

September 30, 2008

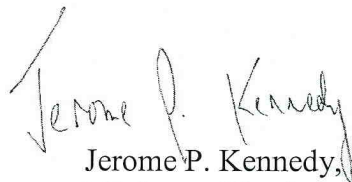
Mr. Bill MacKenzie  
Clerk of the House of Assembly

Dear Mr. MacKenzie:

I wish to table the 2007-08 Annual Activity Report of the Newfoundland and Labrador Legal Aid Commission. The Report is being tabled in accordance with the *Transparency and Accountability Act*. You should note, however, that the report does not include the audited financial statements of the Legal Aid Commission as required by the *Legal Aid Act* and the *Transparency and Accountability Act* as they are not yet finalized. Once the statements are finalized, they will be forwarded to you for tabling.

I trust this is satisfactory.

Yours sincerely,



Jerome P. Kennedy, Q. C.  
Minister of Justice  
and Attorney General



# NEWFOUNDLAND & LABRADOR LEGAL AID COMMISSION



**Annual Report 2007-08**

**Newfoundland and Labrador Legal Aid Commission  
Annual Report  
2007-2008**

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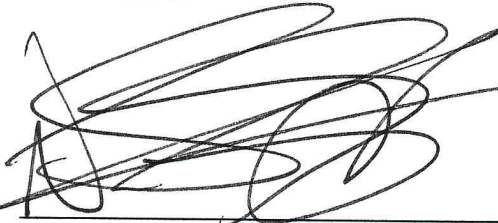
**Statement from the Chair**

As Chair of the Newfoundland and Labrador Legal Aid Commission I am pleased to present the Legal Aid Commission's Annual Report which outlines the Commission's activities in the 2007-2008 fiscal year. This report was prepared under my direction and in accordance with the provisions of the *Transparency and Accountability Act*. This report does not include the audited financial statements of the Legal Aid Commission as required by the *Legal Aid Act* and the *Transparency and Accountability Act* as they are not yet finalized. Once the statements are finalized, this document will be submitted for re-tabling with the audited financial statements included.

The Legal Aid Commission is classified as a Category 3 Government Entity and as such must prepare an annual report which presents information on the activities of the entity carried out during the preceding fiscal year in compliance with its mandate.

The Legal Aid Commission operates under the Legal Aid Act which provides for the provision of legal counsel to represent eligible residents of the Province of Newfoundland and Labrador charged with offences under the Criminal Code, other federal statutes and provincial statutes, and to people who have family disputes or other civil matters. Duty Counsel services are provided to visitors of our Province and legal counsel may be appointed for non-residents either through the legal aid plan of the province in which they reside or our legal aid program.

I, as Chair of the Legal Aid Commission, and the Board of the Commission are accountable for the results reported. My signature below is on behalf of the entire Board of the Commission.



Nicholas Avis, Q. C.  
Chair

30 September 2008

# *Newfoundland and Labrador Legal Aid Commission*

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# *Newfoundland and Labrador Legal Aid Commission*

## **LEGAL AID MANDATE**

The mandate of the Legal Aid Commission is contained in Part V of the Act entitled “The Legal Aid Plan.” The Act states: “The Commission may, upon receipt of an application, and where the applicant is found eligible, provide legal aid in criminal and civil matters without charge to an individual who is unable to pay and with partial charge to an individual who is able to pay a portion there of.” Coverage is identified under Part VI of the Act. In criminal law, legal aid is provided for indictable offences and for summary conviction offences when certain conditions are met. In civil and family cases, legal aid is provided when there is case merit.

## **THE LEGAL AID COMMISSION**

The Legal Aid Plan was established by the Law Society of Newfoundland and Labrador in 1968. Legal Aid was managed by a committee of the Law Society and the Legal Aid Plan is responsible for providing legal counsel to represent eligible accused persons and to assist others who were involved in family disputes.

In 1976 the Legal Aid Commission was established by the Legal Aid Act (*the Act*) to assume responsibility for the Legal Aid Plan.

