

September 30, 2009

Mr. William MacKenzie
Clerk of the House of Assembly

Dear Mr. MacKenzie:

I wish to table the 2008-09 Newfoundland and Labrador Legal Aid Commission Annual Activity Report. 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, the report, inclusive of the statements, will be forwarded to you for tabling.

I trust this is satisfactory.

Yours sincerely,



Thomas W. Marshall, Q.C.
Minister of Justice
and Attorney General

Newfoundland and Labrador Legal Aid Commission

Annual Activity Report 2008-09


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 in the 2008-09 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.

The Board of the Legal Aid Commission is accountable for the results reported. I, as Chair of the Legal Aid Commission, am signing on behalf 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 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:

Don 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-one staff solicitors, three social workers, five paralegals, a risk assessment officer, forty-five support staff and five articling students. They work out of a provincial office, eleven area offices and five 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 Courts, and 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. This service is referred to as Brydges Duty Counsel.

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

- The Aboriginal Project which 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 Sheshashiu.
- The Mental Health Office, in collaboration with the Health Care Corporation, 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 and at the Mental Health Review Board.
- The French Speaking Project which 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. There are 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 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 whose 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 in Central Newfoundland provides for a 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 new Family Violence Court process.

Office locations and related staff are:

1.	Provincial Office – 2 Steers Cove, St. John's	1 Provincial Director, 2 Deputy Directors, 2 senior lawyers, 14 support staff
2.	St. John's – 2 Steers Cove	16 staff lawyers, 7 support staff, 4 articling student
3.	St. John's – Atlantic Place	5 staff lawyers, 3 support staff, 1 articling student
4.	Marystown	1 staff lawyer, 1 support staff
5.	Clareville	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	6 staff lawyers, 3 support staff, 4 community workers
10.	Stephenville	4 staff lawyers, 3 support staff
11.	Carbonear	2 staff lawyers, 2 support staff
12.	Labrador West – Wabush	1 staff solicitor, 1 support staff
13.	Family and Child Legal Aid Services – St. John's	1 staff solicitor, 1 social worker, 1 paralegal
14.	Family and Child Legal Aid Services – Happy Valley	1 staff solicitor, 1 social worker, 1 paralegal
15.	Family and Child Legal Aid Services – Corner Brook	1 staff solicitor, 1 social worker, 1 paralegal
16.	Mental Health Court Project – St. John's	2 staff solicitors, 2 paralegals
17.	Family Justice Services – Central NL	1 staff solicitor, 1 support staff, 1 family counsellor
18.	Family Violence Court Project	1 risk assessment officer

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 civil and family cases, legal aid is provided when there is case merit.

Vision Statement

The vision of the Legal Aid Commission is to ensure all eligible residents of Newfoundland and Labrador and non-residents receive competent legal advice and representation.

Mission Statement

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

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.
- 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 solicitors or, in approximately 2% of the cases, by lawyers in private. 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 ending March 31, 2009 – 8,115 people requested assistance from Legal Aid. This is a 6.9% increase in the number of applications the previous year. Of these who applied, 4,430 persons were provided with full service legal representation, a 10.8% increase in the number of persons provided with full service in the 2007-08 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 5,495 cases and 63 cases were completed by the private bar, amounting to 5,558 completed case. These cases represented approximately 11,980 charges and problems.

Labrador West

The Commission has hired a staff solicitor and a legal secretary to work in Labrador West to better serve the people of that region. Up to this year the Legal Aid needs of Labrador West were being met by staff solicitors in the Commission's Happy Valley – Goose Bay Office. An area office for Labrador West has been acquired and is presently undergoing renovations. It is anticipated that it will be open early in the 2009-10 fiscal year.

Duty Counsel

Duty Counsel assisted 9,022 adults and 1,381 youths were assisted for a total of 10,403 people. This is an increase of 25.2% in the number of adults assisted in 2007-08 and no change in the number of youths. Duty Counsel is a service provided to people on their first appearance before a Provincial Court Judge or Youth Court Judge.

Projects

Mental Health Project

This year the Commission added another staff solicitor and another paralegal to the office's staff to ensure there were sufficient resources to meet both the civil and criminal law needs of persons with mental illness.

