



Government of Newfoundland and Labrador
Department of Justice
Office of the Minister and Attorney General

September 25, 2012

Ms. Sandra Barnes
Clerk of the House of Assembly
East Block, Confederation Building

Dear Ms. Barnes:

I wish to table the 2011-12 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,

A handwritten signature in black ink, appearing to read "Felix Collins", with a long horizontal line extending to the right.

Felix Collins
Minister of Justice
and Attorney General

Newfoundland and Labrador Legal Aid Commission

Annual Activity Report 2011-12


Message 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 for the fiscal year April 1, 2011 to March 31, 2012. 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 of Canada*, 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.

The Board of the Legal Aid Commission is accountable for the results reported. I, as Chair of the Legal Aid Commission, accept accountability on behalf of myself and of the entire Board.



Nicholas Avis, Q. C.
Chair

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Overview

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 was 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
Vacant, Vice Chair/Secretary
William Collins, Q.C.
John Jenniex
Katie Rich

Ex-officio members:

Donald Burrage, Q.C., Deputy Minister
Newman Petten, Provincial Director

Legal Aid Offices and Staff

The Legal Aid Commission employs a Provincial Director, two Deputy Directors, two senior lawyers, fifty-three staff solicitors, three social workers, thirteen paralegals, a risk assessment officer, an information manager, a human resources manager, an accountant, a client services officer, forty-five support staff, six articling students, a family counselor, and four community workers. They work out of a provincial office, 11 area offices and six projects.

The Legal Aid Commission provides legal representation for persons that meet specified eligibility criteria, Duty Counsel service for first appearances on criminal matters before the provincial and youth courts, and has a lawyer available 24 hours a day, seven 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. This service is referred to as Brydges Duty Counsel.

In addition to operating 11 area offices the Legal Aid Commission also has a number of special purpose offices. They are:

- The Aboriginal Project operates out of the Happy Valley-Goose Bay office. It is intended to facilitate working with Aboriginal communities to better improve the quality of legal services to Aboriginal people who encounter the law. As part of this project the Commission has hired Community Liaison Workers for the towns of Nain, Hopedale, Natuashish and Sheshatshiu.
- The Mental Health Office, in collaboration with Eastern Health, works to improve and more efficiently deliver legal services to people with mental health problems. Through this office persons with mental health problems can obtain legal representation in the Mental Health Court, on some civil matters, and at the Criminal Code Review Board and the Mental Health Review Board.
- The French Speaking Project has a staff solicitor fluent in French to provide legal advice by telephone, in person and when necessary to conduct trials in French.
- The Family and Child Legal Aid Services have offices in St. John's, Happy Valley-Goose Bay, and Corner Brook. Each office is staffed by a Director/staff solicitor, a social worker, and a paralegal. Their role is to assist parents of children taken into care by the Department of Child, Youth and Family Services (CYFS), to respond to the concerns of the CYFS, and to work towards the re-unification of the family where possible.
- The Client Service Officer's role is to coordinate and facilitate all Legal Aid Commission communication with persons incarcerated anywhere in the provincial or federal prison systems or held in an institution.
- Family Justice Services Project of the Legal Aid Commission in Central Newfoundland works in cooperation with the Family Justice Services Division of the Department of Justice to provide mediation and counseling service to parents in family separations.
- The Family Violence Court Project works with Provincial Court in St. John's to provide risk assessment services and legal representation to persons accepted into the Family Violence Intervention Court process.

- The Family Duty Counsel Project works out of the Supreme Court – Family Division to provide advice and assistance to unrepresented persons appearing in Family Division. Two lawyers and a Client Services Officer work out of offices located in the Family Division Court building.