The Commission consists of a seven person board of commissioners, two of whom are ex-officio, the Deputy Minister of Justice and the Provincial Director. The Lieutenant Governor in Council appoints five commissioners, three of whom are appointed from a list of nominees by the Law Society. The Lieutenant Governor in Council designates one of the Commission Members as Chair and the members select another member as Vice-Chair/Secretary.

Appointed Members: Nick Avis, Q.C., Chair  
Krista Gillam, Vice Chair/Secretary  
William Collins, Q.C.  
John Jenniex  
Katie Rich

Ex-officio members: Chris Curran, Q.C., Deputy Minister (in 2007-08)  
Don Burrage, Q.C., Deputy Minister (current)  
Newman Petten, Provincial Director

# *Newfoundland and Labrador Legal Aid Commission*

## **MISSION**

The mission statement identifies the primary focus of the Legal Aid Commission over the next two planning cycles. It represents the key long-term results that it will be working towards as it moves forward on the strategic directions of Government. The statement also identifies the measures and indicators that will assist both the Commission and the public in monitoring and evaluating success.

Key aspects of the current mission statement include improvements in the administrative structure of the Legal Aid Commission so it is more responsive to stated programs, implementation of the Lamer recommendations as they relate to Legal Aid, analysis of the legal aid services provided to family law applicants and implementation of the Child, Youth and Family Service project as a partial response to the Turner recommendations. The Commission's mission statement is:

By 2011 the Legal Aid Commission will have enhanced its administrative structure and services to the people of Newfoundland and Labrador.

### Measure

- The administrative structure and services of the Legal Aid Commission are enhanced.

### Indicators

- A new administrative structure is in place.
- Measures are in place to minimize barriers and increase efficiency.
- Recommendations in the Lamer Inquiry Report have been implemented.
- A Child Youth and Family Services project has been established.

## **LINES OF BUSINESS**

For all residents of Newfoundland and Labrador, and visitors to the Province the following services are provided:

- Duty counsel to accused persons appearing in the provincial and youth courts across the province.
- Brydges Duty Counsel, a 24 hours telephone service to people arrested or detained by the police.

## *Newfoundland and Labrador Legal Aid Commission*

For residents of Newfoundland and Labrador who meet financial and case eligibility criteria, and for non-residents through the legal aid plan of the province in which they reside or our legal aid program, the following services are provided:

- Representation in criminal and family cases.
- Represent in appeals before the Courts.
- Representation before administrative tribunals in areas such as: immigration & refugee claims, Canada pension, employment insurance, and social assistance.

### **LEGAL AID OFFICES AND STAFF**

The Legal Aid Commission presently operates a provincial office, ten (10) area offices and four projects with a staff consisting of the provincial Director, four (4) senior lawyers, forty-eight (48) staff lawyers, three (3) articling students, and fifty-three (53) support staff.

Office locations and related staff are:

1.	Provincial Office – St. John’s	1 Provincial Director, 4 senior lawyers, 15 support staff
2.	St. John’s	16 staff lawyers, 6 support staff, 1 articling student
3.	St. John’s (2)	5 staff lawyers, 3 support staff, 1 articling student
4.	Marystown	1 staff lawyer, 1 support staff
5.	Clarenville	2 staff lawyers, 2 support staff
6.	Gander	2 staff lawyers, 2 support staff
7.	Grand Falls	2 staff lawyers, 2 support staff
8.	Corner Brook	5 staff lawyers, 3 support staff, 1 articling student
9.	Happy Valley	5 staff lawyers, 3 support staff, 4 community workers
10.	Stephenville	4 staff lawyers, 3 support staff
11.	Carbonear	2 staff lawyers, 3 support staff
12.	Family and Child Legal Aid Services – St. John’s	1 staff solicitor, 2 support staff
13.	Family and Child Legal Aid Services – Happy Valley	1 staff solicitor, 2 support staff
14.	Mental Health Court Project – St. John’s	1 staff solicitor, 1 support staff
15.	Family Justice Services – Central NL	1 staff solicitor, 2 support staff

# *Newfoundland and Labrador Legal Aid Commission*

## **LEGAL PROBLEMS COVERED**

For all residents of Newfoundland and Labrador, and visitors to the province the following services are provided:

- Duty counsel to accused persons appearing in the provincial and youth courts across the province.
- Brydges Duty Counsel, a 24 hours telephone service to people arrested or detained by the police.

