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Chair

Mr. Anthony Housefather

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•(1100)

[English]

Hon. Rob Nicholson (Niagara Falls, CPC): Mr. Chair, is the meeting in session now? I want to raise an issue.

We were supposed to have a meeting on Tuesday of this week here. My understanding was that the minister was going to appear. What happened to that meeting?

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): My understanding is that she was unavailable. I wrote to the vice-chairs on Friday when the clerk wrote to me saying that she was unavailable and that the members from the department wouldn't be discussing policy. So along with the vice-chairs, we all thought it wouldn't be useful to have that meeting—

Hon. Rob Nicholson: I wonder if you could sit down and maybe get involved with this, because I think it's important to have the minister here. It's very important. We're hearing about access to information, and I'm sure the government will be very interested in our comments, but it's important to get the minister here. There are a lot of issues with respect to the judicial system in Canada. We must all be getting the same thing, that there are delays and that there are appointments that have to be made, so it's important that if the minister is scheduled...

I can appreciate that some emergency can happen and maybe that's what happened here, but it's happened a couple of times, I think, that we've been cancelled. As I say, I just feel it's important for this committee because there are a number of issues that seem to be quite pressing, quite frankly, in the justice area. I mentioned two of them, and I was kind of looking forward to having a discussion.

I appreciate that you can get 35 seconds in question period to ask these questions, but I think you can have a more robust discussion here, if we do get the minister here.

If you could look into that, I'd appreciate it.

The Chair: Absolutely. We will try, as soon as we get back, to get a date.

Hon. Rob Nicholson: Okay, fair enough.

The Chair: The clerk advised me that apparently she hadn't actually committed to a day. There was no actual commitment to the date we were hoping for, but we'll definitely do our best. To be honest, she has been to our committee five or six times already, but I understand that it's always good to have her here, so we'll do our best.

Hon. Rob Nicholson: Thank you. I appreciate that.

The Chair: Now there's a long gap, so....

I guess I'll call us into session, even though that was kind of in session.

First, I want to take this opportunity to congratulate Mr. Falk on his new grandchild.

Mr. Ted Falk (Provencher, CPC): Thank you.

Voices: Hear, hear!

The Chair: Secondly, I'd like to say what a pleasure it is to have members of the Department of Justice in front of us as we come back, after quite a while, to our study on legal aid as part of our access to justice study.

I'd like to welcome Donald Piragoff, who has been here multiple times already this year. He is the senior assistant deputy minister in the policy sector. Elizabeth Hendy is also here again. She is director general for the programs branch in the policy sector. Welcome back.

I am pleased to welcome Hana Hruska for the first time, at least while I've been chair. She is the legal aid director for the programs branch in the policy sector.

[Translation]

I am also very pleased to welcome the representatives of Statistics Canada, Mr. Yvan Clermont, director of the Canadian Centre for Justice Statistics, and Ms. Josée Savoie, chief of the Canadian Centre for Justice Statistics.

We will begin with Mr. Piragoff's testimony.

[English]

Mr. Piragoff, we'll go over to you, sir.

[Translation]

Mr. Donald Piragoff (Senior Assistant Deputy Minister, Policy Sector, Department of Justice): Thank you, Mr. Chair.

Thank you for giving me this opportunity to appear before the committee once again.

I am accompanied today by Ms. Elizabeth Hendy, director general, Programs Branch, and by Ms. Hana Hruska, director of the Legal Aid Directorate.

As requested, I will focus my remarks today on the federal contribution program for legal aid.

I will begin by outlining the components of the federal contribution to provinces and territories, explaining the objectives of each component. I will then speak to federal-provincial-territorial co-operation on legal aid and to current legal aid priorities.

• (1105)

[English]

With respect to the components that I just mentioned, the federal legal aid program provides contribution funding to the provinces and territories to support the delivery of criminal legal aid services to economically disadvantaged persons at risk of incarceration and to youth facing prosecution under the Youth Criminal Justice Act.

In the territories, this federal allocation also covers civil legal aid. The program also provides funding for immigration and refugee legal aid services in the provinces that provide these services, and also supports court-ordered counsel in federal prosecutions and legal aid in national security cases.

With respect to criminal legal aid, under Canada's Constitution, responsibility for criminal justice is shared between the federal Parliament, under its authority to enact criminal laws and law related to criminal procedure, and the provincial governments, under their authority for the administration of justice. In the territories, the federal Parliament has constitutional responsibility for both civil and criminal law, including criminal prosecutions.

Given these respective constitutional authorities, both levels of government work together to ensure that Canada has an accessible, efficient, and fair system of justice, and that public confidence in the justice system is maintained. Consequently, the federal government has been cost sharing criminal legal aid since the early 1970s. Federal involvement started with the initiation of legal aid pilot projects by the then Department of Health and Welfare in 1972. By 1975, the program consisted of an annual allocation to the provinces and responsibility had moved to the Department of Justice.

The adoption of the Canadian Charter of Rights and Freedoms in 1982 constitutionally entrenched certain rights, including the right to a fair trial, paragraph 11 (d); to life, liberty, and security, section 7; and to equal protection and equal benefit of the law, section 15. The federal contribution to legal aid helps respond to these constitutional rights.

The ongoing federal allocation for adult and youth criminal legal aid services in the provinces and criminal and civil legal aid services in the territories was maintained at \$112.4 million annually from 2003 until 2015-16. Budget 2016, however, supplemented this ongoing annual allocation by \$88 million over five years, from 2016-17 to 2020-21, and thereafter, \$30 million a year in additional ongoing funds starting in 2021-22.

[Translation]

Since 2001, the Legal Aid Program has provided an annual contribution of \$11.5 million to six participating provinces, British Columbia, Alberta, Manitoba, Ontario, Quebec, and Newfoundland and Labrador, for the delivery of immigration and refugee legal aid services.

[English]

Immigration and refugee legal aid supports the federal Immigration and Refugee Protection Act in ensuring that eligible individuals receive fair and timely process in the determination of their immigration and refugee claims. It assists in addressing the unique circumstances of refugee claimants, such as the need for interpreters or clarification of the overall refugee protection process to individuals.

I also mentioned that we are responsible for court-ordered counsel in federal prosecutions and legal aid in national security cases. The department allocates \$1.65 million annually toward orders for court-ordered counsel in federal prosecutions, and \$2 million annually toward legal aid in national security cases.

Court-ordered counsel relates to instances where a court orders the Attorney General of Canada to provide counsel for persons accused of serious offences who neither have the resources to pay for a lawyer, nor have been found eligible for criminal legal aid under a provincial or territorial plan. Similarly, funding is provided to support the provision of legal aid in cases of charges under the Anti-terrorism Act, national security cases under the Immigration and Refugee Protection Act, and Extradition Act proceedings where the requesting state alleges that a terrorist act has been committed.

