

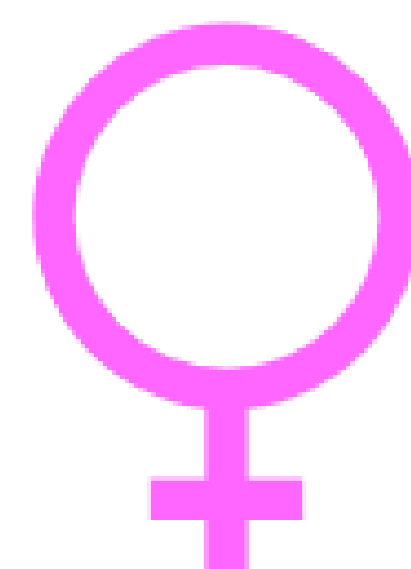
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## Overview

- Legal Aid is a publicly funded organization that champions access to justice through professional legal services. In Saskatchewan, Legal Aid came into existence in 1974.
- The emergence of Legal Aid challenged the legal system as it brought with it the first large-scale representation of poor people as well as Indigenous peoples before the court.
- Women as lawyers before the courts were also uncommon before the emergence of Legal Aid
- Lawyers at Legal Aid have some of the highest caseloads in the legal profession, reporting approximately 200 annual criminal law files or 125 family law files annually.
- Through interviews with long-time Legal Aid Lawyers, it was confirmed that women have always made up around half of Legal Aid's staff lawyers. This is significant as the legal profession remains a male-dominated field.
- Lawyers at Legal Aid are some of the lowest-paid legal professionals
- 59% of the staff lawyers employed at Legal Aid Saskatchewan in 2023 were women. In comparison, women make up approximately 39% of all practicing lawyers in Saskatchewan
- Positions that are held by women are undervalued, resulting in lower compensation for similar work
- The legal profession is complacent about the state of Legal Aid which cannot be isolated from the fact that the majority of Legal Aid work is done by women.

## Pay Equity Framework

- Pay equity refers to the concept of equal pay for work of equal value. If an employee's work contributes equally to the employer's operations, the employees should be compensated the same.
- Pay equity is difficult to enforce in female-dominated workplaces, such as Legal Aid, as all lawyers within the organization are compensated similarly.
- No Male Comparator frameworks apply to workplaces where 60% of employees are women. However, given that law is a male-dominated field, this concept can also be applied to Legal Aid.
- A lack of within-field male comparators makes it more difficult to illustrate salary anomalies, which entrenches pay discrimination and the employer's commitment to addressing pay equity issues is often minimal.
- Skills that are feminized are culturally devalued relative to skills associated with masculinity. The result is systematically lower wages for female-dominated jobs in comparison to jobs predominantly held by men
- Feminized skills are skills that are considered to be inherently female traits such as caring, compassion, and empathy. Skills such as compassion and empathy are important to the work at Legal Aid.
- Saskatchewan does not have pay equity legislation.
- In jurisdictions without pay equity legislation, it is difficult to address gender-based pay discrimination
- A relevant male comparator is lawyers employed by the government.
- Positions such as Crown Prosecutors have traditionally been held by men



## Job Comparison

Pay equity frameworks assess jobs based on skill, effort, responsibility, and working conditions. Jobs commonly held by women tend to be paid less than jobs commonly held by men even when the work is comparable in value based on skill, effort, responsibility, and working conditions.

### 1. Skill

- Positions as lawyers with Legal Aid and Government have identical requirements for the job.
- Both positions require a law degree and to be a member in good standing with the Law Society in the province you are practicing.

### 2. Effort:

- Lawyers employed by Legal Aid and the Government often work on opposing sides of the same file
- Both positions require: working long hours, balancing competing demands, regular court appearances, and busy schedules.

### 3. Responsibility

- Both positions require working on complex files and each role is equally important in a modern criminal justice system.
- The Crown represents the public interest and Defence Counsel protects the rights of the accused

