


Legal Aid and Access to Justice in Canada

Irish Legal Aid Board
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Ab Currie
Senior Research Fellow
Canadian Forum on Civil Justice



Canadian Forum on Civil Justice 
Forum canadien sur la justice civile

Legal Aid in Canada in Brief

- **13 separate legal aid commissions**
- **Each one a statutory body of the province or territory**
- **Total expenditures = \$813.1 million (2012-13)**
- **\$23.13 per capita (pop = 35,158,000 in 2013)**
- **Approximately € 15.5**

Legal Aid in Canada in Brief

- **Expenditures range from \$244.4 million (Ontario) to \$1.9 million (Prince Edward Island)**
- **Volume of service ranges from 244,400 approved applications per year (Quebec) to 450 (Nunavut)**
- **Delivery models are very different**

Legal Aid in Canada: A Bird's Eye View



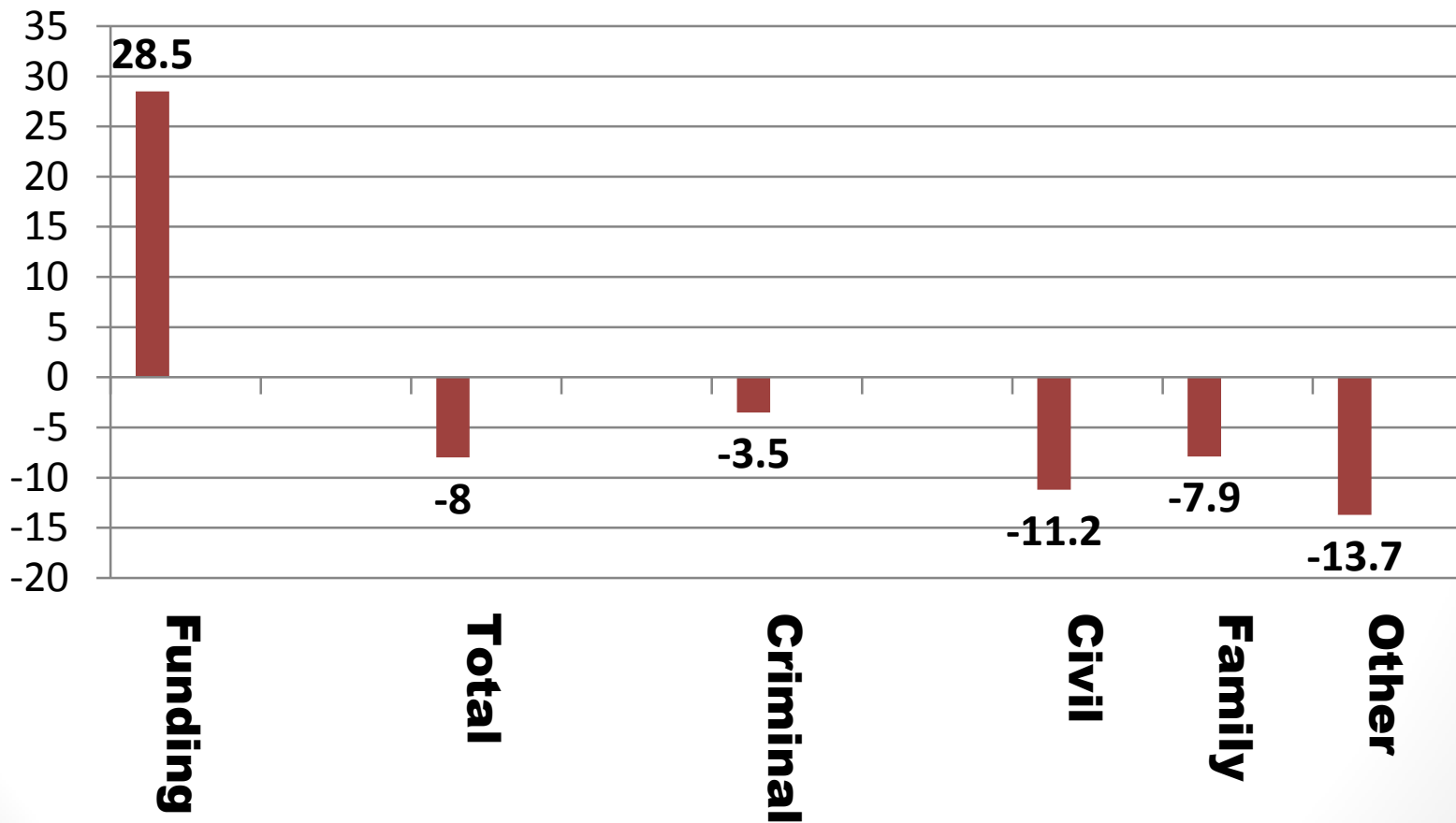
Legal Aid: Recent Trends

Over 5 years from 2008-09 to 2012-13

- **Funding from government up 28.5%**
- **Approved applications for service declined by 5.4% (8 jurisdictions)**
- **Decline of 2% in criminal and 9.6% in civil**

