



Agenda

Benchers

Date: Saturday, June 2, 2018

Time: **7:30 am** Continental breakfast
8:30 am Call to order

Location: **Spirit Ridge Resort, Osoyoos, BC**

Recording: *Benchers, staff and guests should be aware that a digital audio recording is made at each Benchers meeting to ensure an accurate record of the proceedings.*

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
OATH OF OFFICE:					
Ms. Kresivo will administer an oath of office (in the form set out in Rule 1-3) to new elected Bencher, Karen Snowshoe.					
1	Administer Oath of Office		President		Presentation
CONSENT AGENDA:					
The Consent Agenda matters are proposed to be dealt with by unanimous consent and without debate. Benchers may seek clarification or ask questions without removing a matter from the consent agenda. Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or the Manager, Executive Support (Renee Collins) prior to the meeting.					
2	Consent Agenda <ul style="list-style-type: none"> Minutes of May 4, 2018 meeting (regular session) Minutes of May 4, 2018 meeting (<i>in camera</i> session) Proposed Rule 3-17(6): Investigative Powers Rule 3-64(4): Electronic Transfer 		President	Tab 2.1 Tab 2.2 Tab 2.3 Tab 2.4	Approval Approval Approval Approval



Agenda

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
2 (cont.)	<ul style="list-style-type: none"> 2018 Law Society Scholarship 2018 Law Society Indigenous Scholarship 			Tab 2.5 Tab 2.6	Approval Approval
EXECUTIVE REPORTS					
3	President's Report		President		Briefing
4	CEO's Report		CEO	<i>(To be circulated electronically before the meeting)</i>	Briefing
5	Federation Presentation		Jonathan Herman, CEO, Federation of Law Societies of Canada		Briefing
6	Remarks from Treasurer (President), Law Society of Ontario		Paul Schabas, Treasurer (President), Law Society of Ontario		Briefing
DISCUSSION/DECISION					
7	Selection of Benchers' Nominee for 2019 Second Vice-President		President		Discussion/ Decision
8	Truth and Reconciliation Advisory Committee: <ul style="list-style-type: none"> Proposed Action Plan Scholarship Recommendations Mid-Year Report 		Nancy Merrill, QC	Tab 8	Discussion/ Decision



Agenda

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
REPORTS					
9	Report on Outstanding Hearing & Review Decisions		Craig Ferris, QC		Briefing
10	Debrief of Retreat Conference Agenda		Nancy Merrill, QC		Discussion
FOR INFORMATION					
11	Six Month Bencher Calendar: June to November			Tab 11	Information
IN CAMERA					
12	<i>In camera</i> <ul style="list-style-type: none"> • Bencher concerns • Other business 		President/CEO		Discussion/ Decision



Minutes

Benchers

Date: Friday, May 04, 2018

Present:

Miriam Kresivo, QC, President	Jamie Maclaren, QC
Nancy Merrill, QC, 1 st Vice-President	Claire Marshall
Craig Ferris, QC, 2 nd Vice-President	Geoffrey McDonald
Jasmin Ahmad	Steven McKoen
Jeff Campbell, QC	Phil Riddell
Pinder Cheema, QC	Elizabeth Rowbotham
Jennifer Chow, QC	Mark Rushton
Barbara Cromarty	Carolynn Ryan
Anita Dalakoti	Michelle Stanford
Jeevyn Dhaliwal	Sarah Westwood
Martin Finch, QC	Michael Welsh, QC
Brook Greenberg	Tony Wilson, QC
Lisa Hamilton, QC	Guangbin Yan
Roland Krueger	Heidi Zetsche
Dean P.J. Lawton, QC	

Unable to Attend: Christopher McPherson, QC

Staff Present:

Don Avison	Jason Kuzminski
Deborah Armour, QC	Michael Lucas
Renee Collins	Alison Luke
Su Forbes, QC	Lesley Small
Andrea Hilland	Alan Treleven
Jeffrey Hoskins, QC	Adam Whitcombe
Lindsay Jalava	Vinnie Yuen
David Jordan	

Guests:	Peter German, QC	Peter German & Associates Inc.
	Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
	Laura Selby	Manager of Online Education & Resources, Continuing Legal Education Society of BC
	Dom Bautista	Executive Director, Law Courts Center
	Wayne Robertson, QC	Executive Director, Law Foundation of BC
	Mark Benton, QC	Executive Director, Legal Services Society
	Prof. Bradford Morse	Dean of Law, Thompson Rivers University
	Prof. Jeremy Webber	Dean of Law, University of Victoria

CONSENT AGENDA

1. Administer Oaths of Office

Ms. Kresivo administered the oath of office to the newly appointed Benchers Anita Dalakoti, Roland Krueger, Claire Marshall, Guangin Yan.

2. Minutes & Resolutions

a. Minutes

The minutes of the meeting held on April 6, 2018 were approved as circulated.

The *in camera* minutes of the meeting held on April 6, 2018 were approved as circulated

b. Resolutions

The following resolution was passed unanimously and by consent.

Waiver of Late Trust Report / Accountants Report Filing Fees

BE IT RESOLVED to amend the Law Society Rules as follows:

1. *By rescinding Rule 2-85 (7) (b) and substituting the following:*

- (b) paid all assessments accrued under Rule 3-80 [*Late filing of trust report*] before and after the former lawyer ceased to be a member of the Society unless the Executive Director waives all of the assessments under Rule 3-80 (3) and any conditions have been fulfilled, and

2. *By rescinding Rule 3-80 (4) and substituting the following:*

- (4) When there are special circumstances, the Executive Director may, on application and in his or her discretion, waive payment of all or part of an assessment made under this rule unconditionally or on any conditions that the Executive Director considers appropriate.

3. *By rescinding Rule 5-14 and substituting the following:*

Recovery of money owed to the Society

- 5-14** (1) A lawyer or former lawyer who is liable to pay the costs of an audit or investigation must pay to the Society the full amount owing by the date set by the Discipline Committee.

- (1.1) A lawyer who is liable to pay an assessment under Rule 3-80 [*Late filing of trust report*] must pay to the Society the full amount owing by the date specified in that Rule or as set or extended by the Executive Director.
- (2) A lawyer who has not paid the full amount owing under subrule (1) or (1.1) by the date set or extended is in breach of these Rules and, if any part of the amount owing remains unpaid by December 31 following the making of the order, the Executive Director must not issue a practising certificate to the lawyer unless the Benchers order otherwise.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

GUEST PRESENTATIONS

3. Peter German, QC: Report on Anti-Money Laundering

Ms. Kresivo introduced Peter German, QC who has recently completed a report for the Provincial Government detailing his findings following his investigation into money laundering in BC casinos. While the report has not yet been made public, Mr. German provided Benchers with some thoughts on money laundering in BC and elsewhere.

Mr. German said money laundering in BC involves relationships between organized crime, drug trafficking, casinos and real estate. Essentially, the laundering of money associated with the drug trade involves high interest loans to high stakes gamblers frequenting BC casinos. Similar means are used to enable international citizens to evade their country's currency controls and move money into BC. He noted that these mechanisms do not operate in isolation, but affect many aspects of the economy, significantly including the real estate industry in this province. To that end, he has been retained by the Attorney General to conduct a follow up investigations into real estate in BC.

He noted that while Canada is a signatory to international conventions aimed at combatting money laundering, neither the RCMP nor local police have the capacity or resources to effectively police money laundering; as a result detection and prevention is often left to industry regulators.

Though lawyers were not the focus of his pending report, concern remains that lawyers and accountants and others in the financial sector may be facilitators of money laundering, knowingly or unknowingly. The fact that solicitor client privilege serves to exempt lawyers from reporting suspicious transactions to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) amplifies the need for diligence on the part of the legal profession. He acknowledged that the Law Society of BC has been a leader in this area, but stressed that we must continue to find ways to avoid becoming outliers.

Ms. Kresivo thanked Mr. German for providing this valuable context to Benchers, noting the seriousness with which the Law Society of BC has taken the issue of money laundering, and the prevention, detection and enforcement mechanisms the Law Society has in place. She also noted that the Law Society remains committed to working with government to stay at the forefront of efforts to combat money laundering and protect the public interest.

EXECUTIVE REPORTS

4. President's Report

Ms. Kresivo welcomed the new Benchers, noting that they bring a wealth of experience from a variety of areas to the Bencher table. She provided an update on the Bencher By-election, noting that voting will end May 14 and votes will be counted May 15.

She thanked all of those who performed welcoming ceremonies on her behalf, and remarked on the wonderful celebration of Chief Justice McLachlin at the recent retirement dinner. She related her appearances at recent and upcoming events, and reminded Benchers of the upcoming Bencher Retreat as well as the Commemorative Certificate Luncheon.

She also provided details of the upcoming election for the Benchers' nominee for the 2019 2nd Vice-President, noting that if there is only one candidate, that candidate will be acclaimed at the June Bencher meeting; if there is more than one, an election will follow with results to be announced at the July meeting.

5. CEO's Report

Mr. Avison reported on the technical and procedural issues experienced at the start of the recent Bencher By-election, which resulted in the decision to re-start the election following a remedy of the technical issue and the balloting error. The voting period was also extended to help facilitate maximum participation and those who had already voted were contacted and advised of the need to vote again. Since going live, there have been no issues. Reminders will continue until the close of voting May 14. He noted that an election protocol would be developed to help avoid future issues.

He also noted that implementation of law firm registration will begin next week.

6. Briefing by the Law Society's Member of the Federation Council

Mr. Van Ommen's was unable to attend but Bencher and Federation TRC Working Group member Dean Lawton, QC reported on that group's recent meeting, the agenda for which included discussion of how to move forward with increasing cultural competency in the profession. There were a variety of perspectives and philosophies expressed resulting in a

productive, if not definitive, dialogue. The Federation will continue to work towards development of an optional educational model for law societies to implement if they choose.

