



September 2024

A Time for Action: Indigenous Services at LAO



LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO



A Letter from Fallon Melander

Associate Vice President,
Indigenous Services

As we approach September 30th, the National Day for Truth and Reconciliation, I am often asked what does Indigenous justice mean? And how do we ensure that we are moving in the right direction towards meaningful justice for Indigenous peoples?

While this question can seem loaded, complex and complicated to some, when you boil it down to its simplest form, to me it means mino bimaadiziwin – living the good life. It is an Anishinaabe legal principle that guides each one of us from the moment we are born. It is a guiding light, a way of living and intrinsically encapsulates many other laws that guide us towards truth, love, wisdom, honesty, bravery, humility, and respect, also known as the Seven Grandfather Teachings. It applies to each and every one of us and moves us forward in a good way; we all need to remember mino bimaadiziwin.

This means: we cannot keep making the same mistakes; we cannot continue to ignore the voices and minimize the change that is needed. As a collective, we need commitment to change and action to get us there.

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Over the past 15 years, LAO has been on a journey towards improving services to First Nation, Métis and Inuit clients and communities. From the beginning, LAO made a commitment through its Aboriginal Justice Strategy to change. However, as we know, a commitment to change is not enough. A commitment is just the beginning, Action is where the solutions lie.

A shift has taken place in the collective conscience of many within what we now call Canada, but we also know that over-representation of Indigenous peoples, especially women, within the criminal and child protection systems has been at crisis levels for decades. Through the work of countless Commissions and Inquiries, Indigenous peoples and survivors have shared painful truths, have advocated for meaningful change, and have made recommendations for moving forward. We have listened, but have we learned?

As we move onto a new phase by retiring LAO's Aboriginal Justice Strategy and building LAO's Indigenous Services Department, I am very excited for action to be the focus of this next chapter of LAO's work in finding its place in providing meaningful services in partnership with Indigenous clients, communities and organizations.

I also want to thank the incredible Indigenous women who have led this work within LAO for the past 15 years: Christa Big Canoe, Jessica Wolfe, and Rebecca Hammond, and Saga Williams. I know that without your voices at the table we would not be in a position for change.

I am very excited to build true relationships and to create community-based solutions to the colonial issues that have plagued our Nations for too long. I am not naïve and I know that this will take hard work, dedication, patience and humility. Meaningful change does not happen overnight.

We begin today by committing to getting back to mino bimaadiziwin for all.

A handwritten signature in dark ink, appearing to read "J. Melander". The script is cursive and fluid, with the first letter "J" being particularly large and stylized.



Land Acknowledgement

Legal Aid Ontario recognizes that our work, and the work of our community partners takes place on traditional Indigenous territories across Ontario. We are thankful to be able to work and live in these territories. We are thankful to the First Nations, Métis and Inuit people who have cared for these territories since time immemorial and who continue to contribute to the strength of Ontario and to all communities across the province.

Legal Aid Ontario would like to acknowledge with gratitude, the original stewards of the lands on which our Toronto offices are located. As residents and employees in the traditional and treaty territory of the Mississaugas of the Credit, Michi Saagig, Anishnabeg, we also acknowledge this area has been home to the Chippewa, the Haudenosaunee and the Wendat peoples and their ancestors. We commit to understanding the history of this area, acknowledging inherent and treaty rights, and we are here with humility as colleagues, learners and allies.



Overview of the Aboriginal Justice Strategy

The Aboriginal Justice Strategy (AJS) was developed as a transformative initiative to expand access to justice and empower Legal Aid Ontario (LAO) to respond effectively to the unique needs of First Nation, Métis, and Inuit clients.

Since its inception in 2008, the AJS has been driven by an understanding that there is an urgent need for a justice system that truly reflects and respects the diverse cultures and realities of Indigenous peoples across Ontario.

Throughout the various phases of the AJS, the focus has been on relationship-building as we have worked together with community partners to understand the profound impact of systemic barriers that hinder access to legal resources and representation. The collective desire from those meetings and discussions have led to steps towards change that are rooted in the principles of reconciliation, cultural understanding, and community empowerment.

The collective work under the AJS is not just a reflection of addressing current challenges; they represent a call to action. By embracing the insights shared by Indigenous communities, LAO has—and continues to—work towards a justice system that truly serves everyone.

The AJS has been responsible for significant and meaningful change both internal and external to LAO.

AJS Phase 1: 2008-2013

In 2008, the AJS was developed with a mandate to establish a plan to achieve measurable improvements in service to First Nation, Métis and Inuit clients regardless of whether they lived on or off-reserve, are status or non-status or lived in rural or urban contexts.