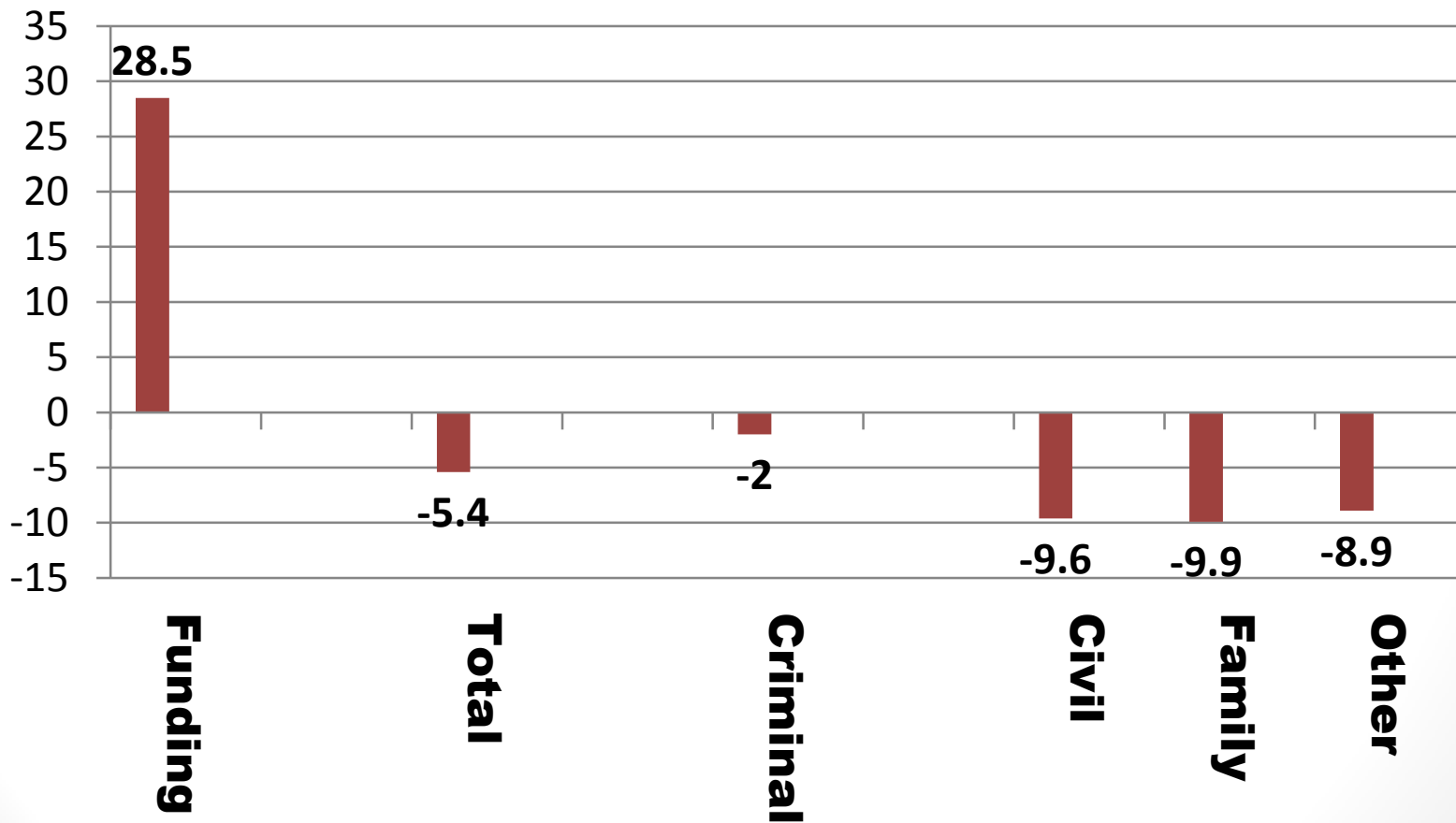
Total Applications

% Change 2008-09 to 2012-13



Approved Applications

% Change 2001-09 to 2012-13

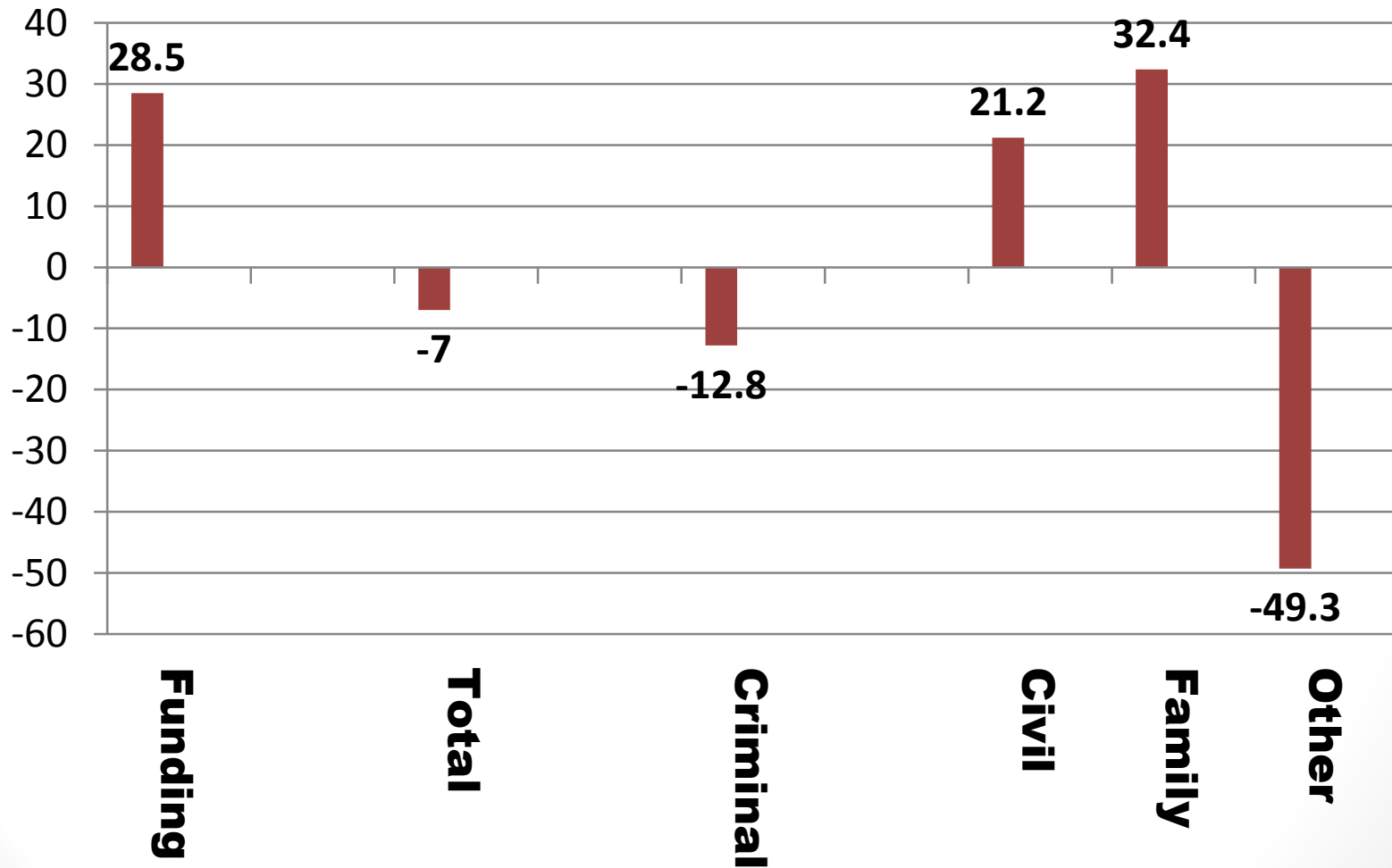


Legal Aid: Recent Trends

Over 5 years from 2008-09 to 2012-13

- **Duty counsel declined by 7.0%**
- **Declined 12.8% for criminal**
- **Increased 21.2% for civil**
- **Increase of 32.4% in family matters**

Duty Counsel



Legal Aid: Patterns in the Data

- 1) **Squeeze between rising expenditures and decreasing service**
 - **Since the mid-1990's**
 - **A disturbing picture of legal aid: it does not tell the whole story**
 - **Expanded duty counsel**

Expanded Duty Counsel

- An approach to providing duty counsel services that attempts to move matters quickly at the early stages of the court system, often achieving early resolutions prior to a written application for legal aid
- Differs from the traditional “facilitating model” in that duty lawyers are assigned to the court on a continuous basis so they are able to see an individual on more than one initial appearance

Legal Aid: Patterns

2) Increased use of expanded duty counsel

- First developed in criminal matters, Manitoba in the early 1990's
- Adopted by Ontario in the mid 1990's
- In all jurisdictions in one form or another
- Increasingly used in family courts

Legal Aid: Patterns

2) Increased use of expanded duty counsel

- Even though duty counsel is declining
