



**Legal Aid System Modernization Project Consultation  
ACLCO<sup>1</sup> Submission  
August 2019**

***Ontario's Community Legal Clinics***

The community legal clinic system in Ontario has grown and taken root over the last 45 years. Our clinic system is the envy of the world that values equality before the law. Indeed, as is often repeated, community law within a legal aid system is perhaps the single most important mechanism we have to make the equal rights dream a reality.<sup>2</sup>

Clinics are acknowledged to be a vital component of Ontario's legal aid system, and clinic law is a priority area of law for Legal Aid Ontario. Legal Aid Ontario has recognised and acknowledges the importance and value of independent community legal clinics in the delivery of clinic law legal services.<sup>3</sup>

In accordance with its Terms of Reference, the Legal Aid System Modernization Project seeks to explore how to make the legal aid system more client-focused and efficient. Additional goals include a legal aid system that is more innovative in helping people access the legal services that they require and that serves low-income people better and more cost-effectively. The ACLCO provides these submissions to assist in the on-going quest for improvements in providing legal services to low-income clients and communities. This has been a continuous goal of the clinic system since its beginnings; a necessity borne out of meeting great client need with limited and capped resources.

The success of the Ontario clinic system is based on its responsiveness and adaptability to the needs of the communities each clinic serves. For this reason, the important fundamental characteristics of the clinic model should not be altered but rather should be strengthened by the Project.

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<sup>1</sup> The Association of Community Legal Clinics of Ontario (ACLCO) has served as the representative body of community legal aid clinics in Ontario since 1997. The Association's objectives are to: improve the legal welfare of communities served by member legal clinics; promote unity and understanding among legal clinics in Ontario; represent and advocate on behalf of legal clinics in Ontario; promote and expand the legal clinic system in Ontario. The ACLCO is governed by a 13-person executive, elected and comprised of staff and board members from clinics throughout the province. The ACLCO has developed expertise in the delivery of poverty law services through the community legal clinic model, continues to act in a leadership role to advocate for sustainable legal aid services in Ontario and, is recognized throughout Canada and internationally as a champion of community based legal aid services. The ACLCO communicates and collaborates regularly with government, funders, community and justice sector organizations regarding legal aid and community legal clinics.

<sup>2</sup> The Honourable R. Roy McMurtry, Former Chief Justice of Ontario

<sup>3</sup> *LAO-Clinic Memorandum of Understanding* - Introduction.

The ACLCO welcomes this opportunity to assert and call for a renewed commitment to the Ontario community legal clinic model that remains the necessary underpinning for high-quality, community-based, poverty law services. However, written submissions and virtual roundtables are not optimal or sufficient in moving forward constructively with discussions regarding modernization. A two-way dialogue between LAO and the ACLCO, on behalf of the clinic system, is essential. The ACLCO is prepared to commence this dialogue and requests the opportunity to engage openly, as we have done on numerous initiatives with LAO, in the near future.

### ***The Ontario Community Legal Clinic Model***

Over the course of their history, Ontario's community legal clinics have matured and developed into a collaborative system that undertakes complex, often precedent setting, cases on behalf of its clients. Rooted in their communities, clinics are trusted sources of advice and guidance about the impact of the law on low-income individuals for other justice sector partners as well as for law and policy makers.

In 2019, community clinics remain an avenue of crucial and successful response to the legal needs of individuals with low incomes and disadvantaged communities. The most fundamental defining characteristics of community legal clinics are:

1. *Local community governance;*
2. *Practice in the areas of poverty law;*
3. *Legal response provided through a broad array of services;*
4. *Core/presumptive funding for clinics.*

The clinic system as it currently stands is the result of extensive study and recommendations made in 1997 in the *Report of the Ontario Legal Aid Review*.<sup>4</sup> As did numerous independent studies that preceded it, the *Report of the Ontario Legal Aid Review* concluded that the **community clinic model** meets many of the goals that were identified for the larger legal aid system.<sup>5</sup> These goals are similar to those on which this consultation is centred.