DISCUSSION/DECISION

7. Publication of Hearing Reports – Credentials

Credentials Committee Chair Lisa Hamilton, QC provided Benchers with background on this issue, noting that the matter had come before Benchers at their last meeting for discussion and was returning to the table for further discussion and decision. At issue was the publication of hearing decisions containing often sensitive personal information. Weighing privacy considerations against the need for openness and transparency, the Committee has recommended publication of decisions anonymously in all cases, to ensure no candidate's name is associated with a decision or the information it may contain. In so recommending, it was mindful that hearings are public, reasons can be requested and therefore connecting a decision with an individual would still be possible.

Following discussion, Ms. Hamilton moved (seconded by Ms. Stanford) that publication of the outcome of the hearing, with publication of reasons anonymously, be approved by Benchers in principle, and that the matter be referred to the Act and Rules Committee. The motion passed unanimously.

8. Law Firm Regulation Task Force: Update on Regulation and Recommendations for Participation Incentives

Chair Steve McKoen provided a brief background on law firm regulation, the rule changes required, and the upcoming pilot project. The pilot will include 10% of randomly selected firms, taking both geography and firm size into account to ensure a representative sample. With certain exceptions, participation of the selected firms will be mandatory to ensure meaningful participation. However, the Task Force is also making two recommendations to provide a benefit to pilot participants: CPD credit for lawyers who participate in the completion of the self-assessment tool; and, an exemption from participation if completion of the self-assessment is extended to all firms.

Regarding CPD credit, the recommendation is to provide up to 2 hours of credit for time spent on the assessment, characterizing the exercise as a learning opportunity similar to completion of the Small Firm Practice Course which provides 6 hours of credit. Mr. McKoen noted that the Lawyer Education Advisory Committee (LEAC) had reviewed the recommendation; LEAC Chair Dean Lawton, QC raised the committee's concerns that providing credit for the pilot group only could be seen as unfair, but did support the recommendation after discussion.

Benchers discussed the merits of providing 2 hours of credit, or allowing a full 6 hours to reflect the time required to complete the assessment, as is provided for the Small Firm Practice Course. Ms. Stanford moved (seconded by Ms. Hamilton) to amend the proposed resolution in the materials to provide up to 6 hours of CPD credit. Benchers discussed this amendment, including the merits of providing any CPD credit for a regulatory requirement.

Also discussed was whether the proposal of offering CPD credit to Benchers participating in the pilot created a conflict of interest. Tribunal and Legislative Counsel Jeff Hoskins, QC advised that if the Benchers were voting on a rule of general application there was no conflict. Ms. Kresivo noted that those who remained concerned could abstain from voting. Following discussion, there was consensus that Benchers should be excluded from the potential benefit of CPD credits.

Following a call for a vote on the amendment, 7 were in favour, 18 opposed and 1 abstained. The motion to amend the CPD credits to 6 hours failed.

Mr. McKoen then moved (seconded by Mr. Ferris) the resolution that lawyers at firms that are selected for the pilot project will be eligible for up to 2 hours of CPD credit for time they personally spend on the self-assessment exercise, provided their firm submits the self-assessment report to the Law Society by the deadline for completion.

Mr. Wilson moved (seconded by Ms. Ahmad) for an amendment specifying that Benchers be excluded from eligibility for credits. The amendment was treated as a friendly amendment.

Ms. Kresivo called for a vote on the amended motion; the motion passed, with 23 votes in favour.

Mr. McKoen then reviewed the Task Force's second recommendation and moved (seconded by Ms. Ahmad) to exempt pilot project participants from participation in the first cycle of the profession-wide implementation of the self-assessment, if any. Discussion focused on whether this was needed at this stage, given that the pilot itself was to determine whether to move forward with the self-assessment at all.

Following a call for a vote, with 6 for and 22 opposed, the motion failed.

It was then noted that there was uncertainty amongst Benchers regarding the motion earlier voted on; specifically, it was unclear whether a vote had been called for amending the motion proposing 2 hours of CPD credit to exclude Benchers, or for an amended motion that included the Bencher exclusion. It was determined that Benchers were of the view that the vote was to amend the motion; with 23 in favour, that motion passed.

Ms. Kresivo then called for a vote on the amended motion, namely, that pilot participants, excluding Bencher participants, be eligible for up to 2 hours of CPD credit. With 20 in favour, 7 against and 3 abstentions, the motion passed.

9. 25 Year Retrospective Report: Gender Equity Report

Chair of the Equity and Diversity Advisory Committee Jasmin Ahmad reported on the retrospective analysis which was undertaken to track the Law Society's progress on the recommendations of the 1992 Report on Gender Equality in the Justice System,

She was pleased to report that the Law Society had implemented the initiatives recommended, including amending the Code to explicitly prohibit sexual harassment, creating a non-practicing category of membership, and creating model workplace policies that include alternative work arrangements and parental leave.

She also noted that since 1992, the percentage of women practicing overall has risen from 23% to 40%, and that the percentage of women Benchers had risen from 12% to over 50%. Additionally, the percentage of women Chairs of Law Society committees had increased from 0% to 40%.

Despite these moves forward, retention of women in the profession remains a challenge yet to be resolved. The attrition rate has increased from 19% in 1992 to 25.8% in 2018. Although a large portion of these women are assuming non-practicing status, the issue of retention remains of concern.

REPORTS

10. Report on Outstanding Hearing & Review Decisions

Mr. Ferris reviewed the list of outstanding decisions, and encouraged Benchers to be available for hearing dates given the long list of hearings to be set. Following up on a question from last meeting, he also advised that Michelle Robertson would notify adjudicators of any appeals.

12. Rule of Law Lecture

Chair Jeff Campbell, QC briefed Benchers on the upcoming Rule of Law Lecture, noting that further details would be provided shortly.

RTC
2018-05-04

REDACTED MATERIALS

REDACTED MATERIALS



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC for Act and Rules Committee
Date: May 11, 2018
Subject: **Powers of Complainants' Review and Practice Standards Committees**

1. At the April meeting the Benchers endorsed this recommendation of the Executive Committee:

The Executive Committee recommends that the Benchers approve in principle an amendment to the Rules to permit CRC to refer matters to the Executive Director for investigation and to permit the PSC to do likewise as outlined in this memorandum, and that the Benchers refer the issue to the Act and Rules Committee to prepare the amendments accordingly for consideration by the Benchers at a future date.

2. The memorandum considered by the Benchers regarding that recommendation is attached.
3. I also attach redlined and clean versions of draft amendments to give effect to the policy decision.
4. The Act and Rules Committee recommends that the Benchers adopt the attached suggested resolution to effect the required changes.

Attachments: memo to Benchers
draft amendments
resolution

JGH



Memo

To: The Benchers
From: Executive Committee
Date: March 27, 2018
Subject: Creating additional investigation powers for Complainants Review Committee and Practice Standards Committee

Issue

1. The Professional Conduct and Practice Standards Departments requested that the Executive Committee give a policy consideration regarding amending the Law Society Rules to permit the Complainants' Review Committee (CRC) and the Practice Standards Committee (PSC) with the additional option to be able to direct the Executive Director to undertake further investigations of matters under consideration by those committees.
2. The Committee undertook that analysis and makes the recommendations set out at the end of this memorandum.

Current Rules

3. The Rules provide the CRC with two options after it has completed its review. One, it can confirm the decision made at the staff level to close the file. Alternatively, it can refer the matter to either of the Discipline or the Practice Standards Committees "with or without recommendation."
4. The Rules provide the PSC with a wider range of options after it has considered a complaint (Rule 3-17):
 - (a) decide that no further action be taken on the complaint;
 - (b) make recommendations to the lawyer, if it considers that the carrying out of the recommendations will improve the lawyer's practice of law;

- (c) require the lawyer to meet and discuss the circumstances of the complaint with a lawyer or Benchers designated by the Practice Standards Committee, who must then report to the Committee;
- (d) find that there are reasonable grounds to believe that the lawyer is practising law in an incompetent manner and order a practice review in respect of the lawyer's practice;
- (e) refer the complaint to the Discipline Committee

If a matter giving rise to a discipline violation is discovered in the course of what the PSC learns, it may refer the matter to the Chair of the Discipline Committee under Rule 3-21. The limitations this creates are described below.

5. In neither case, however, do the rules specifically provide either the CRC or the PSC with the option of referring the matter back to the Executive Director (staff) for further investigation.

Current Practices and Issues

6. The specific lack of referral power to the Executive Director is usually not problematic. Nevertheless, there are circumstances where the lack of power to refer back to the Executive Director creates issues.

(a) CRC

7. When at the time of making a request for a CRC referral the complainant sends in further information, the staff lawyer who handled the file will review that information to determine whether the new information would affect the decision to have closed the file. If it does, the file will usually be re-opened and staff will do further investigation. If the further investigation indicated the need for a discipline outcome, the matter will be referred to the Discipline Committee. If the new information ultimately does not change the decision to close the file, the file will be closed and the complainant may renew the referral to the CRC.
8. If, on the other hand, the complainant raises new information that discloses another complaint, a new complaint file will be opened and investigated separately.
9. However, problems will from time to time arise where, while in the process of reviewing a complaint, the CRC has reservations about the decision at the staff level to close the file and therefore is considering referring it to the Discipline Committee, but the issue that CRC has identified has not been fully investigated. For example, staff may have closed a file where the complainant was upset at a letter written by counsel that staff concluded

did not meet the threshold of warranting a referral to discipline. The lawyer may not have been asked for a full explanation of the circumstances giving rise to the letter. In such cases, a referral by CRC to Discipline will simply result in Discipline having to refer the matter back to staff for further investigation.

