



Canadian Legal Aid

Mark Benton QC

Three legal aid building blocks

Procedural justice

- 1960s SCOTUS - Gideon
- Law Societies, lawyers & judges lead
- Court centred



Social Justice/ Civil Society

- 1960s - Dr. King
- Empowerment
- Community clinics
- Non-lawyers lead
- Political but non-partisan



Politics and Social wellness

- 1947 - UK legal aid
- 1974 Canada Dept of Health
- EEC Human Rights frame
- Government leads

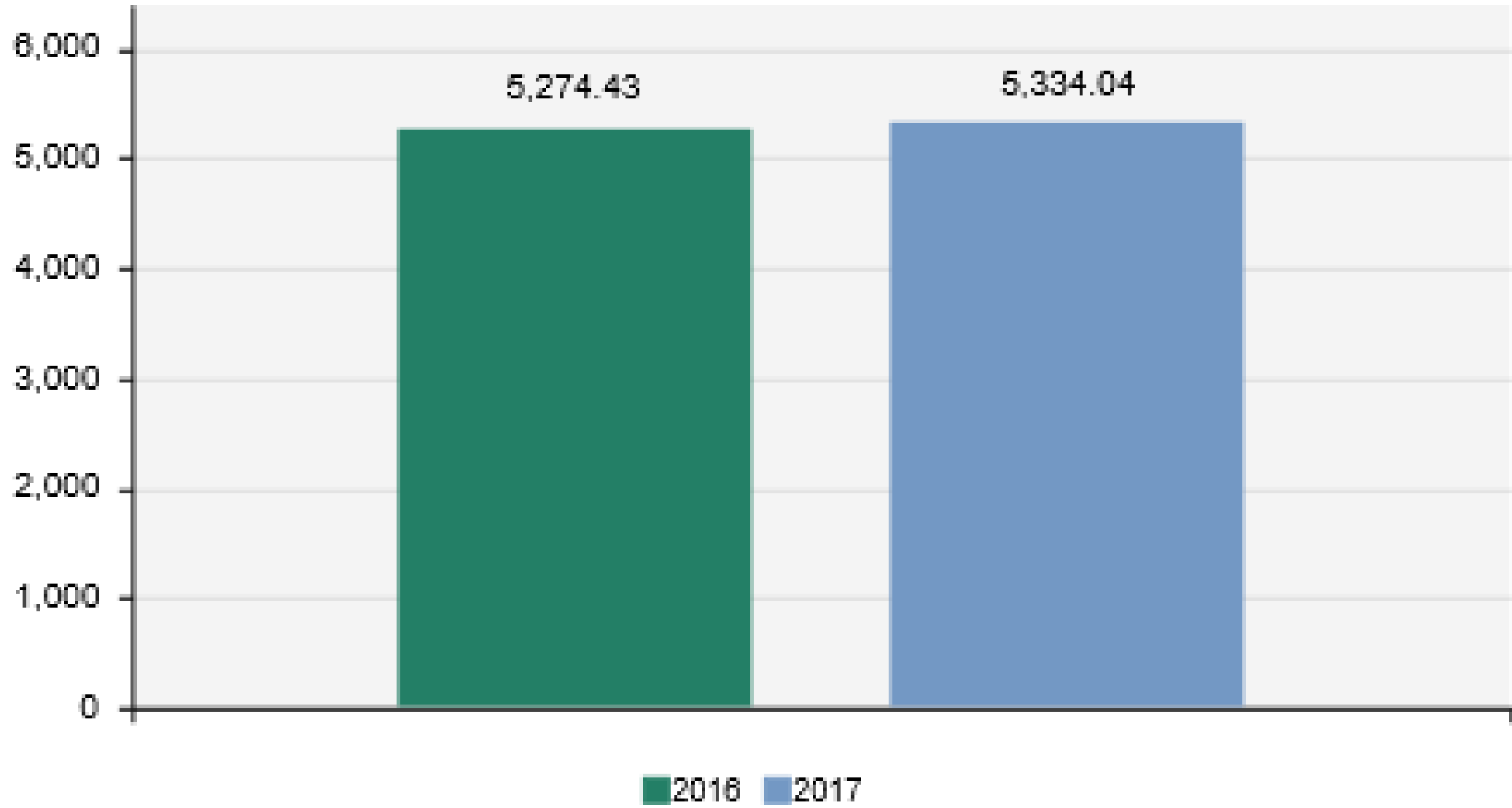


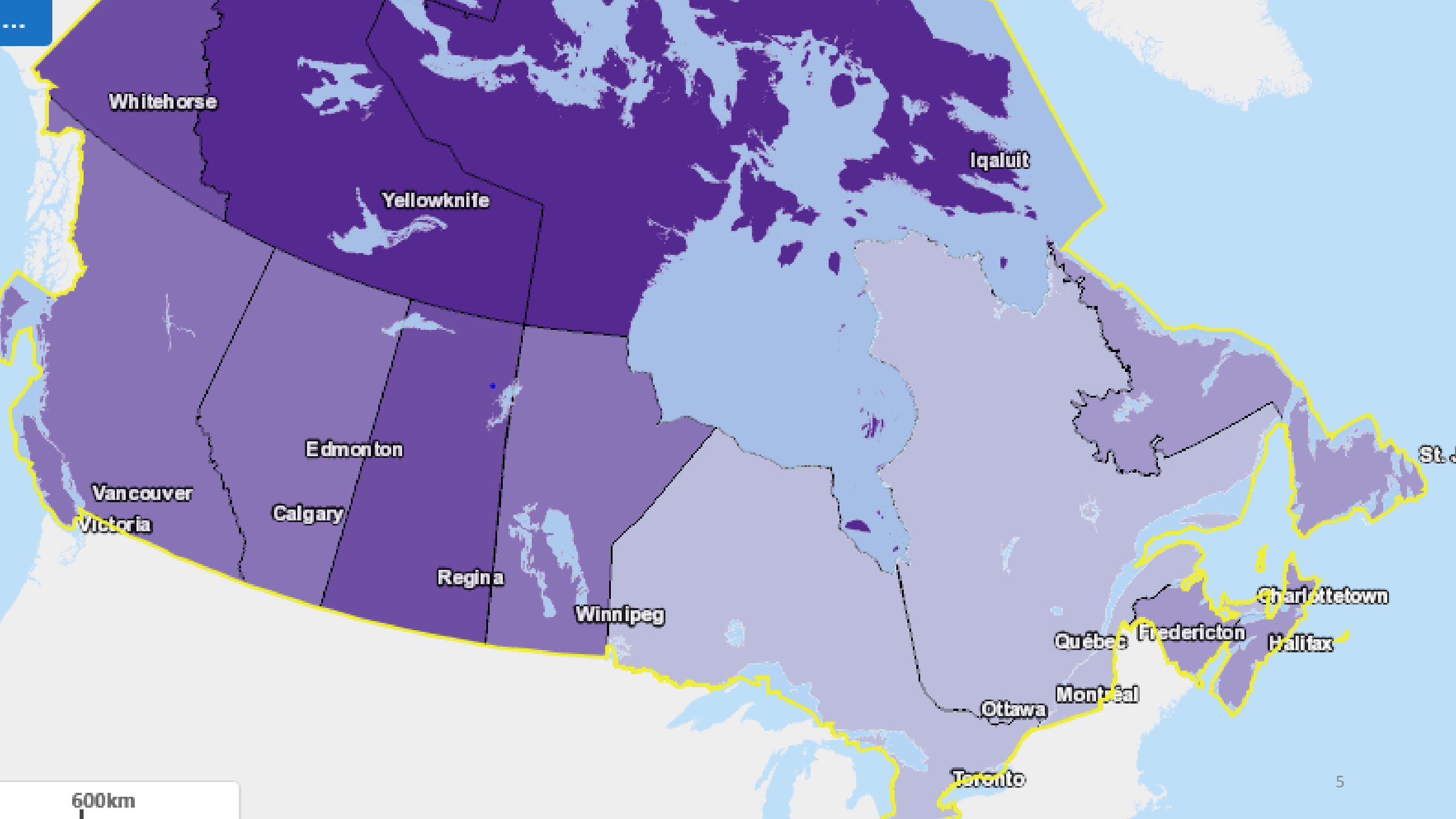
Governance and Service models

- Jurisdiction
- Financing
- Governance
- Eligibility
- Delivery models
- Service coverage



