Homes on Reserves and Matrimonial Interests Act* (the Federal Act).

**SUMMARY:**

- The Premier's office has asked for a briefing on designating judges to make EPOs under section 16 of the Federal Act.
- The *Federal Act* was enacted on December 16, 2013, and came fully into force on December 16, 2014.
- It sets rules for division of real property on reserves when spouses separate or one dies.
- The Act provides First Nations with the ability to make their own laws pertaining to matrimonial real property on reserves and has default rules that apply until they do.
- The default rules came into force on December 16, 2014. In addition to dealing with matrimonial property, they provide for EPOs to address family violence situations.
- A *Family Law Act* Protection Order (FLA PO) offers similar protection to an EPO.

s.14

- There are important benefits to using FLA POs over EPOs including that an FLA PO applies to more applicants and can be obtained using a simpler process.
- There is also concern that increasing the availability of EPOs and FLA POs may confuse applicants applying for a safety-related order.

**BACKGROUND AND DISCUSSION:**

**The Federal Act:**

- The Federal Act addresses a long-standing legislative gap related to real property located on reserves.

- Constitutionally, provincial laws cannot affect the interests of Indigenous persons in real property that is situated on reserves. As a result, provincial matrimonial property and estate laws do not apply to these interests.
- The Federal Act deals with this gap by authorizing individual First Nations to create their own real property laws and by creating provisional rules that apply until they do.
- The Act came into force in two parts. The sections that authorize First Nations to develop their own laws came into force on December 16, 2013. The remainder, including the provisional rules, came into force on December 16, 2014.
- In addition to the division of real property, the provisional rules address the possession of real property through Exclusive Occupation Orders (EOO). EOOs are made by a superior court judge, (in BC, the BC Supreme Court (BCSC)) and can be made on an interim basis.
- The provisional rules also authorize the making of EPOs in cases of family violence. An EPO differs from an EOO in that the EPO contains terms primarily designed to protect a person from family violence while an EOO primarily protects the exclusive use of property.
- The Federal Act provides that an EPO may be made by a “designated judge” appointed by each province and/or territory. The process contemplates that this judge will be a provincial court judge or judicial officer.
- The act contains a two-step process for obtaining an EPO. The first step is an application for an interim *ex parte* order in front of a designated judge. If granted, within three days the order is reviewed by a BCSC level judge who either confirms the order or directs a re-hearing of the application in the BCSC.
- Although it is clear that EOOs are needed in BC, EPOs are not.
- EOOs are very similar to FLA section 97 exclusive possession orders which are not available on reserves and, like FLA section 97 orders can be made by only BCSC Judges. Judges designated to make EPOs cannot also make EOOs because they are not superior court level judges.
- EPOs are generally similar to FLA POs made under section 183 of the FLA.

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### **Issues with Designating Judges to Order EPOs:**

- The Federal Act has a two-step process to obtain an EPO similar to processes used to obtain protection orders in other provinces.
- The process in BC requires only one court application and FLA POs can be made in the BC Provincial Court (BCPC) and the BCSC.
- There are concerns that having both FLA POs and EPOs available concurrently will cause confusion in a number of ways.
- It may cause confusion about enforcement. Although similar in effect, the wording of an EPO and FLA PO may be different. If both exist to protect the same person there may be confusion about the interaction of the two orders including which one to enforce.
- EPOs can include terms protecting property and people. Similar orders made in BC under the previous *Family Relations Act* created confusion for police about whether the order was truly safety-related or related to the protection of property. Eliminating this confusion was a main reason the FLA prohibits FLA POs being combined with any other type of order. An EPO with terms for the protection of both property and people reintroduces on reserves the very confusion that the FLA sought to eliminate.
- A prospective applicant may be confused about which order to seek. FLA POs are available in situations that EPOs are not. An EPO requires a finding that family violence has occurred while an FLA PO only requires a determination that family violence is likely to occur. The availability of EPOs may lead applicants to believe that only an EPO can be obtained on reserves. This may lead an applicant to decide to not apply for an FLA PO if, in their estimation, family violence has not yet occurred.
- Groups that assist applicants may be confused about which order to recommend. A great deal of education and training occurred about FLA POs when the FLA was enacted. The prevalence of EPOs will require additional education and training.
- Designating judges also has resource implications. The Federal Act requires a two-step application process. It requires an application to be made by the BCPC that is then reviewed by the BCSC. Implementing that process requires the development of new court processes, including new rules and forms. It also entails additional training and education for court staff, judges, lawyers and community groups that assist applicants. It also uses more court time to obtain an order.
- Only New Brunswick, Prince Edward Island and Nova Scotia have designated judges to make EPOs.