In addition to the department's ongoing funding to the legal aid services that I have just described, the federal government also contributes to civil legal aid through the Canada social transfer, a block transfer directly to the provinces for education and social services, managed by the Department of Finance.

With respect to collaboration among the provinces and territories, our federal legal aid policy is developed collaboratively with the federal-provincial-territorial permanent working group on legal aid. This committee, which includes government and legal aid plan representatives from each jurisdiction, reports to the committee of federal-provincial-territorial deputy ministers responsible for justice and public safety. The permanent working group, among other things, provides advice on legal aid cost-sharing issues, advises on the potential impact of legislative or policy proposals on legal aid services and their clients, and develops approaches to support the provision of accessible, efficient, and high-quality legal aid.

Currently, the permanent working group is developing and negotiating a new distribution formula for federal legal aid monies. It is considering a series of factors relating to legal aid demand and legal aid services delivery cost in order to determine the most equitable allocation of the funds among the provinces and territories. The committee is also engaged in a discussion on performance measurement and innovation in legal aid.

With respect to the latter—that is, performance measurement and innovation—legal aid is no longer simply about providing access to a lawyer for an indigent accused or a party to a court case. Legal aid now takes many forms, from public legal education initiatives, such as online portals that can provide specialized guidance, to specialized outreach services for under-served populations.

The federal Department of Justice has played a significant role in encouraging this evolution. In 2014, the department published the legal aid study, which included a research report on innovations in Canadian and international jurisdictions—Mr. Chairman, I would be willing to provide a copy of that study to you—and the report of the deputy minister advisory panel on criminal legal aid, which assessed the need for innovation and performance measurement in legal aid.

The budget investment in 2016 is also designed to support legal aid innovation, as well as service delivery. All levels of government and the legal aid community are seized with ensuring that innovations have the intended impact. Governments and legal aid plans are starting to systematically gather data on outcomes for legal aid clients and for the justice system as a whole.

• (1110)

For example, British Columbia has a pilot project that provides an accused with consistent access to the same duty counsel lawyer. This has reduced the number of court appearances, from eight to two in some cases. Of course, this saves costs for the taxpayer, and it also reduces court delay.

Legal Aid Ontario found that online applications had reduced average application processing times by 62%. The agency also found that the use of a simplified financial eligibility test allowed it to serve more clients at a lower overall cost. Similarly, Legal Aid Manitoba's decision to provide legal aid coverage for most persons who are below the low income cut-off line resulted in an increase of 895 full-coverage certificates issued. It also resulted in a decrease in the administration costs of maintaining the client payment files.

I could provide you with many more examples. However, the important point is that I invite you to invite representatives of legal aid plans to speak to you directly about the innovations that they are experimenting with in order to improve service and drive down costs.

The budget 2016 investment will support the provinces and territories in contributing to modernization efforts to improve the efficiency and effectiveness of the criminal justice system as a whole. It will also support them in addressing gaps in services to vulnerable populations, such as indigenous people and those with mental health issues.

• (1115)

[*Translation*]

I hope that this provides you with a clear idea of the Department of Justice's role in legal aid.

We would be pleased to take your questions.

Thank you.

[*English*]

The Chair: Thank you, Mr. Piragoff.

Yes, if you wouldn't mind providing the clerk with a copy of the study, that would be great.

[*Translation*]

Mr. Clermont, you now have the floor.

Mr. Yvan Clermont (Director, Canadian Centre for Justice Statistics, Statistics Canada): Thank you very much, Mr. Chair.

I would like to begin by thanking you, as well as the members of this committee, for the invitation to present today on the most recent legal aid survey data in this country. I am accompanied by Ms. Josée Savoie, who is the chief of the Courts Program at the Canadian Centre for Justice Statistics at Statistics Canada.

I will be presenting an overview of certain key indicators relating to revenues, expenditures, personnel and case load statistics associated with the delivery and administration of legal aid in Canada.

The legal aid survey is an aggregate survey conducted by Statistics Canada and financed by Justice Canada, Legal Aid Directorate. The survey does not collect information on individual cases, and data are collected and reported for pre-defined categories. This means that forms are distributed to the responsible authorities of the various legal aid programs in the country.

This survey, which has been conducted since 1983, is currently being redesigned. The Canadian Centre for Justice Statistics, which I represent today, consulted the partners and persons responsible for legal aid services in Canada on their information needs, and to redefine the concepts and survey definitions to align with new realities concerning current practices that affect legal aid plans in Canada.

[*English*]

Before looking at this graph, it is important to mention that services provided by legal aid plans may include legal representation, advice, referrals, and information services. Generally, all legal aid plans cover both criminal and civil cases, although the extent of coverage varies among the provinces and territories. That is the definition we are using for the sake of this presentation.

In 2014 and 2015, about 718,000 applications for legal aid were submitted to legal aid plans across the country. In that same year, criminal matters accounted for 42% of total applications received. Criminal matters include both adult criminal applications, which constitute the majority of cases, and youth criminal applications as well.

In 2014 and 2015, family matters, which consist of proceedings related to divorce, separation, support, child protection, and other matters of a family law nature, accounted for 23%. Other civil matters, which are civil proceedings such as landlord, tenant, or contract dispute applications, accounted for another 33%.

Less than 2% of applications were for provincial and territorial offences. Over the 10-year period, total legal aid applications declined slightly, that is, by 5%, but the total number of adult criminal applications increased by 5%. Youth criminal applications declined by 30%, and legal aid applications for family matters decreased by 8%. Applications for other civil matters declined by 11%.

Regarding approved legal aid applications, we are referring to full-service applications only. In 2014 and 2015, there were about 467,000 applications approved for legal aid services throughout the country. In that same year, criminal matters accounted for over one-half of all approved applications. Over the 10-year time period, the total approved criminal legal aid applications increased by 6%.

Similar to the trend in total applications, the number of applications approved for full services declined slightly over that same period. The decline was largely driven by a decline in applications approved for family matters and for other civil services.

Over the 10-year period, refused legal aid applications declined by 9%. In 2014 and 2015, 65% of applications were approved for full services. In 2014-15, again, a little over one-half of refused applications were refused due to financial eligibility. About one-quarter were refused due to coverage restrictions, lack of merit, non-compliance, abuse, or other reasons.

• (1120)

The next chart is about legal aid funding sources over time. Legal aid plans receive funding from federal, provincial, or territorial governments, as you know, as well as from client contributions, cost recoveries from legal settlements, and other sources. According to the survey, the federal government, through the Department of Justice legal aid program, reported providing a total of \$112 million to the provinces and territories in 2014-15 for the delivery of criminal and civil legal aid, as was stated earlier by my colleague Mr. Piragoff.

