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September 30, 2020

Clinic Law Services Division  
Legal Aid Ontario

SENT VIA EMAIL

RE: LAO/Clinic Modernization Consultations

Thank you for the opportunity to respond to the Clinic Modernization questions released 17 August. We support the ACLCO's efforts to negotiate new funding arrangements for clinics. As a result, CALC is not responding to these consultation questions in any detail or formally at this time.

We do wish to note that we have, in good faith, already provided answers to these and similar questions in other consultations over the past two decades. We enclose our submission from the Roles and Responsibilities consultation in 2008, as well as our two submissions to the Modernization Review last fall. You can also find our main submission last year [here](#). We continue to advocate for a coordinated, community-based justice and legal empowerment approach that delivers responsive legal aid services, following the model of poverty law services provided by Ontario's clinics, building on the *Challenging Justice Gaps* forum that we organized for our community last year. You can find a summary of the presentations [here](#). We encourage LAO in its modernization efforts to respond to the findings of empirical studies documenting the interconnected legal needs of the most vulnerable and disadvantaged and to work more effectively with Ontario's clinics to meet those needs.

In the past, concerns that we believe gave rise to these Modernization Review consultation questions led to LAO and clinics to collaboratively create a Quality Assurance Framework (which included several iterations to keep up with evolving expectations). This framework was developed to ensure that promising practices for managing clinics were identified, implemented, and lessons learned extracted and were eventually shared through a unique knowledge management initiative (KnowledgeNOW) led by clinics. We believe that this Quality Assurance initiative should be revitalized and re-envisioned to support clinic accountability, organizational learning, and knowledge-sharing and creating, to continue to strengthen Ontario's unique clinic system. There is no need to "reinvent the wheel." We recommend that LAO and clinics work together to collaboratively update the quality assurance criteria and articulate a modernized framework. It is also possible that an accreditation process, similar to that piloted by Australian legal clinics, might be a workable alternative.

The East and Central Region's (ECR) "Holistic Legal Services" project team, which CALC leads, met recently with the Modernization Review team to discuss how LAO services could be better coordinated

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with the work of clinics. We noted that this important question was missing from the 19 consultation questions provided and should be considered when developing a modernized legal aid program.

There were a number of questions asked about inter-clinic coordination. We are aware that compared to community-based legal clinics in other countries, Ontario's community legal clinics are remarkably well-coordinated. As only one small example of a network of interconnections and collaborations, CALC participates actively in the ECR's voluntary Joint Clinic Planning initiative, continuing to move forward various inter-clinic and collaborative service delivery, action research, and knowledge-sharing projects. We look forward to discussing this work further after the new funding framework for clinics has been developed with the ACLCO, and when we can be assured that our clinic and others have a secure future in which to continue to innovate, rather than one governed by funding contingent on satisfying the current ill-conceived performance measures that will actually and actively discourage creativity and experimentation.

We would be remiss if we did not speak to our experiences with the current Performance Measures Report pilot project. We have been participating in good faith, in the midst of extreme COVID pressures and disruption, as one of nine clinic volunteers in this pilot project. We are gravely concerned about the relationship between the reports that are being produced and any new funding or accountability framework. Two CALC staff have spent many, many hours trying to ensure a successful piloting of the reports and to engage LAO staff in productive discussions on what might be better. CALC has developed its own system of reports for monitoring and evaluating this work, so we are not inexperienced in the field of evaluation. However, CIMS has made the process of producing CALC's desired reports much more difficult. At the same time, this pilot project has drained significant energy and time away from what would have been a more productive joint learning exercise of discussing meaningful program evaluation, and what research methodologies and data collection methods are the most reliable, credible and sustainable to support the research questions. Unfortunately, we have concluded that not only are the current Performance Measures seriously flawed, but the reports that are being generated during the piloting process are not useful, credible, valid or even reliable as indicators, even if we agreed that the current performance measures were useful, which we do not. Furthermore, the lagging performance of the current CIMS software has become a barrier to accurate, efficient, or sustainable data collection. A major rethink and reboot is required – as it appears this “accountability” initiative is headed for failure. CIMS has already impeded our efficiency at managing our legal work for individual clients considerably and increased the amount of time we need to spend on document generation. The irony that CIMS also impedes useful data collection should not be lost on anyone.