Office locations and related staff are:

1.	Provincial Office – 251 Empire Avenue, St. John's	1 Provincial director, 2 deputy directors, 2 senior solicitors, 1 accountant, 1 information manager, 1 human resources manager, 1 client services officer, 2 paralegals, 11 support staff
2.	St. John's – 251 Empire Avenue	15 staff lawyers, 9 support staff, 2 paralegals
3.	St. John's – Atlantic Place	5 staff lawyers, 3 support staff
4.	Marystown	1 staff lawyer, 2 support staff
5.	Clarenville	2 staff lawyers, 2 support staff
6.	Gander	2 staff lawyers, 2 support staff
7.	Grand Falls-Windsor	2 staff lawyers, 2 support staff, 1 paralegal
8.	Corner Brook	5 staff lawyers, 3 support staff, 1 paralegal
9.	Happy Valley-Goose Bay	5 staff lawyers, 3 support staff, 4 community workers, 1 paralegal
10.	Stephenville	4 staff lawyers, 3 support staff
11.	Carbonear	2 staff lawyers, 2 support staff
12.	Labrador West	1 staff lawyer, 1 support staff
13.	Family and Child Legal Aid Services – St. John's	2 staff lawyers, 1 social worker, 2 paralegals
14.	Family and Child Legal Aid Services – Happy Valley-Goose Bay	1 staff lawyer, 1 social worker, 1 paralegal
15.	Family and Child Legal Aid Services – Corner Brook	1 staff lawyer, 1 social worker, 1 paralegal
16.	Mental Health Court Project – St. John's	2 staff lawyers, 2 paralegals

17.	Family Justice Services – Central NL	1 staff lawyer, 1 support staff, 1 family counselor
18.	Family Violence Court Project	1 risk assessment officer
19.	Family Duty Counsel Project – St. John's	2 staff lawyers, 1 client services officer

*Note: In addition to the above positions, the Legal Aid Commission also has funding to hire six law students annually. The students may operate from various Legal Aid locations.

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 thereof." 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 family cases and limited civil matters, legal aid is provided when there is case merit.

Vision Statement

To ensure that the Legal Aid Commission provides all residents of Newfoundland and Labrador, and non-residents who are eligible for Legal Aid assistance, with competent legal advice and representation.

Mission Statement

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

Key aspects of the current mission statement include the enhancement of the service that the Commission provides to the public. These enhancements may

involve assessing the family duty counsel needs, the appropriate use of paralegals, improved human resource management, and new technologies that benefit the people served by the Commission. The Commission's mission statement is:

By March 31, 2017 the Legal Aid Commission will have enhanced its ability to offer the highest quality legal services.

Measure: Ability to offer the highest quality legal services enhanced

Indicators:

- Innovative processes implemented
- Service quality enhanced
- Implementation of technological advancements, as appropriate

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 appear 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;
- Representation in appeals before the Courts; and
- 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 or, in approximately two per cent of the cases, by lawyers in private practice. Private counsel are paid on a fee for service basis in accordance with the tariff found in the Regulations.

Highlights of Accomplishments and Facts of Interest

People Assisted

Applications

For the fiscal year ending March 31, 2012, 9,942 people requested assistance from Legal Aid. This is an increase of 1,046 (11.8 per cent) over the previous year. Of these who applied, 4,687 persons were provided with full service legal representation, 14 more than the number of persons provided with full service in the 2010-11 fiscal year. Those who were not provided with full service would have received advice. Persons are 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 5,675 cases and 115 cases were completed by the private bar, amounting to 5,790 completed cases.

Duty Counsel

Duty Counsel assisted 11,343 adults and 1,107 youths for a total of 12,452 people. This is an increase of 1.6 per cent over the number of adults assisted in 2010-11 and an increase of 0.2 per cent in the number of youths assisted. Duty Counsel is a service provided to people on their first appearance before a Provincial or Youth Court Judge.

