‘We Are Here to Help’; the changing culture of legal aid in Nova Scotia

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We are all familiar with the concept of legal aid as a service in which lawyers provide legal solutions to problems that are sufficiently serious and legally complex that the individuals experiencing them must go to some part of the formal justice system to resolve them. This traditionally narrow range of service dealing with the bare bones of legal issues has been further constrained by the rationing of funding for legal aid, funding which, while greater than in many countries, is less than adequate to meet the legal needs of the poor. Meeting legal need effectively is not just a matter of serving more people in the same old way. A better understanding of legal need recognizes how legal problems are embedded in clusters of inter-related legal and non-legal problems, more typical of the poor than the more affluent, that makes them difficult to resolve. Legal needs research has also demonstrated the very high prevalence of legal problems for which people do not seek legal help, at least until the situation is desperate.

It is often said that change is the only constant, even if in some domains change moves at a snail’s pace. Within Nova Scotia Legal Aid (NSLA) not only is change clearly the constant, but innovation is the new normal. This article highlights four areas of service delivery that show how NSLA is developing new approaches to client service and redefining legal aid. The four services include:

1. Criminal legal aid in Halifax;
2. Family law services in Dartmouth;
3. A social justice program that includes Income Assistance support, residential tenancy and CPP Disability application assistance in the Kentville area; and
4. A Province-wide program to assist Aboriginal people.

“The new approach is about valuing the help that non-lawyer staff can give to clients”, says Karen Hudson, QC, Executive Director. “Just as healthcare has integrated nurse practitioners...
into its service delivery, NSLA sees the value that support staff can bring in directly helping Nova Scotians. You don’t need a doctor to draw blood”.

Snapshot: Criminal Legal Aid

Susan Slaunwhite is a Court Support Worker who assists clients in the criminal courts in Halifax. For the out-of-custody docket, Susan helps people apply for legal aid. She makes appointments for accused with the Staff Lawyers, making the process flow more smoothly and quickly than might otherwise be the case. She will sit with people and “troubleshoot”, get the disclosure for them and answer questions prior to their meeting with the Legal Aid Lawyer. In these conversations, Susan also develops a sense of what is happening in people’s lives. By taking this holistic approach, she assesses probable needs for mental health or substance abuse services, housing services or disability support, and Susan calls agencies to make referrals on behalf of our clients. She identifies people who may benefit from the problem-solving approach of the Mental Health Court if appropriate.

Most of Susan’s work is focussed on individuals with criminal charge on the in-custody docket. Susan makes contact with people being held in the cells. Primarily, this work supports contested bail applications. For instance, she will ascertain that the community supports are in place to assist the lawyer in presenting the strongest possible case for release. However, for both in-custody and out-of-custody clients a major aspect of the work lies in service delivery. Susan takes an encouraging approach with our clients. She will begin with the end goal in mind and will ask individuals to, “Tell me what you want to accomplish so that we can try to get you there.” It will surprise no one familiar with working in the criminal justice system that re-offending is frequent. However, in Susan’s experience, people generally respond well to a genuine offer of assistance. “It makes people want to try. It gives them one more second chance,” according to Susan. The key is “never say no”. Stable housing, the substance abuse or
mental health program, the community support from a church, arranging to have a pet cared for, having the person’s belongings moved to a place where they can be safely stored or informing partners or family members about what is happening can come together in some unique way for that individual to make a difference and turn their life around.

Although it is not directly part of her work supporting lawyers and legal aid clients, Susan also provides assistance to people incarcerated in provincial correctional facilities. Inmates are able to sign up for a half hour to 45 minute interview available one day a week. In the interviews, Susan helps inmates identify what they need and then arranges to get things done. This can include helping to arrange video appearances, assisting with the paperwork for an appeal, arranging access to a computer so the person can review disclosure for an ongoing matter, helping inmates deal with family law matters or ensuring that prescriptions for medications are filled, including methadone treatment. Susan also takes legal aid outside of the box by participating in an after-hours ex-offender and volunteer 7th Step Society Program designed to prevent recidivism. This can involve assisting with pardon applications or using her community contacts to arrange for substance abuse support, mental health counselling or assisted housing.