Support for the Ontario community clinic model and its four defining characteristics has been recently found in an examination of legal aid services undertaken in British Columbia. The BC Attorney General conducted an external review of legal aid services in that province. The mandate was to review the effectiveness and efficiencies of legal aid service delivery models with the overall aim to advance the rule of law and access to justice in the province.<sup>6</sup> With respect to "poverty law", two recommendations of the reviewer referred to the Ontario community legal clinic model. The Reviewer recommended that British Columbia fund and support an integrated network of

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<sup>4</sup> *Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services, 1997.*

<sup>5</sup> *Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services, 1997, Volume 1 at page 192.*

<sup>6</sup> *Roads to Revival: An External Review of Legal Aid Service Delivery in British Columbia, Conducted for the Attorney General of BC by Jamie Maclaren, QC, January 2019*

independent community legal aid clinics with teams of lawyers and advocates providing poverty law services, inspired by Ontario's community legal clinics.<sup>7</sup> Also recommended is that British Columbia develop and nurture a strategic network of specialty legal aid clinics to serve specific communities of legal need.<sup>8</sup>

The four fundamental characteristics are the foundation of the success of legal clinics and at the root of the esteem in which Ontario's clinic system has been held by national and international observers of the legal aid landscape. For these reasons, the clinic model should be preserved. The fundamentals are the strength of the clinic system. We will examine these individually in the section below. Standing on this foundation, we can, and are eager to, work together with LAO on improvements to the services clinics provide, to clinic operations and competencies, etc.

### ***Examination of the Fundamentals of the Clinic Model***

All of the following fundamental characteristics are vital to the success of community legal clinics in Ontario:

1. Local community governance
2. Practice in the areas of poverty law
3. Legal response provided through a broad array of services
4. Core/presumptive funding for clinics

#### ***1. Community Governance matters to a legal aid clinic system that is client focused, efficient and provides relevant, timely services***

Independent clinic boards of directors are the best vehicle through which to ensure that clinic services are client focused and efficient. Several independent reports and attorneys general have said so:

- ***Grange Report, 1978:*** *Control must be with a community board which knows best what the community's needs are and how best to meet them.*
- ***Attorney General Ian Scott, November 30, 1985:*** *No central authority could ever appreciate properly the dynamics and the needs of [the] different communities across Ontario. No central authority could bring to bear on [setting priorities] the accumulated wisdom which comes from living and working in the community serviced by a clinic.*
- ***The Ontario Legal Aid Review - McCamus Report, 1997:*** *The community clinic model is the most appropriate to deliver "poverty law" services and independent community governance is integral to that model.*

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<sup>7</sup> *Roads to Revival: An External Review of Legal Aid Service Delivery in British Columbia*, Conducted for the Attorney General of BC by Jamie Maclaren, QC, January 2019, pages 49-52.

<sup>8</sup> *Roads to Revival: An External Review of Legal Aid Service Delivery in British Columbia*, Conducted for the Attorney General of BC by Jamie Maclaren, QC, January 2019, page 52.

- **Chief Justice (former Attorney General) Roy McMurtry, June 23, 2003:** *What distinguishes clinics from other access to justice initiatives is their ability to respond in a community-specific manner.*

**Independence:** Community boards of directors that are independent of government ensure that the disadvantaged communities the clinics serve are able to advance the interests of their clients free of conflicts of interest as is required by the rules of professional conduct of the legal professionals employed by clinics. Clinics are also free to pursue systemic remedies that ensure the legal well-being of the clients and communities served.

**Local knowledge:** Local boards bring local community knowledge to their decisions. A local board uses its direct and immediate awareness of local circumstances to allocate the available resources to the legal issues that matter most in its community.

Centralized priority-setting can *never* be responsive in a timely way to the highly variable needs of marginalized people in Ontario's widely divergent communities. Board members who are grounded in the life of a community have immediate and first-hand knowledge of evolving legal needs. Unlike a distant bureaucracy, local boards can quickly move resources to new pressing priorities without the need for a centralized red tape procedure.

Local boards are aware of local assets and community resources that can often resolve problems informally or prevent them from escalating. Board members know, through their community relationships how to use local problem-solving options that are often invisible to outsiders.

