

Canadian Council of Criminal Defence Lawyers Conseil Canadien des Avocats de la Défense

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August 18, 2022

Private & Confidential

Via E-mail: ministryofjustice@gov.ab.ca

Hon. Tyler Shandro
Minister of Justice and
Attorney General of Alberta
424 Legislature Building
10800 – 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Minister Shandro:

RE: PROPER FUNDING OF ALBERTA LEGAL AID

I am Chair of the Canadian Council of Criminal Defence Lawyers/Conseil Canadien des Avocats de la Défense (CCCDL/CCAD).

The Council was formed in November of 1992 to offer a national voice of the Defence Bar throughout Canada. I expect that you will recognize that we have developed and been recognized as a respected preeminent voice in criminal justice throughout Canada. We are consulted by governments on legislative initiatives, access to justice, the proper resourcing of the Criminal Justice System, the protection of individual liberties and public confidence in the administration of justice.

We are often intervenors in important matters before our Courts, are called upon regularly by the House of Commons and Senate Justice Committees on proposed legislative initiatives. We serve on national consultative committees, have a Chair at Uniformity, and are frequently asked to assist and inform the media in understanding criminal justice issues. Our expertise representing voices right across Canada and in the North has been welcomed and appreciated.

In that light, the CCCDL/CCAD is deeply concerned with the current state of the Legal Aid system in Alberta. It strikes us as unacceptable that the Financial Eligibility Guidelines are so low, that they prevent many individuals who are below the poverty line from obtaining representation by independent lawyers who protect the rights that all deserve.

It is indeed unacceptable that lawyers who provide representation through Legal Aid Alberta, are compensated so inadequately. We understand that the hourly rate that they are paid has not increased since 2015. It is emphatically important to note that others in the justice system have had their salaries (which include pensions and benefits), increased regularly.

I would expect that you would agree that one of the hallmarks of a civilized society, which values fair treatments, protection of rights, a transparent and balanced accessible justice system, is a Legal Aid system available to those who need it. It must be which importantly does not denigrate and undervalue lawyers in the private Bar, who serve the under-privileged and marginalized clients who cannot afford representation.

During COVID, we have witnessed a significant increase in collaboration by justice system participants throughout Canada. The essential role and support of Defence Counsel has been invaluable and recognized as such. We trust that this is also the case in Alberta.

The Defence Bar is a vital pillar in Criminal Justice, and yet, too often it suffers from inadequate support, understanding and funding.

The CCCDL/CCAD strongly supports all Alberta lawyers who are standing up for and attempting to enhance a system which seems, for too long, to have been undervalued, and which has taken advantage of the good will of the private Bar. The Council stands with those who are insisting that in order for fairness to prevail, the Financial Eligibility Guidelines must be increased.

We respectfully call on the Alberta government to act immediately to prevent disruption and unfairness in the justice system. It is noteworthy that the government responded positively when prosecutors demanded increased salaries just months ago.

Minister Shandro, the predictable and inevitable result of a failure to properly fund the Legal Aid program in Alberta, will be cases stayed due to delay, wrongful convictions, added strain by unrepresented litigants and more and more Defence Counsel unable to serve vulnerable individuals because they cannot afford to do so. I know you would agree that none of this serves the public that counts on us all to protect the system of justice in Canada.

We appreciate any opportunity to assist your Ministry and other concerned organizations in a renewed commitment to properly fund Legal Aid.

As you will note, two members of our Council, Deborah Hatch and Brian Hurley, are senior experienced Defence Counsel in Alberta. They are willing and eager to consult and assist you as this matter is addressed.

We have a respected and cherished justice system in Canada. The support of a properly funded Defence Bar enhances that reputation.

Sincerely,

A handwritten signature in black ink, appearing to read 'William Trudell', with a long horizontal flourish extending to the right.

William Trudell, Chair