For residents of Newfoundland and Labrador who meet financial and case eligibility criteria, and for non-residents, who qualify under the legal aid plan of the province or territory in which they reside, the following services are provided:

- Representation in criminal, family and civil cases.
- Represent in appeals before the Courts.
- Representation before administrative tribunals in areas such as: immigration and refugee claims, Canada Pension, employment insurance, and social assistance.

Eligibility for legal aid is dependent upon an applicant meeting the financial and case eligibility requirements specified in the Act and Regulations. Once an applicant is approved services are provided by staff lawyers 98% of the time and lawyers in private practice in approximately 2% of the cases. Private counsel are paid on a fee for service basis in accordance with the tariff found in the Regulations.

## **HIGHLIGHTS AND ACCOMPLISHMENTS**

### **PEOPLE ASSISTED**

#### **Applications**

For the fiscal period March 31, 2008 – 7,585 people requested assistance from Legal Aid. Of these, 3,998 were provided with full service legal representation. Those who were not provided with full service would have received advice. They were refused because they did not meet the financial eligibility guidelines or their cases were not ones for which legal aid would be granted.

#### **Cases Completed**

Staff lawyers completed 5,254 cases and 75 cases were completed by the private bar, amounting to 5,329 completed case. These cases represent approximately 11,073 charges and problems.



# *Newfoundland and Labrador Legal Aid Commission*

## **Duty Counsel**

Duty Counsel assisted 7,204 adults and 1,382 youths were assisted for a total of 8,586 people. Duty Counsel is a service provided to people on their first appearance before a Provincial Court Judge or Youth Court Judge.

## **24 Hour Duty Counsel**

The Legal Aid Commission has a lawyer available 24 hours a day, 7 days a week, who may be reached at a 1-800 number to provide advice to people upon arrest, detention or being questioned by a peace officer.

## **PROJECTS**

**Aboriginal Project** – This project operates out of the Happy Valley-Goose Bay office and is intended to facilitate working with aboriginal communities to better improve the quality of legal services to aboriginal people who encounter the law. Community workers were hired for the towns of Nain, Hopedale, Natuashish and Sheshashiu. Since the release of the Aboriginal Justice Project Report the Legal Aid Commission has managed the implementation of some of the recommendations contained in it. It has also continued to study, consult and assess resources needed to ensure proper representation and presentation of aboriginal persons' cases before the courts.

**Mental Health Project** – This project is working, in collaboration with the Health Care Corporation, to develop a protocol to improve and more efficiently deliver legal services to people with mental health problems. It was a key partner in the establishment of the Mental Health Court.

**French Speaking Project** – This project has hired one staff solicitor fluent in French to provide legal advice by telephone, in person and when necessary to conduct trials in French.

**Family and Child Legal Aid Services** – It has been recognized that cases involving the removal of children from their parents by Child Youth and Family Services need to be handled differently than matters in other areas of law. Specialized knowledge, timely response, and innovative procedures are needed to ensure that the best interests of a child and its parents are met. The Legal Aid Commission has created two new offices, one in St. John's and one in Happy Valley – Goose Bay, to handle such cases. Each office is staffed by a Director/staff lawyer, a social worker, and a paralegal whose role is to assist parents of children taken into care by CYFS, to respond to the concerns of the CYFS, and to work towards the re-unification of the family where possible.

**Client Services Officer** – In the 2007/08 fiscal year the Legal Aid Commission studied the situation of incarcerated persons and implemented a program to improve communication between such person and the Commission. As part of this program a Client Service Officer (CSO) position was created. This officer's role is to coordinate and facilitate all Legal Aid

## *Newfoundland and Labrador Legal Aid Commission*

Commission communication with incarcerated persons anywhere in the provincial or federal prison systems.