**Local linkages:** Local clinic boards coordinate services effectively with other community agencies; for example, by connecting eviction issues to local mental health services. Local board members are often members of other community agencies, and interlocking boards can foster effective collaboration among staff, facilitate shared services and support community hubs.

**Local responsiveness:** Local boards also make clinics more accessible and welcoming to their target clientele: people who are often uncomfortable with large, remote bureaucracies. They also help to create trust in the legal system for those who are most vulnerable by hiring and supporting staff members who can connect with the specific communities served by clinics.

**Local focus:** A local board ensures that clinic staff stay focused on local needs in terms of what is practical and of most value to the members of a specific community.

**Local accountability:** A local board means that it is easy for community members to be heard about their needs and the quality of the clinic's services; and it ensures feedback from clients much more effectively than a remote bureaucracy. As clinics always work with limited resources relative to community legal needs, a local board helps achieve

'buy in' for its tough decisions taken to maximize the effectiveness of these limited resources.

**Local efficiency:** Local boards represent 'small government,' effective clinic governance by unpaid community volunteers versus central governmental paid staff.

## ***2. The core efficiencies of systemic legal clinic work***

Ontario's community clinics do not have sufficient resources to serve all the individuals who need and qualify for their services. In response, clinics have developed strategies to leverage limited resources to overcome systemic legal barriers for disadvantaged persons; strategies that make more efficient use of resources than case-by-case services.

Representing the interests of more than one person at a time is the most efficient form of direct client service.

Systemic legal actions permit clinics to communicate the legal implications and often unforeseen negative impact of laws and decisions on their clients to law and policy makers. In this way, systemic legal actions permit governments and service providers to learn about unintended consequences, how things are working in practice on the ground, and to develop more appropriate responses.

Such interventions and test cases reduce the impact on the resources of tribunals and courts: one decision can efficiently resolve multiple cases. Whether such systemic interventions lead to decisions in favour of disadvantaged persons or not, they result in fewer individual legal actions and reduce future caseload volumes significantly.

Ontario's specialty clinics have often led systemic legal work for the constituencies they serve. Specialty clinics have developed noteworthy expertise in their areas of specialty, delivering high quality, cost-effective services for their target populations.<sup>9</sup> The expertise of the specialty clinics has often been relied on by courts and tribunals that have adjudicated on issues that have particular impact on clinic communities. Indeed, often submissions and arguments advanced by specialty clinics are quoted in judgments and decisions. Specialty clinics are a most effective and efficient tool for achieving positive systemic change on behalf of low-income and vulnerable people, both by advocating on behalf of the clients and communities they serve as well as providing expert support for general service clinics. This in turn makes geographic clinics more efficient and effective.

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<sup>9</sup> *Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services, 1997*, Volume 1 at page 200.

All clinics also assist much larger numbers of clients efficiently when they work with tribunals, agencies and service providers to remove unintended barriers to service effectiveness. By flagging recurring issues and structural problems, systemic legal work creates opportunities for broad based responses, making the legal system more streamlined, nimble and effective for everyone.

Systemic legal work encourages marginalized persons to come together and to learn how to solve problems with limited legal help. By contrast, a case-by-case response on its own, to systemic legal issues can foster ongoing dependency for clients of community legal clinics. Case-by-case work is necessary, but it cannot meet all the legal needs of our clients.

For the most marginalized Ontarians, systemic work by legal clinics provides an escalator rather than a revolving door.

### ***3. Practice in the areas of poverty law***

In these submissions, we use the term “poverty law” to describe the areas of law that are practised in community legal clinics. These are areas of law encountered by people with low income simply because they have very limited means and experience poverty.<sup>10</sup>

These areas of law are specialized because the lives of people living in poverty are commonly enveloped by complex legal regimes (e.g. income maintenance programs, public housing regulations, workers’ compensation systems, etc.). The response to the fundamental legal problems of people living in poverty must also be systemic in nature, in response to the systemic nature of their legal problems. The systemic responses must be pursued as vigorously as the pursuit of individual remedies on a case by case basis.