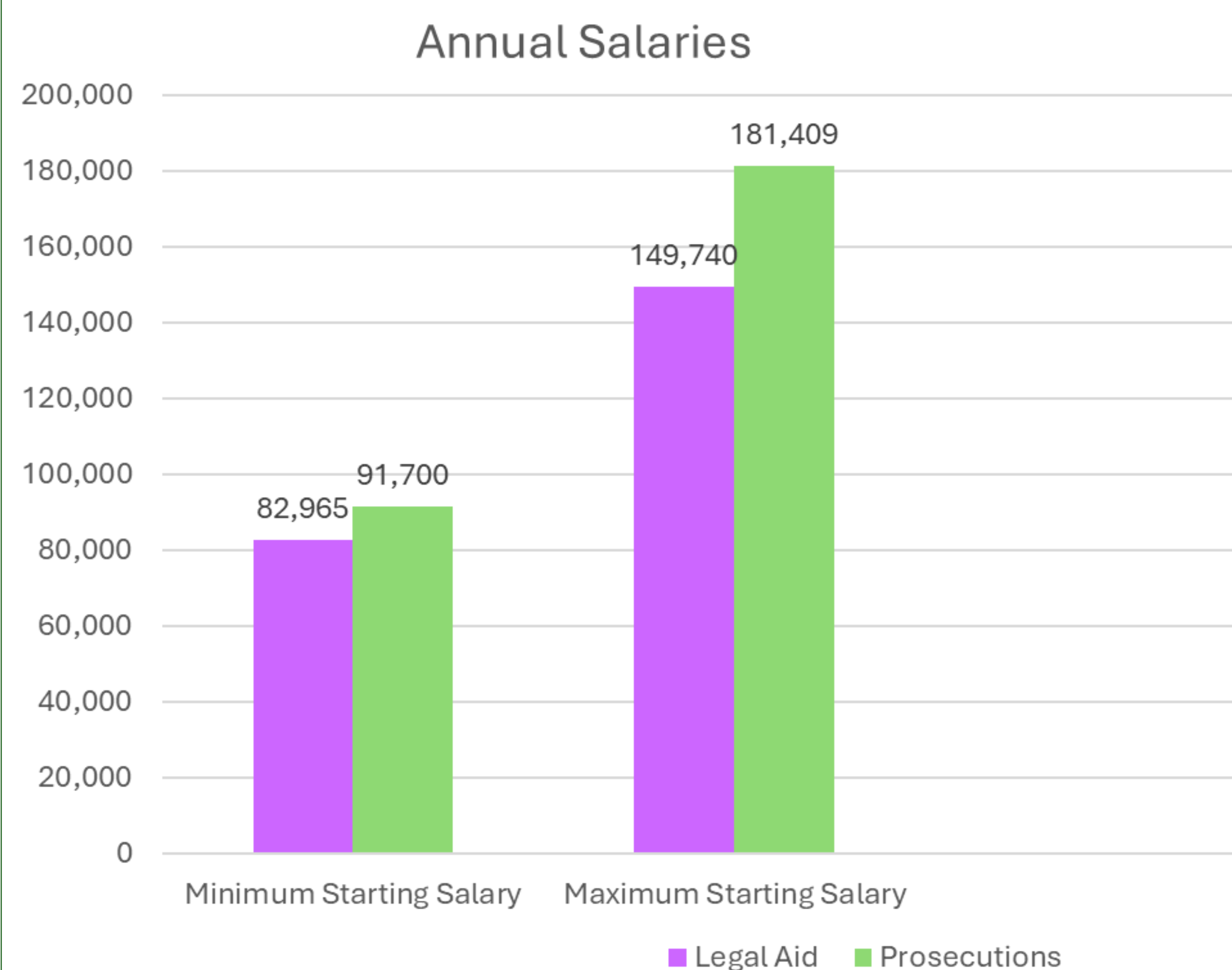
### 4. Working Conditions

- On average, Legal Aid lawyers have higher caseloads and fewer resources

**“Public defenders are in precisely the same position as prosecuting lawyers – save that they sit at the other side of the counsel table.”**

**- Carter Report 1993**

## Salary Comparisons



Note: lawyers at Legal Aid required 3-5 years of experience while Prosecutions only required applicants to be a practicing lawyer

## Access to Justice

- Access to justice refers to equal access to the legal system.
- Meaningful access to justice includes the ability to fully exercise your legal rights.
- Legal Aid represents clients who cannot otherwise afford a lawyer in criminal and family law matters.
- Legal Aid defends the undefendable. The legal profession as a whole must care about the state of Legal Aid
- Legal Aid plays a significant role in addressing the access to justice crisis through professional legal representation for marginalized populations who would not otherwise have legal representation.
- Wage disparity is correlated to high staff turnover and lawyer vacancies at Legal Aid.
- There is a lack of public discourse on the state of Legal Aid funding and most lawyers will never see a Legal Aid file in their career.



## Constitutional Considerations

Wage disparity at Legal Aid is not only an issue of pay equity. It is also an access to justice issue that presents constitutional considerations

### R v Rowbotham

- The state has an obligation to fund legal counsel for an unrepresented defendant in criminal proceedings.
- Legal aid policies reflect the Rowbotham framework by providing legal representation to accused persons whose liberty is at stake. This is usually interpreted to mean the accused is facing jail time.

### Right to a Fair Trial

- Wage disparity at Legal Aid raises a constitutional risk to the Crown.
- The presumption of innocence and the right to a fair trial are threatened without an adequate Legal Aid plan
- There is a point where wage disparity compromises the defendant's right to make a full answer and defence

## Research Methodology

- All employee statistics and salary information were obtained through publicly available resources.
- Legal Aid employee statistics were obtained through Legal Aid Saskatchewan's published annual reports.
- Information on staff demographics before 2015 was obtained through qualitative interviews with two long-time Legal Aid lawyers
- Information on annual salaries was obtained through job postings from Legal Aid and Crown Prosecutions in Saskatchewan. These rates are based on 2023 salaries.
- Prosecution salaries were used for comparative purposes because the majority of Legal Aid's work is in criminal law