Provincial and territorial governments directly fund both criminal and civil legal aid. In 2014-15, provincial and territorial governments reported contributing \$666 million to legal aid plans across Canada. Legal aid plans in Canada reported receiving funding of \$856 million in that same year. Government sources contributed the vast majority of this amount, which is 92% of the total funding that legal aid plans are receiving in a year. The remaining 8% of funding was received from client contributions, cost recoveries from legal settlements, and contributions from the legal aid profession and other sources. Over the 10-year period, as can be seen on the graph, total funding reported by legal aid plans increased by 41%.

The next slide provides a more detailed view of each of the federal, provincial, and territorial contributions over the time that provinces reported receiving to operate and to provide their legal aid services. The federal government contribution over the 10-year period, data for which stops in 2014-15, increased by \$20 million to \$112 million, representing an increase of 22% over the 10-year period. During that same period, the provincial and territorial contribution increased steadily from \$430 million to \$666 million, representing an increase of 55% over that 10-year period.

Let's now look at the trend of legal aid plan expenditures. As noted here, legal aid expenditures consist of direct costs for legal services such as legal representation, legal advice, and the provision of information for both criminal and civil cases. They also include central administrative costs and other expenditures.

In 2014-15 legal aid plans spent just over \$850 million to provide legal aid services. Consistent with past results, most legal aid plans spent more on criminal matters than on civil matters. Over that 10-

year period total legal aid plan expenditures increased by 38%, which is in line with the revenue trend over that same period.

In summary, we can say that over the last decade the number of legal aid applications for adult criminal matters increased by 5%, while those for other civil matters decreased by 11%. Also, the number of legal aid applications approved for full service declined 1% over the 10-year period.

In total, revenues reported by Canada's legal aid plan increased 41% over the last 10 years, while total expenditures by the plans have increased 38%.

The Canadian centre for justice statistics is currently undertaking a redesign of the survey, as was stated in the introduction to this presentation, for the purpose of responding to emerging needs for more complete and improved information on the delivery of legal aid services in Canada. A comprehensive consultation on the information needs and feasibility is currently under way to ensure the relevance and quality of the data collected by the survey.

• (1125)

The following are some needs that were communicated to us throughout the consultations, just to name a few: socio-demographic information of legal aid clientele, aboriginal identity of those making applications, more details on types of legal aid services provided to clients, online services requested and provided, information on immigration and refugee legal aid, and the ability to measure the effectiveness and efficiency of legal aid services delivery.

Based on our consultations so far, we have identified the areas where we think we can make enhancements to the survey content to collect information that speaks to some of these data needs. We're also looking at breaking down expenditures by the types of services provided, so that's collecting expenditures on full service and expenditures on duty counsel and summary services.

In terms of the personnel resources of the plans, we are looking at possibly collecting more information on the number of paralegals and law students employed, which would improve our knowledge as to the extent of the use of these resources for legal aid service delivery.

We anticipate being able to collect some socio-demographic information, including gender, as well as information on self-identified aboriginal people. These would be high-level counts only, for legal aid applications as a group. We're also planning on adding categories for child protection and immigration and refugee legal aid, as well as collecting information on different application methods, for example, online, by telephone, or in person.

That concludes my presentation. Thank you very much.

[Translation]

The Chair: Thank you very much.

It was a great pleasure to listen to your statement.

[English]

Now we're going to move to questions from members of the committee.

We'll start with Mr. Nicholson.

Hon. Rob Nicholson: Thank you.

Thank you very much for being with us here today and providing this information.

With respect to legal aid revenues—and you indicated that you are going to be revising the reporting and the collection of data on this—one of the things that has remained constant throughout the years is the contribution of the legal profession. I see it started in 2004, when it looks to be zero. In 2015 it's zero, so it's been steady over that period of time. Is that just a statistic that's left over from earlier days?

I remember the days when they expected the legal profession to give back 25% of whatever they were paid for, and I'm assuming that is gone now across Canada. Hopefully it's gone, because we pay the legal profession to provide these services. We don't expect the legal profession to pay it, I'm guessing. But do you have any statistics or information at all on that?

Mr. Yvan Clermont: No, we don't have that detail of statistics. I think it's a subcategory that is lumped with other sources of financing, so it's not possible in this aggregate survey to provide that detailed information.

Hon. Rob Nicholson: To me it looks like zero, as I say, and it's been zero for the last 10 or 12 years.

In any case, part of the expenditure, as you know, goes to refugee claimants in need of legal advice. I know, for example, that prior to 2009 there were tens of thousands of refugee applications from people from Mexico, and that dramatically changed after a visa requirement was put in place in 2009. Do you anticipate now, with the removal of the visa requirements for Mexico, that there will be an increased need for legal aid for refugee claimants coming from Mexico?

• (1130)

Ms. Elizabeth Hendy (Director General, Programs Branch, Policy Sector, Department of Justice): Thank you for the question.

The visa lift for Mexico was on December 1, so we are in contact with all the provinces to monitor that situation. We don't expect there will be an influx immediately, but we do understand that perhaps there will be more asylum seekers coming in, and we are monitoring that.

Hon. Rob Nicholson: What are the provinces saying, that the influx will probably start in the spring and the summer?

Ms. Elizabeth Hendy: B.C. has started to watch it now.

Hon. Rob Nicholson: Yes.

Ms. Elizabeth Hendy: B.C. was a little worried. Ontario is watching. Perhaps we'll see it in the spring and summer, or perhaps as we get closer to the American inauguration.

Hon. Rob Nicholson: Yes. That's a good point. There certainly will be an increased need for legal aid in that area.

Thank you. Those are my questions.

The Chair: Is there anyone else from the Conservatives who wants to ask any questions?

Go ahead, Mr. Falk.

Mr. Ted Falk: Thank you, Mr. Nicholson and Mr. Chairman.

My understanding is that the provinces and the territories do the adjudicating or the assessing of individual applicants for legal aid. I didn't pick it up in your presentation, but can you tell me if there is consistency in application of eligibility between the provinces and the territories, or how does that work?

Mr. Donald Piragoff: That's a good question. Each province and territory has its own eligibility criteria so there is not complete consistency, but I can ask my colleagues to give you more information on that.

Ms. Hana Hruska (Director, Legal Aid Directorate, Programs Branch, Policy Sector, Department of Justice): I would second what Mr. Piragoff has said. Each province determines its own eligibility guidelines. The guidelines always take into account income. They always take into account the capacity of the person to pay and the scope of coverage provided by the legal aid plans.

As you're likely aware, legal aid plans do not provide coverage for all criminal offences. Generally it has to be somewhat more serious, often potentially resulting in the deprivation of liberty. However, the specific cut-offs for each jurisdiction are different. Some legal aid plans, especially with the additional federal contribution now, are able to provide coverage to persons who are at about the low-income measures, which are considered the poverty measures. Others only begin to provide coverage once an individual is perhaps 20% or 30% below that measure.

