



**Delivering Poverty Law Services:  
Lessons from BC and Abroad**

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## Introduction

The Social Planning and Research Council of BC (SPARC BC) was contracted by the BC Law Foundation to undertake a research project addressing the status of poverty law services in BC, and the views of poverty law service providers concerning priorities for service delivery. This report is the result of that research project. It constitutes a first step towards determining the most pressing poverty law needs, and respondents' views concerning possible options to meet them. It is our hope that the information contained in this report will guide the investment of funding for devising a strategy of action on poverty law in BC, and point the way towards areas in which additional research and data are needed.

### *i) Terminology*

In the legal arena, various terminologies are used in different jurisdictions to define and describe the same or similar concepts or methods of delivering services. For example, in North America, civil law services for the poor are collectively called 'poverty law'. In the United Kingdom, the same services are called 'social welfare law'. Similarly, 'advocacy' is a value-laden term that is often identified with political activism, as well as with activism on behalf of a particular client or case. In BC, persons who provide advocacy services generally describe themselves as 'advocates', while persons doing the same work in South Africa are usually called 'paralegals', and those in advice bureaus in the UK are 'advisors'.

For our purposes in this report, 'advocate' refers to a person who works with individual clients to resolve legal problems through the arts of persuasion, alternative dispute resolution, and representation. While many advocates in BC combine these services with law reform efforts and political lobbying, this project concentrates on their direct legal services. In reporting the findings from the consultation process, the term 'advocate' is used to reflect the fact that this is the label most widely applied to non-lawyer poverty law service providers within BC. By extension, within the review of poverty law service delivery models in other jurisdictions, we use the terminology that is in common usage within each jurisdiction.

Unless otherwise stated, 'advocate' and 'paralegal' are used interchangeably in this report, though we recognize that there are other understandings of term 'paralegal'. In the private bar environment, 'paralegal' refers to person who has completed an accredited course at a community college and has formal certification (and who tends to receive little or no training in poverty law issues). Under the former legal aid framework in BC, non-lawyers with poverty law training who provided services under the supervision of lawyers were described as paralegals or legal information counselors.<sup>1</sup>

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<sup>1</sup> R.S.BC 1996, c. 256, now repealed and replaced by S.BC 2002, c. 30.

## ***ii) Methodology***

The methodology for this project has two principal components: (i) consultations with individuals and organizations involved in the delivery of poverty law services across BC; and (ii) research on poverty law service delivery models in other jurisdictions within Canada around the world. The findings from each of these stages were reviewed and cross-referenced for the purpose of developing recommendations concerning a strategy for the delivery and development of poverty law services in BC.

### **Consultations**

Two types of respondents were targeted for the consultation component of this project. The first and largest group is representatives of community organizations that currently deliver poverty law services. Respondents were assured of confidentiality and anonymity, so the names of the organizations interviewed cannot be provided in this report. However, a list of all organizations contacted for the purposes of this project is provided in Appendix 4.

#### **i) Respondents from community organizations**

Forty-two interviews were completed with this group of respondents out of a total of 81 initial contacts. Interviews were not completed with all potential respondents for two primary reasons. First, it was decided by the project team that some organizations were unsuitable for our purposes in this project, most often because their poverty law services only included referrals and/or general legal information. Given that the primary focus of this project is on identifying service delivery priorities, we considered it important to target organizations with a broader poverty law service stream in order to collect perspectives concerning the opportunities, challenges, and relative importance of a full range of poverty law services – from information to advice to representation. Second, we were unable to complete interviews with a number of organizations due to either time constraints on the part of their staff, or due to lack of response to repeated attempts to contact potential respondents.

<b>Region</b>	<b>Community Size</b>	<b># of Respondents</b>
Lower Mainland/Southwest	Metro centre	9
	Small/rural	4
Vancouver Island	Metro centre	4
	Small/rural	7
Interior	Regional centre	5
	Small/rural	4
North	Regional centre	4
	Small/rural	5
<b>TOTAL</b>		<b>42</b>

The selection of community organization respondents was based on a variety of considerations. To begin with, the Law Foundation's regional divisions were used to divide the province into four areas: lower mainland/southwest; Vancouver island; the interior; and the north. Within these regions, we attempted to ensure some representation of metropolitan or regional centres, as

well as small/rural communities. The table above breaks down the number of interviews completed in each region by community size. As the table suggests, the number of interviews we were able to complete in the interior and the north is smaller than the number completed in the lower mainland and on Vancouver island. In our analysis of consultation results, questions in response to which participants' views varied by region are flagged. This will correct to some degree for the larger respondent sample from the lower mainland and the island.

Within each of the four regions, we sought to engage respondents from five general target areas: general poverty law services; services targeted to women; services targeted to aboriginal persons; services targeted to persons with disabilities; and services targeted to immigrants, refugees, and/or visible minorities. Due to concerns about maintaining confidentiality, we do not consider it appropriate to indicate the distribution of respondents across these target areas. However, we were able to include some respondents from each group, though there is a smaller sample representing the categories of disability and immigrants, refugees, and visible minorities.

For respondents from community organizations, the consultation process was completed in two stages. Respondents were first asked to review three ranking questions: one covering poverty law issues, one on service delivery options, and one on service delivery mechanisms (see table below). The topics included in these questions were generated from preliminary research on service delivery approaches in other jurisdictions, and were reviewed by the advisory committee for this project composed of persons with a wealth of expertise in the poverty law field.

<b>Poverty Law Issues</b>	<b>Service Delivery Options</b>	<b>Service Delivery Mechanisms</b>
Income assistance	Representation by a lawyer in court	Increased access to lawyers to act as poverty law advisors/supervisors
Disability benefits	Representation by a lawyer at boards/tribunals	Increased accessibility – provide poverty law services in more communities
Employment insurance	Representation by an advocate at boards/tribunals	Increased lawyer involvement in poverty law
Canada Pension Plan	Legal advice	Increased coordination among poverty law service providers
Workers' compensation	Informal dispute settlement	Increased use of volunteers to deliver poverty law services
Residential tenancy	General legal information	Increase use of telephone based poverty law services
Debt/credit issues	Referrals	Increased use of online poverty law services
Family law		

From the list of poverty law issues, respondents were requested to indicate what they consider the top *four* for their community. From the list of service delivery options and service delivery mechanisms, respondents marked their top *three* priorities. Responses to these ranking questions were returned via email or fax.

For the ranking questions on poverty law service delivery – the primary focus of this project – the second phase of the consultation process involved a telephone interview with respondents. The interviews collected respondents’ answers to a more detailed set of interview questions concerning their top three selections for both service delivery options and service delivery mechanisms. It is from the responses to these more detailed questions that the thematic analysis in this report has been drawn.

## ii) Poverty law lawyer respondents

The second group of respondents is composed of lawyers who are currently, or who have in the past, had some involvement in poverty law cases. This involvement may be on a pro bono basis, as a paid staff lawyer at an organization or firm, or in a research environment. A total of twelve interviews were completed with this group of respondents.

Lawyers with poverty law experience were targeted for a second round of consultations because the theme that most strongly emerged from consultations with community organizations was the importance of involving lawyers in poverty law work, both in terms of providing legal representation in court, but also with respect to offering legal advice and supervision to advocates. The lawyers with whom we consulted for this phase of the project were largely located in the lower mainland/southwest region, with some representation from the interior and the north.

## **Jurisdictional Research**

Research on poverty law service delivery models in other jurisdictions is the second large component of this project.<sup>2</sup> The goal of this research is to provide an overview of some of the approaches that other jurisdictions have taken to defining and delivering poverty law services to provide a starting point for thinking about options for recreating a poverty law system in BC in the absence of sustained provincial government funding. Based on preliminary research, the four particular service delivery options on which we focused are: (i) advice centres (including their reliance on lay volunteers); (ii) stand alone legal centres; (iii) outreach services (including mobile services); and (iv) interdisciplinary centres that integrate the work of legal and other professionals.

In other jurisdictions, poverty law service providers include paid staff lawyers and pro bono lawyers who provide advice and assistance to individual clients; law students, articulated students and those in law school clinical programs; legally trained non-lawyer staff advocates; and self-trained lay advocates. In addition, ancillary services may be provided by paid and volunteer managers and administrators; professional social workers, psychologists and counselors, peer counselors; and ‘problem noticers’ (for example, health or social workers trained to identify legal problems). For an overview of the jurisdictions reviewed for the purposes of our research on poverty law service delivery, please see Appendix 3.

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<sup>2</sup> Research was primarily carried via the internet and the Legal Trac database, supplemented by personal contacts with managers of specific programs. I would like to thank Johanna MacDonald of Pro Bono Students of Canada at UBC Law School who carried out most of the Legal Trac research and followed up with staff in Calgary, Toronto, and South Africa. Her enthusiasm for and interest in the project are encouraging signs that poverty law will remain alive and well in the future.

It is important to note that the jurisdictional research undertaken for this project did not focus on jurisdictions that have adopted a (government funded) community clinic model for the delivery of poverty law services. We acknowledge that studies of this approach have repeatedly demonstrated its value as a service delivery option, and its appropriateness to the particularities of poverty law issues and clients. Yet with the lack of significant financial resources for poverty law in BC, we also recognize that a clinic approach is not on the immediate horizon. As such, priority was given in this project to investigating the strengths and challenges of other service delivery options. In some circumstances, however, it proved impossible to ignore government funded stand alone services, as in many jurisdictions they are inextricably mixed – or work closely with – other models of service delivery.<sup>3</sup>

A second caveat regarding our jurisdictional research concerns poverty law funding. While we do offer some limited commentary on sources of funding for the poverty law delivery models covered, establishing financial feasibility was not the primary purpose of this research. Where reported in the literature, we have included comments on notable funding opportunities and challenges associated with various service delivery approaches. Given the general nature of this analysis, however, further research will be needed in this area once decisions are made concerning the approach(es) to poverty law service delivery most appropriate for BC.

### ***iii) Structure of the report***

Section one of this report outlines findings from consultations with community organizations involved in poverty law service provision in BC, as well as interviews with lawyers who have some familiarity with poverty law. Section two presents the research review of poverty law service delivery models in other jurisdictions, including a summary of lessons learned, challenges, and possible actions or solutions. Section three presents our thoughts on looking ahead to the future of poverty law in BC based on important learnings from the combined expertise of poverty law commentators within BC and studies from other jurisdictions.

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<sup>3</sup> The initial goal of the research component of this project was to examine several jurisdictions that – like BC – have limited or no government funding for poverty law. This quickly proved to be a difficult exercise, as most jurisdictions (including several in the Third World) receive significant government funding for civil legal aid. Even those US States forced to restrict or abandon poverty law services have experienced regeneration during the last few years, in large part to the formation of Access to Justice structures and the creation of a variety of alternative funding methods, including court filing fee surcharges, bar fees dedicated to civil legal aid and funding from Interest on Lawyers' Trust Accounts.

## Section One: Consultations

### *i) Context: Poverty Law and Legal Aid in BC*

From the 1970s until 2002, the BC Legal Services Society (LSS) developed a method of poverty law service delivery that was admired for its quality, range of service, and numbers of clients assisted. Until August 2002, LSS relied primarily on the provincial government, along with some other small funding resources, to support the work of 27 full-time equivalent lawyers and 77 paralegals. Approximately 40,000 poverty law clients were assisted on an annual basis.

On August 30, 2002, all LSS poverty law direct service delivery positions were eliminated. Despite the restoration of some poverty law advice and assistance through an enhanced telephone service (Law Line), available options for poverty law assistance in BC are now scarce and fragmented. The impact of these changes is compounded by an overhaul of administrative tribunals that made these forums more legalistic, as well as concurrent funding and service reductions in other areas, including welfare advocates, the Ombudsman's office, and Women's Centres.

While the intention of this project is not to focus on legal aid per se, the above described changes form the backdrop against which this project is situated. To this end, respondents were asked to consider, in general terms, the way in which the legal aid changes have impacted on their poverty law work. The vast majority of respondents were in agreement concerning the areas of impact that we probed.

Almost all respondents reported an increase in the number of persons requesting assistance on poverty law matters since the changes to legal aid. Also highlighted in this regard is the impact of legislative changes around income assistance and programs run by the Ministry of Children and Family Development.

Many respondents also report an increase in the number of clients that they are unable to assist. This is partly due to the implications of increased service demand for available human and financial resources, but it is also linked to the fact that there are more issues and situations with respect to which there is no assistance staff can offer. Instances cited by respondents include decisions that are no longer subject to appeal, issues that are outside of staff expertise, and issues on which there is simply no recourse. Other respondents report that they still do try to assist all clients who come to them, but that in the context of increased demand, this policy has implications for service quality. The examples cited by respondents include clients having to wait longer, having to refer clients elsewhere instead of assisting them directly, and providing clients with less comprehensive or in-depth services. One respondent summed up the situation in this way: 'time pressure may mean that clients no longer receive the best quality service, but the only alternative is to deny services altogether'.

Words used to describe the increased demand for poverty law services...

- Dramatic
- Extraordinary
- Steady
- Inundated
- Jumped way up
- Swamped
- Catastrophic
- Massive
- Significant
- Overwhelming

Although some respondents did indicate that their service delivery methods have not changed in response to the decreased availability of legal aid resources, most do report differences in the kinds of assistance they provide to clients. These differences principally involve (i) providing assistance on a broader range of issues, including issues that are outside of their mandate and/or area(s) of expertise, and (ii) assisting with a broader range of tasks. Some of the new tasks listed by respondents include legal research, filling out forms, mediation, informal dispute settlement, court accompaniment, and representation. A few respondents further indicate that they more often must expect clients to take on tasks independently, and that they are creating more self-help type resources. Changes in the nature of poverty law work on a systemic level were also noted by some respondents. A few particular examples are the need for more longer-term assistance due to delays in the legal system, the increasing complexity of poverty law cases, and the greater likelihood of clients facing serious consequences.

Following from observations about increased demand for services in the absence of increased resources, it is not surprising that many respondents report increased demands on staff time. For some respondents, this is resulting in staff putting in more unpaid time, and overextending themselves to try and cope with the quantity of work. Along with increased time pressure is greater stress. Many respondents indicate that the stress level of staff has increased, and that a key reason for this is the frustration that flows from being unable to help people due to a lack of time and capacity. As one respondent put it, ‘it is difficult and disheartening when you are forced to deny assistance’. Regulatory and legislative changes were also cited as a source of stress insofar as they are generating more refused appeals, and more work for staff to keep up with new developments.

Words used to describe the increase in client stress...

- Dramatic
- Profound
- Extreme
- Up significantly
- Very high
- Enormous
- Tremendous
- A lot worse
- Skyrocketed

Almost all respondents agree that changes to the poverty law legal aid system have generated a notable increase in client stress. The significance of this shift is most starkly illustrated by the fact that several respondents indicate that suicide is something they now hear about on a regular basis. Clients often do not know where to go for help, and are frequently unable to get any assistance. As a result, front line workers are seeing increased frustration and anger (a few respondents noted that office security has become an issue for the first time), more people who are just giving up, enormous fear, and physical consequences in the form of poor health and chronic illness.

## ***ii) Poverty Law Issues***

There is no consensus on what is included within the scope of poverty law. Generally speaking, poverty law refers to legal issues that disproportionately affect persons with low incomes. However, it can also be understood to encompass a variety of other legal matters, notably those that fall outside the scope of the legal aid tariff structure for criminal and family law. For our purposes in this project, poverty law is understood to include legislative and regulatory matters that pertain to three areas of law: (i) public benefit programs (including income assistance, disability benefits, employment insurance, the Canada Pension Plan, and Workers’ compensation), (ii) residential tenancy (landlord/tenant disputes, evictions), and (iii) debt and

credit matters. Although we recognize that family law is an area of considerable importance for low income persons, it was not included due to difficulties in setting boundaries around family law issues that are and are not covered through the separate legal aid program that exists for this area. For comparative purposes, however, family law was included in the ranking question on the relative importance of poverty law issues for particular communities.

While we tied the scope of this project to the above definition of poverty law, it is important for readers to remember that legal issues cannot be neatly divided into discrete areas. Problems tend to come in clusters, the characteristics of which vary according to a client’s dominant vulnerability. For example, domestic violence can be the triggering event for a whole series of legal problems for the survivor; disability may be the trigger for clusters of welfare, physical and mental health, and housing law issues. As one study points out, “[e]xperiencing justiciable problems has an additive effect. Each time a person experiences a problem they become increasingly likely to experience additional problems.... Problem types do not have to cause or follow on from one another in order for there to be a connection between them.”<sup>4</sup>

As the table below indicates, welfare is by far the most pressing poverty law issue identified by poverty law service providers surveyed for this project. This is somewhat unsurprising given extensive legislative changes to BC’s welfare system in 2002, particularly with respect to reducing benefit levels and tightening eligibility requirements. Respondents’ identification of welfare as a priority may also be influenced by the fact that prior to the 2002 legal aid changes, issues around employment insurance, debt, and so on could be referred to local legal aid offices. This allowed advocates to focus their expertise on welfare and residential tenancy issues.

Poverty Law Issue	Score
Welfare	159
Family law	97
Disability benefits	73
Residential tenancy	52
Employment insurance	25
Other*	25
Debt/credit issues	16
Canada pension plan	7
Workers’ compensation	3

It is important to note that some respondents considered welfare and disability benefits to be part of the same topic. This may have yielded some under-identification of disability as a separate priority. Family law was also ranked highly by respondents. This may be in part due to changes in legal aid coverage for family law, as well as the fact that some non-tariff family law issues were previously covered under poverty law legal aid.

\* No notable themes emerged in responses given under ‘other’.

### **iii) Service Delivery Options**

As the table below indicates, the top four service delivery options prioritized by respondents are lawyer representation in court, legal advice, advocate representation in boards/tribunals, and

<sup>4</sup> Pascoe Pleasence et al. 2004. *Causes of Action: Civil Law and Social Justice* London: Legal Services Commission, pp. 31 and 37.

general legal information. These topics are discussed in more detail below, highlighting themes from respondents’ comments on the impact of legal aid cuts, opportunities for developing services, obstacles to action, and resources/supports needed to overcome these obstacles.

Statistical data on response frequency was not specifically tracked given the relatively small sample size. However, identified themes are generally presented in descending order – theme 1 is the topic cited most by respondents, and so on with successive themes.

<b>Service Delivery Options</b>	<b>Score</b>
Representation by a lawyer in court	95
Legal advice	80
Representation by an advocate at a board or tribunal	73
General legal information	56
Informal dispute settlement	39
Representation by a lawyer at a board or tribunal	26
Referrals	21

### **Impact of Legal Aid Cuts and Closure of Community Offices**

For each service delivery option, respondents were asked to describe the impact of recent changes in poverty law legal aid and the closure of local legal aid offices. Since there are many similarities among responses to these questions, common sentiments are presented below.

#### Decreased availability of poverty law services

Almost all respondents felt that changes to legal aid have a significant negative impact on the availability of poverty law services. Respondents agree that services are simply no longer available at all, or options for assistance are greatly reduced. This shift has a variety of implications. For poverty law clients, respondents indicate that legal needs are not being met. With respect to legal representation and advice, the lack of access to lawyers in particular means there are few places to turn for assistance. Advocates are trying to fill the gaps, but their work is limited by time and resource constraints, and by their lower degree of legal expertise. This is exacerbated by the fact that legal aid lawyers used to provide advocates with support and assistance – a resource no longer available.