The specific areas of practice that make up poverty law can, and have, changed over time, and certainly differ from community to community. For example, a working class community may require its clinic to assist with workers’ compensation claims, or basic employment rights; however, a community with high levels of unemployment and precariously housed individuals will likely require its clinic to address tenant advocacy and social benefits work as priorities.

It is also clear that some areas of law are less suited to clinic practice. These are areas of law that have a significant impact on individuals with means as well as on those living

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<sup>10</sup> The *Legal Aid Services Act*, section 2, defines these areas of law as “clinic law”: The areas of law which particularly affect low-income individuals or disadvantaged communities, including legal matters related to, (a) housing and shelter, income maintenance, social assistance, and other similar government programs, and (b) human rights, health, employment and education.

in poverty. There is therefore, likely to be an established private bar to provide representation. More significantly, these are areas of law where members of the low income community served by the clinic could be found on either side of the issue, and where conflicts of interest could often arise. Traditional family law matters are often cited as an example. This would make a community based response not only difficult, but potentially destructive to the clinic and community itself.

The focus to date on poverty law has allowed clinics to meet the legal needs of low income Ontarians. Ontario clinics have the capacity to focus on the specialized legal problems of people living with poverty and to advocate purposefully on their behalf; the Ontario clinic system is a program directed to achieving equal justice. And Ontario clinics feel freer to specialize in the legal problems of people living with poverty, knowing that other legal problems, for which traditional advocacy solutions are more appropriate, can be provided by the judicare program and by personnel who are appropriately trained to do so.<sup>11</sup>

In a modernized legal aid system, clinics should continue to provide services for low-income people in the areas of poverty law. Practice in these areas is essentially exclusive in Ontario to its community legal clinics. The clients of the clinics are recipients of benefits, or tenants, or employees, and the other side will almost always be government or a government agency, landlord or employer. The legal adversaries of clinic clients are parties with substantial means. Without clinics, the power imbalance for low-income people would be insurmountable for most, if not all.

#### ***4. Core/presumptive funding for clinics***

For over four decades, clinics have been funded from year to year by the legal aid authority in the province. This is because there is a shared understanding that clinic law services are a necessary component of access to justice in Ontario, and a vital part of any comprehensive legal aid system.

After completing a comprehensive, annual funding application, clinics have received their yearly funding with some cost of living increases, in most years. Clinics are accountable for the expenditure of public funds to the legal aid authority. Clinics report financially and statistically to Legal Aid Ontario on a quarterly basis, and are subject to periodic audit and quality assurance programs.

This stability in funding has, until 2019, allowed clinics to recruit and maintain qualified staff to deliver the mandated, high-quality legal services. It has been noted by champions of access to justice in the Canadian legal system that advocates for the marginalized and vulnerable must advance their clients' interests vigorously and

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<sup>11</sup> Mary Jane Mossman, (1983) 3 Windsor Yearbook of Access to Justice 379 at p. 387.

fearlessly. Clinics can only undertake the necessarily intrepid representation of the most disadvantaged if their funding is secure and stable and not subject to reprisal motivated by the politics of the day.

Secure and stable funding allows clinics to grow roots in the communities served and renders them partners, and not competitors with other community agencies for scarce resources.

Presumed funding, so long as a clinic meets its obligations under its terms and conditions of funding, has allowed all clinic staff to dedicate the preponderance of their time to the legal work that the clinic is funded to do. In other jurisdictions in which funding is more precarious, clinic staff must often spend large amounts of time securing funding from various sources. In Ontario, due to stable funding, community clinics have been able to engage in long-term planning.

Stable funding has also allowed Ontario's community legal clinics to develop advanced systems of collaboration and coordination among the 72 geographically disbursed clinics. Substantive law working groups, coordinated continuing professional development, partnerships in precedent-setting cases and initiatives, and an association that provides counsel, support and a collective voice for clinics have flourished under a stable funding model. The beneficiaries have been low-income people of Ontario as well as the health and vitality of local communities in general. Services that reduce poverty also have an important economic return for the province as a whole.