(b) PSC

10. The issue is slightly different with the PSC. Matters are rarely referred from the Professional Conduct Department to the PSC without a considerable amount of discussion with staff to that Committee, so investigations are usually very complete for the purposes of the referral. While the rules give the Committee, when considering a matter, the ability “to instruct the Executive Director to make or authorize any further investigation that the Practice Standards Committee considers desirable” it would be rare for this power to be needed.
11. What happens on a referral to PSC is that the Committee takes the matter and makes a decision about what to do with it. The available options are set out in Rule 3-17 as referred to in paragraph 4 above.
12. The options include requiring the lawyer to meet with a lawyer or Benchers or to order a practice review. Occasionally, during such meetings or reviews, new information surfaces that discloses a potential discipline violation. At that point, however, the Committee is arguably boxed in by the rules, as its only option would be to refer the matter to the Discipline Committee under Rule 3-21. When the latter happens, the Discipline Committee is left with little option other than to refer the matter back to staff for investigation. Similarly, where a lawyer breaches an order made by or undertaken given to the Practice Standards Committee, the matter is referred to the Discipline Committee which then refers the matter back to the Professional Conduct Department for investigation.

Discussion

13. In each case, it is problematic to send a matter, be it from the CRC or the PSC, to the Discipline Committee that has not benefited from a thorough investigation by staff, along with the opportunity for the lawyer to provide explanations, records, and any other information, to staff to address the concern.
14. In circumstances where the Discipline Committee receives such a referral, the Committee will simply refer the matter back to the Executive Director (staff) for further investigation, because there is incomplete information before the Committee to make a proper disposition of the issue.

15. If the Discipline Committee needs to refer matters to staff for a proper investigation, then the referral from CRC or PSC in the situations described simply creates delay.
16. If on the other hand each of the CRC and PSC had the authority to refer matters back to the Executive Director, a proper investigation can occur. For CRC referrals, the original complaint could be re-opened and investigated further, resulting in either a referral to Discipline Committee if a discipline outcome were warranted, or the file could be closed giving the complainant an opportunity to seek a review by CRC. For PSC matters, an amended Rule 3-21 could give the PSC the ability to refer to Discipline (which may be a rational option if the evidence is clear that a discipline violation has been committed, the lawyer has had an opportunity to respond and time is of the essence) or to refer the matter to the Executive Director (in other words, back to staff in the Professional Conduct Department) to investigate the matter that has arisen as a new complaint, without having to go through the current roundabout way to accomplish the same end.

Recommendation

17. The Executive Committee recommends that the Benchers approve in principle an amendment to the Rules to permit CRC to refer matters to the Executive Director for investigation and to permit the PSC to do likewise as outlined in this memorandum, and that the Benchers refer the issue to the Act and Rules Committee to prepare the amendments accordingly for consideration by the Benchers at a future date.

LAW SOCIETY RULES

PART 3 – PROTECTION OF THE PUBLIC

Division 1 – Complaints

Review by Complainants' Review Committee

- 3-14** (4) The Complainants' Review Committee must
- (a) review the documents obtained, collected or produced by the Executive Director under Rules 3-4 to 3-9, and
 - (b) on the direction of an appointed Bencher member of the Committee, make enquiries of the complainant, the lawyer or any other person.
- (5) After its review and enquiries, the Complainants' Review Committee must do one of the following:
- (a) confirm the Executive Director's decision to take no further action;
 - (b) refer the complaint to the Practice Standards Committee or to the Discipline Committee with or without recommendation;
 - (c) direct the Executive Director to conduct further investigation of the complaint to determine its validity.

Division 2 – Practice Standards

Consideration of complaints

- 3-17** (1) The Practice Standards Committee must consider any complaint referred to it by the Executive Director, the Complainants' Review Committee or any other Committee, and may instruct the Executive Director to make or authorize any further investigation that the Practice Standards Committee considers desirable.
- (2) While considering a complaint, the Practice Standards Committee may also consider any other matter arising out of the lawyer's practice of law.
- (3) When considering a complaint, the Practice Standards Committee may do one or more of the following:
- (a) decide that no further action be taken on the complaint;
 - (b) make recommendations to the lawyer, if it considers that the carrying out of the recommendations will improve the lawyer's practice of law;
 - (c) require the lawyer to meet and discuss the circumstances of the complaint with a lawyer or Bencher designated by the Practice Standards Committee, who must then report to the Committee;

LAW SOCIETY RULES

- (d) find that there are reasonable grounds to believe that the lawyer is practising law in an incompetent manner and order a practice review in respect of the lawyer's practice;
- (e) refer the complaint to the Discipline Committee.

(6) At any time, including after taking an action under Rule 3-19, the Practice Standards Committee may

- (a) direct the Executive Director to conduct further investigation of the complaint to determine its validity, or
- (b) refer any information that indicates that a lawyer's conduct may constitute a discipline violation to the Executive Director to be treated as a complaint under Division 1.

Action by Practice Standards Committee

- 3-19** (1) After its consideration of a report received under Rule 3-17 (3) (c) [*Consideration of complaints*] or 3-18 (5) [*Practice review*], the Practice Standards Committee must
- (a) decide that no further action be taken, or
 - (b) recommend that the lawyer do one or more of the following:
 - (i) undertake not to practise in specified areas of law;
 - (ii) complete a remedial program to the satisfaction of the Committee;
 - (iii) complete, to the satisfaction of the Committee, an examination approved by the Committee or its designate;
 - (iv) obtain a psychiatric or psychological assessment or counselling, or both, and, if the Committee requests, provide a report on that assessment or counselling to the Committee;
 - (v) obtain a medical assessment or assistance, or both, and if the Committee requests, provide a report on that assessment or assistance to the Committee;
 - (vi) practise in a setting approved by the Committee, including under the supervision of a lawyer approved by the Committee;
 - (vii) take other steps intended to improve the lawyer's practice of law or otherwise protect the public interest.
- (2) When making recommendations under subrule (1) (b), the Practice Standards Committee may set one or more dates by which the lawyer is to complete the recommendations.

LAW SOCIETY RULES

- (3) On application by the lawyer or the Executive Director, the Practice Standards Committee may extend the date by which the lawyer is to complete a recommendation.
- (4) The Executive Director must reduce the Practice Standards Committee's recommendations to writing and deliver a copy to the lawyer.
- (5) The Practice Standards Committee is not precluded from making a recommendation under subrule (1) because it has previously made a recommendation with respect to the same matter.

Referral to Discipline Committee

- 3-21** (1) The Practice Standards Committee may, at any stage, refer to the Discipline Committee any of the following:
- (a) all or any part of a practice review report delivered under Rule 3-18 (5) [*Practice review*];
 - (b) a report on the manner in which the lawyer has carried out or followed any recommendations or has failed or refused to do so;
 - (c) an order made under Rule 3-20 [*Conditions or limitations on practice*];
 - (d) a report on the failure to comply with an order made under Rule 3-20.
- (2) Despite subrule (1), the Practice Standards Committee may refer a report to the chair of the Discipline Committee with respect to allegations that the lawyer has done one or more of the following:
- (a) breached a rule;
 - (b) breached an undertaking given to the Society;
 - (c) failed to respond to a communication from the Society;
 - (d) breached an order made under the Act or these rules.
- (3) The Practice Standards Committee is not precluded from making a referral under this rule because it has previously made a referral with respect to the same matter.

LAW SOCIETY RULES

PART 3 – PROTECTION OF THE PUBLIC

Division 1 – Complaints

Review by Complainants' Review Committee

- 3-14** (4) The Complainants' Review Committee must
- (a) review the documents obtained, collected or produced by the Executive Director under Rules 3-4 to 3-9, and
 - (b) on the direction of an appointed Bencher member of the Committee, make enquiries of the complainant, the lawyer or any other person.
- (5) After its review and enquiries, the Complainants' Review Committee must do one of the following:
- (a) confirm the Executive Director's decision to take no further action;
 - (b) refer the complaint to the Practice Standards Committee or to the Discipline Committee with or without recommendation;
 - (c) direct the Executive Director to conduct further investigation of the complaint to determine its validity.

Division 2 – Practice Standards

Consideration of complaints

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- (2) While considering a complaint, the Practice Standards Committee may also consider any other matter arising out of the lawyer's practice of law.
- (3) When considering a complaint, the Practice Standards Committee may do one or more of the following:
- (a) decide that no further action be taken on the complaint;
 - (b) make recommendations to the lawyer, if it considers that the carrying out of the recommendations will improve the lawyer's practice of law;
 - (c) require the lawyer to meet and discuss the circumstances of the complaint with a lawyer or Bencher designated by the Practice Standards Committee, who must then report to the Committee;

LAW SOCIETY RULES

- (d) find that there are reasonable grounds to believe that the lawyer is practising law in an incompetent manner and order a practice review in respect of the lawyer's practice;
 - (e) refer the complaint to the Discipline Committee.
- (6) At any time, including after taking an action under Rule 3-19, the Practice Standards Committee may
- (a) direct the Executive Director to conduct further investigation of the complaint to determine its validity, or
 - (b) refer any information that indicates that a lawyer's conduct may constitute a discipline violation to the Executive Director to be treated as a complaint under Division 1.

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- (a) decide that no further action be taken, or
 - (b) recommend that the lawyer do one or more of the following:
 - (i) undertake not to practise in specified areas of law;
 - (ii) complete a remedial program to the satisfaction of the Committee;
 - (iii) complete, to the satisfaction of the Committee, an examination approved by the Committee or its designate;
 - (iv) obtain a psychiatric or psychological assessment or counselling, or both, and, if the Committee requests, provide a report on that assessment or counselling to the Committee;
 - (v) obtain a medical assessment or assistance, or both, and if the Committee requests, provide a report on that assessment or assistance to the Committee;
 - (vi) practise in a setting approved by the Committee, including under the supervision of a lawyer approved by the Committee;
 - (vii) take other steps intended to improve the lawyer's practice of law or otherwise protect the public interest.
- (2) When making recommendations under subrule (1) (b), the Practice Standards Committee may set one or more dates by which the lawyer is to complete the recommendations.