- |  |
|--|
| <p>Words used to describe the impact...</p> <ul style="list-style-type: none"> <li>• Tremendous</li> <li>• Horrendous</li> <li>• Devastating</li> <li>• Awful</li> <li>• Very significant</li> <li>• Disastrous</li> <li>• Enormous</li> <li>• Very negative</li> <li>• Major</li> <li>• Very large</li> <li>• Huge</li> <li>• Very serious</li> <li>• Destroyed the system</li> </ul> |
|--|

#### Increased pressure on remaining resources

With respect to representation provided by advocates, respondents in particular note that legal aid cuts have yielded increased demand for advocate services, with several respondents indicating a doubling or tripling of their client caseload.<sup>5</sup> Opportunities for one-on-one client services have substantially declined – a format many respondents identify as the most valuable type of assistance. Telephone and internet services cannot take the place of in-person contact,

<sup>5</sup> Other expressions respondents used to describe caseload demands include: being ‘snowed under’ with requests for assistance, or ‘so inundated that we cannot provide necessary services’.

particularly given difficulties around access, and language and literacy barriers on the part of clients. These resources have some value for advocates, but more time and research is required to locate information, particularly in the absence of assistance from legal aid specialists. This places additional pressure on poverty law organizations, resulting in longer wait times for clients, increased stress for advocates, and a need to ‘triage’ clients to focus on crisis management rather than prevention.

### Increased stress and anxiety

In addition to changes in service delivery on the part of poverty law organizations, many respondents indicate an accompanying increase in the client stress and anxiety levels. Particularly in the context of questions on representation by poverty law advocates, respondents note that more clients are simply giving up because there is nowhere to turn for assistance. As one respondent put it, ‘people have no hope’. With respect to the declining availability of lawyer representation, several respondents indicate that the lack of legal services is obliging women to return to, or remain within, unhealthy relationships.

In the context of questions about legal advice and lawyer/advocate representation, many respondents also point to an increase in the number of clients trying to represent themselves. This is uniformly viewed as a problematic development. The complexity of legal issues and clients’ lack of familiarity with the legal system are significant barriers to adequate self-representation. Respondents argue that outcomes for self-represented litigants tend not to be as good, and several point to delays in the legal system when claimants lack adequate preparation.

### Implications for service quality

Respondents agree that the few poverty law lawyers still available are overworked, as are most poverty law advocates. This situation has implications for service quality. One respondent characterized this in terms of advocates having ‘to call in favours’ to get legal advice for their clients. Others point to compromises in work quality that result from time constraints and pressure to work outside of one’s areas of expertise because there is no one else available. Respondents also suggest that a lack of organizational infrastructure – including office space and support staff – impacts negatively on service quality.

Concerns about declining service quality are flagged in particular in response to questions about advocate representation – arguably unsurprising given above comments on hugely increased demand. However, these sentiments also pertain to representation by lawyers insofar as respondents suggest that clients are more inclined to give up rather than pursue a legal claim (no matter how strong) when they have no where to go for help. On the systemic level, the availability of lawyers to provide representation raises concern about the place of appeals and judicial review. Respondents argue that legal representation is essential for these more complex and technical proceedings, and that they should be considered integral to the poverty law system. As one respondent put it, they are necessary to ‘keep the system honest’. More generally, several respondents indicate that the limited availability of legal representation means that people’s rights are simply not being respected, and that access to justice is accordingly being compromised.

## **Representation by a Lawyer**

### **i) Importance of lawyer representation**

Respondents were asked to indicate the value they attach to having lawyers (as opposed to advocates) represent clients in court, or at board and tribunal proceedings. These questions attempted to get at respondents' views concerning important roles for lawyers, versus activities that appropriately fall within the purview of advocates. Several respondents expressed concern that the structure of these questions suggested an 'either/or' dynamic regarding the place of lawyers and advocates in poverty law service delivery. While this was not the intention of the questions, it is important to point out that throughout the consultation process, strong support was expressed for a poverty law system in which lawyers and advocates work together, with each group drawing on unique skills and expertise.

Respondents strongly defend the value of lawyer representation of clients in formal court proceedings, with 88% designating this service as essential. Comparatively, a slight majority (52%) consider it very important or essential to have lawyers represent poverty law clients in board or tribunal proceedings. As will emerge in later discussion, this is indicative of a widely expressed view that advocates can provide adequate representation in administrative proceedings, but that lawyers are needed for courtroom settings. There were no notable regional differences among respondents' answers to these questions.

### **ii) Advantages of lawyer representation**

#### Theme 1: Expanded scope of work

Respondents suggest that lawyers are better equipped to handle certain poverty law cases. Notable examples include complex cases, and cases that involve formal court proceedings with which lawyers are conversant. Conversely, less technical or complex cases that tend to remain at the level of administrative boards or tribunals can usually be handled by advocates.

#### Theme 2: Specific knowledge and expertise

Related to the above theme are respondent comments concerning the importance of lawyer training, education, and experience to their role in delivering poverty law services. Respondents note that lawyers' analytical skills and understanding of the law and legal system better prepare them to grasp substantive and procedural issues, outline options for clients, assess the implications of various choices, and know what may and may not work in a particular case. Familiarity with the court system and procedures increase the likelihood that clients will receive a fair hearing, particularly since they are often not prepared to be effective self-advocates.

#### Theme 3: Lawyer representation yields a more efficient system overall

Several respondents note that the availability of lawyers to represent poverty law clients is part of the foundation for a more efficient legal system. In the absence of options for legal support,

more clients are attempting to represent themselves – a role for which poverty law clients tend to be particularly unsuited due to factors like low self-esteem, lack of legal knowledge, and low levels of education. Clients attempting self-representation accordingly are more likely to be ill-prepared, less likely to achieve a positive outcome, and more likely to have to return for more than one court or tribunal date, resulting in greater costs to the legal system overall.

Respondents also note that the involvement of lawyers in the poverty law system helps to maximize the contributions of other players, notably advocates. Most respondents agree that advocates have a central role to play in providing information, advice, and representation to poverty law clients – roles that are maximized if adequate and appropriate legal supervision is available. (Respondents' comments on legal supervision are explored in detail in subsequent sections).

#### Theme 4: Better quality services

Linked to theme 2 are comments from some respondents suggesting that clients represented by lawyers tend to be better informed about their rights and the details of their cases. Advocates may not be able to access all needed information, particularly given the lack of legal aid resources to which to turn for assistance. The fact that lawyers know where to get necessary materials can make a significant difference in the quality of the services provided.

#### Theme 5: Lawyers bring greater credibility

Some respondents suggest that lawyers may bring greater credibility to a client's claim, a factor that can sometimes facilitate a positive and expedient resolution. In essence, a case is made stronger by having a lawyer provide representation.

### iii) Disadvantages of lawyer representation

#### Theme 1: None

By far the strongest theme that emerged from respondents in response to this question was that there are no disadvantages to lawyer representation on poverty law matters.

#### Theme 2: Procedural barriers – lack of availability and cost

Although not technically a disadvantage of having lawyers provide representation, several respondents indicate that the limited number of lawyers willing or able to take on poverty law cases is a significant issue, as is the cost of retaining a lawyer in the absence of legal aid or pro bono assistance. These comments clearly pertain to the strong concern highlighted earlier regarding the significant reduction in legal services since the changes to poverty law legal aid.

#### Theme 3: Lawyer-client relations

For several respondents, 'power imbalances' between lawyers and clients can be problematic, particularly when clients tend to be poor and marginalized members of society. Lawyers are not

always sensitive to client circumstances, may be unwilling to listen to client concerns, lack compassion for poor people, or have a ‘blame the victim’ attitude.

#### Theme 4: Lack of understanding or appreciation of poverty law

Related to the above theme of lawyer-client relations are comments from some respondents concerning lawyers’ lack of familiarity with poverty law. Respondents indicate that lawyers sometimes do not understand poverty law issues, and have little or no experience dealing with them or the relevant administrative venues. Although lawyers’ training and experience with the law and legal system more generally is flagged as a significant advantage, it is interesting to note that the absence of specific poverty law knowledge is also perceived by some as a challenge.

#### Theme 5: Greater formality

The final theme mentioned by a few respondents concerns the fact that lawyer participation in poverty law cases may bring a level of formality to the proceeding – particularly at boards or tribunals – that is not necessarily advantageous. Respondents suggest that some matters may be resolved more efficiently in a less formal setting, and that judges sometimes deal more leniently with people who do not have legal representation.

#### iv) Administrative law experience

The vast majority of respondents (88%) considered it very important or essential for lawyers to have experience with administrative law. This is an important finding to note given previous comments concerning lawyers’ lack of familiarity with or understanding of poverty law issues and procedures.

#### v) Service delivery options

Respondents were asked to rank the following four options for facilitating lawyer involvement in poverty law. As the table below indicates, the highest priority was attached to creating paid positions for community based poverty lawyers.

<b>Service delivery options</b>	<b>Score</b>
Create paid positions for community based poverty lawyers to assist a variety of service providers	112
Increase the number of poverty lawyers on staff with local service providers	67
Encourage more lawyers to volunteer time to organizations for poverty law work	57
Recruit more lawyers to participate in pro bono poverty law clinics	52

#### **Legal Advice**

For the purposes of this project, respondents were provided with the following definition of legal advice: applying the law to the facts of a client’s situation, or helping a client formulate options to a legal problem.

### i) Providers of legal advice

Respondents were asked to consider who is best positioned to provide poverty law clients with legal advice. Lawyers and advocates were virtually tied as the top choices, though there were some regional differences in the weight accorded to each option. Respondents from the lower mainland and Vancouver island were more likely to suggest that lawyers should deliver legal advice, while respondents from the interior and the north tended to rank advocates more highly, and rarely mentioned lawyers in their responses. This difference may be in part due to the fact that there are fewer lawyers in the latter two jurisdictions with poverty law expertise, whereas in more urban areas around Vancouver and Victoria lawyers are more readily available. Only two respondents noted that lay volunteers should play a role in the delivery of legal advice.

Despite regional differences concerning the roles of lawyers versus advocates in the provision of advice, a majority of respondents indicate that these two groups should work together on the delivery of poverty law services. Many respondents feel strongly that a collaborative system is the most efficient and efficacious because it permits both lawyers and advocates to perform the roles best matched to their skills and expertise. A similar sentiment was expressed concerning the place of lay volunteers in the delivery of legal advice, though it was more strongly felt that volunteers should *only* work in cooperation with lawyers or advocates. Only a small number of respondents identified a role for volunteers, with some expressing concern about securing sufficient training for volunteers in a complex area like poverty law.

### ii) Forum for the delivery of legal advice

Respondents were asked to consider what forum they feel is best suited for the delivery of legal advice. As the table on the right indicates, community organizations and free legal clinics are by far the top choices. Despite the greater importance attached to these two forums, many respondents insist that an effective poverty law system would incorporate elements of each venue, given that they all have unique strengths and challenges. However, all respondents insist that in-person assistance is of greatest value, and must be the ‘end of the line’ when necessary for poverty law clients.

<b>Forum</b>	<b>Responses</b>
Free legal clinic	13
Community organization	12
Public event or information session	5
Telephone service	2
Online resource pages	1
Other*	1

\* Publications.

## **Representation by a Poverty Law Advocate**

### i) Importance of advocate representation

Respondents were asked to indicate the value they attach to having advocates (as opposed to lawyers) represent clients at board and tribunal proceedings. As outlined above, the purpose of these questions is to explore the roles respondents consider appropriate for advocates. They are not meant to imply that the two groups should not work together.

The majority of respondents (79%) indicate that it is essential for poverty law advocates to represent clients at board or tribunal proceedings. Remaining respondents view advocate representation as important or very important. Given that a high value was also assigned to lawyer representation (particularly in court, but also in boards or tribunals), respondents clearly agree that some form of legal representation is necessary. Once again, respondents link the need for representation to the fact that poverty law clients lack the knowledge and skills to represent themselves. With advocate assistance, they are more likely to realize positive outcomes without being demeaned by the system or treated in an unfair or discriminatory manner.

## ii) Advantages of Advocate Representation

### Theme 1: Greater knowledge and understanding of poverty law

Many respondents point out that advocates are more familiar with poverty law, including legislation, regulations, resources, and venues. This greater expertise flows from the fact that advocates are continually doing poverty law work, and accordingly amass the kind of detailed knowledge and experience that can only be acquired by regular exposure to the field. Some respondents also suggest that advocates tend to be more dedicated to poverty law issues.

### Theme 2: Better connections with clients

Many respondents also indicate that the quality of advocates' representation is enhanced by the fact that they forge better relationships with clients and offer more personal attention. Clients are more likely to speak to advocates about their legal problems, which allows advocates to offer better quality assistance. Advocates have greater compassion and sensitivity for client circumstances, do not use technical language, and are more approachable and flexible.

### Theme 3: Cost effectiveness

Several respondents note that representation provided by advocates is less costly for the justice system as a whole, and thus that it is more realistic to expect the development of advocate-based services than more expensive lawyer-based services. As well, some respondents indicate that advocates are less costly for clients in that they do not charge for their services.

## iii) Disadvantages of advocate representation

### Theme 1: None

By far the most prevalent response to this question is that there are no disadvantages to relying on advocates to provide representation on poverty law matters. This theme is particularly prevalent among respondents from the interior and the north.

### Theme 2: Limits on the scope of work

For some respondents, there is work that falls outside of advocates' expertise. Representing clients in court is noted in this regard, a context in which respondents also suggest that advocates

tend not to have as much clout as lawyers. A few respondents went so far as to suggest that advocates lack of specific legal knowledge, as well as their unfamiliarity with legal processes, may lead them to make a situation worse (although it was also noted that training and legal supervision would eliminate this potential disadvantage). Concerns about limitations on the scope of advocate work dovetail with above comments pointing to the broader scope of lawyers' expertise being an advantage of lawyer-based representation.

### **General Legal Information**

For the purposes of this project, respondents were provided with the following definition of general legal information: reference to a statute, regulation, or case; explaining legal concepts, principles, and process of the law and legal system.

#### **i) Providers of general legal information**

Respondents were asked to consider who is best positioned to provide poverty law clients with general legal information. Unlike legal advice – with respect to which a strong role was identified for lawyers – respondents were far more likely to consider advocates as the best source of legal information. This is likely connected to comments concerning the greater knowledge and experience that advocates have specifically on poverty law issues and regulations.

Respondents were more likely to suggest that volunteers could play a role in providing general legal information compared to legal advice. However, it is important for volunteers to work in cooperation with advocates who can provide appropriate supervision. A few respondents also indicate that interpreters have a role to play in the delivery of general legal information, though this role should be in cooperation with advocates and/or lawyers.

Overall, respondents indicate that a variety of persons have a role to play in providing legal information. As with legal advice, many participants suggested that advocates, lawyers, and volunteers should work together to provide the most comprehensive chain of support possible.

#### **ii) Forum for the delivery of general legal information**

Respondents were asked to consider the context within which general legal information would best be delivered. As is apparent from the table below, delivering information through community organizations was by far the most common response. However, most respondents suggest that a variety of venues would best accommodate the diverse needs and interests of clients. In this vein, respondents indicate that all of the forums listed in the table have some value as mechanisms for the delivery of legal information, though telephone and online resources were viewed with considerable skepticism due to concerns around accessibility.

<b>Forum</b>	<b>Responses</b>
Community organization	17
Free legal clinic	5
Public event or information session	2
Telephone service	2
Online resource pages	1
Other	0

## **Obstacles to Implementing Identified Service Delivery Options**

### Theme 1: Lack of funding

Unsurprisingly, the topic mentioned most often by respondents as a barrier to the development of the four types of poverty law services discussed above is funding limitations. This observation pertains both to a lack of funding for poverty law in general, as well as a lack of funding to recruit and retain the staff needed to deliver representation, advice, or information services. Human resource constraints are flagged in particular with respect to services delivered by lawyers, where respondents point to the fact that there are not enough options for clients who need assistance.

Unsurprisingly, legal aid cuts by the BC government are also cited with reference to an overall lack of funding for poverty law. Respondents view the withdrawal of poverty law legal aid as a significant barrier to ensuring access to legal assistance, though comments focus more on the lack of funding in general, rather than on funding for the legal aid system in particular. Other funding constraint issues cited by respondents include the lack of direct funding for support services (including office space, support staff, and transportation); as well as the fact that clients cannot afford to pay lawyers to take on their cases.

A further comment on funding noted by some respondents is the fact that there are few opportunities for lawyers to make money in the poverty law field. Overall, respondents are cognizant of the fact that it is essential for lawyers to ‘make a living’ from their work, and therefore need to be compensated for their time. However, some participants also noted that lawyers are too unwilling to donate time or resources.

### Theme 2: Training, knowledge, and experience

Respondents offered a variety of comments concerning familiarity with poverty law issues. As with the above discussion of the disadvantages of lawyer representation, many respondents indicate that lawyers’ lack of experience with poverty law is an obstacle to generating greater lawyer involvement in this field. In addition, the perception of some respondents is that lawyers lack interest in poverty law, are not aware of the barriers faced by poor clients, and do not view poverty law as a prestigious, exciting, or challenging area of practice.

With respect to advocate representation, respondents raise concerns about the amount of training required to develop effective advocacy skills, and the lack of opportunities for advocates to access this training. Also of note is limited access to legal supervision, considered important by respondents as a source of information and guidance, as well as an aid to ensuring successful case outcomes. Some respondents note that it can be time consuming for advocates to locate information, particularly around interpreting the significance or impact of legislative changes.

### Theme 3: Service delivery mechanisms

Respondents offer a variety of comments concerning barriers linked to the availability and appropriateness of service delivery mechanisms. Many respondents note that the elimination of

poverty law legal aid coverage significantly undermined opportunities for lawyer involvement in poverty law. While some lawyers do volunteer their time on a pro bono basis at clinics or on particular cases, this option does not provide for regular or comprehensive legal services. Also of note under this theme is the fact that circuit courts are infrequently present in some communities, with the result that lawyers are also only irregularly available.

With respect to advocate representation, concern was raised regarding reliance on volunteer advocates. Respondents indicate that the use of volunteers decreases the stability of the system overall, introduces complications around liability, and creates additional work for organizations given the difficulty of finding volunteers who will make a long-term commitment in the face of the stress of the position and the large amount of training involved.

Questions concerning obstacles to improving access to legal advice and general legal information yielded similar responses. Many respondents focus on the growth of online and telephone based services at the expense of options for in-person contact as an area of concern, arguing that there are a variety of accessibility problems with these new services. Many clients do not have access to a phone and/or computer, are not computer literate, or lack adequate general literacy skills to use any information they do access. This is particularly problematic for clients whose first language is not English. Respondents also indicate that poverty law clients need to access services in a comfortable environment, and that they may find legal venues intimidating (e.g. private law firms; court buildings; RCMP offices).

### **Resources or Supports Needed to Overcome these Obstacles**

#### Theme 1: Funding

As with the above discussion, funding is the most commonly noted support needed to increase access to representation, advice, and general legal information on poverty law issues. With respect to representation by lawyers, respondents argue that developing the capacity to pay lawyers for poverty law work is important. Similar comments are made regarding other service delivery options, specifically increasing the number of paid advocate positions, providing funding for support staff, and increasing funding for interpretation and ESL programs. With respect to legal advice and general legal information, respondents specifically emphasize the importance of facilitating in-person contact through creating additional services, hiring more staff, and providing outreach. Respondents from the north are particularly adamant concerning the need for more poverty law practitioners across the board.

Interestingly, respondents tend to focus on the need for additional financial support to increase the number of poverty law staff, rather than on reinstating legal aid funding per se. This is particularly the case with respect to questions concerning representation by advocates. However, reversing provincial government funding cuts and/or recreating a more comprehensive poverty law legal aid system is mentioned by many respondents as an area of action.