Mr. Ted Falk: From a federal government perspective, is that contribution always consistent regardless of the variation in provincial and territorial eligibility?

Mr. Donald Piragoff: There's a formula that's negotiated with the provinces using a number of factors to determine the contribution for each province. The provinces get different amounts. The agreements will last for a number of years and then they will be renegotiated. Again, if you want more information, Hana Hruska can provide that. She actually negotiates the agreements.

Ms. Hana Hruska: We are right now in the midst of negotiating a new distribution formula for criminal legal aid. The old criminal legal aid distribution formula was based largely on historical factors and we largely distributed many of the monies based on the past contributions of various jurisdictions to their own legal aid plans. Now we are developing a distribution formula that will increasingly take into account demand factors such as demographics of the population in that jurisdiction for the distribution of legal aid monies. For example, we're looking at the percentage of people below the LIM—low-income measure—the percentage of aboriginal population, crime rate, the percentage of males aged 12 to 35.

The Chair: Next we have Mr. Hussen.

Mr. Ahmed Hussen (York South—Weston, Lib.): Thank you, Mr. Chair.

Thank you to the panel for coming in today and giving us your presentation.

I have a number of questions but I'll start with a follow-up to the previous question. In your opinion, do all jurisdictions spend the same amount of money per capita on legal aid?

•(1135)

Ms. Hana Hruska: No, they don't.

Mr. Ahmed Hussen: If not, is there any action the federal government can take to ensure more uniformity across the country?

Ms. Hana Hruska: We're having policy discussions with the provinces and territories about the innovations they can take to maximize how the money that is allocated to these legal aid plans can have the maximum impact. In terms of what various jurisdictions choose to spend, that is a matter of their own budgeting process.

Mr. Ahmed Hussen: Is there also a variance between provinces in their acceptance rates for folks who apply for legal aid?

Ms. Hana Hruska: Yes, there is a variance in the acceptance rate. We don't have the exact percentages but we could certainly provide that. It also depends on each province's eligibility criteria, of course.

Mr. Ahmed Hussen: I would actually argue that it's even within provinces. In my experience, within the province of Ontario, what would get covered in the city of Toronto would be different from what would get covered just a little north of metropolitan Toronto. Would you agree with that statement?

Ms. Hana Hruska: We do not get into that level of detail in our discussions. It is entirely possible.

Mr. Ahmed Hussen: Doesn't that concern you? If a Canadian can get accepted in one part of the country for an alleged offence and then not get covered by a provincial legal aid program in another province, isn't that a problem of uniformity? Should we as a government have more to say about that and do what we can to ensure uniformity?

I'd like your opinion on that.

Mr. Donald Piragoff: As I indicated, under our constitutional system, the jurisdiction over criminal law is shared between the federal and provincial governments, where the federal Parliament is responsible for enacting the criminal law and enacting criminal procedure and the provinces are responsible for the administration of justice in the province. That includes policing, prosecution, and providing legal aid services. It's their policy; it's a provincial jurisdiction.

In terms of the federal government trying to promote uniformity, yes, we do. As indicated, the federal contribution doesn't come without strings. We set certain policy guidelines of where we want the money to be used. For example, we want a certain emphasis to be used for vulnerable populations such as indigenous persons or those suffering from mental health or addiction problems. We set policy goals as to how we want the money to be used.

By setting those conditions or policy goals with respect to federal funding, we attempt to influence the provinces in exercising their constitutional decisions with respect to the administration of justice. However, we cannot do it directly because it is their constitutional responsibility to administer justice in the province.

Mr. Ahmed Hussen: Right, but wouldn't it also help to have more data on the variance among provinces' acceptance rates. That would help in pursuing that policy objective. Correct?

Ms. Elizabeth Hendy: Yes. As our colleagues from the Canadian Centre for Justice Statistics mentioned earlier, we're trying to get a more robust legal aid survey so we'd have better outcome measures,

and we're looking at these types of services. Obviously with the federal budget 2016 investment in innovation, we're hoping the innovation money would be used to provide more equitable services across each jurisdiction. We're assuming innovation would be required mostly for the more rural areas to have better services.

The metropolitan areas as you stated are well served for various reasons in this country, but we're trying to see what we can do with the other areas.

Ms. Hana Hruska: I think you should also note that over the course of the next five-year contribution agreement, the federal contribution to criminal legal aid will be increasing. It had been at \$112 million for a certain period of time. This year it increased by \$9 million. Next year, it's increasing by \$12 million, and then by \$15 million, \$20 million, and \$32 million over that original amount.

•(1140)

Mr. Ahmed Hussen: My final question has to do with the low threshold for someone to get coverage. In Ontario, for example, a single person must make less than \$12,863 annually for them to benefit from legal aid without being required to make a contribution. That's a very low amount.

If that person doesn't get accepted into the legal aid program, and they're essentially on their own, is there any way, beyond coverage, that they could be helped in terms of education, referrals, or any guidance that they could get in pursuing their legal matters? People who are charged with criminal offences are under great stress and disruption in their lives. How can you help them?

Ms. Hana Hruska: There are in fact forms of assistance that they may be able to obtain. Generally, duty counsel services are provided to anyone who arrives at a court without representation. You do not need to go through a legal aid application process to obtain duty counsel services. Some jurisdictions also provide expanded duty counsel services where a duty counsel will follow your case throughout.

Legal aid plans are also setting up information lines where people can obtain summary advice without having to go through an application process. Certain web-based portals are being experimented with in different jurisdictions. For example, the Province of British Columbia has set up MyLawBC, which provides pathways for people to follow with different kinds of legal issues. It is completely free and requires no application. It's actually being funded by the Law Foundation of B.C., so it is the lawyers there who are giving back.

The Chair: Thank you very much.

Ironically, we go now to our B.C. member, Mr. MacGregor.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Thank you, Mr. Chair.

My question is a bit of a follow-up to the thread that Mr. Hussen was exploring. He was going over the oversight.

You mentioned that with federal funding, when it goes to the provinces, there are some strings attached. You mentioned that you have goals. I'm wondering, when that money is handed over to the provincial administrations to distribute, how does the federal government follow up with the provinces to ensure that money is being spent in the way it was intended?

Ms. Elizabeth Hendy: To respond to your question, we don't hand the money over. There's a reimbursement.

Mr. Alistair MacGregor: Okay.

Ms. Elizabeth Hendy: Through a reporting requirement, the provinces would have to indicate to us what they actually spent the resources on. Then, we would assess their final claims and the reporting requirements, and then we would pay out. Normally, we're not paying out resources until several months into a new fiscal year, because it's on a reimbursement scale.