LAW SOCIETY RULES

- (3) On application by the lawyer or the Executive Director, the Practice Standards Committee may extend the date by which the lawyer is to complete a recommendation.
- (4) The Executive Director must reduce the Practice Standards Committee's recommendations to writing and deliver a copy to the lawyer.
- (5) The Practice Standards Committee is not precluded from making a recommendation under subrule (1) because it has previously made a recommendation with respect to the same matter.

Referral to Discipline Committee

- 3-21** (1) The Practice Standards Committee may, at any stage, refer to the Discipline Committee any of the following:
- (a) all or any part of a practice review report delivered under Rule 3-18 (5) [*Practice review*];
 - (b) a report on the manner in which the lawyer has carried out or followed any recommendations or has failed or refused to do so;
 - (c) an order made under Rule 3-20 [*Conditions or limitations on practice*];
 - (d) a report on the failure to comply with an order made under Rule 3-20.
- (2) Despite subrule (1), the Practice Standards Committee may refer a report to the chair of the Discipline Committee with respect to allegations that the lawyer has done one or more of the following:
- (a) breached a rule;
 - (b) breached an undertaking given to the Society;
 - (c) failed to respond to a communication from the Society;
 - (d) breached an order made under the Act or these rules.
- (3) The Practice Standards Committee is not precluded from making a referral under this rule because it has previously made a referral with respect to the same matter.

COMMITTEE POWERS

SUGGESTED RESOLUTION:

BE IT RESOLVED to amend the Law Society Rules as follows:

1. *In Rule 3-14 by rescinding subrule (5) (b) and substituting the following:*
 - (b) refer the complaint to the Practice Standards Committee or to the Discipline Committee with or without recommendation;
 - (c) direct the Executive Director to conduct further investigation of the complaint to determine its validity..

2. *In Rule 3-17 by adding the following subrule:*
 - (6) At any time, including after taking an action under Rule 3-19, the Practice Standards Committee may
 - (a) direct the Executive Director to conduct further investigation of the complaint to determine its validity, or
 - (b) refer any information that indicates that a lawyer's conduct may constitute a discipline violation to the Executive Director to be treated as a complaint under Division 1..

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC for Act and Rules Committee
Date: May 11, 2018
Subject: **Correction to electronic transfer rules**

1. This memo is about correcting an error in a provision not yet in effect.
2. In December 2017 the Benchers adopted new rules governing the transfer of funds in lawyers' trust accounts by electronic means. To allow time for implementation of new procedures, the changes do not come into effect until July 1, 2018.
3. One significant change involves moving a provision allowing payment of legal fees from trust from what is now Rule 3-64, which deals with withdrawal of trust funds generally, to Rule 3-65, which deals more specifically with payment of fees from trust.
4. Unfortunately, a reference in Rule 3-64 to the provision that is to be removed from that rule was not changed to conform to the change.
5. This is the reference:

Withdrawal from trust

- 3-64** (4) A lawyer must not make or authorize the withdrawal of funds from a pooled or separate trust account, except
- (a) by cheque as permitted by subrule (5) or (6),

6. Subrule (6) is to be moved to Rule 3-65, so that the provision should read:

Withdrawal from trust

- 3-64** (4) A lawyer must not make or authorize the withdrawal of funds from a pooled or separate trust account, except
- (a) by cheque as permitted by subrule (5) or Rule 3-65 (1.1) (a),

7. The Committee recommends that the Benchers adopt the following suggested resolution:

BE IT RESOLVED to amend Rule 3-64 (4) (a) by striking “subrule (5) or (6),” and substituting “subrule (5) or Rule 3-65 (1.1) (a),” effective July 1, 2018.

JGH



Memo

To: Benchers
From: Lesley Small
Date: May 15, 2018
Subject: **2018 Law Society Scholarship**

The Benchers are asked to ratify the recommendation of the Credentials Committee to award the 2018 Law Society Scholarship to Gabriella Jamieson.

The Law Society Scholarship of \$12,000 is offered annually to eligible candidates to encourage and financially assist those candidates in completing graduate studies which will, in turn, ultimately benefit the individual, the province, and the legal profession in British Columbia.

Eligibility

Candidates who are proceeding to a full program of graduate studies in a field of law at a recognized institution are eligible for the Scholarship if they are graduates or graduating students of the University of British Columbia, University of Victoria or Thompson Rivers University law school or, in some other way, can demonstrate a real or substantial connection to British Columbia. Candidates are advised that the Committee will only consider applications from candidates who have outstanding academic and other qualifications.

Guidelines

In addition to examining how the candidate's proposed graduate studies will benefit the individual, the province, and the legal profession in BC, the Committee also takes into consideration:

- i) the candidate's academic standing;
- ii) the candidate's positive social contributions, such as volunteer work;
- iii) whether the candidate intends to practise in BC after their graduate studies;
- iv) financial need; and
- v) importance or significance of proposed graduate work.

Candidates awarded the Scholarship are required to provide a reporting letter on the use of the Scholarship and a copy of the relevant work.

Documents Required in Support of the Application

Each candidate must apply by letter setting out the details of the candidate's academic career to date and proposed plans for graduate study.

The following must also be submitted with the application:

- i) official transcripts of the candidate's academic career; and
- ii) one letter of recommendation from the Dean and two letters from professors of the law school the candidate has graduated or will graduate from.

Conditions

Candidates are advised that the Scholarship will not necessarily be offered every year and, when offered, will be awarded only if there is a highly qualified candidate. The Scholarship must be used in the year it is awarded. The recipient may accept and receive other scholarships and awards up to an amount not exceeding the tuition of the graduate program in which the recipient enrolls, or such other amount as the Committee may determine.

2018 Applicants

The Committee considered applications for the 2018 Scholarship from the following applicants:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Recipients

The Committee resolved to recommend to the Benchers that the \$12,000 Law Society Scholarship be awarded to [REDACTED], with [REDACTED] as the runner-up.

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Attachments

- Application with supporting documentation from [Redacted] and [Redacted]



Memo

To: Benchers
From: Lesley Small
Date: May 15, 2018
Subject: **2018 Law Society Indigenous Scholarship**

The Benchers are asked to ratify the recommendation of the Credentials Committee to award the 2018 Law Society Indigenous Scholarship to Christina Gray.

The Indigenous Scholarship of \$12,000 will be offered annually to eligible Indigenous candidates to encourage and financially assist those candidates in completing graduate legal studies which will, in turn, ultimately benefit the individual, the province, and the legal profession in British Columbia.

Eligibility

Indigenous candidates who are proceeding to a full program of graduate studies in a field of law at a recognized institution are eligible for the Scholarship if they are graduates or graduating students of the University of British Columbia, University of Victoria or Thompson Rivers University law schools or, in some other way, can demonstrate a real or substantial connection to British Columbia. Candidates are advised that the Credentials Committee will only consider applications from candidates who have outstanding academic and other qualifications.

Guidelines

In addition to examining how the candidate's proposed graduate studies will benefit the individual, the province, and the legal profession in BC, the Credentials Committee also takes into consideration:

- i) the candidate's academic standing;
- ii) the candidate's positive social contributions, such as volunteer work;
- iii) whether the candidate intends to practise in BC after his or her graduate studies;
- iv) financial need; and

- v) importance or significance of proposed graduate work.

Candidates awarded the Scholarship are required to provide a reporting letter on the use of the Scholarship and a copy of the relevant work.

Documents Required in Support of the Application

Each candidate must apply by letter setting out the details of the candidate's academic career to date and proposed plans for graduate study.

The following must also be submitted with the application:

- i) official transcripts of the candidate's academic career;
- ii) one letter of recommendation from the Dean and two letters from professors of the law school the candidate has graduated or will graduate from; and
- iii) photocopy of either a status or membership card or formal letter from a recognized organization attesting to Indigenous identity. Indigenous refers to First Nations (North American Indian, Status and non-Status), Metis and Inuit.

Conditions

Candidates are advised that the Indigenous Scholarship will not necessarily be offered every year and, when offered, will be awarded only if there is a highly qualified candidate. The Indigenous Scholarship must be used in the year it is awarded. The recipient may accept and receive other scholarships and awards up to an amount not exceeding the tuition of the graduate program in which the recipient enrolls, or such other amount as the Credentials Committee may determine.

2018 Applicants

The Committee considered applications for the 2018 Indigenous Scholarship from the following applicants:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Recipients

The Credentials Committee resolved to recommend to the Benchers that the \$12,000 Indigenous Scholarship be awarded to [REDACTED], with [REDACTED] as the runner-up.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Attachments

- Application with supporting documentation from [REDACTED] and [REDACTED]



Truth and Reconciliation Action Plan

Truth and Reconciliation Advisory Committee

Grand Chief Ed John (Co-chair)

Nancy Merrill, QC (Co-chair)

John Borrows

Craig Ferris, QC

Dean Lawton, QC

Claire Marshall

Michael McDonald, QC

Ardith Walkem, QC

May 8, 2018

Prepared for: Law Society of British Columbia

Prepared by: Truth and Reconciliation Advisory Committee

BACKGROUND

On October 30, 2015, the Benchers unanimously acknowledged the findings of the Truth and Reconciliation Commission (TRC) and committed to addressing all of the TRC calls to action that are within the purview of the Law Society's mandate. The Law Society appreciates its moral and ethical obligation to advance truth and reconciliation. The Truth and Reconciliation Action Plan will guide the Law Society's strategic and meaningful response to the TRC calls to action.