Other specific comments made in regard to funding include: the value of coordinating funding within communities to support linkages among organizations, and to create a visible poverty law presence familiar to clients; fostering greater recognition among funders about the importance of

poverty law services; and the need for increased funding for legal advocacy services for marginalized persons in general to ensure equal access to justice.

## Theme 2: Greater community involvement by lawyers

Many respondents suggest that lawyers – and the legal profession more generally – need to cultivate a greater willingness to support communities and community members. Respondents indicate that this could include volunteering more time for pro bono work; getting law firms to provide direct financial support to legal aid and poverty law; and instituting minimum requirements for pro bono work as part of lawyers’ professional obligations. Legal supervision of advocates is also mentioned in this regard, as is the creation of pro bono clinics in more communities. Greater involvement on the part of lawyers is considered important even if it cannot be on a full-time basis. Respondents’ views concerning lawyer participation in poverty law are discussed in more detail in the next section of the report.

## Theme 3: Training

With respect to representation and general legal information, respondents point to the need for training. Creating more training opportunities for lawyers and advocates is flagged as an important step to overcoming barriers to improving poverty law services. Some respondents suggest that it is important to cultivate more interest in poverty law among lawyers in particular in order to support the development of greater poverty law capacity in small communities and in the north. This could include educating lawyers about client needs, or providing training on specific poverty law issues.

With respect to advocates, respondents highlight the need to provide more opportunities to access training (for example, monthly workshops or information sessions), and to ensure that these mechanisms are accessible to those in smaller communities (particular given budgetary limitations and the barriers posed by travel requirements). Improved access to law libraries was also noted in this regard.

## Theme 4: Increased coordination

In response to questions concerning legal advice, advocate representation, and general legal information, several respondents note the importance of increasing coordination among service providers as a means to overcome existing obstacles. Coordination among community organizations, pro bono clinics, and advocates was mentioned in general terms, along with more specific ideas around hosting issue-based community meetings, creating centralized community directories, and sharing infrastructure through co-location of services.

### ***iv) Service Delivery Mechanisms***

As the table below indicates, the top four service delivery mechanisms highlighted by respondents are increasing access to lawyers to act as advisors/supervisors; increasing the accessibility of poverty law by providing services in more communities; increasing lawyer involvement in poverty law; and increasing coordination among poverty law service providers.

The priority of advice/supervision far outranks the other options. Conversely, both telephone and online services are accorded a very low priority.

<b>Service Delivery Mechanisms</b>	<b>Score</b>
Increased access to lawyers to act as poverty law advisors/supervisors	130
Increased accessibility – provide poverty law services in more communities	89
Increased lawyer involvement in poverty law	61
Increased coordination among poverty law service providers	57
Other*	38
Increased use of volunteers to deliver poverty law services	30
Increase use of telephone based poverty law services	13
Increased use of online poverty law services	3

\* No notable themes emerged in responses given under ‘other’.

In this section, each of the top four ranked service delivery mechanisms are discussed in detail, focusing on themes that emerged from respondents’ answers to a set of more detailed questions concerning each option. As with the above discussion of service delivery options, theme 1 is the topic cited most frequently by respondents, and so on with successive themes.

### **Impact of Legal Aid Cuts and Closure of Community Offices**

For each service delivery mechanism, respondents were asked to describe the impact of recent changes in poverty law legal aid and the closure of local legal aid offices. Areas of convergence and divergence in respondents’ answers are discussed below.

#### Decreased availability of services

A theme that arose across questions concerning the accessibility of poverty law services, the importance of lawyer involvement, and the need for increased coordination is the significant decrease in available avenues for assistance. On this theme, respondents are unequivocal: legal aid changes had a very significant negative impact, as the box on the right illustrates.

Many respondents argue that there are virtually no remaining poverty law services, particularly from the standpoint of lawyer-based advice or representation. The only remaining context in which to access lawyers is pro bono clinics, and even then there are very few lawyers who handle welfare, disability, or residential tenancy issues. In addition, clinic lawyers tend not to be up to date on poverty law issues, and will sometimes charge a fee that clients cannot afford.

Description of the impact legal aid cuts on access to poverty law services...

- Catastrophic
- Huge
- Ceased to exist
- Major
- Dramatic decrease
- Decimated
- Devastating
- Very negative
- Tremendous
- “Nobody realized how bad it would be until they actually closed...”

Respondents further note that there is an important geographical component to poverty law service reductions. Some communities have been especially hard hit – notably in rural areas. According to some respondents, communities in which there were few resources to begin with essentially have nothing left. Despite the fact that legal aid staff formerly did do some outreach

to outlying communities, the distance between services was already a problem in rural and remote regions. With the withdrawal of legal aid services, clients must travel even longer distances to get any assistance. The closure of courthouses was also mentioned in this regard.

Overall, respondents agree that the implication of decreased service availability is that clients are not getting the help they need. As a result, more people are giving up rather than pursuing their legal claims, and access to justice is being denied.

### Increased pressure on remaining resources

Following on the above discussion, many respondents emphasize that they are facing increased demands for assistance as a result of legal aid service reductions. This is an issue on the part of both pro bono clinics and community organizations, though responses focus more often on the latter. As some respondents put it, they are now ‘drowning in clients’ or ‘inundated with work’. Several participants also indicate that they have witnessed an increase in the number of requests for assistance received from outlying communities, though some others report that legal aid cuts have not affected the way in which they work with clients in other communities.

Respondents report that increased pressure on remaining poverty law resources has significant implications for both poverty law clients and the organizations delivering services. For clients, some respondents indicate that wait times have increased, in part due to the number of people seeking assistance, and in part because advocates can no longer turn to legal aid for assistance in quickly locating the information or resources they need. On an organizational level, respondents report less time to collaborate or coordinate with colleagues, increased territoriality around the (limited) funding that remains, and differences in the kind of work they perform. With respect to the final point, examples cited by respondents include:

- Working more with agencies from other communities (e.g. assisting them with advocacy templates and support)
- Providing more assistance over the phone, email, or by fax (though respondents also acknowledge that these media are not appropriate for many clients)
- Providing more group-based services as opposed to individual services (e.g. presentations, workshops)
- Teaching more self-advocacy skills
- Offering new kinds of services in response to increased pressure for a ‘one-stop shopping’ approach (e.g. filling out forms, mediation).

### Legal Supervision and Advice

Respondents were asked to consider whether poverty law legal aid cuts affected their current arrangements with respect to legal supervision and access to legal advisors. Responses to these questions are mixed. Among those with a legal supervisor (only 40% of respondents), regional variation is present. Respondents from the lower mainland indicate that supervision arrangements did not change, a perspective shared by some respondents from Vancouver island. Two respondents actually indicated that they acquired new or improved supervisory arrangements since the legal aid cuts. For those respondents who report a change for the worse

in legal supervision, common problems include reduced availability of supervisors, and decreased access to resources previously provided via legal aid.

With respect to legal advisors, responses followed a similar pattern: almost all respondents in the lower mainland note that legal aid changes yielded no impact, while those who did experience shifts report that they no longer have access to advisors, or that there are fewer resources to turn to for assistance.

## **Increased Access to Legal Supervisors and Advisors**

Questions concerning legal supervision and advice were divided into two sections. Respondents who reported that they are currently required to have legal supervision were asked to complete both sections. Respondents who do not currently have legal supervisors responded only to questions on the availability and utility of legal advisors. The majority of respondents (72%) report that they do not have legal supervisors, and that supervision is not a requirement of either the organization or the funder of the program in question.

### **Part One: Legal Supervisors**

#### **i) Current context**

For respondents who currently have access to legal supervisors, the most common providers of this service are local lawyers or practicing private lawyers. Only one respondent reported having a lawyer on staff to provide supervision. Lawyers providing supervision come from a wide variety of legal backgrounds. When asked about their supervisors preferred area of expertise, respondents frequently indicated more than one, including not only poverty law but also family, criminal, and immigration law. Several respondents indicate that legal supervisors are former employees of the Legal Services Society, and accordingly have a measure of experience with poverty law. All respondents agree that legal supervision is important, with the vast majority indicating that legal supervisors are very helpful or essential (89%).

#### **ii) Advantages of legal supervision**

##### **Theme 1: Enhances range and quality of services**

Many respondents note that advocates supported by legal supervisors can offer a broader range of services than advocates working independently, notably with respect to providing legal advice and representation. Due to their specialized legal knowledge and training, legal supervisors are able to assist advocates to identify and access relevant information. This permits clients to access quality advice more quickly, and also assists in effective case preparation.

##### **Theme 2: Enhances confidence in service delivery**

Some respondents also report that access to legal supervisors means that both advocates and clients can feel confident that a case is being handled appropriately, and that the correct actions are being taken, thus helping to secure better outcomes. Also of note in this regard is concern

about liability. Without lawyer involvement, some respondents feel that liability becomes a more significant issue for community organizations.

### iii) Disadvantages of legal supervision

The majority of respondents indicate that there are no disadvantages to legal supervision. Some procedural concerns were raised with respect to the limited availability of legal supervisors, and inadequate access to existing supervisors. While these comments do not speak to disadvantages of legal supervision per se, particular issues cited include difficulty locating lawyers with enough time to provide supervision, and difficulty finding local supervisors (with corollary of increased phone/fax costs associated with remote supervision). Some respondents indicate that they would prefer to have a lawyer on staff to provide legal supervision, though they also acknowledge that this is rarely financially feasible.

### iv) Improvements to legal supervision arrangements

Following from the above comments regarding access to supervisors, the only improvement respondents highlight is greater availability. Some respondents particularly note that in-person contact would be the most beneficial, as would more time for general discussion of relevant issues rather than just interactions driven by a particular case.

## **Part Two: Legal Advisors**

### i) Current context

Compared to legal supervision, far more respondents (59%) currently have some access to legal advisors. Unfortunately, most of these noted that their relationship with advisors is quite informal (for example, occasional contact with a local lawyer; use of Povnet resources). For several respondents, legal advisors are members of their organization's board who also happen to be lawyers. As with legal supervisors, legal advisors have a wide range of areas of legal expertise, with the most common being poverty, family, and criminal law. Other responses include immigration law and general administrative law.

Responses are divided on the frequency of respondents' consultations with legal advisors. Most ranged from 'sometimes' to 'very often', with only a few respondents indicating that they consult with their advisors all of the time. Answers to questions concerning the helpfulness of legal advisors are more consistent, with the majority of participants (87%) suggesting that advisors are 'very helpful' or 'essential'. Respondents from the lower mainland are less likely to attach a high value to the contributions of legal advisors.

Among respondents who do not currently have access to legal advisors, many indicate that they formerly relied on legal aid for this kind of assistance, but have not yet found anything to replace it. Respondents from the north are more likely to not have legal advisors than those in other regions.

## ii) Advantages of legal advisors

### Theme 1: Efficient and effective service delivery

Many respondents point out that involving legal advisors in poverty law work makes for a more efficient system overall. The opportunity to consult with an advisor facilitates quickly getting ‘right to the heart of an issue’, assessing whether there is merit, and establishing the best course of action. Identifying at the outset when a case is unlikely to be successful saves the resources of both the client and the advocate. In addition, having legal advisors in place establishes a longer chain of support that permits the persons comprising each ‘link’ to work within their respective area(s) of expertise. Lawyers can help to clarify complex issues, advise on legal options/ precedents, and provide quick access to information. These roles are a valuable support for the frontline work that advocates do with clients, and as will be discussed below, permit advocates to take on a broader range of work with confidence.

### Theme 2: Enhances range and quality of services

As with the above question on advantages of legal supervision, respondents note that access to legal advisors improves service provision, and ultimately yields better assistance for clients. As one respondent put it, involving a lawyer means that an entire case can be handled at a single sitting – a ‘one-stop shopping concept’.

### Theme 3: Enhances confidence in service delivery

Also following from the above discussion, respondents indicate that access to legal advisors means that advocates have greater confidence in their ability to help clients. This backup support is not only important from the standpoint of ensuring that correct actions are taken, but also as a remedy for isolation. For one respondent, this sense of ‘camaraderie’ helps to ‘put a human face on legal issues’.

## iii) Disadvantages of legal advisors

The vast majority of respondents indicate that there are no disadvantages to having legal advisors.

## **Increased accessibility – providing poverty law services in more communities**

### i) Current context

Respondents were asked to describe any work they currently do with clients from communities outside of the one in which their organization is located. Responses were mixed, with some participants indicating that they never work with clients from other communities, and others suggesting that this is something they do on a regular basis. However, a majority (81%) report that they assist external clients ‘very often’ or ‘always’, while just 23% indicate that they ‘never’ or ‘sometimes’ take on this kind of work.

Responses are also mixed concerning whether staff from respondent organizations travel to outside communities to provide poverty law services: 42% report traveling, while 58% do not. However, many of those who do travel report that this is not a regular part of their work. Travel is undertaken for workshops or other group services; for clients who cannot leave their homes; or in rare circumstances, as time and money permit. The primary impetus for traveling to provide services is to respond to client needs. Respondents are aware that needs are going unmet around the province, and want to help ameliorate this situation. They also recognize that some clients are simply unable to come to their office due to disabilities or a lack of transportation.

Those reporting that they do not travel to other communities typically cite a lack of both time and funding as the primary reasons. With respect to time constraints, respondents indicate that they do not have sufficient staff resources to cover travel time, and that an already large workload does not permit taking on additional clients or activities. Geographic barriers to travel were also mentioned by a few respondents, particularly with respect to the distance between rural communities (extra travel time and cost), and poor winter travel conditions.

ii) Options for expanding accessibility

Respondents were asked to rank three options for expanding the accessibility of poverty law services in BC. As the table below indicates, piggybacking poverty law services onto existing community organizations and creating mobile poverty law services were both ranked highly. However, there are some regional differences in the distribution of these rankings. Respondents from the interior and the north ranked the creation of mobile services as their top choice, while respondents from the lower mainland and Vancouver island ranked piggybacked services as their highest priority (perhaps because there are more organizations in these regions onto which poverty law services could be grafted). In light of these divisions, overall ranking outcomes may in part reflect the fact that the project recruited fewer respondents from the interior and the north.

<b>Service delivery mechanisms</b>	<b>Score</b>
Piggyback poverty law services onto existing agencies within communities	111
Provide a mobile poverty law services to visit a variety of communities	103
Increase travel funding for existing poverty law service providers	79

**Increased efforts to involve lawyers in poverty law**

i) Current context

Respondents are fairly evenly split regarding whether there are lawyers in their communities who provide legal assistance on poverty law matters, with only slightly more than half indicating that such assistance is available. Most local lawyers offer poverty law assistance on a pro bono basis, though some respondents note that it remains difficult to access services of this kind. Several respondents also report that there are some local private practice lawyers from whom clients can access fee-based poverty law assistance. Only four respondents indicate that there are lawyers who do poverty law work in the context of a paid position at a community organization. A few respondents point to the CBA lawyer referral services and the Legal Services Society as

other channels through which lawyers can be accessed in their communities. Several respondents did report that they do not know the context in which lawyers provide assistance.

Local lawyers who provide assistance on poverty law matters perform a range of services. As suggested above, the most commonly identified services are pro bono assistance at legal clinics, fee based representation at formal legal proceedings, and pro bono representation at formal legal proceedings. Respondents also note that lawyers play a role in training and supervising poverty law advocates (though findings from the section on legal supervision indicate that this service is not widely available). Other roles mentioned by a few respondents are occasional legal advice over the telephone, and legal research for advocates. Several respondents report that they do not know what kinds of assistance lawyers provide on poverty law cases.

### ii) Advantages of lawyer involvement

Although not technically an advantage of lawyer involvement in poverty law, many respondents point out that it is essential for people to have access to legal representation. As noted in other places in this report, respondents feel strongly that clients lack the knowledge and skills to effectively represent themselves, making adequate protection of legal rights contingent on the availability of legal assistance. For many respondents, lawyers are best positioned to provide this service. As one respondent puts it, ‘advocacy exists on a continuum – advocates can provide information and informal dispute resolution, but in court a lawyer is necessary’.

#### Theme 1: Expertise and training

As in earlier sections, respondents again highlight the importance of lawyers’ specialized legal knowledge and training as a key advantage. Some of the specific roles respondents identify include clarifying legal issues, locating appropriate resources, providing accurate information, interpreting the law, compiling legal research, and developing case strategies.

#### Theme 2: Enhanced efficiency

Also mentioned above is the notion that lawyer involvement facilitates cases being dealt with quickly and effectively, which is beneficial for clients, community organizations, courts, and ultimately, governments. Fewer resources are needed from all parties when cases pass efficiently through the system.

### iii) Disadvantages of lawyer involvement

#### Theme 1: None

By far the theme most commonly noted by respondents is that there are no disadvantages to facilitating greater involvement on the part of lawyers in the poverty law field.

Theme 2: Lack of sensitivity and compassion

The only disadvantage to lawyer participation in poverty law noted by some respondents is that lawyers sometimes lack compassion for clients and their situations.

### **Increased coordination among poverty law service providers**

#### i) Current context

Respondents' perceptions of the current level of coordination among poverty law service providers are fairly diverse, with roughly half suggesting there is no coordination or only occasional efforts to coordinate services, and half indicating that coordination is regular or frequent. While there are no clear regional variations within these responses, it is possible that coordination takes on a different meaning in small communities where resources are scarce.

#### ii) Positive outcomes of increased coordination

Theme 1: Improve and expand services

According to many respondents, increased coordination would yield advantages for both clients and services providers. For clients, positive outcomes include greater awareness of available options for assistance, improved capacity for referrals, greater continuity in service delivery, and a stronger overall voice in defense of client needs (which supports the realization of positive outcomes). For service providers, greater coordination would improve communication among organizations, support the efficient use of resources (notably lawyers' time), minimize repetition and overlap in service delivery, and assist in establishing 'standards' for legal advocacy to help ensure consistent responses to certain problems.

Theme 2: Greater support for advocates

Many respondents also indicate that stronger coordination of poverty law services would result in better advocate support. Specific examples mentioned in this regard include sharing knowledge and learnings on appropriate and effective strategies, providing emotional support (particularly given that many advocates are overworked), creating broader partnerships around service delivery, and improving opportunities for education and training.

#### iii) Negative outcomes of increased coordination

Theme 1: None

By far the strongest theme is that there are no disadvantages of increased coordination.

Theme 2: Increased time and resource pressures

Some respondents suggest that directing time and money to coordination will increase the burden on already overworked staff, and take resources away from existing services. In the present

context, these concerns are compounded by the fact that organizations often have to compete for limited funding, which does not lay a positive foundation for cooperation.

### **Obstacles to Implementing Identified Service Delivery Mechanisms**

#### Theme 1: Lack of funding

Unsurprisingly, again the primary obstacle to adopting any poverty law service delivery mechanism is the lack of funding. With respect to legal supervision and facilitating greater lawyer involvement, financial pressure is specifically mentioned in regard to creating paid positions for lawyers. Respondents recognize that lawyers require paid work, and that their pro bono time is limited by the constraints of their own practices, particularly in small communities. Opportunities to pay lawyers for poverty law work are essential.

From the standpoint of coordination, respondents point to a number of areas of concern. In addition to competition for scarce funding, respondents suggest that lines of tension are created by provincial government decisions to reallocate funding from one set of agencies to another (for example, redirecting funding from women's services into anti-violence and community safety programs). These decisions do not assist communities in laying the groundwork for collaboration and coordination.