During this initial phase of the AJS, specific recommendations were developed to address four major areas:

- The barriers to accessing justice for Indigenous clients
- Increasing Indigenous representation within LAO and LAO's advisory systems
- Improving legal services and supporting Indigenous justice processes
- Strengthening representative and informed legal services

Significant progress was made during this phase to address these areas of concern:

-  Developed minimum panel standards for representing First Nation, Métis and Inuit clients in criminal matters
-  Partnered with MAG and DOJ to provide dedicated ongoing funding to various Indigenous justice initiatives
-  Hired Indigenous lawyer to lead the AJS
-  Included Indigenous knowledge question in LAO interviews
-  Created tool and policy to identify First Nation, Métis and Inuit clients
-  Provided cultural competency training to over 500 LAO staff
-  Provide Gladue enhancement for counsel to prepare Gladue submissions
-  Indigenous representation on LAO's Board of Director's And LAO's Advisory Committees
-  Providing on-reserve and community-based advice services to Indigenous community members

AJS Phase 2: 2013-2018

In 2008, the AJS was developed with a mandate to establish a plan to achieve measurable improvements in service to First Nation, Métis and Inuit clients regardless of whether they lived on or off-reserve, are status or non-status or lived in rural or urban contexts.

In 2013, the LAO Board of Directors renewed the Strategy for an additional five years and approved four strategic priorities to guide the organization during that time:

- Improve and increase access to Gladue services for Indigenous Peoples and communities
- Develop a localized model for delivering legal aid services that is responsive to the needs of Indigenous individuals and communities
- Improve relationships and increase LAO's understanding of the legal needs and unique circumstances of Indigenous populations in Ontario and how to address them
- Strengthen LAO's internal capacity to enhance services to Indigenous clients and communities, and ensure sustainability of improvements

In 2015, the Truth and Reconciliation Commission (TRC) of Canada released its final report. This report documented the history and lasting impacts of the Canadian residential school system on Indigenous people in Canada. Alongside its findings, it also released 94 Calls to Action that called upon governments, organization, service providers and all Canadians to take very specific steps to begin the process of reconciliation.

LAO President and CEO, David Field, issued a statement shortly after the release of the TRC report committing LAO to working with Indigenous communities and provincial and federal governments to implement the Truth and Reconciliation Commission's Calls to Action addressed to the justice community.

During this phase, the AJS took several steps to address LAO's strategic priorities and to meet LAO's commitments associated with the TRC report and Calls to Action:

AJS Phase 2: 2013-2018

Gladue Report Writing Services Expansion

2014-15, LAO expanded access to Gladue Report writing services from 7 locations to 20.

The current publically funded agencies are:

- Aboriginal Legal Services expansion areas: Barrie-Midland, Brantford, Ottawa, Peterborough-Lindsay, Niagara-Welland, Sudbury, Sault Ste. Marie, North Bay, Windsor
- Nishnawbe-Aski Legal Services Corporation – Thunder Bay, Timmins, and Sioux Lookout
- Grand Council Treaty #3: Kenora, Sioux Lookout and surrounding First Nation communities

AJS Phase 2: 2013-2018

Engagement Strategy

Since September 2014 the AJS team has met with all LAO districts, department, and Executive to:

-  Educate participants on LAO's Aboriginal Justice Strategy
-  Provide participants with an environmental scan on their local Indigenous community
-  Promote a localized service model that responds to the needs of the Indigenous community
-  Engage participants in the AJS activities/processes to ensure accountability and sustainability of services to Indigenous clients
-  Identify the supports, resources, and tools needed by LAO staff that will enhance the legal services provided to Indigenous clients and communities

AJS Phase 2: 2013-2018

Localized Services

- Funding of 25 locations where both staff and private bar per diem counsel to provide community based legal advice services located in First Nation communities or at Indigenous community organizations. Increased from 7 to 25 locations
- Delivering PLE in communities about LAO and services
- Funding for Indigenous Justice Co-ordinators at Community legal clinics in the SW
- Hiring Indigenous counsel position and legal aid worker in Sarnia
- Funding for Community Legal Clinics to do needs assessments in partnership with the local communities in order to better serve their Indigenous clients

AJS Phase 2: 2013-2018

Cultural Competency & Capacity

- Expansion of LAO Certificate coverage for Child Protection Prelitigation and 3rd parties
- Start up funding for Grand Council Treaty 3 ADR program
- Start up funding for SFNS ADR program
- The AJS team has been working to develop an online training curriculum for LAO staff. Online portion is expected to roll out June 2018
- Aboriginal Self Identity Training rolled out in June 2016 - available on LAO LAW
- Providing on-going education and engagement activities for staff to ensure continuous education and understanding of Indigenous communities
- Formed an LAO Working Group with District Leads
- Released an internal Newsletter
- ASIQ compliance rates improved by 20% since it was first introduced. The province-wide compliance rate is now at 90%.

AJS Phase 3: 2019-2021

AJS Consultations and the COVID Response

In 2019, the AJS commenced province-wide consultations with over 60 Indigenous communities, stakeholders and service providers. These consultations focused on the direction that the AJS should be taking in its next phase of development.

During the first round of consultations, the AJS was not able to conduct consultations with Nishnawbe-Aski Legal Services (NAN Legal) and/or with any of the communities within the Nishnawbe Aski Nation (NAN) territory.

In early 2020, in collaboration with NAN Legal, LAO developed a consultation strategy for the NAN territory. However, as a result of the COVID-19 pandemic, these in-community consultations were indefinitely postponed because of safety concerns for participants.