**Family Justice Services** – Additionally, in Central Newfoundland separate funds were provided for a mediation and counseling service to parents in family separations.

### **Activities**

Issue 1: The administrative structure of the Legal Aid Commission has not changed since its inception and failed to reflect the increased supervision necessary to manage and monitor the quality and level of service. To ensure sound management for the future the Legal Aid Commission must determine its administrative needs and implement any necessary reorganization to meet those needs.

Objective: By 31 March 2008 the Legal Aid Commission will have a new administrative structure in place.

Measure: A new administrative structure has been put in place.

<b>Indicators</b>	<b>Results</b>
A new administrative structure has been put in place.	The administrative structure has been analyzed and in the 2007/08 fiscal year the Legal Aid Commission undertook the process of changing its management structure. Two new positions were created; Deputy Director – Legal Service and Deputy Director – Administrative Service. Together with the Provincial Director these two positions make up the Management Committee which is responsible for the day to day running of the Legal Aid Commission.
Planning has and is being done to maximize the potential of the new structure	In the 2007/08 fiscal year the Legal Aid Commission also created and staffed two new positions, Senior Solicitor – Criminal Law and Senior Solicitor – Family and Civil Law. The holders of these positions are tasked with the responsibility of identifying the training and resource needs of the Legal Aid Commission’s legal staff and with the delivery of that training and the needed resources.

## *Newfoundland and Labrador Legal Aid Commission*

**Issue 2:** The Lamer Inquiry Report highlighted concerns which had previously been recognized by the Legal Aid Commission that it has not always communicated effectively with persons who are incarcerated and who need its services.

**Objective:** By 31 March 2008 the Legal Aid Commission will enhance communications with residents of Newfoundland and Labrador who are in penal institutions.

**Measure:** Resources to minimize those barriers and increase the efficiency of the Legal Aid Commission's communication are in place.

<b>Indicators</b>	<b>Results</b>
Analysis of barriers to effective communication has been completed	In 2007/08 fiscal year the Legal Aid Commission studied the situation of incarcerated persons. A program has been implemented to improve communication between such person and the Commission.
Additional staff resources are in place.	As part of this program a Client Service Officer (CSO) position was created. This officer's role is to coordinate and facilitate all Legal Aid Commission communication with incarcerated persons anywhere in the province or federal prison systems.

**Issue 3:** Since the release of the Aboriginal Justice Project Report the Legal Aid Commission has managed the implementation of some of the recommendations contained in it. It has also continued to study, consult and assess resources needed to ensure proper representation and presentation of aboriginal persons' cases before the courts.

**Objective:** By 31 March 2008 the Legal Aid Commission will have analyzed what is needed to implement recommendations in the Aboriginal Justice Project Report.

**Measure:** An analysis of the Aboriginal Justice Project Report is completed.

<b>Indicators</b>	<b>Results</b>
A study of the need for increased service from community workers and for local office space has been done.	Four community workers have been hired to assist in the delivery of Legal Aid service in significant aboriginal centres.

## *Newfoundland and Labrador Legal Aid Commission*

	The need for office space in these locales has been identified and work is being done on acquiring the resources to implement this.
Enhancements to improve lawyer-client meetings and the application process have been identified.	The community workers who have been hired have been instrumental in improving communication between the Commission's lawyers and aboriginal clients. The workers are able to more easily arrange meetings between the lawyers and the clients and are also able to assist with bridging language and cultural differences.

### **Opportunities and Challenges Ahead**

In the coming year the Legal Aid Commission will be undertaking or participating in a number of new initiatives which will enhance the provision of services to the public of Newfoundland and Labrador.