The trend towards awarding funding on a project basis is also mentioned. Specifically, respondents note that requiring measurement of project outcomes is not conducive to a focus on coordination, as the results of increased coordination are difficult to document, particularly within the timeline of a single project. Respondents flag issues around competing priorities for the allocation of scarce financial resources as a further obstacle. Faced with a choice between using funding for direct client services versus coordination, many organizations will choose the former. On a similar note, respondents indicate that organizations do not have funding to cover the cost of advertising meetings or workshops.

#### Theme 2: Human resources

The second primary theme respondents' note is the lack of human resources, also expressed as a general lack of staff time. While the link between staffing levels and funding is clear, the frequency with which this issue arises makes it worth highlighting as a separate theme.

A general lack of staff time/human resources to meet the current demand for services is flagged by respondents with respect to all types of poverty law service providers: lawyers, advocates, and support staff. Specifically with respect to lawyers, respondents indicate that there are not enough available to take on poverty law work, especially on a volunteer basis. This includes both direct service provision to clients, as well as other tasks like legal supervision. Concerns about lawyer time and availability are also linked to the value of local resources from the standpoint of ensuring regular access, and avoiding complications that arise due to geography and distance (such as travel and phone costs).

### Theme 3: Lack of poverty law knowledge and interest

A third theme arising specifically with reference to facilitating greater lawyer involvement in poverty law is lawyers' lack of knowledge about, or awareness of, the importance of poverty law. Respondents again suggest that lawyers tend not to recognize the need for these services, and often lack expertise or experience with poverty law issues. In addition, some respondents feel that poverty law tends not to be of interest to lawyers, in part because they do not understand or appreciate the legal needs and problems of low income persons.

## **Resources or Supports Needed to Overcome these Obstacles**

### Theme 1: Funding

Once again, funding is the most important support respondents' identify for overcoming obstacles to improving poverty law service provision in BC. The need for funding was cited in reference to greater general support for poverty law, the restoration of poverty law legal aid, increases to the legal aid tariff (notably for family law), and more funding specifically to support lawyer involvement in poverty law.

### Theme 2: Human resources

Following from the above discussion, increased staffing – and thus increased staff time – is a requisite resource to support more effective and comprehensive poverty law service delivery.

### Theme 3: Increased awareness

Also of note with respect to important resources and supports are respondents' comments concerning the need to educate lawyers and community leaders about poverty law and the need for poverty law services.

## ***v) Lawyers and Poverty Law***

As the findings presented in sections (iii) and (iv) make clear, a strong focus on the value of lawyer participation in poverty law emerged as a notable theme from the initial round of consultations with community organizations involved in the delivery of poverty law services. Respondents emphasize the value of lawyer participation with respect to both the delivery of direct client services like representation and legal advice, as well as the provision of support to advocates in the form of legal supervision, training, and general guidance. In light of this theme, we conducted a second, more limited round of consultations with lawyers in BC who have some experience with poverty law. The purpose of these consultations was to explore lawyers' perceptions of obstacles to lawyer involvement in poverty law, the resources and supports needed to facilitate greater participation, and first steps to be taken towards realizing change. The following discussion highlights some of the themes that emerged from these interviews.

## i) Obstacles to lawyer participation in poverty law

### Theme 1: Funding

Respondents strongly identify the lack of funding for lawyers to take on poverty law cases as a key barrier to lawyer participation. With the elimination of legal aid staff lawyer positions, there are few opportunities for lawyers to be paid for poverty law work. While volunteer (pro bono) lawyer services are one avenue for unremunerated work, several respondents specifically mention the constraint of billable hour requirements in this context. Given that amassing sufficient billable hours is a prerequisite for many legal professionals, it is difficult for these lawyers to find time for additional pro bono work. This is particularly true when more than brief or straightforward assistance is needed, as is often the case in a complex area like poverty law. Disbursements can also be a problem in this regard.

Without specific, targeted funding for poverty law, several respondents note that there is limited capacity to pursue test case litigation – an essential piece of the poverty law service continuum that must involve lawyers. Questions concerning access to, or the adequacy of, various state supports or benefits frequently involve constitutional questions. The capacity to launch *Charter* litigation is crucial, but virtually impossible without additional funding given that existing public interest advocacy organizations are already overburdened.

### Theme 2: Poverty law expertise

For almost all respondents, lawyers' lack of knowledge or expertise on poverty law issues creates a significant barrier to facilitating greater lawyer participation. Respondents agree that administrative law tends to be complicated, yielding more unique cases and complex legal issues that require specialized legal knowledge. The knowledge required does not just come from reading relevant pieces of legislation, but also from an understanding and appreciation of the context within which the case is unfolding – expertise it is difficult to amass for lawyers who do not regularly work in this area. In addition, some respondents note that client interaction and management can also require more time with poverty law cases relative to other types of law.

From the standpoint of pro bono work, the complex nature of poverty law means that lawyers are often not willing to invest the time and effort needed to become familiar with the issues in a case. This is compounded by the fact that the expertise they acquire will only be of use in the one or two pro bono cases they handle in a year. From the converse perspective, advocates or organizations who seek to recruit pro bono lawyers may have to spend a great deal of time briefing them and providing them with background research, a time intensive process. In short, lawyers' lack of expertise on poverty law issues makes it difficult to efficiently capitalize on the contributions that they are otherwise well positioned to make with respect to specialized legal knowledge and skills.

### Theme 3: Time constraints

Related to the above themes of funding and expertise is the question of time. Many respondents indicated that it is difficult to get pro bono lawyers involved in poverty law cases because they

believe that these cases are time intensive, and accordingly, that they cannot afford the commitment required. Comments about the way in which time is a barrier to lawyer involvement in poverty law are often expressed in terms of competing demands. As with funding, time pressure is linked to requirements around satisfying billable hour requirements. With respect to pro bono work, this means that lawyers are often only willing to make short term commitments, particularly when it is an area of law that requires complex arguments, or with which they are not familiar. For lawyers not currently working in private practice, time constraints are also tied to the move towards grant-based funding. The time spent developing proposals and applying for funding is both exhaustive and time consuming, and accordingly has an impact on the delivery of direct services.

#### Theme 4: Awareness and recognition

A final area highlighted as a barrier to involving lawyers in poverty law is a general lack of awareness or recognition of the need for, and value of, poverty law services. On one hand, a few respondents suggest that lawyers tend not to recognize that persons who cannot afford to retain private counsel have an equal right to access the legal system as those with greater financial resources. Without provisions in place to ensure that the means for legal assistance exist, individual rights or entitlements are meaningless.

On the other hand, some respondents argue that there are lawyers who are willing to get involved in their communities through pro bono or other work, and who are sympathetic to concerns around access to justice for low income British Columbians. They point in particular to the activism of lawyers around the changes to legal aid and the Geoff Plant non-confidence vote as indications of lawyers' convictions. For these lawyers, the above noted issues of funding, expertise, and time are significant obstacles. Some measures respondents suggest may help address these barriers include better promotion of opportunities for participation, a clear identification of the needs that exist, and efforts to draw connections between areas of law (for example, between ICBC cases and disability law).

#### ii) Resources or supports needed to overcome these obstacles

##### Theme 1: Funding

Given above comments concerning obstacles created by the lack of poverty law funding, it is not surprising that this is the most frequently mentioned resource needed to support greater lawyer involvement. Respondents specifically note that funding is essential to retain *public* provision of poverty law services. Given that the object of most poverty law claims is a federal or provincial government program, it is incumbent upon the state to ensure that clients have the resources to challenge decisions concerning the delivery of these programs. The imbalance in resources between the state and poverty law clients is immense, and access to legal assistance is necessary to at least begin to level the playing field. The importance of funding is also specifically noted with reference both to pursuing the constitutional claims that often form the foundation of poverty law cases, and to small and rural communities in which the closure of Community Law Offices and Native Community Law Offices has had a disproportionately large impact.

## Theme 2: Legal supports

A second issue respondents frequently highlight is the need to create more options for legal support for advocates and clients. This theme is often expressed in terms of the importance of having a core group of lawyers with poverty law expertise available to handle particularly complex cases (like constitutional challenges), and to work with advocates in an advisory and/or supervisory capacity. The need for funded lawyer positions will be explored in more detail in the following section.

While arguably not directly related to the resources and/or supports needed to overcome barriers to lawyer participation in poverty law, many respondents speak strongly of the need to direct resources to creating additional supports for the advocates who carry out the majority of poverty law work. Respondents recognize that advocates are capable of undertaking a wide range of informal advocacy and dispute settlement activities without the involvement of lawyers. In some cases, they can also take responsibility (and currently are doing so) for a great deal of tribunal work, though there is a place for lawyer involvement in this context. The way in which lawyers can assist advocates in their work is by functioning as a ‘back up’ – someone to call for information and advice. As one respondent put it: ‘a lot can be done under the guidance of lawyers to make the system work and get poverty law issues dealt with, but we need lawyers to provide that supervision’. Making this kind of support available to advocates is particularly important given the above comments concerning the complicated nature of poverty law.

Also tied to the issue of advocate support is the importance of creating training opportunities. While advocates tend to have greater knowledge of poverty law, the perception of some respondents is that there is still a great desire for training. Some suggestions made in this regard include hosting regional conferences (similar to those held by the Law Foundation), developing internet training materials, and video-linking advocates on a regional basis (approximating Front Line Advocacy Worker meetings in the lower mainland). As one respondent put it, we need to put ‘a cascading system in place, and see what works’.

### iii) First steps towards motivating greater lawyer participation in poverty law

#### Theme 1: Fund a core group of poverty law lawyers

The overwhelming strategy emphasized by respondents is to create and fund a core group of lawyers to work in the poverty law field on a full time basis. The frequency with which this theme was cited by respondents far exceeds all of the others mentioned below. While respondents acknowledge that it is likely impossible to create the same number of poverty law lawyer positions as previously existed under legal aid, even a handful of lawyers functioning as a central resource for advocates and community groups would be a significant asset. The experience and seniority these lawyers gain from ongoing work in the poverty law field would be a particularly valuable resource, as advocates, pro bono volunteers, and others would have an identifiable resource to contact for advice and information.

As indicated above, many respondents consider funding for a core group of lawyers to be a responsibility of the state. As one respondent put it, the availability of poverty law services

‘cannot be based on whether someone is successful with a grant’. However, in the absence of sufficient public investment, targeting funding to establish even a small core pool of poverty law lawyers would significantly extend the contributions currently being made by organizations like the BC Law Foundation. The Community Legal Assistance Society is flagged by some respondents as an example of an effective infrastructure that supports sustained lawyer involvement in poverty law, and attracts lawyers committed to this work. Other respondents suggest that lawyers could be located within community organizations.

As will be discussed in more detail in the next section, respondents strongly feel that sustained participation is far superior to temporary, voluntary contributions (e.g. via pro bono volunteers). One respondent expresses this view by describing what was lost with legal aid cuts: ‘legal aid did not just handle case volume, it offered a core group of people with poverty law institutional expertise and the ability to delegate to non-lawyers or other lawyers who could handle cases – in short, we lost the capacity to deal with matters quickly and efficiently’. In effect, respondents feel that pro bono participation by lawyers is a useful add-on, but it is far from an adequate foundation for building an effective system of poverty law service delivery.

In addition to a strong emphasis on the need for a core group of poverty law lawyers, respondents flag two areas in which lawyers are particularly needed to support and extend the poverty law work currently being done by advocates. The first is with respect to test case litigation, particularly on constitutional matters. Several respondents argue that any core group of poverty law lawyers should include at least one constitutional law specialist. Adjudicating the constitutional dimensions of poverty law cases is an essential and critical component of service delivery – ‘it is not a frill, but should be understood as part of the core of what poverty law is about’. Creating a funded position in this area would provide some public capacity for carrying out test case litigation, as well as a resource for others with respect to understanding the application of the *Charter* to administrative regulations. In addition, constitutional cases are an area of poverty law particularly well suited to a full time paid lawyer insofar as this work is too complex to be handled by advocates or pro bono lawyers.

The second area in which core poverty law lawyers would take on a significant role is providing supervision to advocates. As noted in the above section, respondents feel strongly about the need to recognize and support the work advocates are currently doing in the poverty law field. A core group of funded positions would be a valuable extension to the limited legal resources currently available to advocates. Although in-person contact was recognized as advocates’ preference, some additional suggestions made by respondents in light of current funding constraints include telephone based services; video-linked services; toll-free phone lines; and web-based services.

## Theme 2: Support and expand institutional connections with the legal profession

Respondents suggest that greater connections could be forged on an institutional level within the legal profession to support the development of poverty law resources in BC. To begin with, some respondents note that efforts should be made to extend the involvement of the Canadian Bar Association (CBA) in poverty law. While some concern was expressed regarding how best to motivate greater participation on the part of the CBA, further investigation of opportunities in

this area is worth considering. One option noted in particular is around the funding of test case litigation. One respondent suggests that this would be an appropriate area for CBA action insofar as members of the bench, confronted by increasing numbers of unrepresented litigants, are reporting on the need for test cases to go forward.

Some respondents also specifically note that the Law Foundation has a key role to play in the evolution of poverty law services in BC. While the Law Foundation is currently one of the few remaining funders of advocacy services, the organization also has a role to play in defending and promoting the need for these services to the government, and encouraging (re)investment in poverty law. In short, it is important for the Law Foundation to remain ‘on the radar screen’ with respect to any efforts to plan for the future of poverty law in BC.

BC Continuing Legal Education is also mentioned as a potential point of connection with the legal profession from the standpoint of generating increased interest in, and understanding of, poverty law. Some respondents indicate that providing opportunities for lawyers to access training on poverty law would be a first step towards overcoming knowledge barriers, though it arguably would not redress the underlying problem of requiring sufficient exposure to poverty law cases to develop an adequate understanding of its legal and contextual foundation. A possibility mentioned by a few respondents with respect to training is linking poverty law into new or existing continuing legal education activities, either in an in-person format or over the internet. However, respondents also flagged concern around motivating lawyers to participate in training sessions insofar as the materials covered will only apply to the small number of pro bono poverty law cases they take on in a year.

### Theme 3: Creative staffing experiments

A variety of respondents made specific suggestions for increasing the number of lawyers available to do pro bono work. These include:

- Introducing a ‘mandatory minimum’ pro bono contribution for all lawyers. While this may not constitute an adequate foundation for a comprehensive poverty laws system, it will to support a basic level of service, and foster greater awareness of the need for and importance of this work;
- Creating more poverty law articling and/or pro bono opportunities for young lawyers who want to gain experience, and who have the time and energy to take this work on;
- Working with the CBA to create joint funded poverty law articulated positions within private firms. The opportunity to share costs would create at least some paid poverty law positions, and may encourage firms to develop and maintain poverty law as an area of focus.

#### iv) Avenues for lawyer participation

Respondents were also asked to reflect on what they consider to be the best venue through which to foster more lawyer participation in poverty law. Many respondents spoke of the value of a mixed service delivery model involving some services delivered through a publicly funded legal aid program, and some services that build on the work of community organizations around the

province. Pro bono services tended to be viewed with some suspicion, and on the whole were considered to be only a small piece of the puzzle.

For many respondents, the advantages of legal aid are twofold. First, delivering poverty law services via legal aid ensures that access to justice for low income persons remains a concern of the state, and is supported by public funding. As noted above, some respondents feel strongly that it is essential for governments to play a role in poverty law service provision. Second, several respondents suggest that the legal aid system is the best way to secure the availability of qualified lawyers with poverty law expertise – a key strength of legal aid prior to the cuts. With respect to test case litigation, some respondents indicate that this work should be integrated with legal aid, but not confined to it. There are circumstances in which community organizations should be able to access funding to retain lawyers to carry out *Charter* litigations.

For some respondents, community organizations should continue to have a role in the delivery of poverty law services. Funding is a key constraint on the range of activities they can undertake, specifically with respect to having a lawyer on staff to supervise and support poverty law work. Insofar as respondents recognize that sufficient funding is unlikely to come to community organizations to permit hiring lawyers in significant numbers, the involvement of these agencies may eventually evolve into the kind of Community Law Office model that existed prior to legal aid cuts. Despite procedural barriers, however, the grass roots approach, accessibility, and local connectedness of community organizations are all viewed as valuable resources to consider with respect to poverty law service delivery.

Overall, respondents are not very positive about the contributions of pro bono work, particularly in the absence of other, more comprehensive lawyer-based services. The lack of poverty law expertise on the part of pro bono lawyers places significant limitations on the range of work they can undertake, as well as the quality of the service provided. Since pro bono lawyers have to ‘re-invent the wheel’ each time they take on a poverty law case, there are also significant drawbacks in terms of both cost and efficiency. As one respondent observed, however, the higher cost and greater inefficiency of volunteer based services tend not to be considered because they ‘don’t show up on anyone’s bottom line’.

Respondents also point to procedural limitations around relying on volunteers to deliver essential services like poverty law. As indicated in the above discussion of obstacles to lawyer participation, time pressure significantly constrains what pro bono lawyers can achieve. While lawyers may be willing to tackle straightforward issues that require a limited time commitment, they understandably cannot undertake sustained work on a regular basis. Yet several respondents point out that, while the pro bono clinic model of one half hour of advice is superior to phone or internet based services, it remains a low level of service delivery. This is particularly the case in the poverty law arena where many clients cannot act on the information they receive on their own, or are unable to communicate the relevant facts of their situation in this time period. In short, respondents acknowledge that pro bono services make a contribution, but it is far from a solution for a general lack of comprehensive poverty law services. The need for lawyer involvement in poverty law cannot be satisfied by volunteer based services.

## Section Two: Jurisdictional Research

### *i) Introduction*

The nature, range, and quality of the poverty law services delivered in the jurisdictions considered in this report depends on the mix of approaches; the qualifications, experience, and availability of providers; and the cooperation, coordination, and integration of delivery models. The degree to which non-lawyer involvement is permitted in poverty law legal proceedings in particular affects whether or not low income clients can access assistance. Superior courts in some jurisdictions only permit representation by lawyers or self-representation – non-lawyers cannot speak on behalf of clients. Other jurisdictions allow litigants to be assisted by a ‘MacKenzie’s Friend’,<sup>6</sup> opening the door to non-lawyer advocates. In contrast, most administrative tribunals permit representation by non-lawyers, including people with little or no legal knowledge. Rules governing options for securing assistance at poverty law proceedings are noteworthy given that recent reports from England indicate that 73% of represented respondents (in court or tribunals) reported ‘winning’ their case, while only 55% of unrepresented respondents achieved this outcome.<sup>7</sup>

As noted in the introduction to this report, an overview of four service delivery models is presented in this section: advice bureaus, stand alone legal centres, outreach services, and interdisciplinary centres. Discussion of each model begins with a review of key features, followed by a summary of the range and type of services and services providers. Where relevant, this section covers legal supervision, and the role(s) of lay and legal volunteers. Though a detailed examination of financial feasibility is outside the scope of this project, some commentary on funding levels and mechanisms is offered where it is of note in the literature. The concluding section considers the applicability of the research findings to the BC context.

It is important to note at the outset that there is considerable overlap between the four service delivery models. As a result, some of the discussion under one model may be relevant to another. For example, some types of advice centres in England (Model 1) could also be considered stand alone law centres. In jurisdictions where there is cooperation and coordination among services, different aspects of service delivery do not exist in watertight compartments, but rather function in partnership with each other.

### *ii) Model 1: Advice Centres*

#### **Overview**

Within common law jurisdictions, the UK is seen as the primary home of advice centres, the best known being the Citizens’ Advice Bureaux (CAB) that operate under the umbrella organization Citizens Advice. However, a separate network of advice centres has also existed since 1979 under what is now known as Advice UK. Both umbrella organizations are members of the

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<sup>6</sup> For persons unable to access other legal representation, a MacKenzie’s Friend is a person who sits in the witness box with litigants to consult with and advise them. They are not allowed to speak directly to the court.