TRUTH AND RECONCILIATION ACTION PLAN

COMMITMENTS

In accordance with the TRC's calls to action, the Law Society of British Columbia commits to:

1. Improving the legal profession's understanding of the detrimental impacts of the imposition of colonial laws and policies on Indigenous peoples;
2. Fostering the legal profession's respect for Indigenous individuals, institutions, and laws;
3. Increasing the legal profession's appreciation of the applicability of Indigenous laws within the Canadian legal system;
4. Engaging with Indigenous communities and organizations to better understand the unique needs of Indigenous people in relation to the legal system in British Columbia;
5. Undertaking strategic collaborations to:
 - a. Advance intercultural competence training for lawyers;
 - b. Enhance the availability of culturally competent legal services for Indigenous people in British Columbia; and
 - c. Improve access to justice for Indigenous people in British Columbia;
6. Addressing the unique needs of Indigenous people within the Law Society's regulatory processes;
7. Supporting Indigenous lawyers, articled students, and law students in British Columbia;
8. Implementing all of the TRC calls to action that are within the purview of the Law Society's mandate; and

9. Continually reviewing, evaluating, and renewing the Truth and Reconciliation Action Plan to ensure that it remains relevant and effective in advancing the Law Society's efforts towards truth and reconciliation.

ACTIONS

1. The Law Society of British Columbia will be more inclusive of Indigenous people by:

- i. Seeking guidance from the Law Society of BC's Truth and Reconciliation Advisory Committee;
- ii. Publicly stating its commitment to implementing the TRC calls to action that are within the purview of the Law Society's mandate;
- iii. Ensuring that Law Society events are more inclusive of Indigenous people, by:
 - a. Acknowledging Indigenous territories at the beginning of Law Society functions;
 - b. Observing Indigenous protocols to open Law Society events;
 - c. Inviting Indigenous dignitaries to attend Law Society meetings and events;
 - d. Increasing the use of Indigenous businesses, suppliers, venues, and service providers; and
 - e. Applying the "alternate attire procedure" to process applications for the use of Indigenous regalia at call ceremonies.
- iv. Making the Law Society premises more welcoming for Indigenous individuals (e.g. by ensuring that symbols in the Law Society building are respectful of Indigenous people).
- v. Improving the accessibility of Law Society processes by Indigenous people by:
 - a. Requesting that the government of British Columbia appoint an Indigenous bencher;
 - b. Ensuring Indigenous representation on Law Society Committees;
 - c. Reviewing the Law Society's *Act, Rules, Code*, policies, and procedures to identify and remove any systemic barriers for Indigenous people;
 - d. Recruiting Indigenous Benchers, committee members, and staff;
 - e. Connecting with Indigenous communities; and

- f. Developing information sheets and online resources aimed at Indigenous audiences.

2. The Law Society of British Columbia will foster its support for Indigenous law students, articulated students, and lawyers by:

- i. Tracking progress on the Law Society's 2000 Report regarding Aboriginal Lawyers, with the goal of addressing any outstanding recommendations within the purview of the Law Society;
- ii. Expanding the eligibility criteria for the Indigenous graduate scholarship to include Indigenous Juris Doctor students;
- iii. Making concerted efforts to:
 - a. Hire Indigenous law students (e.g. summer and articulated students) and lawyers; and
 - b. Appoint Indigenous lawyers to Law Society Committees;
- iv. Continuing to administer the Law Society's Indigenous Lawyers Mentorship Program;
- v. Strategically collaborating with law schools and legal organizations to develop and enhance initiatives to recruit, retain, and advance Indigenous lawyers; and
- vi. Continuing to monitor demographics regarding Indigenous lawyers in BC.

3. The Law Society of British Columbia will increase the involvement of Indigenous people in Law Society governance by:

- i. Integrating the TRC's calls to action into the Law Society's strategic plan;
- ii. Seeking guidance from the Truth and Reconciliation Advisory Committee;
- iii. Requesting that the government of British Columbia appoint an Indigenous benchler;
- iv. Assigning Indigenous individuals to Law Society committees;
- v. Improving coordination and cooperation among Law Society committees;
- vi. Enhancing collaborative efforts with other legal organizations;
- vii. Fostering engagement with Indigenous communities; and
- viii. Enriching relations with Indigenous lawyers.

4. The Law Society of British Columbia will improve the intercultural competence of Law Society Benchers, staff, and committee members, and all lawyers and Admission Program candidates in British Columbia by:

- i. Mandating Indigenous intercultural competence education for all Law Society Benchers, staff, and committee members, and all lawyers and Admission Program candidates in British Columbia;
- ii. Clarifying criteria, standards, and best practices for intercultural competence education;
- iii. Cataloguing Indigenous legal course offerings that are available to lawyers in BC;
- iv. Collaborating with appropriate legal and Indigenous organizations to:
 - a. Develop and distribute appropriate intercultural competence educational resources (e.g. online tools and best practice guides) in light of the TRC calls to action; and
 - b. Support the training of intercultural competence educators (e.g. “train the trainers” session for Indigenous lawyers who are interested in learning how to facilitate a “Blanket Exercise”).
- v. Facilitating the dissemination of existing educational resources (e.g. the Truth and Reconciliation Symposium proceedings and “But I was Wearing a Suit” videos); and
- vi. Reviewing the “continuing professional development” requirements in light of the TRC calls to action.

5. The Law Society of British Columbia will regularly review, evaluate, and report on its progress on the Truth and Reconciliation Action Plan, by:

- i. Clarifying timelines for accomplishing action items;
- ii. Establishing mechanisms for interested parties (including Indigenous communities, legal organizations, lawyers, articulated students, and law students) to provide feedback on the Law Society’s efforts toward truth and reconciliation;
- iii. Identifying rational indicators of progress; and
- iv. Providing regular progress reports that are publicly available (e.g. mid-year and year-end progress reports at Benchers’ meetings).

6. In recognition that truth and reconciliation are ongoing and long term endeavors, the Law Society will ensure the Truth and Reconciliation Action Plan maintains relevance by:

- i. Adapting the Truth and Reconciliation Action Plan in response to regular reviews, progress evaluations, and emerging Indigenous legal issues.

DRAFT



Memo

To: Benchers
From: Truth and Reconciliation Advisory Committee
Date: May 8, 2018
Subject: Indigenous Law Scholarship

PURPOSE

The purpose of this memo is to seek Benchers approval to expand the eligibility criteria for the Indigenous law graduate scholarship to include Indigenous Juris Doctor students.

BACKGROUND

In 2011, the Executive Committee asked the Equity and Diversity Advisory Committee to consider whether the Law Society should offer a scholarship for Aboriginal lawyers completing graduate studies. The Indigenous Law Graduate Scholarship was created in 2012 to enhance the retention of Indigenous lawyers by assisting the development of Indigenous leaders in the legal academic community. Such leaders could serve as role models in law schools and encourage Indigenous students to pursue legal careers. The scholarship presents a strong positive message that the Law Society values and supports the participation of Indigenous peoples in the development of law and issues relevant to the legal profession. The scholarship has been available since 2013, but it has not been awarded in 2016 or 2017 because no applications were received in these years.

The underutilization of the Indigenous Scholarship indicates that the scholarship is not meeting its goal of improving the retention of Indigenous lawyers in BC. This memo analyzes options for the future of the scholarship, and recommends that the scholarship be transformed into a scholarship for Indigenous JD students.

History

The Law Society's role in issuing scholarships is specified in the *Legal Profession Act*:

28(b) The Benchers may take any steps they consider advisable to promote and improve the standard of practice by lawyers, including...granting scholarships, bursaries and loans to persons engaged in a program of legal education.

The Law Society offers a Graduate Scholarship and an Indigenous Scholarship for students pursuing graduate studies in a field of law. The only difference between the scholarships is that

to be eligible for the Indigenous Scholarship, applicants are required to establish their Indigenous identity:

	Graduate Scholarship	Indigenous Scholarship
Amount	\$12,000	
Eligibility	<p>Graduating law students and law graduates of the University of British Columbia, University of Victoria or Thompson Rivers University are eligible to apply for the scholarship, as are other law school graduates who can show a real or substantial connection to BC.</p>	<p>Open to Indigenous students who are proceeding to a full program of graduate studies in a field of law. Candidates must be graduates of the University of British Columbia, University of Victoria or Thompson Rivers University law schools or be able to demonstrate a real or substantial connection to BC.</p>
Criteria	<ul style="list-style-type: none"> • academic standing; • positive social contributions, such as volunteer work; • intention to practise in British Columbia after completing graduate studies; • financial need; and • proposed graduate work in terms of its importance or significance. 	
Must submit	<ul style="list-style-type: none"> • a letter of application setting out the details of applicant's academic career and proposed plans for graduate study; • official transcripts of academic institutions attended; and • three letters of recommendation: one from the Dean of the law school from which the applicant graduated or is about to graduate and two letters from professors of that law school. <p style="text-align: right;">Indigenous applicants are also required to submit a photocopy of either a status or membership card or a formal letter from a recognized organization that can attest to the applicant's Indigenous identity.</p>	
Terms	<ul style="list-style-type: none"> • The scholarship may not be offered in a given year and will be awarded only if there is a highly qualified applicant. • The scholarship must be used in the year it is awarded. • A recipient may accept other scholarships and awards up to an amount not exceeding the tuition of the graduate program in which he or she enrolls, or such other amount as the Credentials Committee may determine. • A student who is awarded the scholarship must report on his or her use of the scholarship and provide a copy of the relevant work. 	