Family Violence Court Project

In March 2009 the Family Violence Court at Provincial Court in St. John's started up. The Legal Aid Commission has been an active participant in the planning for this Court and will be playing 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 has been hired and a staff solicitor from the Steers Cove office will be handling the provision of advice and representation to accused persons.

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. In 2008 – 09 the Legal Aid Commission added new office in Corner Brook to work with the existing two offices in St. John's and Happy Valley – Goose Bay to handle such cases.

Client Services Officer

In the 2007/08 fiscal year the Legal Aid Commission 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 whose 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 2008 - 09 fiscal year was the first full year of activity for this project and during this year the CSO travelled extensively visiting each prison and institution where persons are held to meet with officials at each institution, meet inmates, and collect information on how to better service this population.

Activities

Issue 1: New Administrative Structure

The administrative structure of the Legal Aid Commission had not changed since its inception over thirty years ago and was failing to reflect the increased supervision necessary to manage and monitor the quality and level of service. To ensure sound management for the future in 2007 – 08 the Legal Aid Commission implemented a large-scale reorganization to meet those needs and 2008 – 09 was the first full year of operation under that new structure.

Goal:	By 2011 the Legal Aid Commission will have completed the restructuring changes.
Measure	
Administrative restructuring completed	
Indicators	
Position responsibilities are approved by the Commission	
Position reporting requirements and reports are developed and approved	

Objective 1:	By 2009 the Legal Aid Commission will have developed and approved the new position responsibilities and training.	
Measure		
Position responsibilities approved		
Indicators	Actual Results	
Administrative policies and procedures developed	2008-09 was the first full year of operation for the Commission's new administrative structure. In that year administrative policies and procedures developed. There were considerable improvements in administrative efficiency which has permitted the Commission to respond in a more timely fashion to the needs of the public and Commission employees.	
Administrative policies and procedures approved	During 2008-09 numerous policies were drafted, reviewed, revised, and approved; such as policies on conflict of interest, computer security, performance development, and financial eligibility standards.	

Management personnel trained and performing their new roles	Throughout the 2008-09 year the Commission's management personnel handled all the duties assigned to them. Training on management skills and issues was ongoing for senior and middle management.
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Objective and Indicators for Fiscal Year 2009-10

Objective 2:	By 2010 the Legal Aid Commission will have completed the preparation of documentation and staff training on the new positions, policies, and practices
Measure	
Documentation prepared and staff training completed	
Indicators	
Documentation prepared	
Staff training completed	

Issue 2: Access Improvements

The Lamer Inquiry Report highlighted concerns that the Legal Aid Commission had not always communicated effectively with persons who were incarcerated and who needed their services. Similarly, concern has been identified by community groups, individual clients and the courts that people are having difficulty accessing legal aid.

Goal:	By 2011 the Legal Aid Commission will have enhanced access to its services.
Measure	
Access to Legal Aid services enhanced	
Indicators	
Review of current application process completed	
Plan to improve application process developed	
Plan to improve application process implemented	
Time to process applications reduced	
Time taken to assign counsel reduced	
Time from the assignment of counsel to first meeting reduced	

Objective 1:	By 2009, the Legal Aid Commission will have completed an internal review of impediments to access to its service.
Measure	
Internal review of service completed	

Indicators
Staff survey completed
Client survey completed
Research on application process in other jurisdictions completed
Final Report of Recommendations completed
Actual Results
<p>Due to lack of time and resources it was not possible to conduct staff and client surveys or to do research and a report of recommendations as had been planned. The Commission, however, recognizes the need to move forward with the planned study and with a further study of the impact of changes already made. To this end, studies have been undertaken, with the aid of external experts, to conduct surveys, to quantify the benefits of new programs and procedures, and to suggest possible enhancements to the service. This work should be completed in the next fiscal year.</p> <p>Throughout 2008-09 the Commission's management were able to engage in less structured dialogue with staff, clients and other stakeholders on how Legal Aid service can be improved. As a result a number of improvements have been made, such as the opening of an Intake Office at the Provincial Court in St. John's, streamlined financial eligibility criteria for recipients of Income Support, reduced waiting times for the processing of appeals, better co-ordination of lawyers in circuit courts, and strict timelines put in place for the processing of applications from people held in institutions.</p>

Objective and Indicators for Fiscal Year 2009-10

Objective 2:	By 2010 the Legal Aid Commission will study means to improve access to its service.
Measure	
Study completed	
Indicators	
Working groups established	
Service timelines established	

Issue 3: Aboriginal Justice

Since the release of the Aboriginal Justice Project Report the Legal Aid Commission has implemented several 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.