Total crime rate





Whitehorse

Yellowknife

Iqaluit

Edmonton

Vancouver
Victoria

Calgary

Regina

Winnipeg

Toronto

Ottawa

Montréal

Québec

Fredericton

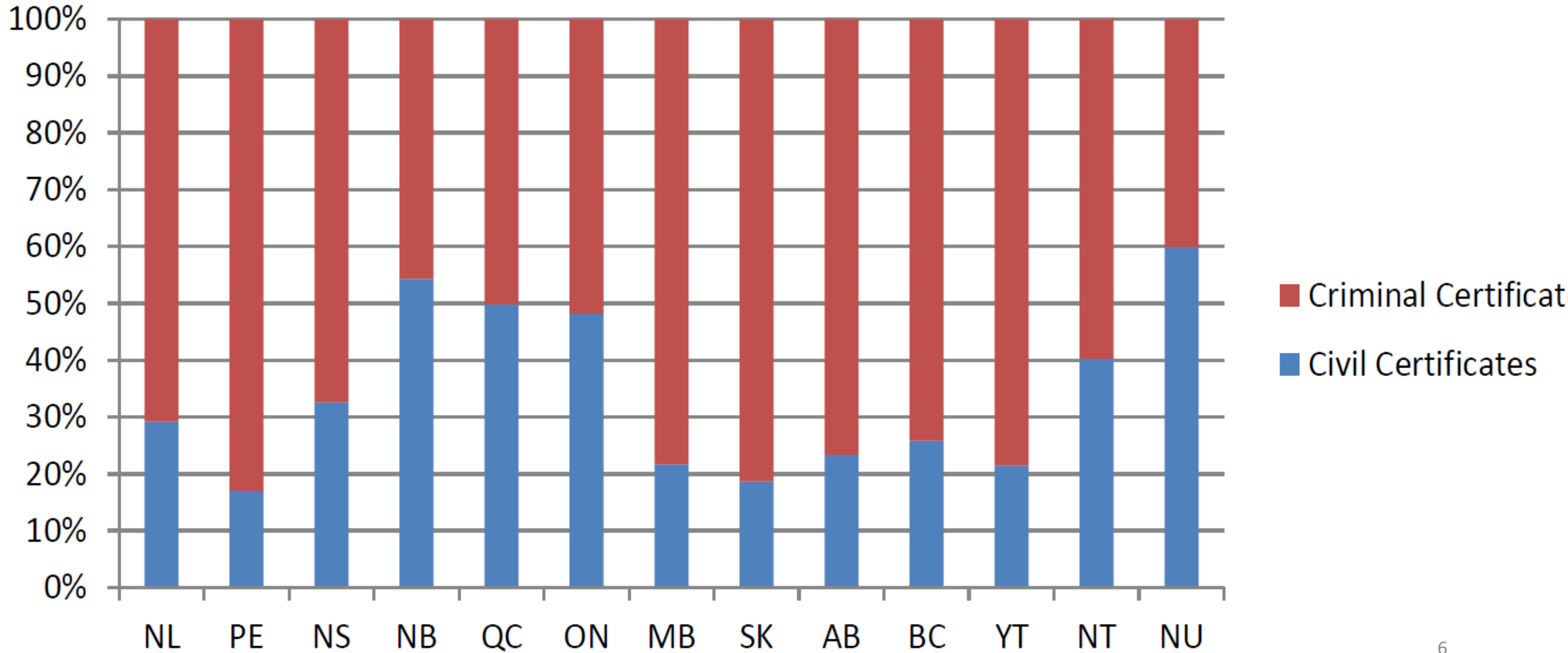
Charlottetown

Halifax

St. John's

600km

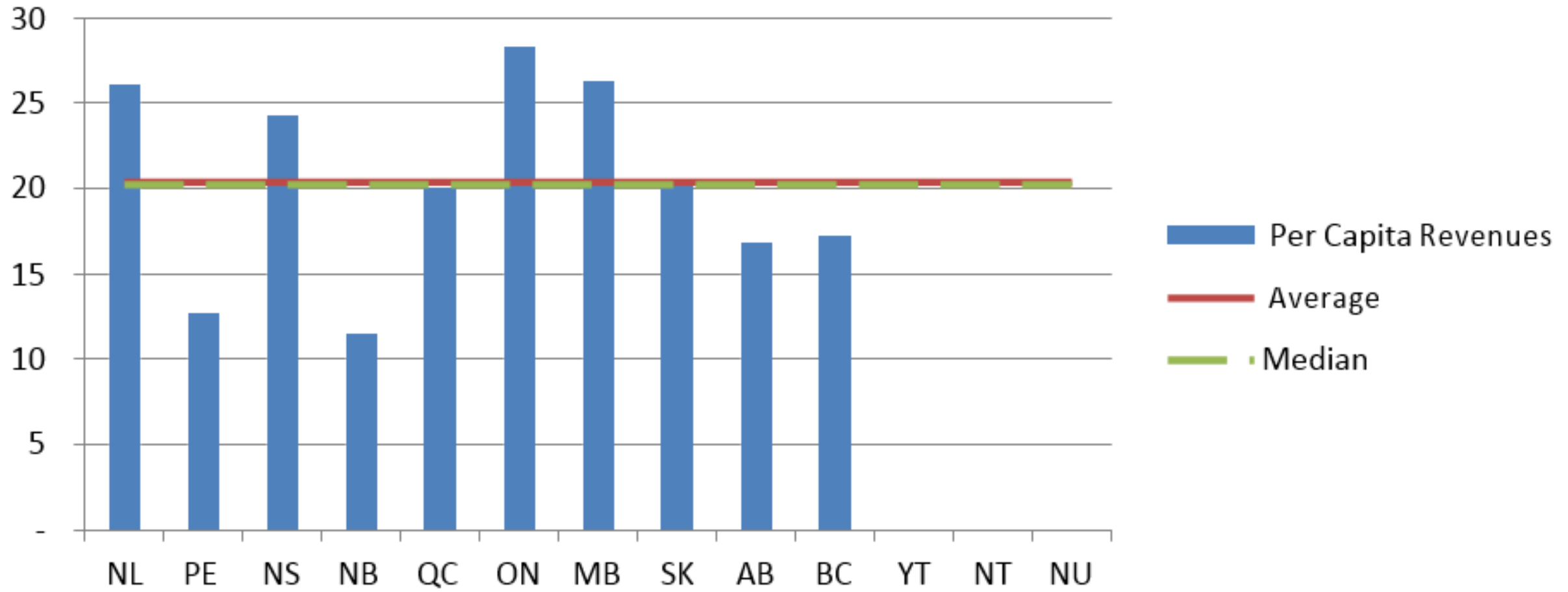
Certificates Issued



Financing

- *Varies by Canadian jurisdiction.*
- *Often political*
- *Shifts with the government*
- *Generally funding is less than 15 years ago on a per capita basis*

Per Capita Revenue (\$/person)



Trends in Canadian Legal Aid



ALAP + CBA - 6 Benchmarks and measures

- Sustainably funded
- Services that are tailored to need and culturally appropriate
- People with serious legal problems have access to legal aid if they cannot afford a lawyer on their own
- Services are delivered collaboratively to address the legal problem in its social context
- Services produce fair and equitable outcomes and empower clients
- Legal aid plans are innovative system leaders who contribute to a more effective and more efficient justice system and achieve better social outcomes for legal aid clients

