

Parkdale Community Legal Services Inc.

c/o Parkdale Community Health Centre
1229 Queen Street West
Toronto, Ontario M6K 1L2
☎ 416 531-2411 ext. 242
✉ macdonaldj@lao.on.ca

September 6, 2019

RE: Legal Aid Services Modernization Project

Parkdale Community Legal Services (PCLS) writes in response to Legal Aid Ontario (LAO's) call for submissions to the Legal Aid Services Modernization Project (Modernization Project).

PCLS fully endorses the submission of the Association of Community Legal Clinics of Ontario (ACLCO) to the Modernization Project. This letter provides additional support for the points articulated by the ACLCO, drawn from PCLS's own history and experience.

Background

PCLS began when what was then the Canadian Department of Health and Welfare provided experimental funding for four community legal aid clinics in four provinces in 1971: Dalhousie Legal Aid Service (Halifax, Nova Scotia); Community Legal Services (Point St. Charles, Montreal, Quebec); Parkdale Community Legal Services (Toronto, Ontario); and Saskatoon Community Legal Services (Saskatoon, Saskatchewan).

PCLS opened its door to the community on September 1, 1971, thus becoming the first community legal clinic in Canada. PCLS was initially organized into three working groups: Consumer and Immigration, Housing and Development, and Employment Standards and Unemployment Insurance. PCLS has responded to changing community needs and currently provides support in Immigration, Housing Rights, Social Assistance, Violence, and Health (SAVAH), and Workers' Rights. We serve low-income clients in the Parkdale-Swansea neighbourhood of downtown Toronto.

From the very beginning, PCLS was a teaching clinic affiliated with Osgoode Hall Law School. When PCLS opened, it had one articling student and sixteen Osgoode Hall law students. PCLS now has two articling students and twenty law students enrolled in Osgoode's Poverty Law Intensive Program every year.

PCLS' mandate includes: (1) providing legal services to low-income individuals, (2) building social movements to reduce poverty and fight for equality, and (3) training law students in community lawyering and poverty law.

Recommendations

Recommendation #1: immediately reverse course and enhance funding for legal aid certificates and community legal aid clinics across our province.

We are deeply concerned that this initiative is occurring in the context of an unprecedented cut to legal aid services funding in Ontario. In particular, PCLS' funding cut of 45% over two fiscal years has resulted in immediate lay-offs of valued front-line staff, many with decades of experience working with members of our diverse community. These cuts to our clinic have reduced access for Parkdale-Swansea community members who already face numerous barriers to accessing essential legal and social services.

This funding reduction threatens our ability to continue serving clients in Parkdale-Swansea. It also constrains our ability to participate as a partner in systemic law reform activities and consultations such as the Modernization Project, despite our decades of experience leading the development of the community legal clinic model in Ontario, across Canada, and internationally. Instead, our remaining staff are struggling daily to continue providing the level of high-quality client service to which we have always dedicated ourselves.

This review is committed to improving efficiencies and reducing public expenditures. As the Canada Bar Association study has demonstrated, community legal clinics and legal aid services are not only efficient but they actually save public dollars. Indeed, for every dollar invested in legal aid, the government saves \$6 in public spending,¹

Recommendation #2: maintain community-based legal clinics as the most efficient means of serving low-income clients and meeting community needs

Community legal clinics have reach that cannot be replicated by either a centralized clinic model or the private bar/certificate model. PCLS works with vulnerable clients that face numerous barriers to accessing basic social services, including but not limited to language barriers, mobility impairments, mental disability, precarious immigration status, systemic discrimination, and simple lack of time and resources to pursue legal resolutions of their issues due to the realities of living in poverty.

As LAO's own client consultations have shown, there are many Ontarians who are unable to access legal services online, over the phone, or through other technological advancements that have often been billed as the magic bullet in solving our access to justice crisis. Without the permanent presence of a physically-accessible legal clinic in the Parkdale-Swansea community, many of our clients would never find or receive legal aid services. Centralization or "hubbing" does not automatically equal cost savings, reduced red tape, or increased client satisfaction.

¹ Canadian Bar Association, "Study on Access to the Justice System - Legal Aid" (December 2016).

Furthermore, the community clinic model is a cost-effective way of providing legal services to low-income Ontarians. At PCLS in particular, our clinic is able to carry a high volume of client files because we are a teaching clinic. By assigning law student caseworkers to manage files under the supervision of a lawyer, we greatly expand our service capacity and responsiveness to clients with limited resources. For example, in 2018 alone, our Workers' Rights division recovered \$574,481.53 in unpaid wages and other employment entitlements. This volume of work would not be possible without our structure as a teaching clinic.

Community legal clinics must continue to be a primary vehicle for the delivery of efficient, accessible, and accountable legal services for Ontarians living in poverty. In recognition of the quality of legal services provided by community legal clinics, other countries and provinces like British Columbia are moving towards (or back towards), not away from, a community-based clinic model. Rather than cutting clinic budgets at this time, LAO should restore clinic funding and expand the variety of clinic law services that it will fund in order to create more opportunities for Ontarians to access the help they need to resolve their legal issues efficiently.