In June of 2021, the AJS published Relationships First, Business Later: Part I. This report summarized the findings of all consultations outside of the NAN territory and included 20 recommendations based on the feedback received.

During this time, the AJS also worked collaboratively with all areas of LAO to ensure an effective and meaningful response to ensure that all LAO clients, including Indigenous clients, were supported throughout the COVID-19 pandemic. Some of the COVID measures that had the greatest impact on Indigenous clients included:

- Temporarily, waiving financial eligibility requirements~ for legal aid certificates for Indigenous people who identify as survivors of domestic violence
- Temporarily, waiving financial eligibility requirements~ for legal aid certificates for Indigenous families engaged in child protection matters
- Expansion of the legal aid certificate for those who are incarcerated and are eligible for emergency early release

AJS Phase 4: 2021-2024

Relationships First, Business Later

After the Report's publication in June of 2021, work began to address the various recommendations developed based on community feedback. This has been a phase marked by organization-wide collaboration, accountability and commitment to meaningful change.

During this phase, LAO has:

- Sought the assistance of external experts to assist with evaluation, research and training. This assistance has guided LAO towards meaningful change.
- Strengthened relationships with several of its Indigenous justice partners through the development of comprehensive and respectful agreements.
- Introduced supports for Indigenous staff to increase the feeling of community and cultural safety at LAO.
- Comprehensive Analysis of Gladue Services funded by LAO conducted by Dr. Jane Dickson
- Advice regarding organizational improvements from Dr. Beverly Jacobs
- Annual progress report on LAO's efforts to implement the TRC Calls to Action.
- Mandatory cultural competency training for LAO Board of Directors and all LAO staff
- Entered into a new Service Agreement with NAN Legal
- Entered into a new Service Agreement with ALS
- Anti-Racism Action Program Project that studied Bail outcomes for Indigenous and Black clients.
- Updated honorarium rates that specifically acknowledges Indigenous cultural norms
- Supported the development EDIB-focused hiring processes to increase representation
- Waawiye (The Circle) - an Indigenous focused mentorship program has launched
- Creation of the Indigenous Services Department (ISD)

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AJS Phase 4: 2021-2024

Relationships First, Business Later cont.

- Hired an Indigenous Associate-Vice President to lead the ISD
- Maamwi, an informal employee network for Indigenous staff has launched
- An increase in hours and tariff amount for the Gladue Enhancement
- One of the most exciting of the developments during this phase has been the creation of the ISD. The establishment of the ISD marks the beginning of a new era of Indigenous legal service at LAO and across Ontario. It is a renewal and a strengthening of LAO's commitment to Indigenous people in the province.





The Future of Indigenous Services at LAO

The creation of the AJS 15 years ago, reflects LAO's commitment to improving access to justice for First Nations, Métis, and Inuit communities in Ontario. However, LAO recognizes that there is still much work to be done.

Indigenous people continue to be overrepresented at every stage and every level of the legal system in Ontario. First Nations, Métis and Inuit clients continue to face systemic barriers within the justice system in general but also within LAO processes.

In early 2024, LAO established the new ISD, bringing together existing lines of work from across the organization to take a more holistic and strategic approach to the delivery of services for First Nations, Métis, and Inuit clients across the province. The ISD works with Indigenous service providers to improve the effectiveness of LAO's existing services, to innovate, and to maximize value for Indigenous clients.

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The Future of Indigenous Services at LAO cont.

The ISD also leads LAO's implementation of reconciliation initiatives, working within LAO's mandate to better reach and serve First Nations, Métis, and Inuit clients, and to address barriers and overrepresentation of all Indigenous peoples in the justice system.~

With the creation of the ISD, LAO has renewed and strengthened its commitment to Indigenous communities. This organizational change is an opportunity to rethink how LAO engages with First Nations, Métis, and Inuit clients, communities and service providers and to change the way that legal services are delivered to Indigenous communities across Ontario. It offers the potential of greater capacity, resources and focus for Indigenous legal issues at LAO.

The ISD is focused on:

- Leading the development and execution of LAO's strategy to provide culturally appropriate, effective services to Indigenous clients in Ontario.
- Developing innovative Indigenous policy and programming for the delivery of legal aid services.
- Working collaboratively with First Nations, Métis, and Inuit legal service providers and other justice sector contacts to ensure the highest quality of legal services possible for all First Nations, Métis and Inuit clients.
- Strengthening LAO's relationships with First Nations, Métis, and Inuit communities and service providers by continually promoting respect, trust, transparency, accountability and communication.

Since its own creation in 2008, the AJS has shared this focus. Its work over the past 15 years has helped to create a solid foundation within LAO upon which the ISD can be built. The newly formed ISD will assist LAO to create a future where Indigenous voices are amplified, cultural integrity is upheld, and legal aid services support access to justice as a fundamental right for all.

Let us unite in our commitment to transforming the justice landscape and fostering a system that embodies fairness, respect, and reconciliation.



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