Graduate Scholarship

The Law Society's Graduate Scholarship has undergone a number of analyses during its evolution which are relevant to the current analysis of the Indigenous Scholarship. The inception of the Graduate Scholarship occurred in 1960, when the Law Society of BC offered a "Fellowship" to encourage law graduates to pursue teaching careers at the law schools in British Columbia. In 1972, the Law Society requested that the Law Foundation assume responsibility of the Fellowship, but the Law Foundation declined.

In 1973, the Benchers again questioned the continued funding of the Fellowship, and struck an ad hoc committee to consider whether the Fellowship should be used to address the lack of legal services in remote communities. On the recommendation of the committee, the Benchers decided against using the Fellowship to subsidize lawyers to practice law in remote areas of the province.

Between 1979 and 1981, a number of worthy candidates had declined the Fellowship because the eligibility criteria prohibited recipients from accepting any other grants. In 1981 the eligibility criteria were amended to allow recipients to accept other grants, and limited the Fellowship to graduates of UBC and UVic law schools.

In 1987, the Benchers reflected on whether the Law Society should continue to offer the Fellowship, and tasked the Planning Committee with considering the following questions:

- 1) Whether it was appropriate for the Law Society to use its members' money to assist students in law studies;
- 2) If the scholarship should reward academic excellence;
 - a. If so, should it be tied to an academic career in areas of law of special interest to the Law Society?
- 3) If the scholarship should be used to assist financial needs;
 - a. If so, should the Law Society's assistance be available to:
 - i. students in an LL.B. program,
 - ii. students in post-graduate studies only, or
 - iii. economically disadvantaged groups?

The Planning Committee discussed this memo on July 28, 1987, and unanimously decided to continue offering the scholarship to a UBC or UVic law graduates for full-time post graduate studies. The scholarship is now also available to graduates of Thompson Rivers University, and other students who can demonstrate a connection to British Columbia.

Indigenous Scholarship

When the Equity and Diversity Advisory Committee was developing the Indigenous Scholarship in 2011, they considered:

1) Whether other Canadian law societies offer scholarships

In 2011, the Committee only knew of Prince Edward Island's three JD scholarships worth \$2000 each, jointly funded by the Law Society and Law Foundation, and awarded annually based on financial need and academic achievement. Since then, additional law societies now offer scholarships and bursaries.

The Law Society of Saskatchewan established an endowment for a scholarship to be awarded for the pursuit of post-graduate studies in criminal law. Applicants must be attending the University of Saskatchewan Law School, or Saskatchewan residents and practicing members of the Law Society of Saskatchewan. The Law Society of Saskatchewan also provides a bursary to assist a student from rural Saskatchewan to attend law school. The Benchers created the bursary to encourage students from rural Saskatchewan to become lawyers and practice in rural Saskatchewan.

The Law Society of Manitoba offers post-graduation debt relief bursary if lawyers graduated from the University of Manitoba law school and remain articling or practicing in that province.

In 2011, the Barreau du Québec introduced a scholarship program for lawyers who are pursuing full-time studies related to law or the legal profession. The scholarship provides \$750 per academic year for which the member is studying full-time. A total of 50 scholarships are awarded each fiscal year (April 1 to March 31).¹

The Law Society of Newfoundland and Labrador provides awards to "students-at-law" for top marks in the Bar Admission Course, Family Law Exam, Criminal Law Exam, Real Estate/Wills Exam, and for a Research Essay, and Academic Performance.

Three law societies advertise awards that are funded by other organizations:

- The Law Society of Nunavut advertises awards provided by the Law Foundation.
- The Law Society of Alberta advertises the Viscount Bennet Scholarship Supporting Graduate Studies in Common Law, but the award is made by the Dean of the University of Alberta Law School.
- The Law Society of Upper Canada advertises the Roger Fisher Negotiation Training Scholarship, which is funded by the Stitt Feld Handy Group, and provides negotiation

¹ The eligibility rules are as follows:

- A lawyer must pursue a graduate degree in a law program, or study in a program related to the law.
- The member must have a status in good standing and pay his or her own tuition.
- The scholarship must be used in the year it is awarded (i.e. it is not retroactive or deferrable).
- The scholarship awarded is equal to the tuition fees but may not exceed \$750.
- The member must not receive any income from employment during the period of full-time studies;
- The member must apply for a scholarship each year in order to benefit from the program and demonstrate with supporting documents: 1) he or she is enrolled full-time at a recognized university that mentions the registration period; 2) he or she studies in a law-related program or in connection with the profession of law.

training to an individual in Ontario who otherwise would not be able to receive negotiation training.

2) Scholarship opportunities available to Indigenous students

The Equity and Diversity Advisory Committee also investigated other scholarship opportunities available to Indigenous students at the LLB and graduate (LLM and PhD) levels. The Committee found a few scholarship opportunities at the JD level,² but none targeted at Indigenous students pursuing graduate degrees in law. The Committee therefore opted to make the Indigenous scholarship a graduate scholarship. The Committee believed a graduate scholarship would assist in the development of Indigenous leaders in the legal academic community to serve as role models in law schools and encourage Indigenous students to pursue legal careers.

3) Eligibility

The Equity and Diversity Advisory Committee also considered whether eligibility should be based on Indigenous identity or on the nature of the graduate work (i.e. related to developments in Aboriginal law, supporting Indigenous lawyers, or enhancing access to legal services for Indigenous peoples). Citing the purpose of the scholarship as supporting the retention of Indigenous lawyers, rather than the development of Aboriginal law and legal issues, the Committee concluded that eligibility should be focused on the Indigenous identity of the applicant. The Committee stated that the goal of the scholarship is to address the significant underrepresentation of Indigenous lawyers in the profession, and noted that until Indigenous lawyers are equitably represented in the profession, it is important to have the scholarship focused exclusively on Indigenous recipients.

4) Amount

The Committee decided that the amount of the Indigenous Scholarship should be the same as the Law Society's Graduate Scholarship (\$12,000) to emphasize that the Law Society values the work of Indigenous and non-Indigenous scholars equally. Although Indigenous applicants are not precluded from applying for both scholarships, the Committee recommended that no single applicant be awarded both scholarships during the same year. As revealed in the chart above, the Indigenous Scholarship was designed to reflect the Graduate Scholarship. The only difference

² For example: "Indspire" (formerly known as the "National Aboriginal Achievement Foundation") also offers financial awards to Métis and non-status First Nation students enrolled in pre-law or law programs at accredited Canadian post-secondary institutions; the Canadian Bar Association BC Aboriginal Lawyers Forum, Indspire, and the Law Foundation collaboratively endowed an Aboriginal Law Student Scholarship Trust Fund that awards scholarships to Indigenous (First Nations, Métis, and Inuit) JD students enrolled in full time studies in British Columbia each year; the Indigenous Bar Association offers two scholarships annually to Indigenous law students enrolled in Canadian law schools; and other entities such as foundations, non-profit organizations, independent benefactors, governments, banks, corporations, and law firms offer Indigenous post-secondary scholarships with eligibility criteria aimed at, or inclusive of, Indigenous law students.

between the two is that the Indigenous Scholarship requires applicants to establish their Indigenous identity.

ANALYSIS

The Indigenous Scholarship is currently underutilized, and is therefore not meeting its primary objective: to increase the number of Indigenous lawyers in British Columbia to a level that is reflective of the demographic makeup of this province.

There are a few options with respect to the Indigenous Scholarship:

- 1) maintaining the *status quo*,
- 2) phasing it out,
- 3) expanding the eligibility criteria to include JD students, or
- 4) expanding the eligibility criteria to include JD and pre-law students.

Option 1: *Status Quo*

One option is to maintain the *status quo* and continue to offer the scholarship to Indigenous graduate students researching law. The descriptions for both the Indigenous and the Graduate Scholarships anticipate the scholarships will not necessarily be awarded every year, and so the Law Society could be complacent with the scholarships going unawarded. However, an unawarded scholarship indicates that the objective of the scholarship is not being met.

The objective of the Indigenous Scholarship is to support the recruitment, retention and advancement of Indigenous lawyers in British Columbia. This objective is still extremely relevant to the Law Society, particularly in light of the Law Society's efforts in support of the Truth and Reconciliation Commission's calls to action. If the Law Society opts to maintain the *status quo*, then strategies to increase the number of applications for the Indigenous Scholarship will be required.

The reasons for lack of applicants for the Indigenous Scholarship are unclear. There may be a lack of awareness about the award. Additional effort could be used to advertise the scholarship, but concerted communications efforts to attract additional applicants have been unsuccessful for the past two years. It is likely that the lack of applicants for the scholarship will continue to be an issue.

Factors other than lack of awareness may be contributing to the low rate of applications. For example, the eligibility criteria may be too narrow. Eligibility is limited to full time Indigenous graduate students in a field of law attending a university in British Columbia, or with some demonstrable connection to British Columbia. Enrolment of students meeting these criteria is likely low. Many Indigenous students pursuing legally related graduate degrees may be enrolled in part time studies.³

³ E.g. it is not uncommon for practicing lawyers to partake in part time graduate studies.

Expanding the criteria to include part time studies may increase the number of eligible applicants, but doing so may not be logical. The \$12,000 scholarship amount was devised with full time studies in mind, and tuition for part time studies is substantially lower, so the full amount is likely disproportionate. Moreover, there is no guarantee that offering the scholarship to part time students would increase the number of applicants. For example, there may be low enrolment of Indigenous graduate students in law related fields in general (i.e. full or part time studies). Also, the tax implications of accepting a scholarship might dissuade part time students from applying for the Indigenous Law Graduate Scholarship (e.g. if a lawyer is working full time and attending graduate studies on a part time basis, the tuition for part time graduate studies would likely be eligible as a tax deduction. If the lawyer accepted the scholarship, the \$12,000 would be taxable income).