Projects

Mental Health Project

This project works, in collaboration with the Eastern Health, to efficiently deliver legal services to people with mental health problems. It was a key partner in the establishment of the Mental Health Court as a division of the Provincial Court of Newfoundland and Labrador. The St. John's location handles the bulk of the cases for the Mental Health Court. Generally a person must have a diagnosed mental illness to be referred to the court. The project strives to provide for both the civil and criminal law needs of persons with mental illness. The Legal Aid Commission contributes two staff lawyers, two paralegals, and office space. Eastern Health contributes two social workers, and two LPNs to the project.

Family Violence Court Project

The Legal Aid Commission has been an active participant in planning the Family Violence Intervention Court at Provincial Court in St. John's and plays a significant role by providing risk assessment services and legal representation to persons to have their cases dealt with under the new Court process. A risk assessment officer, based in the Commission's Provincial Office, assesses persons whose cases are being considered for inclusion in the Family Violence Intervention Court. Staff lawyers from the St. John's and Atlantic Place offices handle the provision of advice and representation to accused persons. Since the program started, risk assessments have been provided for 160 people.

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 his or her parents are met. The Legal Aid Commission has offices in Corner Brook, St. John's, and Happy Valley-Goose Bay. Each office is staffed by a staff lawyer, a social worker, and a paralegal who all work closely with parents and who bring a collaborative approach to the settlement of child protection cases.

Client Services Officer

The Legal Aid Commission established the position of Client Services Officer (CSO) to improve communication between persons in institutions and the Commission. The CSO position's role is to coordinate and facilitate all Legal Aid Commission communication with persons incarcerated anywhere in the provincial or federal prison systems or held in another institution. The CSO travels extensively visiting each prison and institution where people are held to meet with officials at each institution, meet inmates, and collect information on how to better service this population.

Family Duty Counsel

A Family Duty Counsel project was established for the St. John's Supreme Court – Family Division to assist unrepresented persons attending court. The office is staffed by two lawyers and a client services officer.

Activities

Issue 1: Seeking Innovations and New Efficiencies

The Legal Aid Commission identified the lack of a Duty Counsel Project at the Family Division of the Supreme Court of Newfoundland and Labrador as a serious impediment to the access to justice by unrepresented litigants. There are a number of members of the public who do not qualify for Legal Aid assistance but who cannot afford to hire private counsel. Not only does their lack of counsel disadvantage these people but it also delays their court proceedings and the proceedings of other litigants. The Court has identified unrepresented litigants as one of the major factors in inefficient use of Court time. Cases where one or more litigants are unrepresented, take considerably more time per case than those where the parties have counsel.

Additionally, to enhance efficiencies, the Legal Aid Commission assessed its paralegal needs. Based on this assessment, paralegals were hired to best meet the needs of the Legal Aid Commission.

Goal 1:	By March 31, 2014 the Commission will have enhanced the quality of its services for clients.
Measure	
Quality of services enhanced	
Indicators:	Duty counsel needs assessed
	Resource requirements assessed
	Resource needs addressed, as appropriate
	Human resource requirements assessed
	Human resource structure enhanced

Objective 1:	By March 31, 2012 the Legal Aid Commission will have addressed service needs.
Measure	
Service needs addressed	
Indicators:	Actual Results
Duty counsel needs assessed	Duty Counsel needs were assessed. A legal aid staff committee consulted with a committee established at the court and with justice officials to agree on the parameters of the project and to agree on appropriate office accommodation at the court for legal aid staff, given the importance of confidentiality and solicitor-client privilege.

	Protocols were drafted and agreed upon to initiate the project. Staff were interviewed and selected to fill the positions of the project.
Initial duty counsel needs addressed	Initial duty counsel needs addressed. Once hired, lawyers and support staff conducted a period of training to open and operate the project.
Paralegal needs assessed	Paralegal needs were assessed. A committee was established at the Legal Aid Commission to determine needs. A list of paralegal needs was developed and reporting structure for paralegals was approved.
Paralegals hired, as appropriate	Paralegals were hired as appropriate. The number of paralegals was decided. Job descriptions and duties were agreed upon, positions advertised and interviews conducted.