Also, through the funding formula that my colleague Hana mentioned, we are determining the variables that we see as having the greatest impact on the system. We also can control a bit of the funding from that perspective, in terms of how we weight those variables.

Mr. Alistair MacGregor: Okay.

Now, we know that the administration of justice comes under provincial jurisdiction. Just looking at the broader picture and going into the Constitution, when you look at legal aid and you're trying to balance the rights of the individual, their rights to a fair trial, you mentioned it was specifically sections 7, 11, and 15. Then, when you look at the different amounts in different provincial jurisdictions of how you qualify, it appears to me—and this is the danger in any kind of a federation—that you end up with a kind of patchwork quilt.

However, a Canadian is a Canadian is a Canadian. How does the Department of Justice or the federal-provincial-territorial working group balance the charter rights of the individuals with the rights of the provinces to administer the justice system? Has the Supreme Court ever looked at this and provided guidance to the department?

I would like to hear your thoughts on that.

Mr. Donald Piragoff: Thank you.

It would be very difficult to set a national level for eligibility, for example. The cost of living in Vancouver and the cost of living in Toronto is a lot more expensive than living in other parts of the country. The eligibility rates for provinces have to take into account the cost of living. That's part of the formula. That's why the eligibility levels are determined by the provinces.

Now, whether those levels are sufficiently low or sufficiently high enough is a question that the province has to answer. Of course, all of the provinces have to balance the costs of legal aid with the costs of health care and the costs of roads and the costs of other social services. In the end, they have to make political decisions. Their cabinets make these political decisions every year when they do their budget allocations. It becomes a political decision at the provincial level, as well as a fiscal decision. It's a balance between, on the one hand, serving the needs of Canadians...

That's why I also mentioned that there's the federal court-ordered counsel fund. Those are the situations where, on an application by

the accused, if a person does not qualify for legal aid under provincial criteria and the judge in the case is of the view that the matter is serious, that the person is likely to go to jail, and that the person needs legal assistance, the court can order, in federal prosecutions, the federal attorney general to provide legal counsel. If it's a provincial prosecution, they can order the provincial attorney general to provide counsel. Then the attorney general provides funds to reimburse the counsel directly and not through legal aid.

• (1145)

Mr. Alistair MacGregor: Okay, thank you.

To your knowledge, has the Supreme Court ever weighed in with a view on this?

Ms. Hana Hruska: Yes, in fact, they have.

Mr. Alistair MacGregor: Okay, thank you.

Changing tack here, in the House of Commons and the government's plans and priorities, there's been talk about applying gender-based analysis. If you look at the funding levels that go to criminal cases and civil cases, and you look at the fact that women form a higher percentage of the clients for civil cases whereas it might be traditionally higher for men in the criminal cases....

I'm thinking about an abusive relationship, the defence for an abusive spouse versus the defence for someone trying to escape an abusive relationship. Has the department or the federal-provincial-territorial working group conducted that kind of an analysis? If not, are you planning to?

Ms. Elizabeth Hendy: The case you're describing is civil legal aid, which is covered under the Canada social transfer. While we are aware of the services that legal aid plans would be providing under civil, it's not a policy area that the Department of Justice explores in great detail because it is managed by the Department of Finance under the Canada social transfer.

Mr. Alistair MacGregor: Okay.

The Chair: You're out of time.

Mr. Alistair MacGregor: Okay. I'll just leave it there.

The Chair: Mr. Bittle, go ahead.

Mr. Chris Bittle (St. Catharines, Lib.): Thank you so much.

The question is for the Department of Justice. Did you have an opportunity to see the recommendations from the Canadian Bar Association with respect to legal aid? Specifically, it recommended that the federal government endorse national benchmarks for public legal aid assistance services and provide a dedicated transfer separate from the social transfer for funding of civic legal aid at levels that will allow for benchmarks for compliance.

Ms. Hana Hruska: Yes, we have. In fact, in our federal-provincial-territorial discussions, we are focusing very much on performance measurement. We've just concluded a week's worth of meetings in Vancouver, most of which focused on precisely these topics, and benchmarks is an issue that came up. We are certainly looking at those matters.

Mr. Chris Bittle: Is there any sense of how to deal with that since it is a private bar? How we can meet these levels?

Ms. Hana Hruska: Performance measurement is a complex topic, and we're looking at various sorts of indicators that could help us track the accessibility and adequacy of criminal legal aid over time. We don't have a specific answer, but we are developing a much more robust performance measurement strategy that will help us get there.

• (1150)

Mr. Chris Bittle: Is there any oversight that exists now? We know legal aid is a lower rate than what lawyers would charge a client in their particular practice. Is there anything?

Ms. Hana Hruska: Some legal aid plans have been able to increase the tariffs that they pay to lawyers because there have been additional investments both by the federal government and by several jurisdictions.

Mr. Chris Bittle: Is there no way to measure whether the increase in the tariff leads to a better service?

Ms. Hana Hruska: It depends what you mean by "better service". Again, it is all part of outcomes measurement. We are working on that, and I believe Statistics Canada, the Canadian centre for justice statistics is a part of that effort.

Mr. Yvan Clermont: It's part of the consultation right now in terms of determining what are information needs are regarding that. Having an aggregate survey limits us to a certain extent to the amount of information we can collect because the legal aid survey is not a survey that is collecting information about resources being involved, but rather about cases, in this case, and not necessarily on an individual basis.

We do have other surveys where we do that. However, in the case of surveys pertaining to resources, we don't have the information. Throughout the consultation we'll be able to determine what the indicators are that we're going to be able to produce for the amount of money we're getting to run that survey.

Mr. Chris Bittle: Keeping that in mind—and perhaps this next question isn't fair, but I'll ask it anyway. The statistics that we have are a couple of years old, but it seems that about 65% of applicants are successful in receiving legal aid. Do we know what the 35% of applicants who don't receive legal aid look like? Is it the working poor? Who doesn't receive legal aid, and demographically, what do they look like?

Mr. Yvan Clermont: Unfortunately, we don't. We know the reasons why they were refused. In the presentation, we stated some numbers about reasons why they were refused. Some are monetary. Some don't qualify. We have the breakdown regarding the rate of acceptances. It's been on average over the 10-year period around 64%. Last year it was 65%.

We can have this information available as well for each province, if that is necessary for the analysis of the committee. Unfortunately, we cannot produce information about the characteristics of the individuals who were refused, and if they were of one socio-economic status or another. It's not feasible at this point.

Mr. Chris Bittle: To take it one step further, do we know the costs to the legal system if we have 35% of people who aren't accepted? Many of those within that will then become self-represented litigants. I was involved in the civil system, and the type of law I practised wasn't funded in any way. I understand the complexities and difficulties of dealing with the self-represented litigant. I hear it

from my colleagues who practise criminal law and family law. Do we have any way to measure that?