Option 2: Phase the Scholarship Out

Another option might be to phase the scholarship out. However, this would not support the Law Society's goal of increasing the representation of Indigenous lawyers in the legal profession in BC, and could be perceived as contrary to the Law Society's commitment to implementing the Truth and Reconciliation Advisory Committee's calls to action.

Option 3: Expand the Eligibility Criteria to Include JD Students

Another option might be to expand the eligibility criteria to include Indigenous Juris Doctor students enrolled in BC law schools. The Law Society believes the public is best served by a legal profession that is representative of British Columbia's diverse society. The goal of the scholarship is to support the development of Indigenous lawyers, to bring the demographic composition of the legal profession into line with that of British Columbia. The most recent numbers indicate that Indigenous people make up 2.6% of the legal profession, and 5.9% of the population in British Columbia.

Because the Law Society's Indigenous scholarship started as a graduate scholarship, the Truth and Reconciliation Advisory Committee considered the option of continuing to target graduate students, with the possibility of awarding the scholarship to one or more JD students if no applications are received from any graduate students in a given year. However, the majority of the Committee did not support prioritizing graduate students over JD students. Instead, most Committee members believed that providing scholarships to Indigenous JD students would more directly assist their progression toward becoming lawyers (as compared to legal academics). Expanding the criteria to include Indigenous JD students would broaden the applicant pool without alienating Indigenous graduate students.

The pool of Indigenous JD students in law schools in BC is larger than the pool of graduate students. In recent years, the average enrollment of Indigenous students in first year law classes in British Columbia are approximately: 20 per year at the University of British Columbia, 9 per year at the University of Victoria Faculty of Law, and 5 per year at Thompson Rivers Law

School.⁴ At this rate of enrollment over the three year JD program, it is reasonable to estimate that there are approximately: 60 JD students enrolled at UBC, 27 enrolled at UVic, and 15 enrolled at TRU. There will likely be even higher enrolment in the coming year, because the University of Victoria's joint degree program in Canadian Common Law and Indigenous Legal Orders is set to welcome 25 additional students in September 2018.⁵ If the eligibility criteria for the Law Society's Indigenous Scholarship were expanded to include Indigenous JD students, then the demand for the scholarship would significantly increase. The adapted scholarship would continue to demonstrate the Law Society's support for the recruitment, retention, and advancement of Indigenous lawyers in British Columbia.

Although there are a few funding sources for Indigenous students at the JD level,⁶ there is evidence to suggest that additional funding would better support the enrolment of Indigenous students in legal education.

Many First Nations students receive financial support from the Federal Department of Indigenous and Northern Affairs through the Post-Secondary Student Support Program. However, in 1996, the federal government imposed a 2% funding cap on Indigenous programs. The funding cap has been detrimental to the availability of funding for First Nations students. By 2016, an 18.3% decrease in the number of students funded by the program was reported, despite significant increases to Indigenous populations.⁷ Many First Nations do not have sufficient resources to meet the number of requests for funding, resulting in long wait lists and restricted access. Not every student who is interested in pursuing post-secondary education is able to secure funding from the Post-Secondary Student Support Program.

Following the federal government's funding cap, many First Nations band governments created policies to deal with increasing demands for limited post-secondary funding. A common approach is for band governments to limit post-secondary funding to "one degree per student," whereby students may be funded for one undergraduate degree, but are precluded from obtaining funding for their next level of studies. Law school requires at least three years of undergraduate study; most applicants complete their undergraduate degrees prior to beginning law school. Therefore, the "one degree per student" approach has a direct and negative impact on the accessibility of post-secondary funding for Indigenous law students. Even though the federal government removed the funding cap in 2016, the availability of funding continues to fall short of the demand. As a result, many bands are maintaining restrictive (e.g. "one degree per student") post-secondary funding policies.

⁴ Law Society of British Columbia Truth and Reconciliation Commission Symposium Materials, (Continuing Legal Education Society of BC, November 2017), available online: https://www.cle.bc.ca/wp-content/uploads/2018/03/LawSocietyofBCTruthandReconciliationSymposium_Materials.pdf at 192.

⁵ The 25 seats are open to both Indigenous and non-Indigenous students, but there will likely be a high level of interest from Indigenous students.

⁶ See *supra* note 2.

⁷ See: <http://www.cbc.ca/news/politics/first-nations-cap-higher-education-1.3753021> .

Although some financial resources are available to Indigenous JD students, there are reasons to anticipate the need for funding will escalate. First, the Indigenous population continues to grow. Census data shows that the Indigenous population grew 42.5% between 2006 and 2016 – more than four times the growth rate of the non-Indigenous population over the same time period.⁸ Second, the law schools in British Columbia are enhancing Indigenous programs, and in light of such developments, it is reasonable to predict that Indigenous students will become increasingly interested in pursuing legal education. Third, rising tuition costs contribute to the increasing need for financial resources by Indigenous law students.⁹ A scholarship for Indigenous JD students would constitute a tangible demonstration of the Law Society’s support for the development of Indigenous lawyers in British Columbia.

Providing scholarships to Indigenous students at the JD level might create expectations that the Law Society should provide JD scholarships to other equity seeking groups as well. The scholarship could be limited to Indigenous JD students based on the Law Society’s goal of supporting the implementation of the TRC’s calls to action, with the rationale that increasing the number of Indigenous lawyers to be reflective of societal demographics is fundamental to advancing reconciliation.

The current eligibility criteria allows applicants who are enrolled in graduate programs outside of British Columbia to apply for the scholarship: “Candidates must be graduates of the University of British Columbia, University of Victoria or Thompson Rivers University law schools or be able to demonstrate a real or substantial connection to BC.” If the eligibility criteria is expanded to include JD students, the Committee should consider limiting eligibility to Indigenous students who are enrolled in full time studies at British Columbia law schools to: provide a clearer parameter for eligibility, help manage the anticipated increase in applications, and ensure that applicants have a demonstrable connection to British Columbia.

Option 4: Expand the Eligibility Criteria to Include Pre-Law Students

The Law Society’s Report on Addressing Discriminatory Barriers Facing Aboriginal Law Students and Lawyers¹⁰ recommended funding pre-law studies:

That the Law Society, as part of its equity mandate, develop a strategy (through staff and an ad hoc committee appointed for that purpose) to ensure that all Aboriginal students who have received an offer of admission to a B.C. law school and who wish to attend the Saskatchewan [Native Law Centre Pre-Law] Program are provided with adequate financial means to allow them to do so. Such a strategy may include action plans for creation of a Law Society bursary fund, for lobbying the federal and provincial government, the Law Foundation, law firms and the private sector to create or contribute

⁸ <http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-011-x/99-011-x2011001-eng.cfm> .

⁹ The tuition fees at the law schools in British Columbia are: Peter A. Allard School of Law (at the University of British Columbia) - \$12,400; Thompson Rivers University - \$19,500; University of Victoria – \$10,700.

¹⁰ <https://www.lawsociety.bc.ca/Website/media/Shared/docs/publications/reports/AboriginalReport.pdf> .

to similar bursary funds, and an action plan for working with Aboriginal organizations to pursue these objectives.

The Committee made this recommendation because the pre-law program:

1. Provides an effective screening and evaluation function that enables law schools to admit Aboriginal students who might not otherwise be admitted;
2. Provides students with extensive instruction and practice in the academic and legal skills necessary for successful completion of law school;
3. Helps to prepare students for the cultural shocks of law school and also provides the opportunity to create a support network among Aboriginal students; and
4. Provides an opportunity for its graduates to obtain credit for the first-year property course; this in turn gives those students much needed, additional study time for their other first-year law courses.

The authors of the 2000 report likely anticipated that providing financial means for students to attend the pre-law program would encourage Indigenous students to attend. However, this may not be the case. Law schools generally accept students unconditionally, so students are not required to attend the summer program, and usually opt out for a number of reasons, including:

- Attendance would require them to forfeit summer employment;
- They would have to move to Saskatoon for the eight week course;
- The temporary move would result in added expenses, such as travel to and from Saskatchewan, as well as living expenses in Saskatoon (which would likely be in addition to costs associated with maintaining accommodation in BC); and
- Some students may also have other responsibilities (e.g. family) to consider.

Due to these logistical considerations, additional financial support for Indigenous students to attend the pre-law program may not increase the number of Indigenous students from British Columbia law schools who take advantage of the pre-law program.

Additional Considerations

a) Flexibility

The Committee has also raised the idea of flexibility with respect to the number of scholarships and the value of each award. However, clarity would be beneficial for both administrators and applicants of the scholarship.

From the perspective of the selection committee, flexibility would likely make the scholarship difficult to administer. If the eligibility criteria is expanded to include JD students, the number of applications is expected to grow, but the extent of the increase is difficult to predict. The absence of certainty regarding the number and value of awards might appear to lack transparency. It may

be problematic for the selection committee to determine the number and the value of scholarships after the applications are received. Establishing the number and value of awards before accepting applications would help to facilitate a transparent and principled distribution of scholarships. The selection committee would have clear parameters regarding how many scholarships to award, and how much each scholarship is worth.

Clarity regarding the number and value of the scholarships would be useful information for applicants, as well. These details would help applicants to assess whether to apply, and how much effort to put into their applications. Dividing the scholarship into a specific number of awards of equal values would help to promote certainty. With this approach, the selection committee would have clarity on how many scholarships should be awarded, and potential applicants would have clarity on the number of scholarships available, and the value of each award.¹¹

b) Increasing the Amount Budgeted for the Scholarship

Expanding the eligibility criteria to include Indigenous JD applicants would certainly increase the number of applicants for the scholarship. With higher demand, the Committee anticipates that it may be beneficial to increase the amount budgeted for the Indigenous scholarship. The Committee proposes a modest increase, from \$12,000 to \$20,000. The scholarship could be awarded to one student (\$20,000), or divided between two students (\$10,000 per student), at the discretion of the selection committee.