Goal:	By 2011 the Legal Aid Commission will have further analyzed the requirements to implement the recommendations of the Aboriginal Project Report and implemented them to the extent funding allows.
Measure	
The recommendations of the Aboriginal Justice Project report are implemented	
Indicators	
Stakeholders' comments and suggestions are solicited and considered	
Existing programs are revised and improved	
Legal Aid Commission service to Aboriginal communities is enhanced	

Objective 1:	By 2009 the Legal Aid Commission will have consulted with Aboriginal communities and leaders	
Measure		
A report is prepared on the consultation with aboriginal communities and leaders		
Actual Results		
Before this report could be written it was decided that there was a need for extensive consultation. As well, the senior solicitor tasked with preparing the report was, due to a pressing demand for legal resources in Labrador, not able to devote as much time to this task as it required. The Commission has, in the 2009-10 fiscal year, ensured the necessary resources are in place so that the report can be completed. It is anticipated the report will be completed by early 2010.		
Indicators	Actual Results	
Consultation with Legal Aid staff working with Aboriginal communities is done	Over the 2008-09 year several meetings were held with Legal Aid staff in Labrador to discuss the service provided to the aboriginal community. In particular attention was given to the Commission's community workers in the communities of Nain, Hopedale, Natuashish and Sheshashiu. In the latter community the demand for community liaison was felt to be so strong that the Commission made the community worker position there a full time position.	

Aboriginal communities and leaders are consulted	Senior management of the Commission attended numerous meetings with aboriginal leaders and elders to discuss the issues of aboriginal justice and the role of the Legal Aid Commission.
Other parties in the justice system are consulted	Frequent consultations occurred throughout 2008-09 between senior Commission staff and the judiciary, law enforcement personnel, child protection officials, and corrections staff.

Objective and Indicators for Fiscal Year 2009-10

Objective 2:	By 2010 the Legal Aid Commission will have studied the recommendations for change and will have identified those that may be implemented within its existing budget and which will require additional funds.
Measure	
A report on which recommendations can be implemented will be prepared	
Indicators	
Recommendations that can be implemented have been identified	
Recommendations that require additional funding have been identified	
Proposals for budget process have been prepared	

Issue 4: Professional Development

The Legal Aid Commission provides legal services of the highest professional quality. To ensure that the Legal Aid Commission does not lose the trust and confidence of the public it is necessary that the Legal Aid Commission take steps to ensure that the legal services provided to the Newfoundland and Labrador public continue to be of the highest standard and that the workload of the legal staff is properly managed so that every client's case receives proper attention.

Goal:	By 2011 the Legal Aid Commission will have policies and practices in place to ensure that its professional staff have the tools and training to consistently provide the highest possible quality of legal service.
Measure	
All needed professional training and resources are provided to Commission staff.	
Indicators	
The Commission's Senior Solicitors provide a report on the training and resource materials needed to raise Legal Aid Commission's professional standards	

Regular professional training is implemented
Standards of practice in specific areas of law are developed
Review Processes are implemented to ensure consistently high standards are applied by all legal staff

Objective 1:	By 2009 the Legal Aid Commission will have developed a program for ongoing professional development.
Measure	
A professional development program is developed	
Actual Result	
A professional development program has been developed.	
Indicators	Actual Results
The Senior Solicitors have prepared reports on training and resource needs	In 2008-09 the Senior Solicitors responsible for Criminal Law and Family & Civil Law prepared reports on training needs and drafted training manuals on several different aspects of the law for use by staff solicitors in the provision of legal service to the public. Training seminars and conferences were held and resources materials distributed. The Senior Solicitors worked closely with the Management Committee to ensure that the resources needed to continue their work are available.
A plan is formulated for the provision of the identified training and resources	A plan was formulated. An Education Committee was formed to assist in the co-ordination of training and various ad hoc committees also arose to assist with the provision of training opportunities to staff solicitors and support staff. As well, an organized orientation program was put in place to ensure that new solicitors and support staff joining the Commission acquire the knowledge they need to do their work.
Staff consultation on plan is conducted	There was ongoing consultation with staff on the plan for their training needs and many staff participated in the various committees which worked to facilitate training programs.

