



September 18, 2023

Subject: Manitoba Provincial Election 2023 – A Platform for Access to Justice

The Manitoba Bar Association (MBA), a branch of the Canadian Bar Association (CBA), is interested in hearing your party's thoughts on justice issues in advance of the provincial election on October 3, 2023. We are canvassing all provincial parties and will share the responses with our membership via our website, www.cba-mb.ca.

Formed in 1896, the CBA is a national association representing some 36,000 lawyers, judges, notaries, legal academics and law students from across Canada, including approximately 1,600 members in Manitoba. Our mandate includes seeking improvements in the law and to promote access to justice.

Access to Justice issues have long been at the forefront of the CBA's mandate. The CBA's Access to Justice Committee previously prepared a report on these issues titled *Reaching Equal Justice: An Invitation to Envision and Act* ("**Reaching Equal Justice**"), available online at: http://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf

Access to Justice issues are also a priority for the MBA. We are a key contributor in providing free legal education to the public during Access to Justice Week each October, and present an Access to Justice Award at our Mid-Winter Conference each January, recognizing an MBA member for outstanding pro bono legal services or outstanding contributions on the issue of access to justice.

As lawyers in Manitoba, we have an interest in ensuring that our justice system is effective, well-funded, and accessible. With that objective in mind, we invite you to answer the following questions as they relate to your party's plans for access to justice in Manitoba.

1. What will your party do to ensure that legal aid is adequately funded in our province?

The MBA is a strong advocate for appropriate legal aid funding. The CBA *Reaching Equal Justice report* stated that "Polls have shown overwhelming support (91-96%), with 65-74% expressing the view that legal aid should receive the same funding priority as other important social services. Canadians believe justice systems must be accessible to all to be, in fact, just – and publicly funded services are required to get to equal justice." The MBA knows that an underfunded legal aid system fails to ensure equal protection under the law.

We particularly have a duty to ensure that our justice system is well-funded and accessible enough to protect those who are disadvantaged and marginalized. Providing legal aid may be considered expensive, but not providing legal aid costs everyone more. Unrepresented people, without access to lawyers to represent them in court or alternative dispute resolution processes like mediation and arbitration, slow the resolution process down, costing taxpayers more



money. They also get worse results, and lose rights they should have, like support for themselves and their children (which may result in greater reliance on publicly funded programs). A long-term commitment must be made to Legal Aid for sustained, appropriate funding.

Recently, Legal Aid tariffs in Manitoba have been increased, which was long overdue. Low tariff rates create a serious access to justice issue for members of the Criminal Law Bar as well as the Immigration and Family Law Bars. Low rates make it very difficult for experienced counsel to take on more than the occasional Legal Aid certificate. We would be happy to provide you with more information from our MBA Criminal Law, Family Law, and Immigration Law Sections on this topic and others related to Legal Aid.

2. What is your party's plan to modernize the justice system in Manitoba, through investments in technology?

The *Reaching Equal Justice* report noted that “Canada’s justice system lags behind other sectors for integrating technology. Technology (including information technology) can be harnessed to improve access to justice...”

Benefits of investment in modernizing Manitoba’s justice system, through investments in technology, would include making current court processes more efficient and accessible, creating new pathways to justice, reducing delays, and providing direct access to justice resources (such as online dispute resolution). The COVID-19 pandemic demonstrated that our Manitoba justice system must be better equipped in terms of Internet connectivity, and remote conferencing services, especially in the North and in rural areas where access to these options is more limited. Manitobans living outside of Winnipeg must have equal opportunities for access to justice, and more modernized technology in the justice system will help accomplish this.

Our MBA Immigration Law Section has also noted that efforts by the Provincial Government to update the Manitoba Provincial Nominee program should include a review and modernization of the online application system, which will benefit those trying to become new Manitobans. We would be happy to provide you with more suggestions from our MBA Immigration Law Section as to how to modernize this online system.

3. What will your party do to ensure that the justice system is properly resourced and staffed throughout the province?

The *Reaching Equal Justice* report referred to access to justice studies conducted in the United States of America, and noted that one key finding in those studies was that, “An effective staff capacity is essential for a successful Access to Justice effort.”

The MBA is a strong advocate for ensuring that all judicial vacancies in Manitoba are filled in a timely fashion, as a lack of judges creates delays, backlogs of cases, and an obstacle to access



to justice. Similarly, a lack of staff in the Crown's Office and at Courts throughout the province creates delays in processing cases and bringing matters to a hearing. The Independent Audit Report of the Auditor General on Efficiency of Court Services for the Provincial Court of Manitoba found that "The combination of resourcing challenges within Manitoba Justice (the Department) and the high volume of cases in the Provincial Court increases the risk of court cancellations and delays, and may lead to an increase in the case backlog." We also advocate for an increase in the number of investigators at the Manitoba Human Rights Commission, to prevent access to justice issues when complainants and respondents wait a long time for a complaint to be investigated and proceed to a hearing.

4. What steps will your party take to implement the Calls to Action set out in the Truth and Reconciliation Commission Final Report?

In its Final Report, the Truth and Reconciliation Commission made 94 Calls to Action, many of which were specifically directed at provincial governments.