Returning to our concern that this Modernization initiative should put the needs of clients at the centre, and support more holistic and strategic approaches, we will forward our soon-to-be-released pilot research study of the unmet civil legal needs of people who have been or are incarcerated at the Quinte Detention Centre. Our (partially) LFO-funded research was informed by an Advisory Committee that included LAO's Policy Department (Keith Taller) and LAO regional staff (Cindy Bruinsma). We look forward to convening a meeting, assisted by the Modernization Review Team, to discuss our findings and recommendations from this year-long research endeavour. The report's findings are current as of February 2020, before the impact of the pandemic on remand was felt. The findings of *Stymied, Stigmatized and Socially Excluded: A Pilot Study* support greater collaboration between LAO and interested clinics and include recommending that a regional forum be developed to bring together service providers sharing a common interest, supporting a *justice ecosystem approach*, in order to better serve the legal and other interconnected needs of vulnerable populations. We believe that our report's findings align with the recently released LAO Prison Law strategy as well as John Howard Society Ontario's *Legally Bound* report released in late July.

At a future date, we are also willing to share our ideas about the opportunities for LAO to explore getting more involved with local justice and health partnerships (JHP) as part of modernizing its services: most partnerships are led by Ontario's clinics. We presented on CALC's preliminary research into the extent and impact of these partnerships during the International Legal Aid Group's Ottawa conference in 2019. A copy of that presentation can be found [here](#). Part of our work with these partnerships at a provincial level now includes developing evaluation frameworks to gauge their impact and effectiveness, as well as building a JHP movement (and professional development resources) to capitalize on the energy, enthusiasm and expertise of health care partners as trusted intermediaries. This work has been partially funded by the Law Foundation of Ontario. Responsive and customized frameworks for evaluating the complex interventions that our clients need are very important, and the concepts are transferable to clinic work more generally. This research is being vetted by both an expert Advisory Committee, as well as the JHP Community of Practice (CoP) that CALC co-leads with CLEO, another example of inter-clinic collaboration to improve client services. We are delighted that one of LAO's staff who leads a JHP also participates in the CoP as we share ideas on how to improve the legal services that are offered to our health care partners and their patients. The CoP will be preparing a presentation for the Modernization Review.

And one final point – the needs of rural and remote Ontarians should not be forgotten. LAO should be developing a Rural Justice Strategy in collaboration with clinics as part of modernization. We note that there are no measurement indicators or screening questions related to rurality, which is seriously problematic if we are intending to offer inclusive services that respect a diversity of perspectives, geography, and legal need. Rural-proofing programs is an important concept we need to pay attention to. Rural and remote communities often offer little service infrastructure, and even less access to legal information, legal help, and appropriate dispute resolution alternatives. We encourage you to review concerns considered at the Rural Justice Forum sponsored by the East & Central Region Transformation Project in 2017, which you can find [here](#).

Thank you for considering these remarks and we look forward to participating more meaningfully in the future, once our future funding arrangements and scope of clinic practice and independence have been clarified.

Yours very truly,



Peter Kerr  
Chairperson  
Board of Directors



Michele Leering  
Executive Director/Lawyer

cc. Association of Community Legal Clinics Ontario  
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LAO's Modernization Review Team  
Lois Cromarty, Executive Director/Lawyer NCLC and Chair, ECR Joint Clinic Planning Committee  
Lisa Turik, Lawyer, JHP Project Lead, CALC & and Kristina Brousalis, Lawyer, CLEO, co-Chairs, JHP CoP