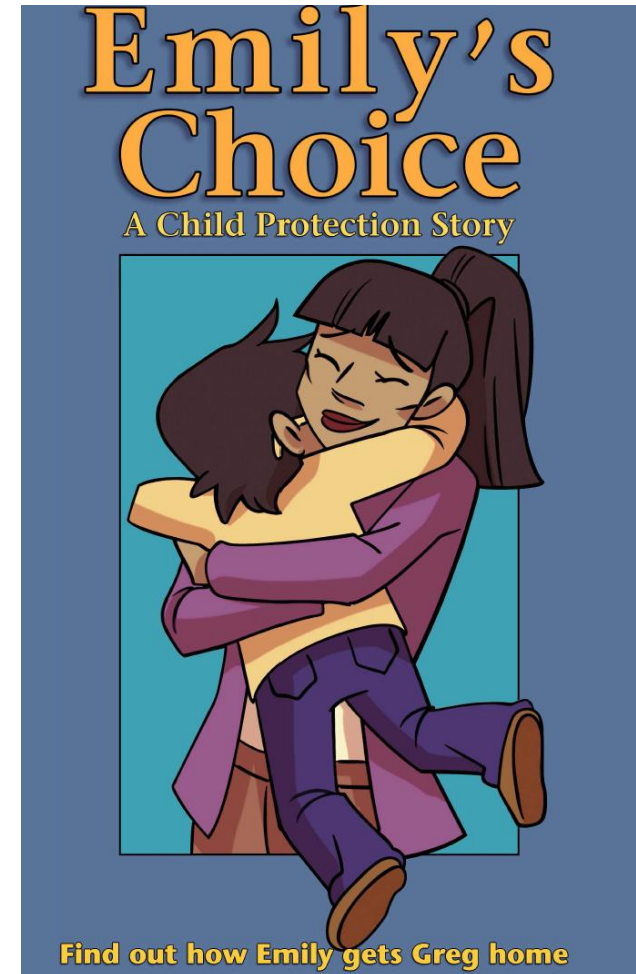


Digital Delivery

Click a pathway to get started.

Pathways help you find solutions to your legal problem.

Capacity Building



Targeted services and specialty providers





Three Big Rocks for Legal Aid in Canada

Big Rock #1

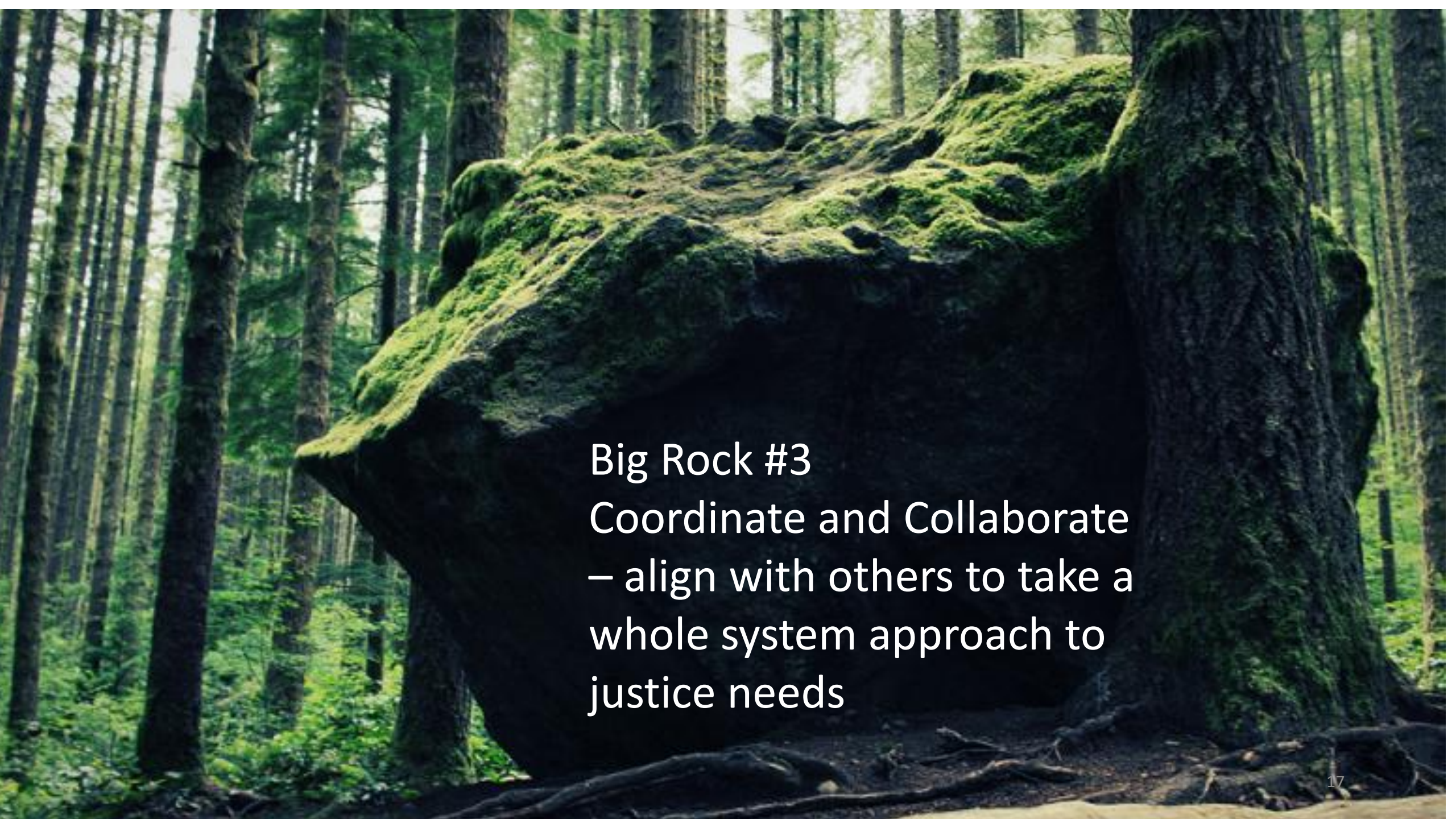
As competition for public funding increases it will become increasingly important for legal aid plans to be adept at demonstrating the public value of legal aid services.