Mr. Yvan Clermont: The other source of data we have is another survey, the integrated criminal court survey, from which we have detailed information about each case being processed by the court system. We do ask for jurisdiction to provide legal representation, for example. That would be the closest we could get. Unfortunately, the reporting of legal representation by the clerk in the courthouse is not always being provided and the coverage is not that good, but we're working at it. That is another survey for which we're doing a redesign at this point, and through which we're trying to increase the coverage. Once we have that, we could have some indication as to the time it takes to process these cases in court, whether they're being legally represented by themselves or by a legal aid lawyer or a private lawyer. That would be the only indication that we would be able to have, but at this point it's not feasible.

• (1155)

The Chair: Thank you very much, Mr. Bittle.

We'll do one more round of questioning. Ms. Khalid will start that round.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Chair.

Thank you, panellists, for coming in today on this very important issue.

What is the role of providing legal aid to Canadians? Why do we do it?

Ms. Elizabeth Hendy: All of our programming at Justice is to try to take away a barrier to access to justice. We want everyone to have equal opportunity to access. We know that economically disadvantaged Canadians face a barrier to getting access to a lawyer due to their economic situation. Therefore, we want to provide legal aid to at least have some kind of consistency so that everyone would have access to a lawyer to help them move through the process. We recognize, due to financial eligibility tests and merit tests, that not all cases would merit a legal aid lawyer, and that there are some issues at this time. Basically, we're trying to help economically disadvantaged Canadians get access to the justice system.

Ms. Iqra Khalid: Do you think that Canadians in some demographics are more economically disadvantaged than are those in others?

Ms. Elizabeth Hendy: Yes, and that's why, through our formula, we're looking at the indigenous population, the rural population, and people facing certain Criminal Code charges. We're trying to narrow in on, as Hana mentioned earlier, males aged 12 to 35. We're trying to narrow in on those areas that, from a statistical perspective, we believe are more at risk of entering the justice system than are others.

Ms. Iqra Khalid: Statistics show that the people who are using the criminal side of legal aid are mostly male, and the people who are trying to seek help for civil matters, specifically family law matters, are female. Do you think that there is already inherent imbalance in the way that we provide legal aid just based on gender?

Mr. Donald Piragoff: With respect to criminal legal aid, as you've indicated, the statistics indicate that most accused persons are male as opposed to female. The Supreme Court has held that there is a constitutional right of an unrepresented indigent person to a fair trial. Their fair trial rights may be infringed if the charge is serious, involving complex legal issues, and there's a likelihood of incarceration upon conviction. Those rights are founded on sections 7 and 11, as I indicated earlier.

Clearly, in the criminal law context, there are constitutional rights that the state has to serve and respect. Irrespective of who the accused is, whatever gender, whatever nationality, whatever colour, there's a constitutional right that has to be addressed.

On the civil side, however, most civil disputes are disputes between two individual private parties, and the state is not involved. The state may become involved for policy reasons in order to assist individuals. For example, in family law, as you look at the chart, and I can't remember which slide it was, but for civil legal aid, a significant proportion of civil legal aid at the provincial level goes to family law. That's a policy decision by governments to say that even though family law disputes are between two private litigants, there are a number of public policy interests involved, particularly children. The state has a public *parens patriae* interest in the welfare of children. Therefore, they will provide more civil legal aid funding to family law matters, as opposed to other civil disputes.

In those situations, clearly in civil law, family law, there's generally going to be, in most cases, gender equilibrium, although not necessarily, given modern Canadian families do not have to be heterosexual anymore. Some of the gender imbalance is because of who the litigants are and the composition of the litigants, and also who is appearing before the courts.

• (1200)

Ms. Iqra Khalid: Mr. MacGregor touched on this earlier. He had inquired as to whether the justice department had conducted a gender-based analysis of the system in access to justice and the provision of legal aid. I'm sorry, I must have missed the answer. I didn't hear it. Have we?

Ms. Elizabeth Hendy: It's part of the information that we would like to receive, that we don't necessarily receive now. That's why we're working with our colleagues at the Canadian centre for justice statistics to have a more robust survey coming in with better outcome data so we can actually figure out who are the clients who are being served. It's the same question with who are those 35% who are not being served and what is happening to them. That would be information that we would like to explore in the future.

Ms. Iqra Khalid: I have one last question. Is there a potential for having a national strategy or a national policy for the delivery of legal aid across the provinces from the federal level to provide uniformity? I know it's been asked before, but I'm just seeking clarification on whether it's possible.

Ms. Elizabeth Hendy: It is possible. Would we get buy-in from every province, recognizing the distinct region of each jurisdiction in this country? I'm not certain. We do have overarching policy objectives that we're hoping each province and territory will implement, but would we get to the point where we'd have national standards or national benchmarks? That would be up to the provinces, if they would be willing to do that. What happens in Prince Edward Island is not the same as in British Columbia. Perhaps there would be a basket of goods that everyone would agree to, but I'm not sure you would get the exact same services in every province.

The Chair: Thank you very much.

Mr. Falk.

Mr. Ted Falk: Thank you, Mr. Chairman.

I want to start off with the statistics folks here. We heard about the 35% of applicants who are not successful in getting legal aid, but of the 65% who are, can you tell this committee a little bit about the demographics of that 65%, what kinds of buckets you keep track of, and also the diversity? Can you comment on that?

Mr. Yvan Clermont: Unfortunately, we can't. The only breakdown information we get for those who are refused is about the reasons why they were refused, like—

Mr. Ted Falk: No, I'm not asking for the refused. I'm talking about the 65% who were successful.

Mr. Yvan Clermont: Yes, and for both, for those who were refused and those who were accepted, the 65%, we don't have demographic information on the person who was requiring or demanding. This is what the redesign of the survey is going towards. We want to have more information about the socio-demographic characteristics of individuals who make the application for legal aid. For now we don't have that.

Mr. Ted Falk: You don't have any individual statistics that keep track of applicants.

Mr. Yvan Clermont: No, we don't.

Mr. Ted Falk: Really? Oh, okay.

Mr. Yvan Clermont: This is an aggregate survey. It is a form that goes to legal aid plans. They're filling out a form about the number of cases they've been receiving applications from and the reason why they've received the application, but we don't collect each individual case in this particular survey.

Mr. Ted Falk: Okay.

Mr. Clermont, you made a comment before that, other than financial reasons for declining an applicant, there are other reasons as well. What kinds of other reasons could there be for declining an individual, other than financial?

Mr. Yvan Clermont: The ones we're listing here are coverage restrictions, which is a quarter of them. There is lack of merit, 6%; non-compliance or abuse, 2%; and other reasons, 15%, but we don't know what these other reasons would be.