- 1.4 million duty counsel services (1.1 million in criminal and 308K in civil)
- Many of these are “dispositive” services
- Replace full service cases

Expanded Duty Counsel

- **Long-standing trend in the delivery of Canadian legal aid**

Legal Aid In Canada

**The Action Committee on Access to
Justice in Civil and family Matters**

The Action Committee: A Climate for Change

- **The Action Committee on Access to Justice in Civil and Family Matters**
- **Supported by the Chief Justice**
- **Led by Justice Cromwell from the Supreme Court**
- **All civil justice stakeholders represented**
- **Strong Steering Committee**

The Action Committee: A Climate for Change

- **Two Phases**
- **Phase I. Organizing work in 2010 - 2011; then 2012 to 2014 developing the “roadmap”**
- **Phase II. Implementing the roadmap in the provinces and territories**
- **A national structure to support research and innovation**

The Action Committee: The Vision

The starting point and consistent focus of the Action Committee is on the broad range of legal problems experienced by the public — not just those that are adjudicated by courts. Key to this understanding of the justice system is that it looks at everyday legal problems from the point of view of the people experiencing them. Historically, access to justice has been a concept that centered on the formal justice system (courts, tribunals, lawyers and judges) and its procedures. The formal system is, of course, important. But a more expansive, user centered vision of an accessible civil and family justice system is required.