Objective and Indicators for Fiscal Year 2009-10

Objective 2:	By 2010 the Legal Aid Commission will implement its program of professional training and resource development.
Measure	
Professional training and resource development program is implemented	
Indicators	
Training materials and programs prepared	

Opportunities and Challenges Ahead

During the coming fiscal year: the Steers Cove area office; the Mental Health Office; the Labrador West area office; the Corner Brook Family and Child office; the St. John's Family and Child office; and the Provincial Director's office, will all be moving into new office spaces. This will pose many problems as Commission staff strive to make sure that the moves do not negatively impact on client service. However it is also an opportunity to improve service as each office is moving to space with better facilities. The offices in St. John's, in particular, have been coping with inadequate space for some time. Moving into offices where all staff have sufficient space to do their work will certainly improve their work environment and positively affect client service.

The Legal Aid Commission has been operating for over thirty years and, over that time, the number of files that have accumulated has become a major problem. The Commission has started a project to review the stored files, to identify files which can be destroyed, and to put in place an up to date file organization and retention system.

In this fiscal year the number of applications received for Legal Aid service increased by 6.9% over the previous year. The number of matters accepted for full service increased by over 10%, and the demand for duty counsel assistance in the Provincial Court increased by 25%. The Commission has been able to cope with this increase due to a significant growth in the resources provided by the Provincial Government in the last few years. However, if the demand for Legal Aid assistance continues to rise at the same rate as this year those resources may no longer be adequate to provide the same level of quality service.

Financial Statements

Unaudited Financial Statements are attached.

Newfoundland Legal Aid Comm.

Balance Sheet

For The Year Ending March 31, 2009

Unaudited

ASSETS

Current

Cash \$4,253,874

Accounts receivable \$491,393

Less: allowance for doubtful accounts -\$237,931

\$253,462

Prepaid expenses \$68,756

\$4,576,092

Funds deposited in trust \$179,036

Capital assets

Furniture & fixtures \$832,660

Less: accumulated depreciation -\$662,861

\$169,799

Leasehold improvements \$26,351

Less: amortization, leasehold improvements -\$26,149

\$202

Information Technology \$494,775

Less: amortization, information technology -\$401,047

\$93,727

Software \$185,543

Less: amortization, software -\$182,537

\$3,006

\$5,021,862

LIABILITIES & EQUITY

Current

Accounts payable and accrued liabilities \$1,406,380

Deferred revenue \$252,192

\$1,658,572

Accrued severance pay \$1,145,232

Funds deposited in trust \$165,798

\$2,969,601

Equity \$2,052,261

\$5,021,862

Newfoundland Legal Aid Comm.

Statement of Revenue, Expenditure and Equity

For The Year Ending March 31, 2009

Unaudited

	Current YTD	Budget YTD
Revenue:		
Province of Newfoundland operating grant	\$12,486,000	\$12,485,999
Law Foundation of Newfoundland grant	\$729,954	\$300,000
Recovered fees	\$105,415	\$0
Interest	\$70,990	\$95,000
	\$13,392,359	\$12,880,999
Expenditure:		
Bar fees and insurance	\$109,192	\$88,440
Capital expenditure	--	\$224,546
Commissioners' fees and expenses	\$79,053	\$87,402
Conference and education	\$76,703	\$100,800
Depreciation and amortization	\$95,708	\$0
Legal fees and disbursements	\$923,990	\$1,063,205
Library	\$14,796	\$32,150
Miscellaneous	\$50,143	\$22,601
Office and equipment rental	\$746,293	\$662,620
Office expense	\$275,382	\$111,605
Salaries and benefits	\$7,459,105	\$8,495,430
Telephone and light	\$61,328	\$87,700
Travel	\$79,555	\$22,754
Other Projects	\$1,720,899	\$1,881,747
	\$11,692,146	\$12,881,000
Excess of (expenditure over revenue) income over expenditures	\$1,700,212	-\$1
Equity, beginning of year	\$352,049	\$352,049
Equity, end of year	\$2,052,261	\$352,048

Contact Us

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