Mr. Ted Falk: Okay.

Ms. Hana Hruska: If I may add, in terms of the demographics, while we do not collect that information through the legal aid survey through Statistics Canada, we do collect some basic demographic information through our final claims forms for our contribution agreement. We do have information on adults versus youth and on male versus female. At this point, that is all we have, but as my colleague stated, we are looking to gather much more of that information.

Mr. Ted Falk: Okay, that's very good.

Do you also represent both plaintiffs and defendants in civil matters? Would you fund both sides or only defendants?

Ms. Elizabeth Hendy: As stated earlier, the Department of Finance funds the civil system through the Canada social transfer, so we're not involved in those discussions.

Mr. Ted Falk: Okay.

Do you track at all the percentage of success rates for your legal aid lawyers?

• (1205)

Ms. Hana Hruska: The legal aid plans themselves track it. This is not something that we track. We provide contributions to provinces and territories for access to legal aid services.

Mr. Ted Falk: Okay, and that would lead into my next question about transparency and accountability for the funds that we transfer to them. We want to put our money behind a winning horse; that is what I'm saying here. Do we know whether we have people who are doing the job that we're expecting of them, who are winning the cases they're representing? Is that something that we track? I think we should be concerned about it.

Mr. Donald Piragoff: This is the justice system. There are no winners or losers. How can you measure the fact that a lawyer wins a case or loses a case in terms of whether the client had proper legal services? The person may have been rightfully guilty, but the lawyer ensured that they were guilty of what they were convicted of and not of what they were originally charged. They could have been charged with murder and in fact the jury comes back with a verdict of manslaughter, and maybe that's exactly what they....

Is that a win or is that a loss? It's a loss for the police because the police said it was first-degree murder. The jury came back saying manslaughter. That's the justice. You can't say that. Winning and losing is not language of the justice system. Legal aid is there to ensure people have a fair trial, and the outcome is part of the fair trial process. Convictions do not make the system more just. Acquittal does not mean the system is more just, and we don't fund legal aid on the basis that by funding legal aid you'll have more acquittals or you'll have more convictions. We're there to ensure that the trial is fair.

The outcome of the trial is for the jury or the judge to decide. We just want to make sure Canadians get a fair trial. That's their constitutional right. They don't have a constitutional right to an outcome. They have a constitutional right to a fair trial.

Mr. Ted Falk: You know, Mr. Piragoff, I can appreciate everything you said and I don't disagree with it. But certainly when you go into a situation where you're going to represent a client, at the outset of it, I would hope you've established some objectives based

on the information you have as to what you would like to achieve out of a trial in defending a particular individual. I'm wondering whether individuals are achieving the objectives they set out at the start of a trial or whether they're not. I mean, I understand it's a judge and a jury and they're unpredictable. I get all that, but certainly there's also some merit in the defence that we're providing for individuals.

Ms. Hana Hruska: You've touched on a very important discussion here. This is a discussion that we had for several days in Vancouver last week actually, and that is the outcomes discussion. What are the best indicators of whether legal aid is meeting its goals of providing access to justice to the population that requires it?

There are legal aid plans that, in fact, do client satisfaction surveys of criminal legal aid clients to see if they are happy with the representation they received. They measure their success in that way. Not all legal aid plans are on board with that. It is a discussion we are having with all of them.

There are, of course, other indicators that we need to look at, such as the percentage of applicants who actually obtain legal aid, the efficiencies of the court processes that are assisted by legal aid, and so forth.

Mr. Ted Falk: I would encourage you in that. I think there's merit in that process.

Thank you, Mr. Chairman.

The Chair: Thank you very much.

Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): Thanks very much, Mr. Chair. Thank you all for being here today.

I just want to say at the outset that in my experience practising law in Nova Scotia, sometimes there's a perception that lawyers who work for legal aid are not as qualified or as good as some in the private bar. I just want to dispel that myth, because the lawyers whom I've worked with in Nova Scotia Legal Aid are excellent lawyers, and I think it's important for the public to understand that and know that. They do an excellent job with the caseloads that they have to deal with every day.

With regard to the civil legal aid that you mentioned and the funding through the block transfer of the Canada social transfer to the provinces, is there a designated amount that is set out for civil legal aid?

Ms. Hana Hruska: There is no amount that is set aside for legal aid. The nature of the Canada social transfer is such that it is block funding for a series of social services that are provided. It is up to the jurisdictions to define how much they set aside for civil legal aid.

• (1210)

Mr. Colin Fraser: All right.

Ms. Hana Hruska: It's a \$13.3-billion transfer.

Mr. Colin Fraser: I understand that, but we don't know how much of that is designated.

Ms. Elizabeth Hendy: When they took the Canada assistance plan and transferred it into the Canada health and social transfer, and then it came into the Canada social transfer, it was very difficult to determine how much money was set aside for different elements in that transfer. Again, it's up to the provinces to determine how they would spend that money.

Mr. Colin Fraser: Exactly, okay.

With regard to civil legal aid, do you know if any of the provinces are encouraging or supporting mediation-type services? I'm thinking most particularly of services for family matters where sometimes the best course isn't to appear before a judge and have a judge make a determination about what kinds of family arrangements should be made. Do you know if there are any mediation services that are being done through legal aid?

Ms. Elizabeth Hendy: Yes, there are many different types of alternative dispute resolution that the provinces are trying in an attempt to bring as many people out of the court system as possible. Different plans would have different types of services, depending on the needs of their populations.

Mr. Colin Fraser: All right. We heard a bit about contribution agreements before. One of the main challenges, as I understand it, is that the system works pretty well for those who qualify for full legal services and get legal aid assistance. For those who can afford a lawyer and don't need the system at all, the system works okay for them. Obviously, they can hire the lawyer of choice. It's people in the middle who are often in the hardest spot, where they can't qualify for legal aid services but they can't afford a retainer for private counsel. These contribution agreements, I think, are very important, and I'd like to know if those are being used across the country.

I think you said 7% of the funding to legal aid is from the clients themselves. I'd like to know a bit more about what's being done in order to encourage contribution agreements to be used for those people who fall in the middle.

Ms. Hana Hruska: We are setting aside \$2 million of federal funding for the next five years for legal aid innovations. That was very much a focus of the legal aid study that was done recently, which Mr. Piragoff referred to. Legal aid plans are very concerned about this, as you can appreciate, and are innovating in different ways to try to reach this population. Some of this is through summary advice, which one does not need to qualify for to get legal aid, through telephone lines and through websites that provide legal information. Some of this is also through expanded duty counsel services. In the territories, there is presumed eligibility. Everybody who comes up on criminal charges there is presumed eligible for legal aid up until a certain point.