The Action Committee

- **Four Working Groups**
- **Court Simplification**
- **Access to Legal Services**
- **Family Law**
- **Prevention, Triage and Referral**

The Action Committee

- **Five major Reports**
 - **1) Access to Civil and Family Justice: A Roadmap for Change, Final Report of the Action Committee on Access to Justice in Civil and Family Matters, 2013**
 - **2) Report of the Access to Legal Services Working Group, 2013**
 - **3) Responding Early ,Responding Well: Access to Justice Through the Early Resolution Services Sector, Final Report of the Prevention, Triage and Referral Working Group, 2013**

The Action Committee

- **Five major Reports**
- **4) Meaningful Change for Family Justice: Beyond Wise Words, Final Report of the Family Justice Working Group, 2013**
- **5) Report of the Court Processes Simplification Working Group, 2013**
- site [www.cfcj-fcjc.org/action committee](http://www.cfcj-fcjc.org/action_committee)

The Action Committee - Recommendations

Access to Justice Roadmap

A. INNOVATION GOALS

- 1. Refocus the Justice System to Reflect and Address Everyday Legal Problems**
- 2. Make Essential Legal Services Available to Everyone**
- 3. Make Courts and Tribunals Fully Accessible
Multi-Service Centres for Public Dispute Resolution**
- 4. Make Coordinated and Appropriate Multidisciplinary Family Services Easily Accessible**