Snapshot: Family Law Services

Gloria Best, Family Support Assistant, provides family support and assistance in Dartmouth. She is the first point of contact at the Dartmouth Legal Aid Office for clients with problems related to the Child and Family Services Act (CFSA). Gloria thinks of the legal aid application as a platform to get to the roots of the problem that has brought that person to the doorstep of legal aid. For clients who may be very stressed as a consequence of their problems and possibly intimidated by the meeting with a lawyer, Gloria’s approach breaks down the barriers and improves the experience before the client meets with her or his lawyer. Gloria describes her work as an “all service approach”. She assists lawyers with legal aid cases, gathering information and preparation of legal documents. Gloria’s objective is to have files close with a positive outcome so people can go on with a happy life or, at least, better than it was before. By her own account, she spends about 40% of her time on holistic family legal assistance and 60% on more conventional case support work. However, from the point of view of this observer, it is
difficult to separate the two. For example, one of the Legal Aid Lawyers became aware from a client interview that the client had her water turned off for non-payment of fees, making her life precarious and the case more difficult. The lawyer took the problem to Gloria who connected her with the Salvation Army H2O program that provides funds to alleviate this kind of problem. In another case, a client was under CFSA supervision and at risk of having the children removed. The risk was high because she had exhausted food bank options and was in desperate need. Gloria arranged through the Brunswick Street Mission to provide the family with non-perishable food, food vouchers, school supplies and other basic items and arranged to have them delivered. As the supplies were carried into the house, one of the children watching from the window was overheard to say: “Oh mommy. The boxes are still coming!” There was a positive outcome in the case. This is the new face of legal aid.

There is a strong outreach aspect to Gloria’s work. Once a month she spends a day representing legal aid at the Dartmouth Food Centre which is part of the Dartmouth Resource Centre. The management of the food bank lets people know in advance when she will be there. There are often four or five people who will ask for a meeting and arrange a time. Otherwise, Gloria meets with people informally. “People just want to talk”, Gloria says. However, according to Gloria, the discussions often lead to the discovery that the problem the person wants to talk about involves a legal issue and has a potential legal solution. In those cases, she takes an application for legal aid. Usually, the problems people identify are early stage, at the outset of a developing legal issue, and other measures can be taken.

The constituency office of a local member of the Nova Scotia Legislature is another organization in the community with which Gloria has established a working relationship. As with the Food Centre, referrals work both ways. These intermediary organizations will call Gloria if someone comes to them with a problem they think might be a matter for legal aid. These arrangements are very much a two-way street. If a client comes to Gloria through the legal aid office, and part of the problem might be alleviated through the resources of the organization, she will send them over there.

Through Gloria’s work, NSLA is developing a community development approach to legal aid, partnering with community organizations, and calling into play for the benefit of legal aid
clients resources beyond the four walls of the legal aid office. The kind of legal aid service that is emerging goes beyond the formal menu of legal services. It recognizes that while the legal and non-legal problems that people experience are analytically distinct, the human lives within which those problems are experienced are not.

**Snapshot: Social Justice Program**

Dorothy Myles is a Family Support Assistant/Social Justice Advocate who works out of the Kentville NSLA office. In terms of legal matters, social justice refers to appeals of Employment Insurance, Income Assistance, Canada Pension Plan (CPP) disability appeals and residential tenancy matters.

Dorothy works with David Daniels, a lawyer who volunteers two days a week in the Kentville Office, dealing with social justice legal issues. Dorothy helps clients assemble the documents required for the lawyer to proceed with appeals or other legal processes. There is much more to the work.

Dorothy’s approach to clients expresses the NSLA approach of providing clients with a holistic first contact. Some clients come to Dorothy through the regular intake process. Intake at the Kentville Legal Aid Office involves making an appointment following a telephone call or a walk-in by people who are aware of the family and criminal law services provided by Nova Scotia Legal Aid, but not sure if they can get help with other legal issues. Clients are also referred to legal aid by local MLAs, Chrysalis House, a shelter for victims of domestic violence, and other community-based programs such as a resource centre for people in need called Open Arms. Referrals often come from the criminal or family Staff Lawyers at Nova Scotia Legal Aid or in private practice if issues come to light that may be handled through the Social Justice Advocate.

To an increasing degree, clients come to NLSA through Dorothy’s contacts with community organizations. Chrysalis House, which provides shelter and support for abused women, and Children and Open Arms, an organization that provides support to low income people, are two
community organizations that refer clients to Dorothy through channels she has built. A call to Dorothy asking “Can I send him or her over” is sometimes a pathway to legal aid.

The problems that bring people to legal aid are often not social justice issues. These problems can include family law matters and sometimes criminal law matters. Sometimes discussing one problem uncovers another. An example is a woman who was receiving legal aid in a separation matter. She was referred to Dorothy to help with an issue concerning family allowance payments. The discussion about the family allowance problem uncovered a problem with CPP payments and another with a loan repayment. By contacting the relevant organizations, Dorothy was able to help the person with those issues while the lawyer dealt with the separation.

According to Dorothy, there have been several situations in which NSLA lawyers drafted simple wills for people in hospital when it was evident it would help put their lives in better order. Taking another example, a NSLA lawyer at Youth Justice Court contacted Dorothy to see if some help could be found for a homeless youth with no winter clothing in the middle of a Maritime winter and with no means of transportation. Through her community contacts she was able to obtain a winter coat and the staff at legal aid provided a bus ticket out of their own pockets. As Dorothy says, at NSLA the motto “We are here to help comes in different colours”. A holistic, community-based approach to legal aid is evolving, building capacity by making connections, and responding to: “I didn’t know legal aid did that” with proactive offers of help.