### **Consultations and Discussions:**

- A ministry staff member co-chaired a Continuing Committee of Senior Officials (CCSO) Family working group created to share information about implementation of the Federal Act. The working group began prior to the act's enactment and continued after it came into force.
- A ministry staff member also led a provincial working group of officials that had representation from the Ministry of Aboriginal Relations and Reconciliation, the Ministry of Children and Family Development (Provincial Office of Domestic Violence), the First Nations Summit, the BC Assembly of First Nations, and the Union of BC Indian Chiefs. All members of the committee supported not designating judges in BC.

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- The former Representative for Children and Youth (RCY) originally publicly supported the use of EPOs; however, during an October 2014 meeting with ministry staff she expressed support for not designating judges.
- When the Federal Act came into force in BC, ministry officials sent out correspondence about the act which included an explanation about Section 16 EPOs and why there were no judges designated under that section. The information was sent to all BC First Nations and other stakeholders including legal stakeholders such as the: BCSC, BCPC, Legal Services Society (now Legal Aid BC), Courthouse Libraries BC, BC Continuing Legal Education, BC Branch of the Canadian Bar Association, BC Branch and the Ending Violence Association of BC.
- Ministry officials also participated in information/education courses in BC funded by the federal government about the Federal Act in which BC's decision to not designate judges to make EPOs was presented.
- Ministry officials are involved in a multi-year project to modernize the FLA. The general issue of whether and how Indigenous people and communities use the FLA will be part of that review as will be the specific issue of the use of FLA POs.

### **INDIGENOUS PEOPLES CONSIDERATIONS:**

- Facilitating the use of EPOs has significant implications for Indigenous Peoples in BC living on reserve lands who are experiencing family violence because it may create process complexity and confusion that can lead to hesitancy in taking steps needed to protect themselves from family violence.

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- The following were consulted in 2014:
  - The Ministry of Aboriginal Relations and Reconciliation
  - The Ministry of Children and Family Development
  - The Legal Services Branch
  - The Criminal Services Branch
  - The Court Services Branch

**Prepared by:**

Darryl Hrenyk  
Legal Counsel  
Justice Services Branch  
778 974-3713

**Approved by:**

Nancy Carter  
Executive Director  
Justice Services Branch  
778 974-3687

**Attachments:**

Attachment 1: FHRMIA – Sections 16-18  
Attachment 2: *Family Law Act* – Part 9

**Attachment 1:**

***Family Homes on Reserves and Matrimonial Interests or Rights Act Excerpts:***

**Emergency Protection Order**

**Order of designated judge**

**16 (1)** On *ex parte* application by a spouse or common-law partner, a designated judge of the province in which the family home is situated may make an order for a period of up to 90 days that contains one or more of the provisions referred to in subsection (5) and that is subject to any conditions that the judge specifies, if the judge is satisfied that

- (a) family violence has occurred; and
- (b) the order should be made without delay, because of the seriousness or urgency of the situation, to ensure the immediate protection of the person who is at risk of harm or property that is at risk of damage.

**Applicant**

**(2)** The spouse or common-law partner may make the application even if that person has been forced to vacate the family home as a result of family violence.

**Acting on behalf of applicant**

**(3)** A peace officer or other person may also make the application on behalf of the spouse or common-law partner with that person's consent, or if that person does not consent, with leave of the designated judge granted in accordance with the regulations.