The Action Committee - Recommendations

Access to Justice Roadmap

B. INSTITUTIONAL AND STRUCTURAL GOALS

5. Create Local and National Access to Justice Implementation Mechanisms

6. Promote a Sustainable, Accessible and Integrated Justice Agenda through Legal Education

7. Enhance the Innovation Capacity of the Civil and Family Justice System

The Action Committee - Recommendations

Access to Justice Roadmap

C. RESEARCH AND FUNDING GOALS

8. Support Access to Justice Research to Promote Evidence-Based Policy Making

9. Promote Coherent, Integrated and Sustained Funding Strategies

The Action Committee: Follow-Up

- **Action Committee Colloquium, January 2014**
- **Formation of Access to Justice Committees in each jurisdiction – a work in progress**
- **British Columbia – government taking the lead**
- **Alberta – Judiciary & government jointly**
- **Ontario – Law Society**
- **Nova Scotia – Law Society**

The Action Committee: Follow-Up

- Canadian Forum on Civil Justice Action Committee Colloquium web site www.cfcj-fcjc.org/actioncommittee
- Posts for members of the public and Action Committee members
- Developments in provinces and territories that relate to Action Committee recommendations

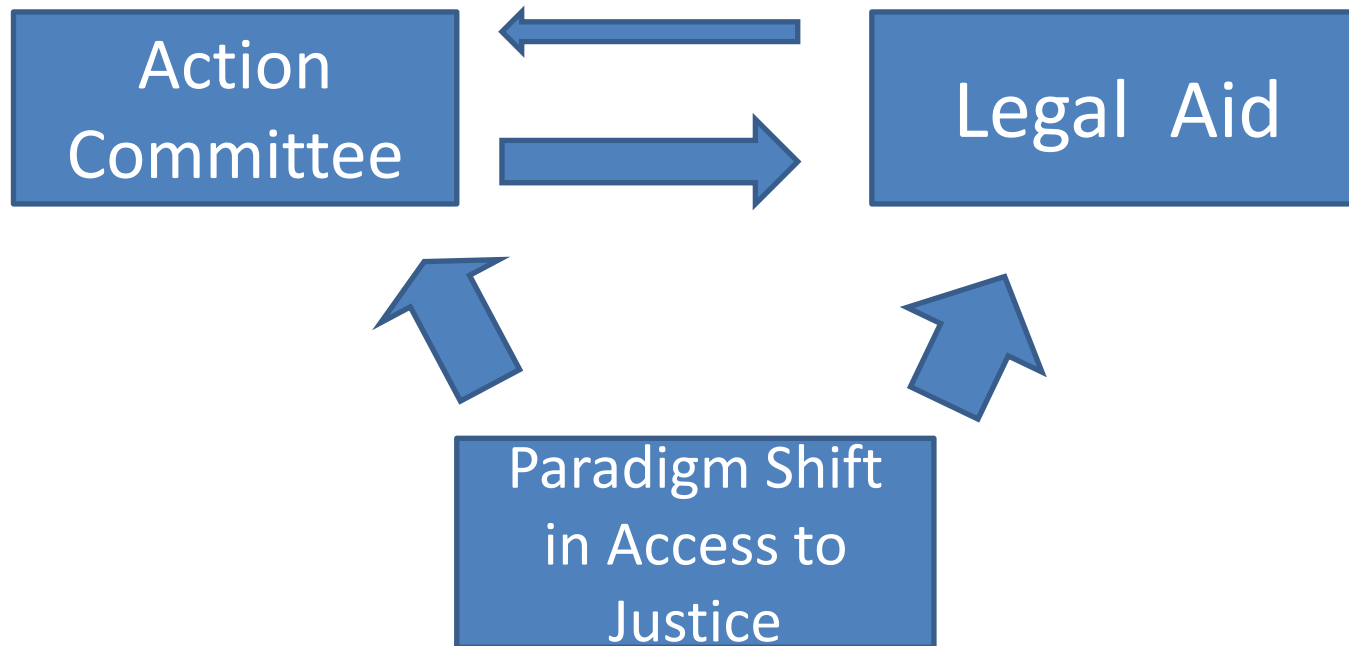
Implications for Legal Aid - Process

- **1) Legal aid is part of the discussion**
- **Legal aid is included early and at a high level - Remarkable!**
- **2) There is a commitment to empirically-based decision making; and legal aid has clients and data**

