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LAW SOCIETY OF UPPER CANADA
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The Legal Aid Letter
is sent by The Law Society of Upper Canada
to its members each month carrying news of the
Ontario Legal Aid Plan
June, 1979

LEGAL AID

Letter

Number 10

TARIFF - THREE TIER FEE SCHEDULE

By now, all members of the profession should have received a copy of the new Tariff which became effective April 1, 1979. Included in the material sent was a certification form to be completed by lawyers claiming payment for services rendered pursuant to a legal aid certificate at rates higher than the basic rate.

The three-tier fee schedule (outlined in the Tariff book at pages 30 and 55 and styled Note F) is designed to permit a higher rate of remuneration to more experienced lawyers. The schedule applies to lawyers in all parts of the Province. At the moment, the three-tier payment system is independent of any other program being established by the Plan (see Point System below).

It should be noted that lawyers having less than four years experience in criminal or civil litigation need not complete the certification form until they have reached the four year level. Fees will be paid automatically at the basic rate to such lawyers who must advise the Plan through the completion of the certificate when they qualify for payment at a higher rate.

Lawyers who qualify for payment at the higher rate are urged to complete the certification form immediately and return it to the Provincial Director.

If you have not received a copy of the new Tariff or the certification form, please contact Lorna Whittingham, Information Department, (416) 361-0766.

POINT SYSTEM (YORK COUNTY ONLY)

Lawyers on the criminal legal aid panel in York County only will soon receive a certification form which is to be completed in order that qualifying lawyers can be designated as "senior counsel". The criteria to be used in selecting those to be so designated are outlined in the certification form which should be completed and returned to the York County Legal Aid Office as quickly as possible.

~~This program, a pilot project approved by Convocation, does not affect lawyers in any other part of the Province.~~

The point system is designed to enable those in receipt of a legal aid certificate who face the possibility of 10 years or more imprisonment if convicted (except for some high-volume offences) to make a more informed choice from the almost 1,500 York County lawyers who make themselves available to those charged with criminal offences.

Two lists will be maintained in York County legal aid offices. One list, unchanged from the current list, will be shown to individuals charged with less serious offences. This list will not show any distinction between lawyers making themselves available to legally-aided clients.

Clients charged with more serious offences who request guidance in the selection of a lawyer will be shown a second list which will include the designation "senior counsel" beside the names of qualifying lawyers. This list will not be available to the general public. To qualify for inclusion on the criminal legal aid panel in York County, lawyers must attain at least 10 points on the certification form. To qualify for the designation "senior counsel", lawyers must attain at least 100 points.

It should be emphasized that despite the point system and designation of qualifying lawyers as "senior counsel" legally-aided clients will retain the freedom to approach any lawyer of their choice to represent them regardless of the charge they face.

REPRESENTATION FOR CHILDREN

The Minister of Community and Social Services, Keith Norton, announced in the Legislature on May 24 that proclamation of Section 20 of the Child Welfare Act, which deals with legal representation for children, will be delayed until October 1 to enable the Ministry of the Attorney-General to complete work necessary for implementation of the program.

HIGHLIGHTS OF THE FIRST MONTH

During the first month of the 13th fiscal year (April 1-30, 1979) 18,171 individuals contacted the Plan's 46 Area Offices - a decrease of 683 over the same period last year. Of that number, 9,205 formally applied for legal aid, a decrease of 592, and 6,372 certificates were issued, a drop of 277 over 1978. The number of individuals assisted by Duty Counsel in the Province's criminal and civil courts rose dramatically from 9,326 to 12,149 - an increase of 2,823 or 30%.

METRO WEST D.C. - NEW TELEPHONE SERVICE

Lawyers representing clients incarcerated in the Metro Toronto West Detention Centre are reminded that a new telephone service has been established to enable more convenient communication between lawyers and clients. The system permits inmates to call their lawyers between certain hours and also permits lawyers to call their clients. It is anticipated that the new system will save travelling time and costs and lawyers are urged to take advantage of the new procedure. Applications for inclusion in the system should be directed to Superintendent Barrett, Metro West Detention Centre, 111 Disco Road, P.O. Box 4950, Rexdale, Ontario. M9W 5L6

LEGAL EASE - NEW NEWSPAPER COLUMN

Community Legal Education Ontario, a clinic funded in large part by the Plan, has begun a series of weekly public education newspaper columns dealing with various aspects of the law and the legal system. So far, 26 weekly newspapers have agreed to publish the articles, the first series of which includes Buying a New Home, Small Claims Court and Making a Will. Lawyers interested in writing articles for the series or those with topic suggestions should contact Karen McSweeney, CLEO, 111 Queen Street East, Suite 310, Toronto, Ontario. M5C 1S2

COSTS AWARDED AGAINST LEGALLY-AIDED CLIENTS

Lawyers are reminded that the Plan does not automatically pay costs awarded against legally-aided clients in civil proceedings. Under The Legal Aid Regulation (129,130,131) such costs are awarded against the client, not the Plan, and the client or person to whom such costs are awarded may apply to the Director for payment of the costs. The application is then placed before the Legal Aid Committee which decides each case on the merits.

In reaching its decision, the Legal Aid Committee takes into account all the circumstances of the case, including the lawyers opinion letter. It should be noted that in the past the Committee has rarely decided that the expenditure of public funds was justified in such cases.

WE'RE HONOURED!

D.G. (Ben) Cunningham, the Plan's Area Director in Kingston, was honoured this month representing the Canadian Army in France during the 35th Anniversary of the D Day landing in Normandy in 1944.