Objective and indicators for FY 2012-13:

Objective 2:	By March 31, 2013 the Legal Aid Commission will have continued to enhance its services.
Measure	
Services continued to be enhanced	
Indicators:	Data needs related to the family duty counsel project identified
	Data collection process for the family duty counsel project implemented
	Data needs regarding the paralegal support identified
	Data collection process for the paralegal support implemented
	Stakeholders engaged, as appropriate
	Data related to the family duty counsel project analyzed with a view to enhance services
	Data related to the paralegal support analyzed with a view to enhance services

Issue 2: Information Management and Technology

Rapid and continuing technological advancements have had a significant impact on how the public, Courts, Government and the Commission receive, process and distribute information. Moreover, technological change impacts almost every aspect of the Commission's work from document preparation and communication with clientele and the Courts, to how closed files are archived. The Commission has determined that in order to achieve true efficiencies from the adoption of new technologies, an internal process is needed to evaluate new technologies and propose which ones should be integrated into Legal Aid's workplace.

Goal 2:	By March 31, 2014 the Legal Aid Commission will have implemented technological enhancements.
Measure	
Technological enhancements implemented	
Indicators:	Enhancements made to the legal aid management information system (LAMIS)
	Stakeholders engaged, as appropriate
	Website content developed
	Website content finalized
	Website launched

Objective 1:	By March 31, 2012 the Legal Aid Commission will have developed a website.
Measure	
Website developed	
Indicators:	Actual Results
Committee established	A committee of Legal Aid Commission staff and a representative from OCIO was established to review the desired content of a new website.
Website content drafted	Website content was drafted and presented to Legal Aid Management and approved.
Website mock-up designed	A website mock-up was designed and presented to Legal Aid Management and the Legal Aid Commission Board members.
Website content finalized	Website content was finalized and approved by the Legal Aid Management and the Legal Aid Commission Board members.
Website launched	Unexpected delays were experienced which delayed the launch of the website beyond the end of the fiscal year. The website will now be launched early in FY 2012-13.

Objective and indicators for FY 2012-13:

Objective 2:	By March 31, 2013 the Legal Aid Commission will have begun the assessment of the functionality of the Legal Aid Management Information System (LAMIS).
Measure	
Assessment of the functionality of LAMIS begun	
Indicators:	Committee to review the current operation of LAMIS established
	LAMIS review completed
	Issues with LAMIS identified
	OCIO engaged to address identified issues

Opportunities and Challenges Ahead

1. With the increase in complexity of cases, the amount of court and preparation time has risen. To address this increased demand, the Commission continues to focus on methods to streamline processes to increase efficiency.
2. The Duty Counsel pilot project at the Family Division of the Supreme Court in St John's provides onsite lawyers to assist unrepresented people who cannot afford private counsel. This service should improve the flow of Court process by providing advice needed and when necessary, directing qualified applicants through the application process.
3. Paralegals assist lawyers' workloads by taking on tasks under the lawyers' supervision, and will result in increased efficiency for the legal staff and allow the staff lawyers to devote more time to the more complex and critical matters.
4. The establishment of a Human Resources division will improve the training of new staff and the handling of day to day human resource needs of the staff.

Financial Statements (unaudited)

Expenditure and revenue figures included in this document are based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for Fiscal Year Ended 31 March 2012.

	Actual \$	Estimates	
		Amended \$	Original \$
05. Professional Services.....	-	1,300	1,300
10. Grants and Subsidies.....	14,283,182	14,638,400	14,638,400
01. Revenue - Federal.....	3,711,788	2,233,900	2,233,900
Total: Legal Aid and Related Services.....	10,571,394	12,405,800	12,405,800

Note: This financial information includes expenditures that are attributed to other related services that do not fall under the responsibility of the Legal Aid Commission. For detailed information on the expenditures of the Legal Aid Commission please see the Commission's audited financial statements, when available.

Contact Us

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