**Considerations**

**(4)** In making the order, the designated judge must consider, among other things,

- (a) the history and nature of the family violence;
- (b) the existence of immediate danger to the person who is at risk of harm or property that is at risk of damage;
- (c) the best interests of any child in the charge of either spouse or common-law partner, including the interest of any child who is a First Nation member to maintain a connection with that First Nation;
- (d) the interests of any elderly person or person with a disability who habitually resides in the family home and for whom either spouse or common-law partner is the caregiver;
- (e) the fact that a person, other than the spouses or common-law partners, holds an interest or right in or to the family home;
- (f) the period during which the applicant has habitually resided on the reserve; and
- (g) the existence of exceptional circumstances that necessitate the removal of a person other than the applicant's spouse or common-law partner from the family

home in order to give effect to the granting to the applicant of exclusive occupation of that home, including the fact that the person has committed acts or omissions referred to in subsection (9) against the applicant, any child in the charge of either spouse or common-law partner, or any other person who habitually resides in the family home.

**Content of order**

**(5)** The order may contain

- (a)** a provision granting the applicant exclusive occupation of the family home and reasonable access to that home;
- (b)** a provision requiring the applicant's spouse or common-law partner and any specified person who habitually resides in the family home — whether or not they are First Nation members or Indians — to vacate the family home, immediately or within a specified period, and prohibiting them from re-entering the home;
- (c)** a provision directing a peace officer, immediately or within a specified period, to remove the applicant's spouse or common-law partner and any specified person who habitually resides in the family home — whether or not they are First Nation members or Indians — from the family home;
- (d)** a provision prohibiting any person who is required to vacate the family home under a provision referred to in paragraph (b) from attending near the family home;
- (e)** a provision directing a peace officer, within a specified period, to accompany the applicant's spouse or common-law partner or any specified person to the family home or other location in order to supervise the removal of personal belongings; and
- (f)** any other provision that the designated judge considers necessary for the immediate protection of the person who is at risk of harm or property that is at risk of damage.

**Notice of order**

**(6)** Any person against whom the order is made and any person specified in the order are bound by the order on receiving notice of it.

**Service by peace officer**

**(7)** A peace officer must serve a copy of the order on the persons referred to in subsection (6) either directly or, if authorized by the court in the province in which the designated judge has jurisdiction, by substituted service in the manner, under the circumstances and on the conditions prescribed by regulation. The peace officer must inform the applicant as soon as each service is effected.

**No personal liability**

**(8)** An action or other proceeding must not be instituted against a peace officer for any act or omission done in good faith in the execution or intended execution of the peace officer's duties under this section.

### **Definition of *family violence***

**(9)** For the purposes of this section, ***family violence*** means any of the following acts or omissions committed by a spouse or common-law partner against the other spouse or common-law partner, any child in the charge of either spouse or common-law partner, or any other person who habitually resides in the family home:

- (a)** an intentional application of force without lawful authority or consent, excluding any act committed in self-defence;
- (b)** an intentional or reckless act or omission that causes bodily harm or damage to property;
- (c)** an intentional, reckless or threatened act or omission that causes a reasonable fear of bodily harm or damage to property;
- (d)** sexual assault, sexual abuse or the threat of either;
- (e)** forcible confinement without lawful authority; or
- (f)** criminal harassment.

### **Order sent to court for review**

**17 (1)** Immediately after making an order under section 16, a designated judge referred to in paragraph (a) or (c) of the definition ***designated judge*** in subsection 2(1) must forward a copy of the order and all supporting materials to the court in the province in which the designated judge has jurisdiction.

### **Review by court**

**(2)** The court must review the order within three working days after the day on which it is received or, if a judge is not available within that period, as soon as one becomes available.

### **Decision**

**(3)** The court, on reviewing the order and the materials, must, by order,

- (a)** confirm the order if the court is satisfied that there was sufficient evidence before the designated judge to support the making of the order; or
- (b)** direct a rehearing of the matter by the court if the court is not satisfied that the evidence before the designated judge was sufficient to support the making of all or part of the order.

### **Notice**

**(4)** The court must give notice to the parties and any person specified in the order made by the designated judge of its decision and of any consequent procedures.

### **Confirmed order**

**(5)** An order that is confirmed is deemed to be an order of the court.

**Rehearing — order continues**

(6) If the court directs that a matter be reheard, the order continues in effect and is not stayed unless the court orders otherwise.