### ***The Importance of Entrenching the Clinic Model in New Legislation***

Community legal clinics work to enable people to meet *basic and fundamental needs* of day to day living: a source of income, housing and shelter, equality and human rights, access to health care, education, workers' rights and more. Clinic lawyers and legal workers provide an array of services including casework and representation, legal advice and referrals, community development, public legal education and law reform for systemic solutions. Ontario's community legal clinics are instrumental in providing access to justice for low-income and disadvantaged persons in Ontario.

Given the central importance of clinic services to low-income Ontarians, the legal aid system should be statutorily mandated to provide "poverty" or clinic law services.<sup>12</sup> The

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<sup>12</sup> *Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services, 1997*, Volume 1 at page 193.



statutory language should be sufficiently flexible to permit the recognition of diverse and changing “poverty law” needs.<sup>13</sup>

The continued legislatively enshrined mandate is essential to ensure that clinics can be fearless advocates and speak out on behalf of their clients/communities. In the absence of statutory protection, clinics would exist at the whim of governments and bureaucrats. This is not appropriate given that clinics must often inform law and policy makers of the adverse effects of their laws and policies on disadvantaged and marginalized people who do not have means to advance their interests. In addition, government and regulators are often the parties opposite clinic clients.

The ACLCO urges the retention of the clinic model for delivering clinic law services within legislation. This will ensure accountability of elected officials to their constituents, and protect democratic processes. If it is agreed, as numerous independent studies have concluded, that poverty law is an important component of Ontario’s legal aid system, and that clinics are the best way of providing it, then clinic law and the clinic model must be enshrined in legislation.

***Modernizing Ontario’s Legal Aid System to facilitate access and reduce complexity: Community Legal Clinics are best suited to deliver “poverty law” services<sup>14</sup>***

The components of the Ontario community legal clinic model as laid out above meet the goals on which the 2019 Legal Aid System Modernization Project is centered.

| <b>Legal Aid System Modernization Project<br/>2019 Goals</b>                       | <b>Ontario’s Community Clinic System</b>  |
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| Value for Money and Sustainability   | The clinic system runs on a capped budget.  |
| Modernized service delivery that is integrated and nimble; enhanced accountability | Clinics work to assess, understand and respond to individual and community needs. |

<sup>13</sup> *Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services, 1997, Volume 3 at page 926.*

<sup>14</sup> *Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services, 1997, Volume 1 at page 192.* The conclusion that community legal clinics are best suited to deliver poverty law services has been confirmed by numerous independent studies on the subject, including the 1974 Osler Report; the 1978 Grange Report; the 1987 Canadian Bar Association report, *Legal Aid Delivery Models: A Discussion Paper*; the 1992 Review of Legal Aid Services in British Columbia; and the 1997 report by Osgoode Hall Law School Professors Frederick Zemans and Patrick Monahan, *From Crisis to Reform: A New Legal Aid Plan for Ontario*.

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| High-quality legal services and information;<br>Value for Money  | Clinics utilize lawyers, non-lawyers, public legal education initiatives and other delivery systems in order to deliver services cost-effectively.   |
| Streamlined approach to services delivery that prioritizes the needs of low-income clients;<br>Clear accountabilities and appropriate independence in required areas; addresses gaps in the continuum of services  | Independent community boards of directors prioritize needs and attempt to meet them strategically.   |
| Modernized service delivery that is integrated and nimble; Streamlined approach to services delivery that prioritizes the needs of low-income clients; High-quality legal services and information; Value for Money; addresses gaps in the continuum of services | Broad scope of services provided by clinics is multi-faceted, cost-effective, needs-based, and strategic   |
| Modernized service delivery that is integrated and nimble  | Clinics have developed strong linkages to non-legal services providers.  |
| Value for money; clear accountabilities and appropriate independence in required areas   | <p>Clinics are accountable to their communities through their boards of directors and <i>Corporations Act</i> requirements, and are accountable for the expenditure of public funds through their multiple reporting requirements to Legal Aid Ontario.</p> <p>Clinics and Legal Aid Ontario together developed and adopted a quality assurance program.</p> |

### ***Recommendations for Improvement of Legal Aid Services Delivered by Clinics***

The ACLCO recognizes that no organization or system is perfect and that there is always room to improve the delivery of poverty law services. Clinics seek these improvements on an on-going basis. Clinics, through the ACLCO, have historically engaged with LAO regularly on ways to improve clinic law services, and are happy to continue doing this. Changes must nonetheless build on the foundations that are described above that have made the clinic model so successful.