Big Rock #2

With the trend towards more client-centred services there will be increasing pressure on legal aid programs to incorporate more non-legal expertise in legal aid delivery, management and governance



Big Rock #3
Coordinate and Collaborate
– align with others to take a
whole system approach to
justice needs

A high-contrast, black and white halftone image of a group of people, possibly a family, with the word "end" centered over it. The image is composed of a dense grid of dots, creating a textured, grainy appearance. The figures are rendered in a stark, almost binary style, with deep blacks and bright whites, and very little gray. The word "end" is written in a simple, sans-serif font, centered horizontally and vertically over the image.

end

National/Regional Report – British Columbia, Canada

1. Please update the following information about your country and your organization:

Your Country				
Country	Population	GDP	Poverty Line & Percentage of Population in Poverty	Total No. of Practicing Lawyers in the Country
Canada British Columbia (BC)	Canada 36.5 million BC 4.8 million	Can \$1.7 trillion BC \$0.7 trillion	8.8% - 13% Depending on calculation used	Canada 65,785 BC 12,000
Your Organization				
Name of Legal Aid Organization(s)	Date of Establishment	Total No. of Applications Received in the Past Year	Total No. of Applications Approved in the Past Year	Total No. of Applications Rejected in the Past Year
Legal Services Society (BC only)	1979	37,000	26,000	11,000
Total No. of Legal Aid Lawyers (including staff and private lawyers)	Total No. of Non-Legal Professionals (e.g. social workers, counselors, community/culture workers)	Government Budget for the Legal Aid Organization in the Past Year	Total Legal Aid Expenses in the Past Year	Proportion of Legal Aid Budget Funded by the Government
950 private lawyers	<50 (mostly private contractors, including staff paralegals, legal information outreach workers, and contractors that are trained by LSS but are employed by community agencies)	2017/18 \$80.7 million (Cdn)	2017/18 \$86 million (Cdn)	2017/18 94%

2. Were there any major changes in your organization (or legal aid organizations in your country) over the past four years in the following aspects? If yes, please specify the change and its reason?

(If not, please skip)

There are 13 legal aid plans in Canada. Most of the following responses deal with British Columbia (BC) only.

A. Organization structure (e.g. the nature of the organization and regulatory authority)

LSS is a statutory corporation created by the Legal Services Society Act, a BC statute. LSs is governed by a 9 person board ; 5 appointed by the government, 4 by the law Society of BC. The LSS mandate is to:

- a. Assist people to resolve their legal problems and facilitate their access to justice*
- b. Operate an efficient and effective legal aid plan*
- c. Provide advice to government on legal aid and access to justice.*

B. Legal aid funding: government budget or other funding sources; legal aid expenses

An increase of \$12 million

C. Number of staff lawyers and/or external legal aid attorneys

No changes to external attorneys however the number of staff lawyers is increasing by 12

D. Ratio of cases taken by staff attorneys and by external lawyers in private practice

92:8

E. Quality management; recruitment and/or monitoring of legal aid attorneys

LSS has partnered with an organization that designs and delivers Continuing Legal Education to prepare and present a program on cultural competency for legal aid lawyers who serve indigenous people.