<sup>7</sup> For example, H. Genn and Y. Genn. 1989. *The Effectiveness of Representation at Tribunals* London: Lord Chancellor’s Department. Cited in Pleasence et al., supra note 4.

Advice Services Alliance. Since the UK has the largest and most formally developed network of advice centres, this review focuses primarily on England and Wales, with some references to Scotland and to South Africa.<sup>8</sup>

There are approximately 500 Citizens Advice Bureaux in England and Wales, and 70 in Scotland. They place a strong emphasis on lobbying government and law reform, and work in partnership with Community Law Centres. Advice UK has 250 member agencies that work “to ensure access to good quality information and advice services in order that people can fully achieve, protect and exercise their rights.”<sup>9</sup> The overarching Advice Services Alliance embraces the following aims:

- Champion the development of high quality information, advice and legal services;
- Ensure that people are not denied access to such services on account of lack of means, discrimination or other disadvantage;
- Encourage co-operation between organizations providing such services;
- Provide a forum for the discussion of issues of common interest or concern to advice organizations.<sup>10</sup>

CAB began as information and referral services, but many have evolved to include more hands-on legal assistance (some up to and including representation). Accordingly, the label ‘advice bureau’ is often now a misnomer, since services extend well beyond the provision of advice. At one end of the scale, CAB are akin to BC’s Information and Referral services, while at the other end they more closely resemble the legal or interdisciplinary centres described under models 2 and 4. In effect, the conceptual and historical distinctiveness of CAB – particularly in comparison with the other service delivery models under consideration – is becoming increasingly blurred as they form partnerships with other legal aid agencies and begin to employ lawyers.

The greatest strengths of advice centres come from their grassroots origins, independence from government, and accessibility. Unlike many solicitors’ offices, they are perceived by low income people as non-intimidating and user friendly. Their longevity has also created ‘brand recognition’ and credibility. Advice centres were originally established to deliver a wide range of services to all community members, regardless of income. Due to a lack of resources and the consequent need to prioritize services, there is growing concern that centres have become over-identified with the chronic problems of the poor (notably welfare and debt), rather than being seen as a service for the whole community. In addition, resource constraints and a lack of up to date facilities mean that many potential clients are left unserved because they cannot access offices by telephone. Opening hours for advice centres also track the business day, making services relatively inaccessible for employed clients.

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<sup>8</sup> Other European countries, and to some extent Australia, have similar networks of advice centres. For a recent review of advice services in Scotland, see: Blake Stevenson Ltd and Office of Public Management. 2003. *Legal Information and Advice Services in Scotland: a Review of Evidence* Scottish Executive Social Research ([www.scotland.gov.uk/library3/law/rli-a-00.asp](http://www.scotland.gov.uk/library3/law/rli-a-00.asp)); Colin Lancaster. 2003. “Community Legal Services: Current Developments in Scotland” *International Legal Aid Group Conference* ([www.ilagnet.org/conference/ilag2003.htm](http://www.ilagnet.org/conference/ilag2003.htm)).

<sup>9</sup> At [www.adviceuk.org.uk](http://www.adviceuk.org.uk).

<sup>10</sup> At [www.asauk.org.uk/index.htm](http://www.asauk.org.uk/index.htm).

When reviewing the effectiveness of advice centres, it should be kept in mind that England still has an extensive array of poverty law services provided by lawyers: staff lawyers in Community Legal Centres, private bar lawyers operating under franchise contracts with the Legal Services Commission, and pro bono lawyers who volunteer at community clinics under the LawWorks program operated by Pro Bono Solicitors.

South Africa also has a network of advice centres loosely modeled on the UK. Similar partnership strategies by the South African Legal Aid Board may eventually lead to greater integration or coordination between paralegal advice centres and Legal Aid Justice Centres (a stand alone model). As the Legal Aid Board notes, “many of these advice offices were established in recent years by a variety of organizations, and the need to integrate and co-operate them with the primary legal aid provider is critical to the aim of providing justice for all.”<sup>11</sup>

### **Range and type of poverty law services and service providers**

Advice centres offer services that range from simple legal information to full representation at tribunals. They may cover a combination of poverty law topics, or specialize in only one or two issues. Service providers may be trained paralegals (advisers), supervising lawyers, or volunteers (lay or professional).

#### Generalist services

According to the Advice Services Alliance, the range of services offered by members includes: listening to clients, diagnosing problems, giving information, advising on options, negotiating on behalf of clients, representing clients in tribunals/court, and providing referrals. Some centres also offer public legal education and information, community development, and law reform.

Based on a pilot project sponsored by the English Legal Services Commission that tested whether non-lawyer agencies like advice bureaus can make a significant contribution to legal aid, a report by Jane Steele and Gillian Bull quantify the percentage of cases receiving each of four levels of service offered by advice centres:<sup>12</sup>

- 57% – Interviewing, administration, consultation, travel and/or supervision with client follow-up
- 22% – Interviewing, administration, consultation, travel and/or supervision with no client follow-up
- 14% – Advocacy with or without follow-up
- 7% – Representation that may also involve advocacy outside court or tribunal<sup>13</sup>

The Commission funded a variety of advice centres to provide specific services to clients who would be financially eligible for legal aid. The objective was to maximize the effectiveness of the centres, while preserving their particular approach to service delivery. Participants included generalist agencies offering a wide range of services, specialist centres focusing on depth face-to-face case work, and specialist agencies offering support to generalists.

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<sup>11</sup> At [www.safrika.info/public\\_services/citizens/your\\_rights/legalaidboard.htm](http://www.safrika.info/public_services/citizens/your_rights/legalaidboard.htm)

<sup>12</sup> Jane Steele and Gillian Bull. 1996. *Fast Friendly and Expert* London: Policy Studies Institute, p. 3.

<sup>13</sup> *Ibid*, p. 4. Detailed tables outlining how time is spent are also available at pp. 38-48.

A recent breakdown of statistics specific to CAB divides services as follows. Some solicitors take part in local referral schemes to provide representation:

- 69% – Detailed information and advice
- 17% – Advocacy and negotiation
- 4% – Representation in county tribunals/court

Within these areas of service, the Citizens Advice Annual Report for 2002/03 indicates that social benefits is the area of greatest demand for poverty law services, followed by housing. Housing services are provided in partnership with Shelter, a national homelessness advice service. Finance and debt issues are the third largest area of assistance, with about half the demand of social benefits. This includes advice about utilities problems (6%), consumer debt (46%), and housing debt (9%).<sup>14</sup>

### Specialist services

As noted above, some advice centres specialize in one or two areas of law. For example, Shelter Housing Aid Centres provide specialist advice on homelessness and housing issues.<sup>15</sup> Specialist agencies usually provide greater depth of service than generalist centres, and have staff who may supervise and mentor generalist colleagues. These service providers usually include lawyers.

Some specialist agencies concentrate on law reform activities by way of test case litigation, similar to the BC Public Interest Advocacy Centre (PIAC) and the Community Legal Assistance Society (CLAS). As with PIAC and CLAS, they offer services such as training, mentoring, and supervision of staff in generalist centres. In England, specialist agencies of this type are referred to as second tier services, with general services for individual clients being the first tier.

Steele and Bull also identify a number of key features of effective second tier services that are worth noting here:<sup>16</sup>

- Priority should be given to services for first tier staff;
- Some involvement with case work makes second tier services more effective. Direct client services can be used to identify training needs, provide backup mentorship, and provide real cases to use as training examples;
- A systematic approach to training helps establish a basic level of knowledge and skills for first tier service providers, and provides an opportunity to meet trainees;
- Staff should be multi-skilled as well as being specialists in their own subject(s). This prevents burnout by permitting work variety, and keeps staff up to date;
- There must be clear criteria for referral of cases from first to second tier;
- Supervisors and trainers must keep in touch with the changing needs of clients – for example, via advisory groups, visits, or service evaluations;
- Sufficient funding is needed to acquire and maintain resource materials, allow staff to participate in specialist networks, and keep up to date with the law;
- Services take several years to become established.

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<sup>14</sup> Citizens Advice. 2003. *Making an Impact. Citizens Advice Annual Report 2002/2003*. London: National Association of Citizens Advice Bureaux. [www.nacab.org.uk](http://www.nacab.org.uk).

<sup>15</sup> Information about the umbrella organization Shelter can be found at [www.shelter.org.uk](http://www.shelter.org.uk).

<sup>16</sup> Supra note 12, pp. 14-15.

## Legal supervision and the role of paid lawyers in advice centres

Traditionally, advice centre staff have operated without day-to-day assistance from lawyers. However, in the UK it is becoming increasingly apparent that the expanding range of services provided through advice centres, particularly as they branch into more hands-on legal assistance, is making some lawyer involvement a necessity. The situation in BC is similar in this regard, so the observations and recommendations contained in recent UK reports merit consideration.

In contrast to qualified solicitor case work, current legal supervision arrangements in advice agencies are not underpinned by a professional framework within which staff are educated and trained.<sup>17</sup> For the above noted pilot project, the Legal Services Commission set supervision standards, but left agencies free to determine how to apply them. Requirements included:

- Ongoing day to day support from colleagues;
- Regular one-to-one supervision sessions every one to two months by lawyer or experienced non-lawyer staff from specialist agencies;
- Independent file reviews by lawyers or senior non-lawyers;
- Personal development – appraisal and training.

A key finding from the pilot is that the adoption of these supervision requirements took extra time previously devoted to clients, with the corollary that agencies saw fewer clients and wait times increased. However, staff in generalist centres also developed the confidence and knowledge necessary to expand their range and levels of service. The tension between the positive implications of supervision for service delivery, and the pressure it creates around time allocation is an important issue articulated by service providers in BC, as the above consultation findings illustrate.

The 2003 Stevenson report<sup>18</sup> on Scottish legal information and advice services contains a detailed review of literature on the roles of lawyers and non-lawyers in advice centres, and concludes that a link between the two groups is essential. The report recommends that this connection be systematic rather than patchy, with clear roles for each service provider. The value of free initial diagnosis regarding the merit of a claim by a qualified lawyer is also emphasized – a recommendation that is inconsistent with past practices at many BC legal aid offices, where access to a lawyer often did not occur until the client was streamed through intake workers or other non-lawyer staff. However, legal aid field offices in BC were fortunate to have experienced, knowledgeable paralegals, highly trained and well supervised by poverty law lawyers. In contrast to traditional advice centres whose staff lack intensive legal training and on-the-spot supervision and mentoring by lawyers, BC's paralegals provided lawyer-quality services within their areas of expertise. In this light, it may be safely concluded that the more general the legal services and the less trained the service provider, the more need there will be for initial problem diagnosis by experienced lawyers.

Stevenson noted several advantages flowing from having lawyers work in advice agencies. A lawyer presence makes it easy to access a legal professional with relevant expertise – something

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<sup>17</sup> Ibid, p. 5.

<sup>18</sup> Supra note 8 in Blake Stevenson Ltd and Office of Public Management. At time of writing, Scotland had 70 actual advice bureaux and approximately 200 'extensions and outreaches'.

consultation respondents regularly linked to quality of service delivery. Pleasence et al point out that when advice centres lack the expertise to offer knowledgeable assistance, clients must be turned away or sent elsewhere, creating a risk that they will not get the assistance they need due to 'referral fatigue'.<sup>19</sup> This problem may be partly alleviated by active referral systems in which centre staff contact other service providers and set up appointments for clients rather than just giving them a printed list of alternative resources.

Enhanced training opportunities for staff and volunteers is a second advantage to employing lawyers at advice centres. The presence of lawyers facilitates day-to-day experiential learning and skill development in a way that even the best training sessions cannot match. The chance for clients to access a seamless approach to service delivery is a third positive feature Stevenson mentions. As long as the roles of lawyer, paralegal, and volunteer are well-defined and streamlined, clients are more likely to obtain the right level of service at the right time if a lawyer is part of the team.

In terms of the challenges created by bringing lawyers into advice centres, Stevenson points to limited interaction between lawyers and advisers (front line service providers, equivalent to BC's advocates and poverty law paralegals). This disadvantage is more likely to arise if lawyers only visit from time to time to supervise files. It could potentially be minimized or avoided by bringing supervising lawyers on staff, or by introducing timely and accessible mentoring services in addition to scheduled supervision.

An insufficient volume of work to keep lawyers fully employed is a second potential problem. This disadvantage could be ameliorated by locating lawyers in a regional centre with responsibility to serve outlying offices, or by employing lawyers on a part time basis. In designing the role of visiting regional lawyers, care is needed to avoid the above noted disadvantage of insufficient interaction. A third challenge articulated by Stevenson that resonates with the perspectives of poverty law service providers in BC is difficulty funding lawyers. This is tied to the availability of legal positions with adequate salaries and benefits, a key gap in BC.

A further disadvantage to involving lawyers in advice centres noted by Stevenson is possible conflicts of values between lawyers and advisers. This may be a greater problem in the UK given parallel systems of advice centres and community law centres with different histories and cultures. BC has a long tradition of cooperation between poverty lawyers and community advocates, and findings from the consultation process strongly indicate that non-lawyer advocates want assistance from knowledgeable poverty lawyers.

A final challenge associated with lawyer involvement in advice centres concerns issues of professional accountability.<sup>20</sup> This disadvantage likely refers to the fact that lawyers operate under strict rules of professional accountability that do not apply to non-lawyers. However, this could be seen as an advantage if non-lawyers are expected to work to the same standards within areas of personal legal competence. A system of accreditation for poverty law paralegals may

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<sup>19</sup> Supra note 4, p. 112.

<sup>20</sup> Supra note 8 in Blake Stevenson Ltd and Office of Public Management, citing an earlier study by C. Millar entitled *Referrals Between Advice Centres and Solicitors*. 1999. Edinburgh: Scottish Office Central Research Unit, p. 63.

also mitigate this potential disadvantage. South Africa is notable for its advances in recognizing and accrediting paralegals – they have now formed a National Paralegal Institute that is working to design training programs.<sup>21</sup> There are approximately 350 urban and rural paralegal advice offices in South Africa providing services ranging from summary advice to full legal representation. Most staff are paid, though some offices also rely on volunteers. Each office employs an average of 3 to 5 paralegals. Training may be by diploma course or on the job.

The Stevenson report from Scotland concludes that a possible way forward would be to place solicitors within ‘second tier’ agencies, as this would achieve the advantages while minimizing disadvantages. This recommendation could be translated into the BC context by placing poverty lawyers in regional and specialized law centres with a mandate to supervise advocates in outlying centres, as well as to accept referrals of those few poverty law cases that cannot be resolved without representation by a lawyer. This sentiment is echoed by Steele and Bull in their recommendation that areas with no legal aid solicitors consider the feasibility of agencies – or groups of agencies – employing solicitors in-house.<sup>22</sup> In the South African context, the value of having lawyers on staff is also recognized, and extended to include reference to creating opportunities for articulated students. The availability of lawyers in certain agencies would open the door to further expanding legal services through student positions. This suggestion is echoed in comments from BC lawyers with poverty law experience.<sup>23</sup>

Many of the issues discussed above in the context of UK advice centres resonate with the South African experience. In South Africa, each advice office has a management committee drawn from its community. A number of advice offices have established contacts with university law clinics, trade unions, and government departments for case referral – a strategy not mentioned in the UK. In his writings about South African advice centres, David McQuoid-Mason includes the following recommendations not covered in the above discussion of the UK study.<sup>24</sup>

Legal aid should build on the infrastructure of existing paralegal services, including advice centres. This could take the form of a partnership arrangement among service providers that is less formal and free of the red tape that seems to be developing a stranglehold over the English system.<sup>25</sup> Despite reductions in available poverty law legal aid services in BC, the LSS Hotline is an integral part of the continuum of poverty law services, as are available advocate training programs. Future planning for poverty law representation should be carried out in consultation with LSS if further fragmentation of service is to be avoided. McQuoid-Mason also recommends that advice offices be empowered by including paralegals and law-related education trainers to provide an educational component – functions that are carried to some extent in BC by LSS and organizations like the Tenants’ Rights Advocacy Centre and CLAS.

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<sup>21</sup> For more information about paralegals in South Africa, see [www.paralegaladvice.org.za/docs/chap15.html](http://www.paralegaladvice.org.za/docs/chap15.html). Western Australia is another jurisdiction that has implemented a nationally accredited Paralegal Training Course.

<sup>22</sup> Supra note 12. See p. 6 for a full list of recommendations.

<sup>23</sup> David J. McQuoid-Mason. 2000. “Delivery of Civil Legal Aid Services in South Africa. Essay prepared for the 11<sup>th</sup> Annual Philip D. Reed Memorial – Global Forum on Access to Justice” *Fordham International Law Journal* vol. 24, no. 111.

<sup>24</sup> Ibid.

<sup>25</sup> Matrix Research and Consultancy. 2004. *The Independent Review of the Community Legal Service*. London: Department for Constitutional Affairs. [www.dca.gov.uk/pubs/reports/clsreview.pdf](http://www.dca.gov.uk/pubs/reports/clsreview.pdf)

Encouraging the use of Alternative Dispute Resolution (ADR) practices is also recommended by McQuoid-Mason. ADR is something to which most reports make passing reference as ‘a good thing’, but it has not yet been fully explored in the poverty law context. Advice centre staff and lawyers do tend to regularly carry out informal ADR, but it arguably has not become an accepted formal practice. One study finds that even when advisers suggested mediation, fewer than one-third of respondents tried mediation or conciliation, and most who did had family law problems.<sup>26</sup> This may be due to a lack of education about the nature and benefits of ADR, though in the poverty law field it is also likely linked to a lack of affordable ADR services.

In BC, the University of British Columbia Law School has recently implemented a student-staffed ADR program that offers poverty law services. ADR is particularly appropriate for many landlord/tenant disputes where clients wish to stay in their apartments, and also has a role in conflicts between welfare recipients and Employment Assistance Workers. An evaluation of the UBC program and further research on the feasibility of expanding it to other parts of the province could be a valuable part of any additional research that emerges from this project.

### Role of volunteers in advice centres

Advice centres have traditionally been spearheaded and maintained by non-lawyer volunteers. Volunteers perform many functions, including direct client services, referrals, and administration. However, a growing need for advice and assistance on more complex legal matters has made the addition of legally trained paid staff a necessity. Not surprisingly, volunteers seldom have the time or background to be able to provide the same depth of service as well trained paid staff, but they are still an integral part of advice centres’ service delivery model.

Advice agencies have also experienced some difficulty helping volunteers meet additional requirements laid down by the UK Legal Services Commission as part of their Partnership initiative.<sup>27</sup> Some CAB have hired supervisors for volunteers, but extra supervision duties leave less time for case work, and in some cases the limited number of hours worked by volunteers is insufficient to cover supervision requirements. Supervision of volunteers by specialist staff in stand-alone specialist advice agencies may be one solution to this problem.

When considering the contributions of volunteers, a distinction must be made between lay volunteers and pro bono lawyers. The former usually know a considerable amount about the social circumstances of their clients, but may lack specific legal knowledge and problem diagnosis skills. The latter may be excellent legal problem solvers, but know little about the unique circumstance of low income clients, or the specific complexities of poverty law legislation, policies, and administrative processes.<sup>28</sup> Since volunteers are also widely used in stand-alone poverty law centres, a fuller discussion of this topic can be found under Model 2.

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<sup>26</sup> Supra note 4, p. 75.