The CBA has long been a strong advocate for many of the subject matters contained within the Calls to Action, and the MBA is a signatory to the Winnipeg Indigenous Accord and has committed to offer education sessions for lawyers on appropriate cultural competency, conflict resolution, human rights, and anti-racism based on the Call to Action #27 recommended by the Truth and Reconciliation Commission. We also collaborate with the Law Society of Manitoba and the University of Manitoba Faculty of Law on an annual seminar for the National Day for Truth and Reconciliation. This year's seminar on September 27 focuses on economic reconciliation.

We also note the efforts of our Manitoba provincial court system to expand community-based justice models, such as the Waywayseecappo Circle Court, into other Indigenous communities in alignment with Call to Action #42, which calls upon all levels of government "to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the Constitution Act, 1982, and the United Nations Declaration on the Rights of Indigenous Peoples, endorsed by Canada in November 2012."

We look forward to receiving your reply to these questions and any additional information regarding your party's justice platform that you may wish to share with our members.

Yours truly,

Jason Gisser
President
Manitoba Bar Association

September 19th, 2023

Jason Gisser, President

Manitoba Bar Association

On behalf of the Green Party of Manitoba, thank you for this opportunity to support the important work of the Manitoba Bar Association.

Thank you for recognizing excellence in Pro Bono work via the MBA!

The Green Party of Manitoba (GPM) members, would I believe endorse your Reaching Equal Justice Report and its findings, as needing to be implemented. I do!

- 1) The GPM believes we should follow the advice carefully researched and presented in your Reaching Equal Justice Report to ensure adequate funding for legal aid including the important work of the Public Interest Law Centre. Subsidization by our province of profitable companies could be minimized, and the funds redirected to ensure the recommendations of this report are enacted.
The GPM supports Citizens Assemblies that create guidance such as this report offers from front line workers with lived experience.
- 2) The GPM supports modernization by investing in technology to improve access including improving the online Immigration Law section. Funding must be increased for this crucial technology to support our newcomer Canadians, as the pressures increase with climate disasters increasing newcomer arrivals to Canada.
- 3) Properly resourced staffing is crucial in all fields! The GPM would take the MBA advice for adequate staffing levels including increased Human Rights investigators to ensure the human rights of Manitobans are being upheld!
- 4) We are dedicated to implementing the 91 Calls to Action of the TRC and are glad the MBA is with us on this! Community based justice models work and need to be implemented more widely. We think government departments themselves need to participate in healing circles to move us away from the hierarchical, colonial structures we struggle for compassion within!

Thank you for the additional materials you have referenced to better inform our policies. I sincerely hope I have the opportunity to support this needed work of implementing your recommendations for increased access to justice in Manitoba!

Kind regards.

A handwritten signature in black ink, appearing to read 'Janine G. Gibson', is written over a horizontal line. To the right of the signature is a vertical line.

Janine G. Gibson
Leader
Green Party of Manitoba
Greenparty.mb.ca



Sept. 28, 2023

Jason Gisser, President
The Manitoba Bar Association
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Dear Mr. Gisser,

Thank you for engaging in this critical election. We appreciate the advocacy from The Manitoba Bar Association and all that your members do to serve the Manitoba justice system. We're pleased for the opportunity to respond to your questions.

What will your party do to ensure that legal aid is adequately funded in our province?

The Manitoba NDP agrees the justice system must be accessible to all to ensure equity. That's why legal aid is critically important to protect those who are disadvantaged and marginalized. When legal aid is underfunded, it can disproportionately affect minorities, particularly Indigenous people and new Canadians.

The Manitoba NDP will work with the Manitoba Bar Association, the Federal Government and other stakeholders to ensure legal aid is adequately resourced.

What is your party's plan to modernize the justice system in Manitoba, through investments in technology?

The Manitoba NDP agrees that this province is falling behind in harnessing information technology to modernize the justice system. As the pressures mount on the justice system, Manitoba is missing out on one of the best ways to improve access to justice and to ensure the delivery of justice is equitable and timely for all sectors of society.

An NDP government will work to develop measures to modernize and expand the use of information technology in our court system starting with improvements to rural broadband to help expand access to justice in rural and northern communities.

What will your party do to ensure that the justice system is properly resourced and staffed throughout the province?

The Manitoba NDP agrees that an effective staff capacity is essential for access to justice. A lack of staff when the court system faces a high volume of cases increases the risk of cancellations and delays. We are committed to the recruitment, training and retention initiatives to ensure the Manitoba justice system is adequately staffed.

What steps will your party take to implement the Calls to Action set out in the Truth and Reconciliation Commission Final Report?

The Manitoba NDP is committed to fulfilling the Calls to Action set out in the TRC final report. As one example, we are committed to the creation of a provincial statutory holiday to mark National Day for Truth and Reconciliation. We are also committed to ensuring the Calls for Justice from the Inquiry into Missing and Murdered Indigenous Women and Girls are implemented.

We'll work with Indigenous communities to ensure our justice system develops and implements plans to fulfill the recommendations aimed at expanding community based and culturally appropriate justice models in Manitoba.

Thank you again for giving us the opportunity to respond to your questions. The Manitoba NDP looks forward to working with The Manitoba Bar Association to move towards a shared vision for a modern and equitable justice system.

Sincerely,

The Manitoba NDP

*No response was received by the Manitoba Progressive Conservative Party or the Manitoba Liberal Party.