Implications for Legal Aid - Substance



Paradigm Shift + Action Committee + Legal Aid



Main Elements - The Everyday Problems Paradigm

- **The research tells us: Large number of legal problems experienced by the public**
- **Implication: need to expand justice beyond the justice of the courts to provide assistance proportional to the problem**
- **The research tells us: Complex and difficult legal problems emerge as problems of everyday life; trigger other legal and non-legal problems; problem clusters**
- **Implication: early intervention**

Main Elements – The Everyday Problems Paradigm

- **Research: Many people take no action or do so only when the situation becomes a crisis**
- **Implication: Move from responding to demand to proactively identifying and meeting need**
- **Research: Experiencing a legal problem is a human process**
- **Implication: holistic approaches and partnerships with other services**

Main Elements – The Everyday Problems Paradigm

- **Need to expand the concept of access to justice beyond the justice of the courts to the justice of everyday life**
- **Move “upstream”**
- **Expand what we mean by a justice “system”**
- **Develop services that link early intervention with the courts in a “continuum of service”**

Implications for Legal Aid – Action Committee Follow-up

British Columbia - MyLawBC

- **Enhanced PLE – providing information and assistance with problem-solving**
- **Web-based interactive, multi-stage telephone information, email, chat**

B.C Legal Services Society

Legal Services Society of B.C.

- **Family Law line**
- **+/- 5000 contacts annually**
- **Brief “next step” advice**

B.C Legal Services Society

Legal Services Society of B.C.

- **Family Law Web Site**
- **FAQ sheets, videos, court forms**

Implications for Legal Aid – Action Committee Follow-up

Alberta

- **Shift to non-adversarial early intervention***
- **Education for families – legal, financial, social***
- **Legal education for lawyers & law students***
- **Legal representation for parents and children**
- **Improve the operation, structure and procedures of the family justice system**

Alberta Legal Aid Services

Legal Aid Alberta already has:

- **Alberta Legal Services Centres**
- **Toll free calls or walk-in to 11 Centres**
- **Continuum of service: information → referrals → brief services → limited or full representation**

Ontario – The Law Society of Upper Canada



Handling everyday
legal problems

Information to help you make good choices

 The Law Society
of Upper Canada | Barreau du
Haut-Canada

Ontario – The Law Society of Upper Canada

New PLE pamphlet – “Handling Everyday Legal Problems”

- **You are told you owe a cancellation fee...**
- **The contractor for your home renovation demands payment but he has not finished the work...**
- **You received a notice from the government reducing your benefits...**
- **What do I do now?**

Legal Aid Ontario

Community Legal Education Ontario - CLEO

- **Connecting Communities**
- **Training and support for “trusted intermediaries”**
- **Train front line workers in community organizations to provide legal education and make referrals**

Legal Aid Ontario

Community Legal Education Ontario

- **PLE Learning Exchange**
- **Network of community organizations that produce or provide PLE**
- **Support and training: workshops & symposia, research results, information about exemplary projects**

Legal Aid Ontario

- **LAO Law Line**
- **+/- 65,000 calls annually**
- **Information about legal aid services**
- **Referrals to legal aid services**
- **Referrals to other programs**

Legal Aid Ontario

- **Family Law Service Centres**
- **4 Toronto-area courts**
- **Information and Assistance with documents**
- **Referrals to advice counsel**
- **Referrals to staff or private counsel**
- **Referrals to other programs**

Legal Aid Ontario – Legal Health Check-Up

LAO Clinic Transformation initiative

- **One example: Halton Legal Health Check-Up Project**
- **Moving from reacting to expressed demand to proactively meeting unmet need**

The Halton Legal Health Check-Up



Housing



1 Are you currently behind in your rent? Yes No

2 Are you at risk of having your rent subsidy cancelled? Yes No

3 Have you been late paying your rent in the past year?
If yes, how many times?

- No Yes, 1 to 3 times
 Yes, 4 to 6 times
 Yes, more than 6 times

4 Are you behind with your utility bills? Yes No

5 Do you have any of the following problems?

- Landlord not making repairs
 Heat or air conditioning not working
 Hard to keep mould, bugs or rodents away
 Other unsafe conditions *(Describe)* _____