<sup>27</sup> For a critique of Pioneer Partnership projects, see Anne Owens. 2000. “Public Provision of Legal Services in the United Kingdom: A New Dawn?” *Fordham International Law Journal* vol. 24, S143 at A157.

<sup>28</sup> Many jurisdictions offer intensive poverty law training for pro bono lawyers. In England, Solicitors Pro Bono offer services through their LawWorks program ([www.probonogroup.org.uk](http://www.probonogroup.org.uk)). In Australia, the Public Interest Clearing House in Melbourne promotes one of many training programs available to volunteer lawyers ([www.pilch.org.au](http://www.pilch.org.au)).

## **Funding of advice centres**

In all jurisdictions, funding for various models of poverty law service comes from multiple sources rather than one or two levels of government. As a result, the loss or reduction of one source does not automatically lead to the demise of a complete system. As the 2004 US Access to Justice report points out, “entities that are accountable to a single institution are inherently more vulnerable.”<sup>29</sup> Funding source diversity may be one of the greatest strengths of the jurisdictions considered in this report, although they do still report some resource deficiency.<sup>30</sup>

<b>Source of Funds</b>	<b>Percent</b>
Local government	51%
Legal Services Commission	21%
Community fund	7%
Ministry of Health	5%
Fundraised income	4%
Regeneration funds	3%
In kind funding	2%
Public bodies	2%
European funding	.5%
Other	4%

The 2002/03 Citizens Advice Annual Report illustrates the breadth of the funding base. Over 80% of funding comes from public authorities (up from 69% in the previous year), but no single funder has a stranglehold so far. However, recent reports do indicate that as the centralized Legal Services Commission becomes more heavily involved with civil legal aid through its Partnership initiatives, local governments are reducing their funding contributions. If this trend continues, advice bureaus may lose one of their greatest strengths – their identification as independent

bodies that have the will and the resources to stand up to big government.

## **Summary and conclusions**

As advice centres move away from their original broad service base towards devoting more legal resources to social welfare (or poverty) law, they risk losing their long established local community support, both from funders and from residents at large. Accessibility concerns are also an emerging issue in the UK in terms of service availability, opening hours, and areas of expertise. The need for more sophisticated poverty law assistance is now too great to be handled solely by non-lawyer staff and lay volunteers. It is increasingly pressing for lawyers with poverty law knowledge and experience to participate in all levels of service, whether via in-house staffing or external supervision.

As funding from centralized national authorities has increased, funding from local authorities has decreased. Through its many and stringent accreditation requirements, the Legal Services Commission places restrictions on individual advice bureaus that make it more difficult for them to respond to grassroots demands. This creates further risks around decreasing local loyalty, and adds to the financial vulnerability of already under-resourced agencies.

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<sup>29</sup> Access to Justice Support Project. *Access to Justice Partnerships: State by State*, p. 11 [www.ATJsupport.org](http://www.ATJsupport.org). The Access to Justice Support Project is a partnership of the American Bar Association and National Legal Aid and Defender.

<sup>30</sup> *Supra* note 14, p. 16.

BC already has a network of Information and Referral Centres that, if they are not already providing legal services, could be expanded to do so along the lines of the UK and other advice centres. However, this approach would require careful planning so that advantages are imported – such as sensitive and empathic services that are responsive to local and cultural needs – without the disadvantages of over-reliance on part time lay volunteers and inaccessibility due to the fact that demand for high level service so greatly exceeds supply.

## ***ii) Model 2: Stand-Alone Law Centres***

### **Overview**

This section examines the ways in which free-standing community law centres are organized in the jurisdictions under review. Given the large amount of information on this model and the diversity of available approaches, discussion under some headings is subdivided by jurisdiction.

#### **Australia**

Research suggests that Australia has one of the most varied, collaborative, and well funded systems of Community Legal Centres (CLCs) among the jurisdictions studied. A network of 207 offices offer a full range of free services to all clients, including those who are financially ineligible for legal aid. These services include public legal education, advice, and representation, as well as community development and law reform. Australian CLCs receive funds from multiple sources. In some states they rely heavily upon federal funding, while in others they receive little or no government support, sometimes by choice in order to preserve independence and freedom to tailor services as appropriate to their communities. Despite being relatively well funded compared to other jurisdictions, Australian CLCs do identify a lack of monetary and other resources as a major barrier to access to justice.

Australia's CLCs practice 'community law', the aim of which is to respond in a unique and effective way to community needs, whether a community is defined by geography or shared characteristics. As such, CLCs have developed in-depth understanding of how the law and legal system impact on specific groups, as well as on society as a whole.<sup>31</sup> Australian CLCs are distinct from legal aid, a separate system that operates under strict financial eligibility rules and includes criminal representation. CLCs are part of a complementary system that operates alongside legal aid and occasionally in competition with it, especially for funding. In contrast to Canada, Australian CLCs have formed a national network – the National Association of CLCs – that speaks with a strong voice in its dealings with the federal government.

#### **The United Kingdom**

Prior to a complete overhaul of the English legal aid system in the mid 1990s, there were separate poverty law service streams. These included representation by lawyers via a *judicare* model (referral of cases to private bar lawyers under a tariff system), and services provided by

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<sup>31</sup> National Association of Community Legal Centres. 2003. *Doing Justice: acting together to make a difference*, p. 5 [www.nalc.org.au/docs/Doing\\_Justice\\_doc.pdf](http://www.nalc.org.au/docs/Doing_Justice_doc.pdf). Quoted by Bill Mitchell. 2003. "Building Pro Bono Partnerships: Opposites Attract, But Can They Last?" *National Association of Community Legal Centres Conference*.

advice centres (described above) and Law Centres. Law Centres – a group of 57 not for profit organizations across England, Wales, and Northern Ireland funded primarily by local authorities – are the focus of attention in this section.

Law Centres have an elected management committee that represents local interests, and encourages participation on the part of lawyer and non-lawyer volunteers. Like the former Community Law Offices in BC, the Centres were created to fill gaps in the civil legal aid framework. As with Australian CLCs, they emphasize accountability to local communities, and their work includes a strong community development component. They are also considered to be a “voice for the people on matters of law reform.” The impact of Law Centres is out of proportion with their size and number of staff lawyers. The volume of work they have attracted illustrates the depth of the need to which they are attempting to respond.<sup>32</sup>

The Law Centres Federation, the purpose of which is to act as a coordinating body and voice for all Law Centres, was formed in 1978. It was one of the founding members of the Advice Services Alliance mentioned above, and maintains close contacts with other legal advice services. In many ways, the Federation resembles the Australian National Association of Community Legal Centres.

### South Africa

Since the end of apartheid, and with the help of international funding, South Africa has developed an interesting mix of poverty law services. So far South Africa has experimented with pro bono services, judicare, state-funded articling students in rural law firms, private specialist law firms, independent university law clinics, paralegal advice offices, legal insurance schemes, and contingency fees. To date, what has been found is that none of these models is complete without the addition of effective public legal education.<sup>33</sup>

State-funded Justice Centres are designed to be one-stop shops for urban and rural areas. They employ lawyers, interns (articled students), paralegals, and administrative staff, preferably from the local area. There is a heavy reliance on interns, with a maximum ratio of ten interns to one supervisor. In addition, independent law clinics operate at most of the 21 university law faculties in South Africa. Some qualify for accreditation by the Law Society, which allows for the employment of interns. Funding comes mainly from the Attorneys Fidelity Fund which depends on interest from lawyers’ trust accounts – similar to BC Law Foundation funding. Depending on the location, law clinics provide practical training for senior law students on an optional or compulsory basis. Interns have been identified as an inexpensive source of staffing equal to the standard of young qualified lawyers, provided there is proper supervision.<sup>34</sup>

South Africa also has private, specialist, not-for-profit law firms with a focus on constitutional rights and reform. An important component of these firms is their training programs for lawyers

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<sup>32</sup> Royal Commission on Legal Services (the Benson Commission). 1979. *Final Report*. Obtained on the website of the Federation of Law Centres [www.lawcentres.org.uk](http://www.lawcentres.org.uk)

<sup>33</sup> Supra note 23.

<sup>34</sup> Ibid.

and paralegals. This system owes its success to strong overseas and donor support, plus the support of the legal profession and judiciary.

### United States

Since the models in use in the US are too numerous and varied for detailed examination in this report, research was largely confined to sources judged to have the greatest relevance to BC. A more in depth study of select US jurisdictions may be a useful element for follow up research.

A brief history of recent events relating to civil legal aid in the US is relevant to the present situation in BC given that significant cuts in federal funding for civil legal aid in the 1990s meant that most States had to cope with the sudden elimination of poverty law programs. In 1974, Congress created the Legal Services Corporation to (among other things) “redress historic inadequacies in the enforcement of legal rights of poor people caused by lack of access to the institutions that created those rights.”<sup>35</sup> Despite a number of criticisms, federal funding supported programming until 1994 when a Republican Congress cut the Corporation’s budget by almost 33% and tied remaining funding to “new, wide-ranging and substantive restrictions on staff activity.”<sup>36</sup> These restrictions extended to all work performed by organizations receiving Legal Service Corporation funds, including work with separate funding from an independent source. In response, some organizations declined all further federal funding and survived on alternative resources. Others created separate legal entities to receive non-federal funds, and still others formed new partnerships with community and legal organizations to provide poverty law services through expanded pro bono programs.

In the wake of federal funding cuts, many US States have successfully created new programs and/or expanded old ones through a variety of funding methods and the introduction of a number of new or reorganized service delivery models. For example, the North West Justice Project supports eight field offices throughout Washington State with federal government funding. The Project also operates CLEAR (Coordinated Legal Education Advice and Referral Services), a statewide telephone system similar to the service developed and operated by the BC Legal Services Society after the legal aid funding cuts.

A recent report of the National Access to Justice Project<sup>37</sup> describes various efforts to improve access to justice in the US. A number of factors that support successful initiatives are listed, some of which it is useful to reproduce here for comparative purposes:

- Strong partnerships with the bar, judiciary, and legal aid providers provide a solid foundation. Law Schools can also be key partners, while representatives from outside the legal community can bring new perspectives and help broaden support;
- Institutional commitment is necessary on the part of key partners. Each partner must work to build support within its own institutional base.
- Formal structures which are accountable to more than one partner offer greater security than informal arrangements with a single partner;

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<sup>35</sup> Alan W. Houseman. 1995. “Political Lessons: Legal Services for the Poor – A Commentary” *Geo. Law Journal* vol. 83, no. 1669, p. 1684. Corporation authority derived from the federal Legal Services Corporation Act.

<sup>36</sup> Raymond H. Brescia, Robin Golden and Robert A. Solomon. 1998. “Who’s in Charge, Anyway? A Proposal for Community-based Legal Services” *Fordham Urban Law Journal* vol. 25, no. 831, p. 839.

<sup>37</sup> *Supra* note 29.

- Judicial leadership – especially at the state Supreme Court level – greatly increases effectiveness;
- An effective staff;
- An attitude of openness, inclusiveness, and trust among partners;
- Partners should prioritize promoting cooperation and consensus within their own community and strive to speak with one voice in public.<sup>38</sup>

Concerned lawyers, law faculty members, advocates, and others in Washington State have applied all of the above factors in at least one of their successful and expanding programs. King County’s coordinated pro bono programs have formed partnerships with community organizations, law schools, private law firms, and paid-staff advocacy programs to expand clinical and representation services to a wide range of poor people in the Seattle area. BC is well positioned to learn a great deal through direct contact with leaders of such programs.

### Canada - Alberta

Alberta has no history of government-supported poverty law services. Like BC, Alberta has a scattering of community advocates that provide a variety of services, some law student services, Calgary Legal Guidance and its recent emulator, the Edmonton Centre for Equal Justice. Calgary Legal Guidance (CLG) is an organization worth further study if this project moves on to a second stage. Like CLAS in BC, CLG has survived for more than 30 years and has strong community support. Its success has encouraged the formation of a similar model in Edmonton, a third is planned for Red Deer. CLG’s stakeholder vision statement sums up the organization’s approach: “Calgary Legal Guidance is an interactive organization that identifies, understands, and responds to the needs and concerns of our stakeholders. Our stakeholders include clients, volunteers, staff, public and legal community, funders and related agencies.”<sup>39</sup>

From its origins as a summer clinic staffed by students, CLG now assists over 5,000 clients a year who do not qualify for legal aid. In addition to information and representation, CLG operates the provincial Dial-a-Law program and offers public legal education. Although CLG is an admirable illustration of what can be accomplished with limited resources via efficient service provider integration, it does not redress the lack of services outside Calgary or in rural areas.

### **Range and type of poverty law services and service providers**

Stand-alone poverty law centres in each jurisdiction have many common features. In particular, most strive to be accessible both geographically, and from the standpoint of providing holistic services that recognize and respond to human needs as well as legal issues. However, how services are designed to act on these commitments varies by jurisdiction.

### Australia

In terms of service delivery, Australian CLCs are committed to a variety of principles. They traditionally emphasize client and community controls and participation, and encourage clients

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<sup>38</sup> Ibid, pp. 11-14.

<sup>39</sup> Calgary Legal Guidance. 2003. *Annual Report to the Community April 2002-March 2003*. Calgary: Calgary Legal Guidance.

and communities to become involved in identifying and solving legal problems. Related to this is a focus on transferring skills to individuals, and building community capacity. Accessibility is an important value, understood in terms of affordability, location, hours, language, and atmosphere. Unlike UK advice centres, they try to be accessible by operating in informal surroundings that are open outside of normal business hours. They also utilize a variety of service formats, including telephone advice, outreach, on-call lawyers, interpreters, court support for women, and programs for rural and remote areas. A holistic approach based on integrating a variety of services and levels of service delivery is integral to CLCs, as is a focus on prevention and understanding and addressing the structural causes of legal needs.

Statistics gathered by Australia’s National Association of CLCs since 1995 provide some insight into the composition of client services.

Type of Service	Percent*	Legal Problem	Percent
Advice	92%	Family	25%
Letter drafting	24%	Credit and debt	10%
Drafting other documents	14%	Criminal**	8%
Entering negotiations	10%	Consumer	8%
Initiating court action	5%	Tenancy and housing	8%
Defending court action	4%	Victims of crime	8%
		Motor vehicle accidents	6%
		Personal injury	5%
		Employment	5%
		Other	17%

\* Some cases involve more than one type of service, which accounts for the total in this column exceeding 100%.

\*\*As stated above, it must be remembered that Community Legal Centres are a supplement to and not part of legal aid. Most criminal law services are performed through the latter system – hence the low percentage.

Given that CLCs are parallel to rather than a part of the Australian legal aid system, they are not bound by legal aid financial eligibility rules. Like advice centres in the UK, they are theoretically free to serve anyone, regardless of income. In practice, limited resources must be conserved for those in greatest need – usually people at the bottom of the income scale.

### United Kingdom

In contrast to Australian CLCs, the mandate of UK Law Centres is to serve those most in need. The Law Centre website describes this in terms of the prioritization of services: “to make the most of their limited resources, Law Centres have to prioritise areas of work that they feel are most in demand, and where the needs are greatest.” Particular areas of specialization include welfare rights, immigration, housing, employment rights, and discrimination.

Law Centres were set up to provide more complete, responsive, efficient, and comprehensive services than those available on an individual basis from private lawyers. They employ salaried lawyers with at least 3 years experience – solicitors and barristers who are specialists in social welfare law. They also employ legal advisers (equivalent to advocates in BC) and community workers. Law Centres provide a full range of services from summary advice to representation before tribunals and every level of court. Unlike advice centres, Law Centres from the outset

expected lawyers to be the primary service providers. However, the addition of lawyers to advice centres and the creation of partnerships between the Legal Services Commission and advice centres have blurred the distinction between these two parallel services.

In addition to handling individual cases (including test cases, judicial review and representation), Law Centres provide the following services:

- Group-based services (versus helping one person at a time);
- Training and information about the law and people's rights;
- Community outreach to identify legal problems at an early stage;
- Taking on cases that clarify and extend rights for the public;
- Commenting on and proposing improvements to the law as it affects their clients;
- Legal advice and services for community organizations that provide initial quick advice and/or referrals.<sup>40</sup>

### South Africa

In addition to the network of paralegal advice centres described under Model 1, South Africa has over 40 Justice Centres operated by the Legal Aid Board that provide “legal help to indigent South Africans.”<sup>41</sup> Each Centre is “like a large legal firm offering a one-stop service for civil and criminal cases.”<sup>42</sup> Services include legal representation, access to justice, and access to necessary information and relevant resources. Justice Centres receive government funding.

South Africa also has a network of not-for-profit Legal Resources Centres (LRCs) funded mainly through foreign donations, including a grant from the Canadian Bar Association. The first LRC opened in Johannesburg in 1979, and there are now five in large urban areas. As well as offering general legal advice, the Centres operate 19 projects on issues including children’s rights, social welfare, housing, and land dwellers rights. LRCs traditionally have worked closely with paralegal advice centres in rural areas, and offer training programs for paralegals and lawyers.

As mentioned above, most law schools in South Africa run legal clinics. Some operate through the Legal Aid Board, while others are independent and receive funds from non-governmental sources. They offer a wide range of poverty law services, dealing in particular with social security, housing, and police issues. A number of clinics have recently begun to specialize in constitutional issues like gender discrimination, administrative justice, and land restitution.

Although not strictly stand-alone civil law centres, a review of South African resources would not be complete without a brief reference to state-funded ‘Candidate-Attorney Interns’ (equivalent to articulated students) in rural law firms. Each intern must accept at least ten legal aid cases per month. Although most referrals are criminal cases, approximately 15-20% are civil.

The growth and development of poverty law services in South Africa have attracted the attention of numerous writers. There are a variety of resources chronicling the strengths and challenges of

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<sup>40</sup> [www.lawcentres.org.uk](http://www.lawcentres.org.uk)

<sup>41</sup> From the website of the South African Legal Aid Board, March 20, 2003.

[www.safrica.info/public\\_services/citizens/your\\_rights/legalaidboard.htm](http://www.safrica.info/public_services/citizens/your_rights/legalaidboard.htm)

<sup>42</sup> Ibid.

various programs, and the ways in which they are integrated. Some of these observations may be relevant to BC despite our current lack of state-funded poverty law services.

### US – Washington State

There are a number of similarities between present day BC and Washington State. In the latter, federal funding supports eight regional legal service offices<sup>43</sup> and a statewide legal advice hotline. Washington also has law student clinical services and several pro bono programs. However, the similarities between the two jurisdictions end there. Unlike legal aid regional centres in BC, the offices administered by Washington's North West Justice Project provide both generalist and specialist poverty law services, as well as public legal education and community development services. Each office also employs at least one lawyer. Seattle's King County office has eight lawyers in addition to those who work on the legal hotline.

Columbia Legal Services runs a parallel network of not-for-profit legal centres independent of federal funding that provide free civil legal services for low income people. They also operate eight regional offices, some in close proximity to their legal aid counterparts.<sup>44</sup> The mission of Columbia Legal Services' is "to help low-income people or people in need to define, assert, promote, and enforce a full range of legal rights and interests within the civil justice system" to ensure that they "can secure and exercise those rights and meet those responsibilities that are necessary for them to enjoy the benefits of a just society."<sup>45</sup> To this end, Columbia provides clients with legal education, advice, and representation across a range of forums, including courts and administrative agencies.