F. Salary of legal aid staff attorneys and/or remuneration of external legal aid attorneys

No material changes in Canada

G. Procedures and financial eligibility criteria for legal aid applications

General increase in financial eligibility criteria country-wide:

The federal government contributes to the each province's costs for criminal and refugee legal aid pursuant to a federal provincial agreement. This is a multi-year agreement. The federal contribution has increased each year for three consecutive years.

H. New services and/or innovative business projects

Substantial pilot projects and innovation focusing on early intervention in BC (evaluations available at

<https://lss.bc.ca/about/evaluations.php>

3. What has been the major development strategy of your organization (or legal aid organizations in your country) for the past five years? What was the reason for adopting this strategy?

BC only - Focused on obtaining pilot project funding to demonstrate the value of early intervention and alternate legal aid service delivery models (telephone and summary advice). The key strategic document, Making Justice Work, is available at

<https://lss.bc.ca/assets/aboutUs/reports/submissions/makingJusticeWork.pdf>. The evaluations of the project are available at <https://lss.bc.ca/about/evaluations.php>.

The strategy resulted in a 15% increase in legal aid funding.

4. In the past decade, have there been any surveys done in your country on legal needs and legal assistance seeking behaviors of the general public or any specific underprivileged groups? Or

have there been any research studies of your service data?

If yes, please kindly provide the files or URLs of the research results.

- A. *BC legal aid plan conducts routine legal needs assessments and does longitudinal evaluations of its services. These can be found at <https://lss.bc.ca/about/evaluations.php>*
- B. *The Canadian Forum on Civil Justice recently completed a substantial legal needs survey and analysis, “Everyday Legal Problems and the Cost of Justice in Canada”, which can be found on their website: <http://www.cfcj-fcjc.org/>*
- C. *Key justice stakeholders in Ontario including the legal aid plan collaborated on a province wide legal needs assessment <http://www.lsuc.on.ca/OCLNP/>*

5. How does your organization (or legal aid organizations in your country) make legal aid resources known to the potential clients in need and improve their legal awareness so they may seek timely assistance? Do you use any different approaches to reach people in remote areas or groups with special legal needs?

Information is provided by:

- *free publications;*
- *the MyLawBC website;*
- *the Aboriginal Legal Aid in BC website;*
- *the Family Law in British Columbia website;*
- *intake assistants;*
- *community partners and in some communities, legal information outreach workers and Aboriginal community legal workers.*

6. How does your organization (or legal aid organizations in your country) educate, train or recruit and screen legal aid attorneys who are suitable for serving underprivileged groups as well as passing the spirit of legal aid onto lawyers of younger generations?

The legal aid plans in Canada have different levels of screening.

Some plans will accept any lawyer to do legal aid, others have particular qualifications for different kinds of legal aid work. There is a general trend toward greater legal aid quality assurance in Canada.

LSS approaches to quality assurance include:

- A. an Audit and investigation department that investigates client complaints;*
- B. a mentoring program;*
- C. a training bursary program for continuing legal education;*
- D. specialized training directed to meeting the special needs of legal aid clients.*

The mentoring program (B.) is a relatively recent program. Because of the quality of the mentors (prominent, senior lawyers) and because the program is free there has been no difficulty attracting participants. The program does not yet have an evaluation framework.

7. Does your organization (or legal aid organizations in your country) collaborate with other non-legal organizations/professionals in conducting legal aid work (including aspects such as promotion of legal aid, legal education, advice and representation service, social advocacy and law reform?) How does the collaboration work? Please elaborate with some examples.

Yes. In BC we make a substantial effort to develop and maintain networks of with other agencies serving legal aid clients. In BC there are specialty programs targeted to recruiting and maintaining members in those networks and integrating the network members with legal aid service delivery. LSS has a budget available to assist network members to work with LSS. The budget is for LSS coordination, for training of community partner staff and for contribution to community partners to defray their additional costs.

8. Has your organization (or legal aid organizations in your country) developed any services targeting any specific underprivileged communities or legal issues?

This forum is especially interested in community groups such as women, children, the elderly, **Indigenous peoples**, migrant workers, refugees and stateless persons, social welfare/benefits issues, persons with disabilities, and the homeless, etc.