**Evidence at rehearing**

(7) The materials referred to in subsection (1) must be considered as evidence at the rehearing, in addition to any evidence presented at the rehearing, including evidence on the collective interests of the First Nation members, on whose reserve the family home is situated, in their reserve lands.

**Order on rehearing**

(8) On a rehearing, the court may, by order, confirm, vary or revoke the order made under section 16, and may extend the duration of the order beyond the period of 90 days referred to in subsection 16(1).

**Section 18 application**

(9) If an application is made under section 18 and a rehearing has been ordered but has not begun, that application must be heard at the rehearing.

**Application to vary or revoke order**

**18 (1)** Any person in whose favour or against whom an order is made under section 16 or 17 or any person specified in the order may apply to the court in the province in which the designated judge has jurisdiction to have the order varied or revoked

(a) within 21 days after the day on which notice of the order made under section 16 is received, or within any further time that the court allows; and

(b) at any time if there has been a material change in circumstances.

**Confirm, vary or revoke order**

(2) The court may, by order, confirm, vary or revoke the order, and may extend the duration of the order beyond the period of 90 days referred to in subsection 16(1).

**Evidence at hearing**

(3) The supporting materials for the order made by the designated judge must be considered as evidence at the hearing, in addition to any evidence presented at the hearing, including evidence on the collective interests of the First Nation members, on whose reserve the family home is situated, in their reserve lands.

**Attachment 2:**

**Family Law Act Excerpts:**

**Part 9 — Protection from Family Violence**

**Definitions**

**182** In this Part and the regulations made under section 248 (1) (d) [*general regulation-making powers*]:

"at-risk family member" means a person whose safety and security is or is likely at risk from family violence carried out by a family member;

"firearm" has the same meaning as in the *Criminal Code*;

"residence" means a place where an at-risk family member normally or temporarily resides, including a place that was vacated because of family violence;

"weapon" has the same meaning as in the *Criminal Code*.

**Orders respecting protection**

**183** (1) An order under this section

(a) may be made on application by a family member claiming to be an at-risk family member, by a person on behalf of an at-risk family member, or on the court's own initiative, and

(b) need not be made in conjunction with any other proceeding or claim for relief under this Act.

(2) A court may make an order against a family member for the protection of another family member if the court determines that

(a) family violence is likely to occur, and

(b) the other family member is an at-risk family member.

(3) An order under subsection (2) may include one or more of the following:

(a) a provision restraining the family member from

(i) directly or indirectly communicating with or contacting the at-risk family member or a specified person,

(ii) attending at, nearing or entering a place regularly attended by the at-risk family member, including the residence, property, business, school or

- place of employment of the at-risk family member, even if the family member owns the place, or has a right to possess the place,
- (iii) following the at-risk family member,
- (iv) possessing a weapon, a firearm or a specified object, or
- (v) possessing a licence, registration certificate, authorization or other document relating to a weapon or firearm;
- (b) limits on the family member in communicating with or contacting the at-risk family member, including specifying the manner or means of communication or contact;
- (c) directions to a police officer to
  - (i) remove the family member from the residence immediately or within a specified period of time,
  - (ii) accompany the family member, the at-risk family member or a specified person to the residence as soon as practicable, or within a specified period of time, to supervise the removal of personal belongings, or
  - (iii) seize from the family member anything referred to in paragraph (a) (iv) or (v);
- (d) a provision requiring the family member to report to the court, or to a person named by the court, at the time and in the manner specified by the court;
- (e) any terms or conditions the court considers necessary to
  - (i) protect the safety and security of the at-risk family member, or
  - (ii) implement the order.

(4) Unless the court provides otherwise, an order under this section expires one year after the date it is made.

(5) If an order is made under this section at the same time as another order is made under this Act, including an order made under Division 5 [*Orders Respecting Conduct*] of Part 10, the orders must not be recorded in the same document.