We look forward to engaging in a constructive two-way dialogue with LAO that could consider the continued progress of clinics in many ways, including the following areas:

### **1. Improving Clinic Governance by strengthening boards and clinic management**

Clinics have had the experience of a quality assurance program and as well as a robust learning and training program. Each is a vital component for ensuring that clinic services deliver high quality legal services, and that clinics are governed and managed appropriately.

A new quality assurance or accreditation program could develop a set of criteria and indicators of quality clinic services, spanning all aspects of a clinic's governance and practice. It could incorporate a significant role for peer support and oversight. The program could serve the dual purpose of accountability to the clinic's funder as well as supporting continuous improvement of clinic services.

Moreover, clinic-led learning and training for clinic boards and managers is an indispensable part of any program to support/improve clinic governance and management.

### **2. Enhanced criteria for funding decisions**

The ACLCO facilitated a province-wide consultation on the question of funding formulas for clinics, in the context of additional FEG funding investment, with the assistance of George Thomson and Karen Cohl. As a result of this consultation, in 2016 the ACLCO provided LAO with a Submission, on behalf of the clinic system, that was supported by every clinic in the system. Specifically the following should guide resource allocation and funding decisions regarding legal aid services:

In determining how to allocate funds as among geographic clinics, Legal Aid Ontario should develop a comprehensive allocation formula that takes into account a variety of factors.<sup>15</sup> In creating a weighting tool for the various communities served by Ontario's clinics, factors that should be considered include: the size of the low income population served by the clinic, recognizing that it is not easy to obtain reliable statistics for the most vulnerable communities; the depth of poverty; the ways in which advantage and disadvantage intersect to compound the experience and impact of poverty and legal vulnerabilities among the most marginalized, including for example, racialized, linguistically diverse, gendered, disabled communities; the obligation to offer services in both official languages; the remoteness of a community, including distance, diffusion

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<sup>15</sup> This type of comprehensive tool has been developed by various organizations, including the City of Toronto. For example, the *City of Toronto's Neighbourhood Equity Index*, and its *Marginalization Index*, rate the relative deprivation of various neighbourhoods, using precisely the type of factors that clinics have identified as appropriate in assessing the communities we serve. LAO should retain experts in this field to work with the clinics to develop this type of tool.

and isolation; the availability of other services, both legal and non-legal services; and, ensuring that clinics have adequate staffing to meet community legal needs, given the combination of the above factors.

Legal Aid Ontario should also recognize that poverty and its impact has not diminished significantly in any part of the province.

### ***3. Coordinated Legal Aid Services***

Clinics are embedded in the communities they serve. Clinic staff are frontline service providers with little bureaucracy between them and those who approach them for help. General service clinics are located within their geographic communities; specialty clinics are connected to the communities of interest that they serve. For many, their local clinic is the first encounter with a legal office.

Because of their knowledge of and accessibility to their communities, clinics often triage a client's problem. Because clinics deal with their clients' fundamental bread and butter issues, clinics often serve to coordinate various services, whether social services, health-care services, or other legal services.

Clinics can serve as dozens of points of access to legal aid services in Ontario. In addition, clinics have experience in training other community workers and trusted intermediaries in identifying legal issues and can provide information related to appropriate referrals.

Suggestions for a single point of entry have been made during this process. The ACLCO proposes that entry into the legal aid system be through multiple, community-based points of entry, with each point thoroughly informed of the broad range of services available. This would be the most accessible, and client-oriented, means of entry. Clinic clients cannot always articulate or discern discreet legal issues. Often, clinic clients present with one legal issue, such as an eviction notice, that is tied to a number of others. Clinics bring a nuanced approach to analysing the issues so as to determine the root cause of the problem, such as insufficient income or family breakdown. Clinics can then address the problem, either at the clinic or with a referral to the appropriate place.