RECOMMENDATION

The Truth and Reconciliation Advisory Committee recommends:

1. Expanding the eligibility criteria to include Indigenous graduate and JD students;
2. Increasing the scholarship to \$20,000;
3. Allowing the scholarship to be awarded to one student (\$20,000), or divided equally between two students (\$10,000 per student), at the discretion of the selection committee.

Proposed eligibility criteria for the Indigenous Scholarship is attached as Appendix A.

¹¹ If the Committee selects this option, the Committee will need to decide how many scholarships will be awarded, and how much each award will be worth.

APPENDIX A: DRAFT INDIGENOUS SCHOLARSHIP CRITERIA

Objective

The Law Society of British Columbia is pleased to offer a scholarship for Indigenous students enrolled in full time legal studies in the province of British Columbia. The scholarship may be awarded to one student (\$20,000), or divided equally between two students (\$10,000 per student), at the discretion of the selection committee. The Indigenous Scholarship aims to enhance the demographic representation of Indigenous lawyers in British Columbia by supporting their legal education.

Eligibility

The Indigenous Scholarship is open to Canadian Indigenous¹² law students who are enrolled in full time studies at the University of British Columbia, University of Victoria or Thompson Rivers University law schools.

Selection Criteria

The Credentials Committee will take into consideration:

- academic standing;
- positive social contributions, such as volunteer work;
- the applicant's intention to practise law in BC after completing legal studies; and
- financial need.

Application Process

A candidate must submit a letter to the Law Society setting out the details of the applicant's academic career, social contributions, intention to practise in BC upon completion of legal studies, and financial need.

The application letter must be accompanied by:

- official transcripts of the applicant's academic career;
- proof of enrolment in a law school in British Columbia;
- two letters of recommendation (preferably one academic reference, and one reference confirming the applicant's social contributions); and
- proof of Canadian Indigenous ancestry, specifically, a photocopy of either a status, citizenship, membership, registration, or enrolment card issued by:

¹² "Indigenous" refers to a person who is recognized as "one of the Aboriginal peoples of Canada" within the meaning of section 35 of the *Constitution Act, 1982*, which further states that the "Aboriginal peoples of Canada includes the [First Nations], Inuit, and Métis peoples of Canada."

- The Registrar of the Federal Government’s “Indian” Register;
- A Band within the meaning of the *Indian Act* that has control of its membership list;
- An Indigenous group under a modern land claims agreement;
- An Inuit organization that is recognized by the Government of Canada;
- An Inuit organization that is recognized by the Government of Nunavut;
- One of the Métis Settlements in Alberta;
- A provincial organization that is a member of the Métis National Council, which includes the Métis Nation of British Columbia, the Métis Nation of Alberta, the Métis Nation of Saskatchewan, the Manitoba Métis Federation, and the Métis Nation of Ontario; or
- A Métis organization that is recognized by the Government of Canada.¹³

Deadline

All documents must be submitted to the Law Society of British Columbia no later than March 31 of any given year.

¹³ This wording reflects the proof of Indigenous ancestry criteria applied by Indspire.



2018 Mid-Year Report

Truth and Reconciliation Advisory Committee

Chief Ed John (Co-Chair)

Nancy Merrill, QC (Co-Chair)

John Borrows

Craig Ferris, QC

Dean Lawton, QC

Claire Marshall

Michael McDonald, QC

Ardith Walkem, QC

May 11, 2018

Prepared for: Benchers

Prepared by: Truth and Reconciliation Advisory Committee

Purpose: Information

Introduction

1. The Truth and Reconciliation Advisory Committee (“Committee”) is one of the advisory committees appointed by the Benchers to monitor issues of importance to the Law Society and to advise the Benchers in connection with those issues. From time to time, the Committee is also asked to analyze policy implications of Law Society initiatives, and may be asked to develop the recommendations or policy alternatives regarding such initiatives.
2. The purpose of this report is to update the Benchers about the work the Committee has undertaken since its December 2017 report.
3. The Committee met on January 25, March 1, April 5, and May 3, 2018. The Committee also had a joint meeting with the Access to Legal Services and Legal Aid Advisory Committees on February 17, 2018. The Committee has discussed the following matters between January and May, 2018.

Truth and Reconciliation Symposium

4. The Committee identified action items for 2018 arising from the Truth and Reconciliation Symposium, co-hosted by the Law Society of British Columbia and the Continuing Legal Education Society of British Columbia on November 23, 2017. The Committee discussed the possibility of hosting another symposium at some point in the future.

Terms of Reference Amendment

5. The Truth and Reconciliation Advisory Committee’s terms of reference were expanded to enable a member of the Executive Ladder (i.e. the President, First Vice-President or Second Vice-President) to serve as a co-chair of the Committee. The amendment maintains the requirement that the Law Society’s representative must be a member of Executive Ladder, and accordingly continues to demonstrate the commitment of the Law Society’s top level of governance to the implementation of relevant TRC calls to action. The amendment also facilitates continuity in the leadership of the Truth and Reconciliation Advisory Committee.

Draft Reconciliation Action Plan

6. The Committee has developed a draft reconciliation action plan for discussion (but not decision) at the June 2, 2018 Bencher meeting. Once input is received from the Benchers, the reconciliation action plan will be finalized and presented for decision at a later date.

Joint Meeting

7. A joint meeting among the Access to Legal Services, Legal Aid, and Truth and Reconciliation Advisory Committees was held on February 17, 2018. The Committees agreed to share information and to collaborate in situations where the Committees have overlapping mandates.

Benchers' Retreat

8. At the direction of First Vice President, Nancy Merrill, QC, who is also a Co-Chair of the Truth and Reconciliation Advisory Committee, the topic of the 2018 Benchers' Retreat is truth and reconciliation. Accordingly, the Truth and Reconciliation Advisory Committee was integral to planning the 2018 Benchers' Retreat.
9. The Committee helped to identify the keynote speakers: Dr. Jeannette Armstrong (Canada Research Chair of Indigenous Knowledge and Philosophies) and Dr. Marie Wilson (former Commissioner of the Truth and Reconciliation Commission). The Committee also recommended that the Benchers participate in the Kairos blanket exercise during the Benchers' Retreat. Ardith Walkem, QC, a Truth and Reconciliation Advisory Committee member, will facilitate the blanket exercise with assistance from Law Society staff.

Professional Legal Training Course

10. PLTC planning includes the integration of Indigenous issues, cultural competency and Indigenous laws throughout the entire curriculum. PLTC has begun by including more content on law relating to Indigenous peoples in selected lesson plans. For example, PLTC has added an afternoon module on child protection, and an entire day on criminal procedure, including bail and sentencing principles and *Gladue* principles. The Legal Services Society's *Gladue Primer* has been added to the activity plan student manual. PLTC held a Kairos blanket exercise in the February 2018 session as a pilot project. A Truth and Reconciliation Advisory Committee member, Ardith Walkem, QC, was central to facilitating the session. While the cultural competency material is being developed, we are including in the May 2018 session an afternoon cultural competency workshop relating to the legacy of residential schools and colonial laws and policies.

Indigenous Scholarship

11. The Committee has discussed the Indigenous law scholarship of \$12,000, which is currently offered to Indigenous graduate students in a field of law who have a demonstrable connection to British Columbia. The Committee has three recommendations for the scholarship:

- i. Expand the eligibility criteria to include Indigenous graduate and Juris Doctor students enrolled in full time studies at a law school in British Columbia;
- ii. Increase the amount of the scholarship to \$20,000; and
- iii. Allow the scholarship to be awarded to one student (\$20,000), or divided equally between two students (\$10,000 per student), at the discretion of the selection committee.

12. The Benchers will consider the recommendations during the June 2, 2018 Bencher meeting.

Intercultural Competency Principles

13. The Committee has had preliminary discussions regarding principles for intercultural competency, and has reached out the Lawyer Education Advisory Committee to invite collaboration about the role of lawyer education in improving intercultural competency.

Credentials Assessments

14. Lesley Small (Manager of the Credentials Department) attended the Truth and Reconciliation Advisory Committee's May 3, 2018 meeting to explain the Law Society of BC's current process for assessing the character of new lawyers and reinstatement candidates. The Committee acknowledged that the current process is focused on contextual factors, and therefore facilitates the consideration of systemic barriers during character assessments. The Committee stressed the importance of ensuring that Credentials Committee members and Law Society staff responsible for character assessments are sufficiently trained to identify and understand systemic factors that may be relevant.

Federation of Law Societies TRC Advisory Committee

15. In January of 2018, Dean Lawton, QC was appointed as the Western Representative on the Federation of Law Societies Truth and Reconciliation Advisory Committee. He was appointed to replace David Crossin, QC, who resigned from the Committee when he was appointed to the Supreme Court of British Columbia in September of 2017.

16. The Federation of Law Societies' TRC Calls to Action Advisory Committee met in Montreal on March 19, 2018. Two of the Law Society of BC's Truth and Reconciliation Advisory Committee members, John Borrows and Dean Lawton, QC, and one Law Society of BC staff member attended the meeting. The central topic of the meeting was intercultural competency. The Committee also discussed the Federation's potential areas of influence, such as the *Model Code* and National Standards.

17. On May 9, 2018 Dean Lawton, QC, and Andrea Hilland participated in a telephone conference call with Koren Lightning-Earle, Kara-Dawn Jordan, and Alissa Schacter, representatives of the Law Societies of Alberta, Saskatchewan, and Manitoba respectively for Truth and Reconciliation initiatives. The purpose of the call was to provide a report to them about the March 19, 2018 meeting in Montreal, to obtain updates on their work, and to encourage ongoing communication.