6 Have you been given any eviction papers by your landlord or the Landlord and Tenant Board? Yes No

7 Have you been discriminated against or harassed by your landlord? Yes No

Implications for Legal Aid – Action Committee Follow-up

Nova Scotia Legal Aid

- **Strategic Plan - “*Here to Help*” includes services in 3 areas:**
- **Family**
- **Criminal**
- **Social justice – help with poverty and legal issues that impact on income security and housing stability**

Implications for Legal Aid - Substance

Nova Scotia Legal Aid

- **4 levels of service**
- **Information → advice → limited retainer → full representation**
- **Community outreach to Aboriginal communities and immigrant services organizations**
- **Court and family support workers who do intake and triage & referrals to other services**

Legal Aid

Where is this all going?

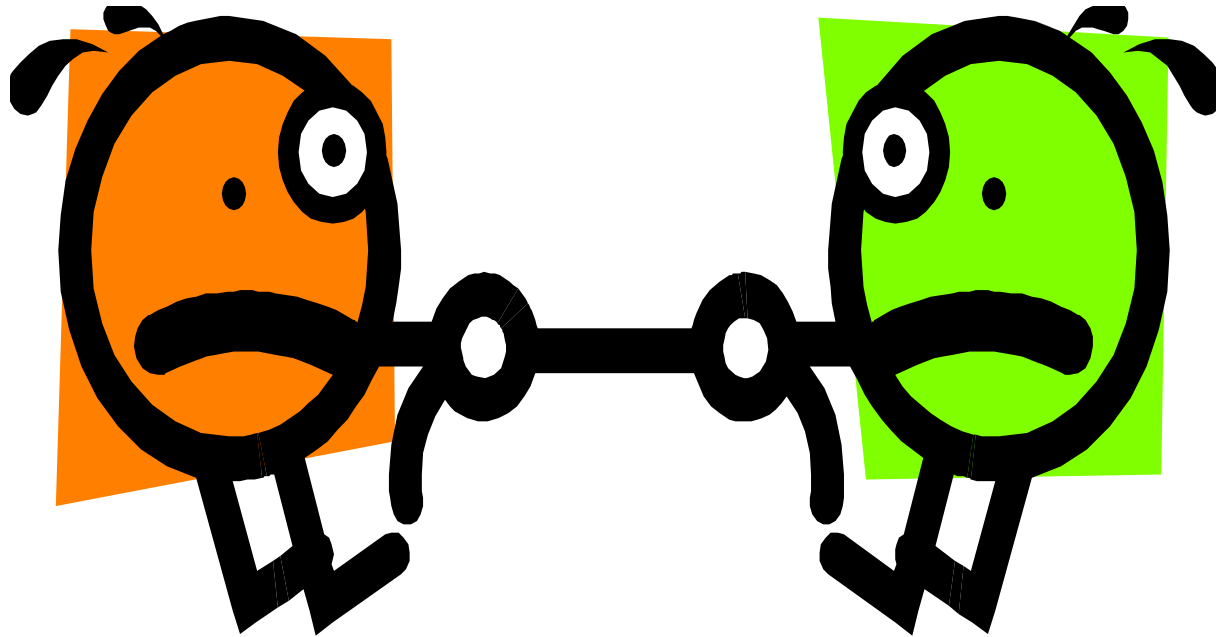
Legal Aid – Beginning to see itself differently

- **Enhanced use of PLEI for problem resolution**
- **Non-adversarial early intervention**
- **Proactively identifying unmet need**
- **Social justice framework**

Legal Aid – Expanding in two directions

- **Expanding the range of services internally along the continuum of service idea**
- **More collaborative externally, becoming part of wider networks of access to justice services**
- **Legal aid as more than the biggest law firm in the province**

Legal Aid – A Tug of War




Legal Aid

We live in interesting times.





CFCJ
FCJC

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www.cfcj-fcjc.org



3015 Osgoode Hall Law School



communications@cfcj-fcjc.org



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