Recommendation #3: preserve clinic independence through legislation and core funding in order to guarantee effective, accountable responsive service delivery

LAO is our core funder and has a key role to play in overseeing the provision of legal aid services in Ontario. However, community legal clinics have decades of experience in providing efficient front-line legal services to communities in need with limited resources. As identified in the ACLCO submission, community legal clinics such as PCLS are not merely stakeholders or service providers. Instead, we share responsibility with LAO and the provincial government to determine the way forward for "modernized" legal aid services that meet the needs of low-income individuals and disadvantaged communities.

To this end, community boards of directors that are independent of government are essential to ensuring that clinics can advance the interests of their clients free of conflicts of interest or undue influence. In fact, PCLS was at the forefront of developing the community board model in the 1970s.

Currently, the majority of PCLS' Board members are community members who are highly attuned to the character of the Parkdale-Swansea area. The input of community members at a governance level has been instrumental in identifying local needs and making effective use of limited resources. This leads to a nimble service delivery model. We struggle to see how the imposition of a centralized, or even regional, authority would enhance PCLS's capacity to direct services in a way that benefits its community.

Independent, community-governed legal clinics must be protected in any future legislation governing legal aid services in Ontario. This would also demonstrate in a concrete way that the government is listening to, and legislating for, the people of our province. Similarly, clinics must be a core priority of LAO in funding decisions in order to ensure that they can maintain service levels and quality while meeting the needs identified by their communities.

In contrast, removing legislative and funding guarantees would be a step backwards, not forwards, when it comes to ensuring effective and efficient delivery of legal aid services across the province.

Recommendation #4: confirm the value and funding of “front-line clinic services” to communities as extending beyond individualized casework

Despite recent funding cuts, LAO has indicated that it seeks to maintain “front-line services” to clients. However, it appears that such services have been defined narrowly to include only individual legal casework and public legal education. As pointed out by the ACLCO, this is an extremely limited focus that ignores the mandate of community and specialty legal aid clinics as well as LAO’s past priorities for systemic and community-based legal work. Clinics have a responsibility to their communities to pursue systemic remedies that further the legal wellbeing of our disadvantaged clients.

Whether it is making submissions to government consultations, intervening in precedent-setting Supreme Court of Canada cases, or working with community members to address local concerns, PCLS has a long history of bringing its knowledge and expertise to bear on systemic work. Recent examples include:

- The Housing Rights’ division’s support of tenants at an apartment building, who collectively blocked a ‘renoviction’ by collectively applying to the Landlord and Tenant Board;
- The Workers’ Rights division’s ongoing support of the Caregivers Action Centre, which led to the recent expansion of the temporary foreign worker program to include open work permits for individuals experiencing abuse;
- SAVAH’s provision of legal advocacy, access and organizing support to the Parkdale-Queen West Community Health Centre’s safe consumption site program.

These examples illustrate the success of a clinic model that couples systemic work with an attenuation to the specific needs of the community. ***By addressing issues that give rise to client’s community clinic needs, we reduce the actual level of legal case support required.***

Recommendation #5: ensure that an effective, accountable access to justice system for low-income Ontarians includes what it currently fulfills - adequate research, development and training for lawyers and the legal profession on poverty and community lawyering

PCLS has now trained over 1800 future lawyers through its 48-year history as a teaching clinic. After they are called to the bar, many PCLS students go on to work in community legal clinics or LAO offices, to take on legal aid cases through their private practices, or to offer pro bono services based on their knowledge and exposure to the community clinic system and the clients we serve. Some have taken luminary positions as judges and politicians, shaping the judicial and democratic institutions our society relies upon to

continually strive to balance the inequities that are disproportionately found within our laws and legal system.

Any well-run business engages research, development, and training as a key element of innovation and growth. Losing focus on research, development and training as part of LAO's business model would not only harm low-income Ontarians, but the legal profession and the fabrics of our democratic society. PCLS, other clinics and LAO have played an important role in the research, training and development of legal aid services. The academic literature and law reform work coming out of PCLS and the legal aid system in Ontario is profoundly impactful locally, across Canada, and internationally.

We strongly recommend that LAO continues training and development as integrated within the legal services system, for example through funding summer student workers, the articling student lottery, ongoing staff development, research projects, and core clinic envelopes that allow for staff time to supervise student workers and volunteers. The sustainability of any legal aid system requires careful attention to the current and next generation of legal workers who will provide the innovative services that LAO envisions through its Modernization Project.

In conclusion, we reiterate our fundamental point that the existing community clinic model is an efficient and effective vehicle for the delivery of legal services, and that any further centralization of the clinic system would be deleterious to the provision of legal services to marginalized Ontarians.

Yours truly,

PARKDALE COMMUNITY LEGAL SERVICES

Per:

A handwritten signature in black ink, appearing to read "J Macdonald", with a horizontal line underneath it.

Johanna Macdonald
Clinic Director