

August 10, 2000

The Honourable Anne McLellan, P.C., M.P.  
Minister of Justice and Attorney General of Canada  
Justice Canada  
284 Wellington Street  
Ottawa, ON K1A 0H8

Dear Minister,

It was a pleasure, as always, to meet with you on July 27. The purpose of this letter is to follow up on the issues we discussed.

### **Legal Aid**

The Auditor General has called for greater accountability in the federal government's administration of the health care element of the CHST, based on the following principles:

1. Clear roles and responsibilities: the roles and responsibilities of the parties in the accountability relationship should be well understood and agreed to.
2. Clear performance expectations: the objectives being pursued, the accomplishments expected and the rules to be followed should be explicit, understood and agreed to.
3. Balanced expectations and capacities: the performance expectations should be balanced by the commensurate capacities (authorities, skills and resources) of each party.
4. Credible reporting: credible and timely information should be reported to demonstrate the performance achieved and what has been learned.
5. Reasonable review and adjustment: enlightened and informed review and feedback on the performance achieved should be carried out by the accountable parties, where achievements and difficulties are recognized and necessary corrections made.

In our view, these principles apply equally to the federal government's funding of legal aid. While we recognize the challenges with shared-jurisdiction programs, we would like to know what you will do to ensure that the federal government (and governmental funding recipients) meet their obligations in this regard.

CBA representatives had a fruitful meeting with your officials this past spring. We welcome your support for continuing this dialogue, particularly to explore innovative funding and delivery mechanisms. We also acknowledge your undertaking to explore funding for civil legal aid outside the parameters of the CHST.

### **Paralegals**

With the increased hybridization of so many *Criminal Code* offences, serious criminal matters often fall within the summary offence category, so that accused subject to potential penalties of 18 months' imprisonment can now be represented by paralegals. In our view, the proposals in Bill C-36 do not go far enough to protect the public.

Since Bill C-36 was introduced, we have had the benefit of Mr. Justice Cory's report to the Ontario government. We are pleased to know that you will consider changes in light of the Cory recommendations. We recommend that you remove the right of agents to appear on summary conviction offences.

### **Canadian Human Rights Review**

We understand that your consideration of the LaForest report on the *Canadian Human Rights Act* will take some time. The constituent groups of the CBA can bring expertise and insight to matters of human rights substance and process. We welcome an opportunity to respond to the LaForest recommendations and to participate in any consultations in their regard.

### **Supreme Court and Federal Court Facilities**

CBA members of the Supreme Court and Federal Court Liaison Committees have voiced concerns about any possibility that the Chief Justice of Canada would remove facilities for counsel and press in order to accommodate the space requirements. We encourage you to continue to work with the Federal Court to find suitable accommodation in the quickest possible manner.

### **Consultations on *R. v. Shirose and Campbell***

The policy issues raised by the Supreme Court of Canada's decision in *R. v. Shirose and Campbell* are challenging for the government and for the CBA. All the more reason, in our view, for full consultations with adequate time for response. Unfortunately, consultations on this issue has been compromised by unreasonably short response times, materials being given directly to CBA volunteers or to Branch offices without notice (or copies) to the CBA national office (precluding a necessary coordinating function), and opinions being sought over the summer period.

We appreciate your extending the time for comments on the latest draft to at least mid-October. We think it would be appropriate for other stakeholders to be informed of the later date. In the meantime, we will follow up with your officials on both the substance of the consultation document and more suitable processes for ensuring timely input from the CBA.

**Conclusion**

Of the many advantages to being CBA President or Branch President, one of the most pleasurable has been the opportunity to discuss with you the many issues that the Justice portfolio and the CBA have in common. As our respective terms come to a close, we know that our successors, Daphne Dumont and all the Branch Presidents, can rely on a productive working relationship with your good offices.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Susan McGrath', written in a cursive style.

Eugene Meehan, Q.C.  
President – CBA

Susan McGrath  
President – CBA-O

cc. Branch Presidents