The services of these two sets of stand-alone offices are supplemented by a large number of well-established (and expanding) pro bono programs. In March 2004, the King County list of pro bono program coordinators contained 78 names, including lawyers from approximately forty law firms. As well as clinic services, pro bono lawyers offer full representation on a wide range of poverty law cases. These and other programs coordinate services through their membership in the Washington State Access to Justice network, whose Board was created and appointed by the Washington Supreme Court in 1994. Board members "represent a wide range of civil legal assistance stakeholders, including the bench, the organized bar, the Legal Foundation of Washington (which administers IOLTA funds), legal services programs, private bar volunteer lawyer programs, and others with an interest in and commitment to equal justice."<sup>46</sup>

Facilitating cooperation and direct involvement by the judiciary has helped to draw together and increase the efficacy of what otherwise would be a fragmented and overlapping system. In October of 2003 the Civil Equal Justice Funding Task Force – an arm of the Equal Justice Coalition created by the Access to Justice Board – published a Civil Legal Needs Study. The study played a significant role in the enactment of legislation in March 2004 that increased state funding for civil legal aid. Washington State benefits from two separate streams of government funding, plus financial assistance from their Legal Foundation and local bar associations.

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<sup>43</sup> Located in Bellingham, Everett, Seattle, Spokane, Tacoma, Vancouver, Wenatchee, and Yakima.

<sup>44</sup> Located in Everett, Tri-cities (Central-South), Olympia, Seattle, Spokane, Tacoma, Wenatchee and Yakima.

<sup>45</sup> At [www.columbialegal.org/index.html](http://www.columbialegal.org/index.html).

<sup>46</sup> Supra note 29, p. 62.

Much of what has been achieved in Washington State is the result of volunteer efforts by judges, lawyers, and community activists. Since coordination through the Access to Justice Partnership is a key contributor to this success, BC might well consider drawing upon Washington's experience when considering options for coordinated poverty law services in this province.

### Canada – Alberta

CLG offers three broad services: a volunteer clinic staffed by pro bono lawyers and non-lawyer administrators; follow-up services provided by paid staff for clients whose needs cannot be met at clinics; and public legal education. Clients enter via an intake worker who screens calls and makes clinic appointments at a variety of locations. CLG offers a street front service at its downtown office, as well as four satellite clinics in strategic locations across the city. The downtown clinic serves 20-25 clients four nights a week with the assistance of 4-6 pro bono lawyers and law students. Satellite clinics are open less frequently. In 2002/03, 40% of the clients seen at evening clinics received follow-up services from daytime staff and volunteers.<sup>47</sup> This includes representation, for which CLG charges a \$50 fee that can be waived in appropriate circumstances. CLG also runs a Social Benefits Advocacy Program, which provides services similar to those provided by Law Foundation funded advocates in BC.

CLG is governed by a fairly large board of directors, and assisted by a professional advisory committee that includes four judges and three senior lawyers. Paid staff includes three lawyers, one of whom focuses on poverty law. CLG also employs a social benefits advocate, an intake worker, and two social workers, who are supplemented by articled and summer students.<sup>48</sup> To provide a broad range of articling experience, CLG operates a secondment/exchange system with certain law firms. CLG students spend three weeks at a law firm, while law firm students replace them at CLG. This strategy is also used successfully in other jurisdictions with thriving pro bono programs, including King County in Washington.

CLG owes some of its success to partner agencies. Without active assistance from partners “who share desired outcomes with CLG, we would be unable to deliver the scope of services needed in the community.”<sup>49</sup> These partners include community service agencies, the Law Society, Police Services, the YWCA, and Burnet, Duckworth & Palmer LLP.

### Generalist services

All of the above jurisdictions offer generalist poverty law services, in some cases including family, immigration, human rights, and criminal law in addition to poverty law. As one study points out, an “advantage of using generalists is that they are capable of providing good all-round advice in open access services, to a good standard, and to a high standard in some areas.”<sup>50</sup> Governance structures have an impact on the range and quality of services: locally controlled

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<sup>47</sup> At [www.columbialegal.org/index.html](http://www.columbialegal.org/index.html).

<sup>48</sup> Ibid.

<sup>49</sup> Ibid. p. 11.

<sup>50</sup> Jane Steele and John Seargeant. 1999. *Access to Legal Services: The Contribution of Alternative Approaches*. London: Policy Studies Institute.

offices tend to have greater freedom to set policies and procedures, while the work of centrally controlled offices is often more structured.

In the UK, the Legal Services Commission's introduction of the Community Legal Service (CLS) as the administration body for civil legal aid was intended to build "on previous legal aid legislation by introducing a tougher approach to supplier-funder relationships, aimed at controlling expenditure, prioritizing services and refining quality assurance approaches through the introduction of the Quality Mark."<sup>51</sup> The Commission only pays solicitors and organizations if they meet certain standards, and only qualifying agencies can display the Quality Mark.

The CLS brings together large (and potentially unwieldy) "networks of funders and suppliers into partnerships to provide the widest possible access to information and advice."<sup>52</sup> Law Centres operate under a franchise-type agreement with the Commission. The requirements of these franchise agreements have the potential to restrict the freedom of Law Centres, although the Commission has stated that "understanding of local and regional needs and priorities in provision of and access to justice is essential in informing our decisions about the way we commit our funds through contracts with suppliers."<sup>53</sup>

There is evidence that attempts to standardize quality and competence have depressed rather than improved standards due to a tendency to focus on what is achievable and measurable, to prioritize process over product, and to discourage innovation. There is also a danger that funders will be attracted to quantity and output, over quality and real outcomes.<sup>54</sup> As one writer has observed, "the resources devoted to bureaucrats seem out of proportion to those devoted to frontline services... Participants [in planning] can get carried away by the process and lose sight of the goal."<sup>55</sup>

Australian Community Legal Centres (CLCs) have also experienced some disadvantages flowing from increased government interest in their service delivery model. Values essential to CLCs – independence, accessibility, solution-oriented, and community-focused – may be at risk in the face of growing recognition of the apparent 'cost effectiveness' of this approach. Perceived cost savings from a community-based and pro bono service model has resulted in a reduction of funding for legal aid, an increase in the number of CLCs, and an expansion of areas of CLC service delivery. However, the very features of the CLC system which make them cost effective – namely, their community involvement and mobilization of volunteers – may be eroded by the tender process employed by the government to create new Centres. To begin with, tendering focuses on large regional centres, which often have fewer opportunities for volunteer input. Giddings and Noone<sup>56</sup> report that South Australia has lost volunteers since seven of CLCs were reduced to four Super Centres. Second, the involvement of church groups in the tendering process has generated concern that new Centres will be identified as satellites of organizations

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<sup>51</sup> Supra note 25, p. 4.

<sup>52</sup> Legal Services Commission ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)).

<sup>53</sup> Legal Services Commission. 2003. *Equalities Annual Report 2002/03*. London: Legal Services Commission, p. 14. [www.legalservices.gov.uk/about\\_us/equalities\\_annual\\_report\\_.pdf](http://www.legalservices.gov.uk/about_us/equalities_annual_report_.pdf)

<sup>54</sup> Supra note 27, pp. S154-155.

<sup>55</sup> Tamara Gorierly. 2001. *Planning Legal Services: is it working?* London: Legal Action Group, pp. 1-4.

<sup>56</sup> Jeff Giddings and Mary Anne Noone. October 11, 2003. "Local, Regional or Super? Australian Community Legal Centres in the Purchaser-Provider Age" *International Legal Aid Conference Proceedings*, p. 17. [www.ilagnet.org/conference/genereal2003/papers.htm](http://www.ilagnet.org/conference/genereal2003/papers.htm)

that may not subscribe to the traditional CLC approach to law reform and access to justice. For example, some women's centres opposed contracting to churches due to perceived conservatism around sexuality issues. At the same time, reductions to legal aid have overwhelmed CLCs with demands for traditional individual legal services.

Much has been written about trends in the US towards faith-based social and legal services. In the past, the US government did not directly fund religious organizations. Funds were channeled through not-for-profit organizations at legal arms length from religious institutions. The Bush government marks the first time that religious groups can directly receive government funds.<sup>57</sup> This departure charts untested waters in church-state relations, and assures further debate.<sup>58</sup>

While some Australian and US authors express similar concerns about faith-based legal services and top-down government control that might restrict service options for individuals, one group of US writers are more concerned about the effect of services that they consider overly dominated by lawyers. In 1998, Brescia et al wrote a paper containing proposals for community-based legal services in the US.<sup>59</sup> They argued that current programs are becoming too specialized, lawyer dominated, and isolated from the community. Legal services should move away from an individual representation model to a community-based delivery system that would better support the possibility of more broad-based and efficient collaboration between legal service programs and the communities they serve. Strict adherence to a lawyer-driven service delivery model obligates attorneys to provide extensive, high quality services to a few clients, while many more equally deserving clients go unrepresented. Brescia et al advocate the removal of lawyers from front-line case selection (in contrast to the Scottish report that proposes problem diagnosis by lawyers), and an increase in the number of test cases/representation on behalf of groups of people. On this view, attorney time is better spent training and supervising lay advocates.<sup>60</sup> More collaboration between community institutions and legal services offices is also called for, with the latter serving as 'corporate counsel' to the former, providing critical back-up for advocacy efforts. This resembles a mixture of the South African cluster model in which regional offices provide support to outlying paralegal offices, and UK second tier services in which lawyers take on supervision and test case litigation.

A report from the *Conference on the Delivery of Legal Services to Low-income Persons: Professional and Ethical Issues* contained in the 1999 edition of the Fordham Law Review contains number of recommendations on building coalitions and collaborative relationships.

They are too numerous to list here, but the following are of particular interest:

- #25 – To assist with satisfaction of unmet legal needs and further access to justice for those unable to afford legal services as presently provided, expansion of non-lawyer roles should be encouraged.<sup>61</sup>

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<sup>57</sup> Carol J. De Vita and Sarah Wilson. 2001. *Faith-Based Initiatives: Sacred Deeds and Secular Dollars*. [www.urban.org/url.cfm?ID=310351](http://www.urban.org/url.cfm?ID=310351)

<sup>58</sup> It should be noted that the US also has a network of legal aid offices administered by the Christian Legal Society. Two of these offices are in Washington State, one run by the Union Gospel Mission in Seattle, the other by the Tacoma Rescue Mission. See the Annual Report at [www.clsnet.org/laccPages/2002AnnualReport.pdf](http://www.clsnet.org/laccPages/2002AnnualReport.pdf)

<sup>59</sup> Supra note 36, p. 843.

<sup>60</sup> Ibid.

<sup>61</sup> "Conference on the Delivery of Legal Services to Low-income Persons: Professional and Ethical Issues." 1999. *Fordham Law Review* vol. 67, no. 1713, p. 1760.

- #30 – Court procedures should be modified to encourage non-lawyer assistance where doing so does not undermine the rights of litigants.
- #34 – Interdisciplinary approaches to problem solving should be encouraged and barriers, such as those imposed by rules and culture, to collaboration between lawyers and other providers of service and advocacy should be eliminated.<sup>62</sup>
- #40 – We encourage the development of community based general advice, referral, and assistance centers or hotlines.
- #41 – We encourage the creation of programs and organizations for the training and advancement of client and community advocates. This recommendation is designed to improve the competency, legitimacy and accountability of non-lawyer advocates.<sup>63</sup>
- #66 – Programs should collaborate with each other on the use, availability, allocation of resources and make efforts to increase available resources to ensure a delivery system offering a full range of service. They should reflect and have capacity to respond to local priorities and input from communities. (A delivery system that only provides advice and brief legal services cannot meet this goal).<sup>64</sup>

### Specialist services

All jurisdictions have some type of specialist services. In Australia, there are sixteen specialist CLCs within the national network that focus on particular areas of law, or the legal needs of a specific community (such as people with disabilities, women, or immigrants). In Washington, both Columbia Legal Services and North West Justice operate specialist programs. These include services for Native Americans, migrant and farm workers, seniors and residents of long-term care, and survivors of domestic violence. As already noted, specialist services in the UK are referred to as second tier, and include specific areas of case work, supervision, mentoring, and training. As one study puts it an “advantage of using specialists is that, within their subject, they are likely to provide advice from their own knowledge and experience, using fewer external sources, and therefore more quickly at higher level of complexity.”<sup>65</sup>

Specialist services in the UK were the subject of a 2003 Legal Services Commission pilot study.<sup>66</sup> Unsurprisingly, findings include that specialist support increases client access to legal advice, speeds up the progress of cases, and supports staff skill development (thereby expanding areas of competency). In turn, these outcomes reduce the need for first tier providers to refer clients elsewhere. In geographic regions without specialist services, it was also found to be particularly valuable for front line providers to have access to fast advice on law and procedure to ensure that rural clients are not left without services. All of these lessons are reinforced by the comments of respondents during the consultation phase of this project, though interestingly, UK paralegals reported a preference for remote access via telephone, fax, and email whereas advocates in BC would like to cultivate more in-person contact. Overall, the pilot project concluded that specialist support generates sufficient positive impacts for clients and case outcomes to warrant including it as a permanent feature of Community Legal Service.

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<sup>62</sup> Ibid, p. 1766.

<sup>63</sup> Ibid, p. 1769.

<sup>64</sup> Ibid, p. 1778.

<sup>65</sup> Supra note 50.

<sup>66</sup> Legal Services Commission. 2003. *Methods of Delivery: Specialist Support Pilot Evaluation Report*. London: Legal Services Commission. [www.legalservices.gov.uk/cls\\_developments/index.htm](http://www.legalservices.gov.uk/cls_developments/index.htm)

## The role of lawyer and non-lawyer service providers in stand-alone law centres

Lawyers are key players in all full service stand-alone poverty law centres, so the key question concerns the role of non-lawyers. In general, non-lawyers have come to occupy a central place in poverty law service delivery. Even in the US, where acceptance of paralegals has been slower than in other jurisdictions, they are now viewed as central to most staff models. Academics and legal service providers in the US have joined together to recommend an expansion of paralegal roles – in some cases to the point of representation in courts.<sup>67</sup> The consultation component of this project strongly indicates that poverty law providers in BC are aware of the extensive role of advocates, as well as their limitations. Respondents overwhelmingly indicated a desire to work in partnership with poverty lawyers to extend the range and quality of service delivery.

The extensive discussion under Model 1 regarding supervision, training, and mentoring applies equally to offices under Model 2. Paralegals who work in law centres have the advantage of on-the-spot, regular consultations with poverty lawyers about current cases. Many lawyers provide in-house formal and informal training in addition to periodic training sessions organized by central offices or umbrella organizations. In South Africa, lawyers from Justice Centres supervise paralegals and articulated students in rural areas where offices lack staff lawyers.

## Role of pro bono lawyers and lay volunteers in stand-alone law centres

As has been repeatedly observed, volunteers play a valuable role in providing poverty law services, but they cannot be a substitute for paid poverty law professionals. However, there are divergent views regarding the extent to which volunteers should be included as a core component of service delivery. In Australia, CLCs have a long history of working in tandem with pro bono lawyers, with the result that pro bono services are more advanced and better recognized by clients and governments than they are in BC. However, the authors of a recent submission to the Australian Senate state that “there is a level of cynicism in the profession about recent government interest in pro bono and a concern that their pro bono contributions may allow current or future State or Commonwealth governments to avoid fully meeting their responsibilities to people in need.”<sup>68</sup> The submission concludes that without well-resourced legal aid and community legal services, pro bono programs would not be effective.<sup>69</sup> Several studies also mention that a basic level of government funding is required to adequately train and manage volunteers. People unfamiliar with managing volunteer programs often fail to realize that they do not come free of expense. Lack of management and administration resources tend to lead to the eventual disenchantment of volunteers and the demise of much needed programs.

In the US, pro bono services are an entrenched and necessary service. In fact, one of the stated goals of the American Bar Association is “to integrate pro bono representation into the system

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<sup>67</sup> Supra note 61.

<sup>68</sup> National Pro Bono Resource Centre. 2003. *Submission to the Senate Legal and Constitutional References Committee Inquiry into Legal Aid and Access to Justice*. Sydney: National Pro Bono Resource Centre, p. 3. [www.nationalprobono.org.au/publications/senateinquiry.pdf](http://www.nationalprobono.org.au/publications/senateinquiry.pdf). See also Francis Regan. 1999. *Legal Aid Without the State: Assessing the Rise of pro bono Schemes*. Regan postulates that the rise of pro bono highlights the decay of the welfare state.

<sup>69</sup> Ibid, p. 10.

for delivering civil legal aid services to the poor.”<sup>70</sup> American pro bono services also enjoy support from the judiciary, law societies, and bar associations, as well as government. For example, the King County Bar Association directly supports several legal programs for the poor, including pro bono programs. It appears that local bar associations in Washington have the autonomy and funds to proactively organize and maintain services. The North West Justice Project lists 41 legal service programs in King County, most of which are either 100% pro bono or integrate pro bono lawyers.<sup>71</sup>

Motivated by changes initiated by the federal Legal Services Corporation, US jurisdictions have examined the role of pro bono within a reconfigured civil legal aid system. A report from the American Bar Association Center for Pro Bono recommends that, when reconfiguring service to include pro bono, planners should:

- Consider pro bono early, and design the program with [restructuring] in mind;
- Where possible, design staffing so that there is at least one person whose responsibility is pro bono. Staff who do pro bono part-time often find that their other work responsibilities take over, and pro bono suffers;
- Include representatives of the private bar and/or pro bono programs on the [restructuring] committee;
- Establish a pro bono committee of the program’s board to reflect the importance of pro bono in the program’s overall delivery structure.<sup>72</sup>

Likely due to the long history and institutional support enjoyed by pro bono services, there is limited criticism or concern about their central place in poverty law service delivery. This provides some hope that, in the right context, pro bono can be a valued and effective component of poverty law service delivery. The Pro Bono Law Society of BC remains in its infancy, with development plagued by a lack of resources. Ideas from other jurisdictions regarding what it may be possible to achieve may help motivate and sustain further action.

The bulk of advice and referral work in Australian CLCs is carried out by volunteers drawn from students (law and non-law), private practitioners, and others in the legal sector. Location plays an important role in volunteer recruitment and retention.<sup>73</sup> Most volunteers live or work within 8 kilometres of the Centre at which they work. National staffing figures from the 2002/03 Annual Report of the National Association of CLCs illustrate the extent of volunteer participation. CLCs employ 234 full time and 169 part time paid solicitors, but they enjoy volunteer support from another 1,662 solicitors (a four-to-one ratio of volunteer to paid lawyers). There are also two non-lawyer volunteers for every paid non-lawyer CLC staff person. In Australian states that have remained independent of government funding, these ratios are higher.

In Australia, pro bono services go beyond advice, assistance, and representation. Law firms are building multi-tiered relationships with pro bono partners in the community, particularly with CLCs. These relationships are built on the following forms of legal support:

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<sup>70</sup> Cited in Law Society of BC and the Canadian Bar Association (BC Branch). 2002. *Pro Bono Publico – lawyers serving the public good in British Columbia*.

<sup>71</sup> At [www.nwjustice.org/king\\_county/index.html](http://www.nwjustice.org/king_county/index.html).

<sup>72</sup> Meredith McBurney. 2003. *The Impact of Legal Services program Reconfiguration on Pro Bono*. [www.abanet.org/legalservices/probono/impact\\_reconfiguration.pdf](http://www.abanet.org/legalservices/probono/impact_reconfiguration.pdf).

<sup>73</sup> Supra note 31, p. 21.

- Providing legal advice and representation to clients referred by CLCs;
- Providing legal advice to CLCs on particular matters that require specialized assistance;
- Researching and drafting law reform submissions, and undertaking general legal research;
- Seconding to CLCs full and part time law firm staff on a sessional or short-term basis;
- Preparing and updating Public Legal Education and Information materials;
- Advising about internal management issues (e.g. taxes, incorporation);
- Providing training and mentoring to community organizations and CLC lawyers;
- Supporting co-counsel arrangements;
- Working with organizations towards particular law reform proposals.