### **Whether to make protection order**

**184** (1) In determining whether to make an order under this Part, the court must consider at least the following risk factors:

- (a) any history of family violence by the family member against whom the order is to be made;



- (b) whether any family violence is repetitive or escalating;
- (c) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at the at-risk family member;
- (d) the current status of the relationship between the family member against whom the order is to be made and the at-risk family member, including any recent separation or intention to separate;
- (e) any circumstance of the family member against whom the order is to be made that may increase the risk of family violence by that family member, including substance abuse, employment or financial problems, mental health problems associated with a risk of violence, access to weapons, or a history of violence;
- (f) the at-risk family member's perception of risks to his or her own safety and security;
- (g) any circumstance that may increase the at-risk family member's vulnerability, including pregnancy, age, family circumstances, health or economic dependence.

(2) If family members are seeking orders under this Part against each other, the court must consider whether the order should be made against one person only, taking into account

- (a) the history of, and potential for, family violence,
- (b) the extent of any injuries or harm suffered, and
- (c) the respective vulnerability of the applicants.

(3) For the purposes of subsection (2), the person who initiates a particular incident of family violence is not necessarily the person against whom an order should be made.

(4) The court may make an order under this Part regardless of whether any of the following circumstances exist:

- (a) an order for the protection of the at-risk family member has been made previously against the family member against whom an order is to be made, whether or not the family member complied with the order;
- (b) the family member against whom the order is to be made is temporarily absent from the residence;
- (c) the at-risk family member is temporarily residing in an emergency shelter or other safe place;
- (d) criminal charges have been or may be laid against the family member against whom the order is to be made;

(e) the at-risk family member has a history of returning to the residence and of living with the family member against whom the order is to be made after family violence has occurred;

(f) an order under section 225 [*orders restricting communications*] has been made, respecting the at-risk family member, against the family member against whom the order is to be made.

### **If child a family member**

**185** If a child is a family member, the court must consider, in addition to the factors set out in section 184 [*whether to make protection order*],

(a) whether the child may be exposed to family violence if an order under this Part is not made, and

(b) whether an order under this Part should also be made respecting the child if an order under this Part is made respecting the child's parent or guardian.

### **Orders without notice**

**186** (1) An application for an order under this Part may be made without notice.

(2) If an order is made under this Part without notice, the court, on application by the party against whom the order is made, may

(a) set aside the order, or

(b) make an order under section 187 [*changing or terminating orders respecting protection*].

### **Changing or terminating orders respecting protection**

**187** (1) On application by a party, a court may do one or more of the following respecting an order made under this Part:

(a) shorten the term of the order;

(b) extend the term of the order;

(c) otherwise change the order;

(d) terminate the order.

(2) An application under this section must be made before the expiry of the order that is the subject of the application.

(3) Nothing in subsection (2) of this section prohibits a person from making a subsequent application for an order under section 183 [*orders respecting protection*].

### **Enforcing orders respecting protection**

**188** (1) An order made under this Part may not be enforced

- (a) by means of any order that may be made under this Act, or
- (b) under the *Offence Act*.

(2) A police officer having reasonable and probable grounds to believe that a person has contravened a term of an order made under this Part may

- (a) take action to enforce the order, whether or not there is proof that the order has been served on the person, and
- (b) if necessary for the purpose of paragraph (a), use reasonable force.

### **Conflict between orders**

**189** (1) In this section, "protection order" means any of the following orders:

- (a) an order made under this Part;
- (b) an order, made under the *Criminal Code*, that restricts a person from contacting or communicating with another person;
- (c) an order, made by a court in British Columbia or another jurisdiction in Canada, that is similar in nature to an order made under this Part.

(2) If there is a conflict or an inconsistency between a protection order and an order made under a Part of this Act other than this Part, the other order is suspended, to the extent of the conflict or inconsistency, until

- (a) either the other order or the protection order is varied in such a way that the conflict or inconsistency is eliminated, or
- (b) the protection order is terminated.

### **Rights not affected by Act**

**190** The making of an order under this Part does not affect any existing right of action of a person who has been the subject of family violence.

### **Extrajurisdictional orders**

**191** The *Enforcement of Canadian Judgments and Decrees Act* applies to an order, made by a court in another jurisdiction of Canada, that is similar to an order made under this Part.

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