Mr. Colin Fraser: On page 6 of the deck that you handed out, I just noticed the federal contribution is pretty much the same as it was in 2004. Other than the federal contribution, the provincial and territorial government contributions have been rising steadily, although maybe they have plateaued a bit recently.

If I'm looking at this correctly, is it fair to say that the provinces are taking on a greater share of the legal aid responsibilities, and if so, can you comment on that?

Ms. Elizabeth Hendy: Yes. Obviously, our elected officials get to set budget priorities. For the previous 10 years, the federal contribution was set based on the priorities of our elected officials, and the provinces did put in more money. In budget 2016, the federal government has brought more money to the table for legal aid, and \$88 million will be brought in over five years, with a \$30-million increase at the end of five years.

Mr. Colin Fraser: All right. Thank you.

With recruiting members from the private bar... When I was in private practice, from time to time I would take on legal aid certificates in Nova Scotia for criminal or family matters. Is it difficult to recruit members from the private bar, given the fact that it's paid at a reduced hourly rate, or is it seen as something that the profession engages in?

Mr. Donald Piragoff: Different provinces have a different mixture of legal aid clinics, where the legal aid lawyers are actually employed by the province. Other provinces rely more on issuing certificates to members of the private bar, to basically undertake legal aid services. Their private sector lawyers then obtain legal aid certificates. It's hard to answer the question.

• (1215)

Mr. Colin Fraser: I know that. The certificates I would take on would be if there was a conflict in the legal aid office and the legal aid lawyer couldn't do it. What I'm wondering, though, is if there is a problem in encouraging, in those circumstances, members of the private bar to step up. Have you seen any problems?

Mr. Donald Piragoff: No. Some provinces actually rely a lot more heavily on the private bar than on legal aid clinics. Ontario, for example, relies very heavily on issuing certificates to members of the private bar, as well as having legal aid lawyers, so it's not just when there is a conflict that it goes to the private bar. There is very much a certificate process where you go to the private lawyer first and ask, "Can you represent me?" The lawyer can say, "I will make an application to legal aid for you."

Mr. Colin Fraser: In your opinion, there is no problem with getting private lawyers to do these.

Mr. Donald Piragoff: I think it depends, province by province.

The Chair: Thank you, Mr. Fraser.

Mr. MacGregor, go ahead.

Mr. Alistair MacGregor: How much time do I have, Chair?

The Chair: Normally, you get three minutes, as per the schedule, but I'm flexible.

Mr. Alistair MacGregor: We'll see how it goes.

Thank you very much. I'll direct a couple of my questions to Mr. Clermont about Statistics Canada and his presentation. I just want to look at slide 7. The line indicating the administrative costs is for the country as a whole, I understand.

Do you collect data on individual provincial jurisdictions' administrative costs? Is there a way of measuring those administrative costs versus how many cases? Is it being spent wisely? Which jurisdiction is most efficient, and so on?

Mr. Yvan Clermont: The information is there to make the calculation if someone is interested. We can split the amount of administrative costs per jurisdiction. One can look at the caseload and make their own calculations.

We have to keep in mind that this is an aggregate survey. When we are asking respondents—meaning, legal aid plans—there are only 13 respondents across the country, and they are providing the information for all activities in their jurisdictions. Therefore, there could be slight differences in how they interpret the theme or the concept we are asking the information for. There is always a danger of that, but the information is there for one who wants to do this calculation.

Mr. Alistair MacGregor: Thank you.

I'll go back to the Department of Justice officials. In your presentation, you mentioned that there were only a few provinces—namely, British Columbia, Alberta, Manitoba, Ontario, Quebec, and Newfoundland and Labrador—that offer legal aid for immigration and refugee law cases. Why is it that if you are a resident of Saskatchewan, you don't get that kind of coverage?

I understand that this might be a policy decision. What kinds of services exist for refugees and immigrants living in Saskatchewan?

Ms. Hana Hruska: Provinces and territories are able to access the immigration and refugee legal aid funding upon giving notice to us. They will then share in the pot. That funding is up for renewal next fiscal year, so depending on the level of funding, more provinces may decide to join into the funding. Of course, if provinces start offering immigration and refugee legal aid services, they will see the demand and there may be pressures on provincial funding for that as well, so that may be a consideration.

In terms of what kinds of services are available in non-participating jurisdictions, there is a mix of services that may be available. There are pro bono services, and there are services that are available through agencies that serve newcomers, but it is not systematic.

Mr. Alistair MacGregor: If you look at the statistics of Canada's immigration, you see the three provinces with the three largest cities. You have Toronto, Montreal, and Vancouver covered. Is that the basis for offering it, because they statistically receive a lot more?

• (1220)

Ms. Hana Hruska: Statistically, Ontario receives the majority of refugee claimants in the country.

Mr. Alistair MacGregor: Okay.

Ms. Hana Hruska: Therefore, they are the behemoth plan, essentially.

Ms. Elizabeth Hendy: I was going to add that in 2001, when the federal government started cost sharing or providing a contribution for immigration and refugee legal aid, only six jurisdictions at that time felt that there was enough of a population to warrant those services. Perhaps that has changed over the years. As Hana said, depending on budget decisions and renewal opportunities, perhaps more provinces would join.

Mr. Alistair MacGregor: Okay. Thank you.

That's good, Mr. Chair.

The Chair: Thank you very much, Mr. MacGregor.

Before I thank the witnesses, because I don't want to lose the members of the committee, we have the request for the project budget approval for our study on Bill S-201 in the amount of \$11,100.

Do I have the approval of members of the committee to agree to this budget so that we can reimburse the witnesses on Bill S-201?

Mr. McKinnon, will you move that?

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): I so move.

The Chair: Thank you very much.

Is it agreed with everyone?

Some hon. members: Agreed.

The Chair: Thank you very much.

I'd like to take this opportunity to thank the witnesses very much. Your testimony was most helpful.

My only request is for Ms. Hruska. In response to the question from Mr. MacGregor relating to the Supreme Court case, you answered, yes, there's been a Supreme Court case but there were no specifics provided. Would you be able to provide the citations of any Supreme Court cases to us so we can look at them if we like?

Ms. Hana Hruska: Yes.

The Chair: Thank you very much.

Mr. Nicholson.

Hon. Rob Nicholson: Perhaps I might make the suggestion that we cancel next Tuesday's meeting. There's always been a bit of uncertainty in the week before Christmas. It seems to me we'd be better off getting at this when we return at the end of January. It's just a suggestion.

The Chair: I believe, however, we have multiple witnesses already lined up, including the Canadian Bar Association.

I will look to the members of the committee but I think it's very likely we're going to be here on Tuesday.

If it's okay with you, we'll continue—sorry. We have not scheduled a meeting for Thursday given the uncertainty for Thursday.

Thanks very much, everyone. The meeting is adjourned.

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