Snapshot: Aboriginal Justice

Alana Lee is an Aboriginal Social Worker at NSLA. Alana’s work is primarily in the area of child protection matters and she has brought to legal aid a network of contacts with child welfare workers, Band Councils, Aboriginal Friendship Centres and Social Workers throughout the Province that has been built over a long career working in Aboriginal justice. Alana’s mandate in legal aid is province-wide. For clients who already have been approved for legal aid, referrals come from a Staff Lawyer. Her work involves meeting with the family at risk of having a child removed from the home, working with the family she helps to identify what services and supports the family may need and where they can be obtained and with a specific focus on and understanding of Aboriginal services. The
intervention of the Provincial Child Welfare Agency is a complex process for families and Alana’s role is to mediate the mistrust of the system and sometimes of legal aid, held by the Aboriginal family. Often referrals come directly to Alana from Aboriginal organizations. Occasionally, the Provincial Child Welfare Agency will contact her about a case. Alana and the supervising Staff Lawyer on the file will work collaboratively to develop a service plan.

In most cases where the well-being of the child is not at risk, the objective is to avoid a court application for removal and thus keep the child in the home. In these situations, the family is monitored for a period of time, usually with Alana’s participation. In all cases, Alana maintains a delicate balance between being an advocate for the Aboriginal family and supporting a solution that is focussed on the relationship between the Aboriginal family and the Agency. A big part of the job is diminishing the mistrust Aboriginal people have toward the government and the justice system. Her being an Aboriginal person helps in no small measure. Alana also works internally with other legal aid colleagues assisting Aboriginal clients. She will from time-to-time prepare reports highlighting Gladue factors for criminal law clients, including developing the supports that will allow the offender a chance at rehabilitation.

Present and Future Paths to Justice

The final report of the National Action Committee on Access to Justice in Civil and Family Matters, titled Access to Civil and Family Justice: A Roadmap for Change argues that in order to achieve greater access to justice “a new way of thinking - a culture shift - is required to move away from old patterns and old approaches.” The first of six guiding principles for bringing about this culture of reform is “put the public first.” NSLA is taking a leading role in bringing about this cultural shift in its delivery of access to justice initiatives within Nova Scotia.

Through outreach, by providing holistic and integrated service and by emphasizing early intervention and prevention legal aid in Nova Scotia is undergoing a significant transformation. NSLA is on the road to achieving a much broader form of client-centered service. The social justice, family law and Aboriginal services programs are building partnerships with intermediary organizations to identify people in need of help, thus developing new pathways to legal aid. Those same partnerships also allow collaborative arrangements for problem solving.

In the criminal legal aid support project, the entry point for clients is a criminal charge. However, outreach to the correctional facilities and the 7th Step Society with the objective of preventing re-offending is part of legal aid outreach as well. Prevention is an objective shared by all four projects. Early intervention and achieving resolutions without or, at least, minimizing legal action is another aspect. All four projects share the important characteristic of providing a
proactive client-centered and holistic service that attempts to understand the way in which presenting problems are embedded in the interconnected clusters of legal and non-legal problems that often make up troubled lives. Finally, the counterpart of taking a holistic approach is the provision of an integrated service. Through collaborative arrangements with community partners, all four NSLA projects provide an integrated service dealing with all issues for which clients need help. Taken together, the projects take “no wrong door, no wrong number”, as famously stated a few years ago in an Australian access to justice policy a step further to “never say no.”

The strength of community is the cornerstone of this approach to provide meaningful access to justice. Disadvantaged people whose options are constrained by scarcity or a lack the resources will not be left to solve their own problems. A serious legal problem can be the crisis that pulls a person from a precarious life into a desperate situation. Legal solutions by themselves are often limited in their potential to make a difference in people’s lives. Legal Aid Plans may have limited capacity to go beyond achieving legal outcomes to legal problems. However, there are greater and more varied resources among community organizations and greater capacity for assembling the holistic and integrated approaches needed to address complex problems. By becoming part of the community it serves and forging partnerships with community; by taking a lead role in forging community partnerships, using the problems of legal aid clients as the entry point, NSLA is not only strengthening its own capacity, but the capacity of the community on which its own greater capacity is leveraged.

Legal Aid Plans have, since the early 1970s, played a very significant role in bringing access to justice to Canadians. As ideas about justice and access to justice continually evolve, Nova Scotia Legal Aid is in the forefront of translating those evolving concepts into innovative approaches to service delivery.

About the Author:

Ab Currie is currently a Senior Research Fellow at the Canadian Forum on Civil Justice, a national non-profit organization that has been dedicated to advancing civil justice reform through research and advocacy. His career spanned more than thirty years at the Department of Justice Canada where he carried out research in the area of access to justice, including legal aid and the legal needs of the public. Dr. Currie has published papers and chapters in referred journals and anthologies and has presented numerous conference papers on topics in access to justice.