Please **select at most three fields** and elaborate on the following:

(1) Background reasons: Why target this group/issue? Why launch this type of service?

We offer a number of programs targeted specifically at Aboriginal persons and communities in British Columbia due to the federal and provincial government focus on reconciliation. More information on the Government of Canada's Reconciliation efforts can be found at www.rcaanc-cirnac.gc.ca. LSS is committed to increasing awareness of Aboriginal legal rights and supporting the strengths of Aboriginal cultures and communities.

Scope of legal aid service: legal education, information, advice, representation, advocacy and law reform

Aboriginal community legal workers provide legal information and limited advice services in various locations throughout the province with heavy Aboriginal populations. Services available including free publications specifically aimed at Aboriginal people are outlined below and can be found on LSS's Aboriginal Legal Aid website: <http://aboriginal.legalaid.bc.ca/>

Family advice clinics

Family advice clinics provide access to legal aid.

Parents Legal Centres

Parents Legal Centres help parents with child protection matters.

Legal information outreach services

Legal information outreach workers are available in several

locations to give legal information and provide referrals.

Community partners

Community partners provide legal information and connect people to legal aid services.

- (2) Is the financial eligibility criterion for this community group the same as other legal aid applicants? *Yes*

How do you promote this service and deliver legal education to your target community? Through a website

<http://aboriginal.legalaid.bc.ca/>, Parents Legal Centres, legal information outreach services, community partners and free publications.

- (3) Do you collaborate with other legal or non-legal organizations in this service? How does the collaboration work?

We are guided by Aboriginal community members, especially Elders and Knowledge Keepers. We also collaborate in First Nations Courts and other courts with the Native Courtworkers and Counselling Association of BC. More information can be found

here:

http://aboriginal.legalaid.bc.ca/legal_aid/aboutUs.php

- (4) How do you provide the most effective service with limited funding?

We are guided by Aboriginal community members and we evaluate our services regularly. We are currently focusing on expanding the locations of Parents Legal Centres in British Columbia. These centres focus on assisting Aboriginal parents and guardians with child protection issues. This service was a prioritized recommendation in a report commissioned by the provincial government. Grand Chief Edward John's final report, [Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions](#), which provides a detailed analysis of Indigenous child protection in B.C.

LSS is also focused on increasing the amount of Gladue Reports and

Gladue report writers. Gladue report writers tell the stories of Aboriginal people in court for bail or sentencing hearings.

The purpose of a Gladue report is to give the judge a complete picture of the Aboriginal person before the court. The report has details about their Aboriginal background and the circumstances that brought them to court. More information can be found here: <https://lss.bc.ca/publications/pub.php?pub=488>

LSS routinely evaluates its services and publishes those evaluation results.

(5) Can you tell us about your service performance and outcomes?
Service evaluations specific to Aboriginal services can be found here:

Parents Legal Centre Follow Up Report October 2017

https://lss.bc.ca/assets/aboutUs/reports/PLC%20Refresh%20Evaluation%20Report_Final.pdf

Gladue Report Disbursement Evaluation, June 2013

<https://lss.bc.ca/assets/aboutUs/reports/aboriginalServices/gladueReportDisbursementEvaluationJune2013.pdf>

(6) Have you met any challenges and then adopted any solutions?

1. Gladue report project: LSS is encountering some difficulties in reaching the goal of completing 300 Gladue reports this fiscal year. This is a result of not receiving enough requests for Gladue reports from legal aid criminal defence lawyers. To increase the number of requests we receive, LSS has developed a communication strategy, which has included:

- *mail outs to over 900 criminal defence lawyers, all Native Courtworkers in BC and all Native Friendship Centres;*
- *Notices to Counsel, Legal Aid Briefs and the factum online;*
- *information on our LSS Facebook page; and*

- *presentations at conferences and workshops.*

9. To what extent have the UN Principles and Guidelines on Access to Justice and UN human rights conventions regarding access to justice for specific disadvantaged groups been implemented in your country and compiled by your organization? Have you met any challenges during implementation?

There have been no particular challenges in embracing the UN principles in any of those conventions. Most governments in Canada are focusing on the UN Rights of Indigenous People and it is not yet clear what the scope of the challenges will be.