- The Family and Child Legal Aid Services will be expanding and opening an office in Corner Brook to serve Western Newfoundland. The specialized services which this office can provide to the public in that area will ensure that those people involved with the Child Youth and Family Services process will get the best possible representation in a timely fashion. There are challenges to this project with which the new office will have to be deal. Experience has shown that for such a project to succeed there needs to be education of the public, CYFS staff, and the Courts. This, along with a continuing dialogue with stakeholders, will eventually establish the trust and respect which is an essential part of the process.
- The Commission has for some time recognized the need to establish a permanent area office in the Wabush / Labrador City area. This will finally be taking place during the coming year. Once office space is located and staff hired the office will be open to provide the full range of Legal Aid services to the people of Western Labrador.
- Within the justice community of this province there has been a growing awareness of the need for specialized criminal courts to deal with offenders who have special needs. This resulted, two years ago, in the establishment of the Mental Health Court. The clear success of that project has been a prime motivator in plans to set up a Family Violence Court. These courts have the dual purpose of getting offenders the specialized help they need and of protecting the public by reducing the rate of repeat offences. The Legal Aid Commission has been involved in the ongoing planning and it stands ready to play its part in making these projects work. For these new Courts to enjoy the success of the Mental Health Court there will need to be an adjustment in the way the legal community, the courts, and the public see the delivery of justice. This will take education and considerable co-operation by all parties.

# Newfoundland Legal Aid Comm.

Statement of Revenue, Expenditure and Equity  
For The Year Ending March 31, 2008

## Financial Statements (Unaudited)

### Unaudited

	<u>Current YTD</u>	<u>Budget YTD</u>
<b>Revenue:</b>		
Province of Newfoundland operating grant	\$ 9,562,700	\$ 9,562,300
Law Foundation of Newfoundland grant	1,125,949	300,000
Recovered fees	41,816	0
Interest	67,150	95,000
	<u>10,797,615</u>	<u>9,957,300</u>
<b>Expenditure:</b>		
Bad debt expense	29,567	0
Bar fees and insurance	96,119	86,040
Capital expenditure	--	138,500
Commissioners' fees and expenses	104,936	87,402
Conference and education	53,196	41,000
Depreciation and amortization	83,415	0
Legal fees and disbursements	804,622	623,200
Library	10,615	32,150
Miscellaneous	39,161	22,601
Office and equipment rental	536,670	521,464
Office expense	154,107	96,485
Salaries and benefits	6,302,184	6,485,858
Telephone and light	60,077	87,700
Travel	60,547	14,600
Other Projects	652,392	1,720,300
	<u>8,987,607</u>	<u>9,957,300</u>
<b>Excess of (expenditure over revenue) income over expenditures</b>	1,810,008	0
<b>Equity, beginning of year</b>	<u>-1,326,610</u>	<u>-1,326,610</u>
<b>Equity, end of year</b>	<u>\$ 483,398</u>	<u>\$ -1,326,610</u>

*Newfoundland Legal Aid Comm.*  
**Balance Sheet**  
For The Year Ending March 31, 2008

**Unaudited**

**ASSETS**

**Current**

Cash		\$ 2,540,763
Accounts receivable	401,059	
Less: allowance for doubtful accounts	<u>-236,520</u>	
		164,538
Prepaid expenses		<u>975</u>
		2,706,277
<b>Funds deposited in trust</b>		133,496

**Capital assets**

Furniture & fixtures	782,293	
Less: accumulated depreciation	<u>-614,510</u>	
		167,783
Leasehold improvements	26,351	
Less: amortization, leasehold improvements	<u>-24,548</u>	
		1,803
Information Technology	450,727	
Less: amortization, information technology	<u>-361,948</u>	
		88,778
Software	185,543	
Less: amortization, software	<u>-173,996</u>	
		11,547
		<u>3,109,684</u>

**LIABILITIES & EQUITY**

**Current**

Accounts payable and accrued liabilities	\$ 1,264,045
Deferred revenue	<u>157,740</u>
	1,421,785
<b>Accrued severance pay</b>	1,064,528
<b>Funds deposited in trust</b>	<u>139,973</u>
	2,626,286
<b>Equity</b>	<u>483,398</u>
	<u>\$ 3,109,684</u>