The community legal clinics are trusted resources in their communities; provide services that assist clients in feeling comfortable enough to disclose personal issues; and, move forward at the appropriate pace that takes into account abuse, addiction, or cultural experiences of trauma, etc.

A centralized point of access would risk missing these important issues. If there were only one entry point, it would have to be centralized and could very easily be missed. Multiple points of entry are harder to miss and make access to justice easier.

LAO and clinics should work together to ensure that all access points are aware of the wide range of services available to clients, and are able to assist clients in easily accessing the appropriate service provider.

#### **4. “Core” Clinic Services**

The essence of community governance is that the community itself, through an elected board of directors, determines the needs that will be addressed by its clinic’s services and ranks the priorities of those needs. The validity of this governance has been underscored in the opening sections of this Submission.

The role of the legal aid authority in priority setting with respect to clinic services is one of oversight and monitoring. LAO’s vital role is to ensure a proper process has been followed by the clinic’s Board of Directors. Needs and priorities may well vary from clinic to clinic resulting in a spectrum of services that may not be identical from one community to another. So, “core” clinic services can vary from community to community. In these circumstances, it is for the legal aid authority to satisfy itself that a proper process has been followed by the clinic board and the priorities are defensible and based on sound assessments of community needs.

The ACLCO recommends that supports for clinic boards of directors in the conduct of reliable needs assessments would enhance and improve this process in clinics.

#### **5. Amalgamation of Clinics**

Over the past 15 years, several clinics throughout the province have chosen to amalgamate. Amalgamations have been successful when they have made sense from the perspective of the communities the clinics serve. They have also required time and careful attention to process to lay the appropriate groundwork, to enhance and improve the services they deliver to their communities. Conversely, amalgamation that is imposed on a community from above is rarely successful.

Several steps should be considered by LAO when contemplating the recommendation of clinic amalgamation including that a proper process be followed and supported. Resources and support are needed for meaningful community consultation, for legal and human resources advice, and as well as staff “buy-in”.

#### **6. LAO – Clinic Relationship**

The relationship between LAO as a funder and community clinics as service providers is always changing. The fundamentals of that relationship are captured in a set of foundational documents: The LAO-Clinic Memorandum of Understanding and its 3

Appendices (Funding Agreement, Consultation Policy, Dispute Resolution Policy). It would be worthwhile for LAO and the clinics to review these foundational documents to modernize the relationship between LAO and the clinics. For example, it is worth determining what role, if any, LAO should continue to play in providing central support to clinics in areas such as learning and training, research, IT, leasing, etc.

### ***7. Quality Assurance and Improvement***

As indicated above, years ago the clinics and the funder worked together to create a quality assurance program for the clinic system. It is time for LAO and the clinics to revisit this program to see how it can be modernized. Questions worth exploring are whether it makes sense for the program to be housed at LAO, or elsewhere. Should it become an accreditation program? What role can clinic peers play in quality assurance assessments? Can a set of performance measures be developed by this program that move beyond simplistic metrics and appropriately assess the complexities of clinic practice?

### **Conclusion**

Community legal clinics in Ontario are important, established centres that low-income and disadvantaged people can rely on to ensure their rights are protected and advanced regardless of their ability to pay. Independent, community-governed clinics are essential components of a justice system that promotes equality before the law. This vital role of clinics has a near 50 year history in Ontario, populated with important cases and initiatives that have led to important improvements in the lives of Ontario's most vulnerable. And in fact, quite often, the precedent-setting work of clinics has an impact on all Ontarians. Ontario Clinics, stably funded, rooted in and governed by their communities, providing a broad array of clinic services, are a vital justice sector asset to be nourished and allowed to excel in the pursuit of access to justice for low-income people and the most disadvantaged.

The ACLCO looks forward to engaging in the important dialogue that the Legal Aid Modernization Project has begun and offers these submissions as the beginning of those conversations.