Various forms of non-legal assistance are also offered, including administrative services, secondment of non-legal staff, technological support, accounting and book keeping, human resources advice, access to facilities for meetings, access to library resources, fundraising assistance, membership on CLC boards, and so on.

Many benefits are identified as flowing from these partnerships. They enable CLCs to expand their legal practices, and focus on client interaction rather than administration. Access to photocopiers and other law firm resources supports CLCs financially as well as supporting quality service provision. A partnership benefit for law firms is the opportunity to access structured pro bono experiences for staff, with the resulting skill and knowledge development. Finally, partnerships help build trust among lawyers and non-lawyers, which supports creativity and innovation around service delivery.<sup>74</sup>

The UK has recently managed to integrate some pro bono services into its Law Centres. Unlike the UK's Advice Centres or Australian CLCs, Law Centres do not have a tradition of extensively employing volunteers. Each Centre has the latitude to experiment with unique strategies: some employ volunteers for community development work, while others are members of LawWorks, a joint initiative of the Law Centres Federation and the Solicitors Pro Bono Group. Through this arrangement, volunteer lawyers work at Law Centres (as well as at Advice Centres) during and after business hours.

Although all of the above learnings may not be applicable at present in BC, they are a useful foundation for future planning of pro bono services. However, the concerns of consultation respondents in BC about the feasibility of relying on pro bono services as a significant component of poverty law service delivery also merit attention. In effect, pro bono services can be a valuable addition to other services, but sufficient staff and financial resources to support them are essential.

With respect to non-lawyer volunteers, the discussion under Model 1 is equally relevant to stand-alone law centres. As with pro bono services, lay volunteers can make important contributions to poverty law service delivery. As noted above, Australian CLCs have successfully operated with a whole range of lay volunteers. In BC, a number of community legal advocates who

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<sup>74</sup> National Pro Bono Resource Centre. 2003. *Working Together: Multi-tiered Pro Bono Relationships between Law Firms and Community Legal Organizations*. Sydney: National Pro Bono Resource Centre. [www.nationalprobono.org.au/publications/multitier.pdf](http://www.nationalprobono.org.au/publications/multitier.pdf).

subscribe to Povnet<sup>75</sup> are very poorly paid or not paid at all – a situation that does not prevent them from effectively meeting some of the need for poverty law legal services. However, lay volunteers also come with their own set of drawbacks. Although enthusiastic, they are often transitory. Hours are frequently too short, or at the wrong time, for effective training. One of the key motivations for hiring volunteers – overloading of existing employees – often prevents paid staff from offering regular training, support, or coordination. If outside training is available, there is usually a cost for attendance that the organization must bear.

One interesting approach to employing lay volunteers through partnerships between Australian CLCs and private law firms is described above. In this context, lay volunteers participate in programs structured around legal volunteerism by providing administrative, accounting, or technological support. Since they are part of a formal, corporate pro bono program, they have access to resources and training. Unlike persons who volunteer outside of paid work hours, these lay volunteers carry out their work as an extension of their paid employment.

### **Funding of stand-alone poverty law centres**

#### Australia

In Australia, funding for poverty law services is provided by federal and state governments, the Australian equivalent to BC's Law Foundation, donations, and in some locations, local sources. Pro bono programs that operate in conjunction with CLCs also receive government funding, but this is supplemented by additional funds from other sources including law faculties, law firms, large corporations (including banks), and donations.

While this may seem like a broad financial foundation compared to BC, some tensions have arisen. If state and federal governments are of different political orientations, priorities tend to be inconsistent and partnerships fragmented. For example, the present federal government is focused on economic efficiency, while a number of states are more committed to social services. Giddings and Noone observe that jurisdictions with strong, independent community sectors have been able to maintain CLCs with a strong volunteer ethos, while those without these strengths are less able to withstand the reform agenda of the new government.<sup>76</sup> In addition, legal aid offices often must compete with CLCs for scarce funding, compromising collaborative relationships. In effect, one of the unique strengths of Australia's community driven poverty law model risks being weakened by competition and increasing government control over funding.

#### United Kingdom

In 2003, Law Centre income in the UK was approximately £11 million (over \$22 million CDN), with approximately 25% coming from the Legal Services Commission. Almost all Law Centres also receive funding from local authorities and charitable trusts. Recently, local authorities have begun to cut funding to both Advice and Law Centres. The formation of Community Legal Service Partnerships has done nothing to halt this trend.

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<sup>75</sup> At [www.povnet.org](http://www.povnet.org).

<sup>76</sup> Supra note 56, p. 17. [www.ilagnet.org/conference/general2003/papers.htm](http://www.ilagnet.org/conference/general2003/papers.htm)

The Legal Action Group that works to ensure equal access to justice has made a number of comments and recommendations about the delivery and funding of civil legal aid. In a June 2003 report, they expressed concern about a strong government role in front line information and advice. The following comment is relevant if organizations in BC seek to expand their services:

While we are not suggesting that government-sponsored information services are without a legitimate place in the CLS, we would argue that these should not extend to advice giving. Moreover, these services must operate without interference from their paymasters, and under a clear principle that the interests of the client information-seeker are paramount at all times.<sup>77</sup>

The Legal Action Group also points to the need for sufficient funding for tribunal representation, arguing that “vulnerable users with complex cases will still need legal advice and representation to ensure equality of arms with the other party.”<sup>78</sup> This comment is particularly apt in BC given consultation respondents’ comments concerning the sharp decline in access to representation.

### United States

The US is home to a number of creative fundraising tactics. Some are based on public support, and many require active participation by the judiciary. Examples include court filing fee surcharges, bar dues, annual law firm campaigns, local fundraising campaigns led by public figures or prominent bar leaders, city and county funding, corporate funding, foundation grants, and fees that out of state lawyers must pay to appear in Texas courts (directed to civil legal aid). Many states, including Washington, have also increased state funding for civil legal aid.

Programs directly funded by government are heavily dependent on government approval – as per the above comments concerning drastic federal funding cuts in the mid-1990s, and the resulting restrictions placed on service options. Many programs not directly funded by government also depend to some degree on government tolerance, including IOLTA (interest on lawyers’ trust accounts) or surcharges on court filing fees. Private funding risks a similar downside. Service providers may be obliged to tailor grant applications to the grantors interests rather than to the needs of their communities.

Smith et al have made recommendations on funding mechanisms for a poverty law system that would achieve “access for low income people, everywhere, to the level of legal help one needs to function as a responsible member, not a victim, in our society.”<sup>79</sup> In their view, successful volunteer programs leverage their dollar investment many times in the supplemental staffing they contribute to legal aid programs.<sup>80</sup> They also advocate ‘growing the core’ – improve and expand tried and true delivery systems. Make them more cost-effective by launching new collaborative special projects addressing community-wide issues such as domestic violence. Smith et al also provide an estimate of the cost of full access based on the number of legal problems per capita

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<sup>77</sup> Response of the Legal Action Group to the 2003 Law Society paper entitled *The Future of Publicly Funded Legal Services: A Consultation Paper*, p. 4 ([www.lag.org.uk/Templates/Internal.asp?NodeID=88869](http://www.lag.org.uk/Templates/Internal.asp?NodeID=88869))

<sup>78</sup> Ibid, p. 12.

<sup>79</sup> Ken Smith, Martha Bergmark and Wayne Moore. October 11, 2003. *The Full Access Financial Scorecard for State Access-to-Justice Communities*. International Legal Aid Conference Proceedings. [www.ilagnet.org/conference/general2003/papers.htm](http://www.ilagnet.org/conference/general2003/papers.htm)

<sup>80</sup> Ibid, p. 2.

for each low income resident, and the cost of delivering needed assistance. They calculate that \$69 per eligible person is required, optimally deployed across a mix of service delivery models.<sup>81</sup>

### Canada – Alberta

Calgary Legal Guidance receives approximately \$850,000 in annual funding from a variety of sources, plus earnings from casino revenues. Funders include Alberta Community Employment, Alberta Justice (Victim Assistance Program), the Alberta Law Foundation, the City of Calgary, HomeFront, the HRDC Summer Placement Program, and the United Way of Calgary.

### **Summary and Conclusions**

Like Ontario's network of community law offices, Australia's poverty law services have survived cuts to traditional legal aid. CLCs operate in strong, close partnerships with law firms and community organizations, and offer flexible services to a wider range of clients than legal aid. Due to skilful use of trained volunteers, CLCs are relatively efficient and cost effective. A future pool of poverty law staff and volunteers is maintained by employing student volunteers and articulated students. The loyalty of volunteers is in part assured by the proximity of Centres, their focus on local concerns, and a sufficient, diverse funding base to manage and administer effective programs. Increased federal funding has been a mixed blessing. It has expanded the number of CLCs, but placed restrictions on service range that may compromise independence and decrease responsiveness to local concerns. Given these concerns, some Centres have refused federal funding. Key strengths of the Australian experience of relevance to BC include:

- Strong partnerships with other players in the legal system, especially pro bono lawyers and law schools;
- Awareness of, and timely responsiveness to, local legal and non-legal concerns and issues that is untrammelled by restrictions from funders;
- Real rather than notional independence from government which cannot be maintained without non-government sources of funding;
- National as well as state and local networking.

South Africa's experience also has something to teach BC. According to McQuoid-Mason, three lessons have been learned from the South African experience – findings confirmed by the experiences of other jurisdictions:

- For legal aid to be delivered successfully to poor people, lawyers must be paid for their services;
- For countries with limited resources, a holistic approach must be adopted that involves governments, non-governmental organizations, university law clinics, and private lawyers;
- Law graduate interns can be employed successfully as legal aid lawyers in rural law firms and as public defenders in legal aid-funded justice centres.<sup>82</sup>

Numerous US studies focusing on service integration and the expansion of paralegal roles point to the need for representation services. One recommendation from the Fordham Law Review stands out: "Systems should ensure delivery of a full range of services including: class, group

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<sup>81</sup> Ibid. Information about the methodology employed in this study can be found at pp. 5-7.

<sup>82</sup> David McQuoid-Mason. 1999. "Access to Justice in South Africa" *Windsor Yearbook of Access to Justice* vol. 230, no. 17.

and individual representation; law reform, PLE. A delivery system that only provides advice and brief legal services cannot meet this goal.”<sup>83</sup> This statement is applicable to BC given that consultation participants regularly reported that advocates can only take cases so far before lawyers should become involved. It is also relevant from the standpoint of assistance offered by pro bono lawyers. Pro bono advice clinics and half hour appointments can make a valuable contribution, particularly for clients sufficiently competent to represent themselves, but this is a relatively small part of the poverty law clientele.

Legal aid in England has been historically viewed as one of the best funded systems, yet the UK is currently in the midst of a civil legal aid revolution. Private bar civil law solicitors are not happy with the detailed hoops they must go through to obtain and maintain a legal aid franchise. Law Centres, along with Advice Centres, are carrying out the bulk of social welfare law services.

The central government and the Legal Services Commission were likely correct in their estimation that civil legal services are fragmented and inconsistent. But as in Australia, the more a central authority attempts to enforce adherence to rigid, standardized rules as a precondition for funding, the more the independence of local service providers is eroded. There is a real danger that local support will be lost if Law Centres are identified as arms of government. While conceptually attractive, partnerships have been created in a top down manner that appears to have fostered infighting among various local partners and funders. Instead of increasing funding, many local authorities have reduced support, perhaps in the expectation that the federal government will pick up the slack.

Since the Legal Services Commission has tried to impose uniform rules on contractors, the distinction between an Advice Centre and a Law Centre has become blurred. Advice Centres that contract with the Commission must follow the same rules as Law Centres with similar contracts. The greatest distinction is the historic reliance of Advice Centres on volunteers, onto which staff positions have been grafted. In contrast, Law Centres have been mainly staffed by paid employees, and are now supplemented by pro bono solicitors. As Advice Centres rely more on paid staff and Law Centres rely more on volunteer lawyers, there may be few differences left between them in terms of quality and types of poverty law services.

Commentators from many jurisdictions agree that while government funding is essential, it should not be the only source of funding if legal service providers are to maintain their independence and ability to respond to local needs. Rigid, rule bound, top-down processes may provide predictability about client eligibility and service types, but a measure of local, bottom-up discretion is necessary to provide justice and fairness in individual cases. Any new and viable system for BC would require elements of both.

BC may do well to look towards Calgary Legal Guidance, which may be an excellent model to follow in certain circumstances. It incorporates many of the positive aspects of the various models described above: it operates a type of cluster model<sup>84</sup> that has stable and loyal grass roots support; it is completely free of government interference; it has strong support from the

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<sup>83</sup> Supra note 61, p. 1778.

<sup>84</sup> Details about cluster models will be presented under the discussion of Model 3. In short, they are comprised of a central full service law centre that provides outreach services to satellite offices, often in remote or rural areas.

judiciary and the legal profession; it integrates volunteer and paid staff services; and it operates within and outside of normal business hours. By employing students, CLG also maintains a pool of lawyers aware of the circumstances surrounding poverty law problems and likely to continue serving after graduation. CLG could well be included under Model #4 (interdisciplinary centres) since it also incorporates the services of social workers.

CLG and its Edmonton counterpart operate in urban settings. Unless the locations of satellite clinics are broadened, rural areas cannot benefit from this strong service delivery model. In Alberta, implementation of the kind of second tier supervision and support services advocated in the UK might fill some rural gaps if linked with the existing network of anti-poverty advocates.<sup>85</sup> This would resemble the model used to expand South African paralegal advice centre services.

#### ***iv) Model 3: Outreach Services***

##### **Overview**

Outreach may be defined as a system that takes a service to where the client is situated. It includes geographic outreach (regular service away from a main office), outreach to targeted groups (for example, asylum seekers and battered women), outreach to specific locations where there are likely to be clients seeking legal assistance (for example, courthouses), as well as outreach to clients' homes (for example, for the elderly or persons with disabilities).<sup>86</sup> Outreach may also take many forms, the common factor being a proactive attempt by service providers to contact clients or potential clients to relay information or assistance. It may include legal hotlines, interactive internet services placed in strategic locations, virtual law office services via video conferencing, or traveling advocates and satellite offices offering one-on-one advice and representation. This review concentrates primarily on the final approach.

Very few outreach programs are stand-alone – most are connected to a hub office that offers a broader range of services. In all jurisdictions examined, outreach is viewed as a necessary part of poverty law service delivery. The question is how to incorporate such services in an effective and affordable way. This section outlines strategies employed in various countries.

##### **Range and type of poverty law services and service providers**

Outreach services and service providers are just as varied as the services provided in fixed office spaces. The options examined for the purposes of this report are permanent satellite offices, non-permanent satellite offices, and mobile offices.

##### **Permanent satellite offices: the cluster model**

Employed in South Africa and to some extent in Australia, this model consists of a hub office located in a regional centre that is connected to a variety of satellite offices in more remote locations via the provision of (second tier) services like support and supervision. Hub offices

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<sup>85</sup> For a map of advocacy services in Alberta, see Povnet at [www.povnet.org/advocates/alberta\\_map.html](http://www.povnet.org/advocates/alberta_map.html)

<sup>86</sup> For examples of these, see Stevenson, supra note 8. For illustrations from Australia, see a report from the Law and Justice Foundation of New South Wales at [www.lawfoundation.net.au/publications/reports/a2jln/1C/summary1.html](http://www.lawfoundation.net.au/publications/reports/a2jln/1C/summary1.html).

employ paid and pro bono lawyers, paralegals, and students, while satellites are usually staffed by paralegals and/or volunteers. They may be small, permanent, stand-alone offices, or occupy space within other community agencies. The format of satellite offices varies according to community culture and needs. In Australia, outreach services to rural areas are in the process of being funded by the federal government (via the tendering process described above) to operate within larger organizations like churches.<sup>87</sup>

If funding is available, the cluster model allows a permanent presence in rural areas, with back-up assistance from lawyers for supervision, support, and referral of cases beyond the competence of local paralegals. Satellite offices may set up evening advice clinics if their communities are able to access the services of pro bono lawyers. Staff lawyers from the hub may visit on a regular basis or as-needed, depending on cost and distance. Some satellite offices come under the governance and funding of the hub office. Others are discrete organizations, offering independent paralegal services with separate funding and established arrangements with the hub for supervision, referrals, and so on.

Advantages of the cluster model include the permanence and visibility of satellite offices in remote communities, and resulting closer and more direct ties between service providers and the clients they serve. This approach also promotes accessibility by outlying paralegals to legal advice and supervision from lawyers. Disadvantages may include the likelihood of funding duplicate support services at each location, and the fact that the efficacy of supervision and advice depends on ease and frequency of contact between lawyers and remote service providers.

#### Non-permanent satellite locations

This model seeks the same advantages as cluster models, but at less expense. The organization housing the service may be permanent, but the legal service is not – for example, a permanent hub office that administers satellite services in borrowed space within other community service agencies. This model is particularly amenable to the employment of pro bono lawyers, who may only be available to offer services outside business hours. Calgary Legal Guidance is an example in which pro bono lawyers staff evening advice clinics at locations familiar to a target group, and at which clients feel comfortable and safe.

Some outreach services operate on an appointment basis like Calgary Legal Guidance. Others go to the clients, and work on a drop-in basis. Examples of the latter include Melbourne's clinics for the homeless, through which pro bono lawyers offer services in soup kitchens and shelters.<sup>88</sup> The US offers a wide range of outreach services, one of which in Washington DC offers walk-in clients a variety of hands-on assistance out of churches. Another American program is the Legal Grind, a neighbourhood storefront coffeehouse in Santa Monica, California, that offers "coffee and counsel" for a small fee. After an initial consultation, clients may retain the lawyer privately or use the information and advice provided to help themselves. Examples of outreach in England include regular clinics in health centres, hospitals, and neighbourhood houses. In the UK, the annual report for Citizens Advice lists outreach activities including home visits, and services in

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<sup>87</sup> Examples of the cluster model in South Africa are described in B. Berggren and P. Pigou. 2000. *Access to Justice in South Africa: Legal Aid Transformation and the Paralegal Movement*. Johannesburg: The Community Agency for Social Enquiry.

<sup>88</sup> For more information see the PILCH website at [www.pilch.org.au](http://www.pilch.org.au).

doctors' surgeries, health centres, hospitals, community and leisure centres, county and magistrates courts, village halls, schools and colleges, prisons, and armed forces bases.<sup>89</sup>

Prior to closure of the BC legal aid field offices, outreach was successfully used by a number of community law offices, including the North Shore Community Law Office.<sup>90</sup> In this context, house calls proved to be time and cost efficient for certain types of clients, notably elderly and mentally challenged persons. Not only did home visits make these persons less nervous and better able to present the facts of their case, this approach also avoided complications created when not all needed materials were brought to office appointments.<sup>91</sup> An example of outreach currently in use in BC is the Law School Legal Advice Program (LSLAP). LSLAP offers evening services at various community agencies during the school year, and daytime services during the summer. The development of permanent or non-permanent satellite office models in BC would permit law students the benefit of working alongside pro bono and staff lawyers who not only supervise, but also provide direct client services.

### Mobile services

As with other forms of outreach, mobile services may take different forms. One approach is for a traveling advocate to cover a number of locations on a set circuit, offering services at community agencies. The traveling advocate approach resembles the non-permanent satellite office approach employed by Calgary Legal Guidance. The key difference is that services are delivered by a paid staff member (usually a paralegal) who is attached to a permanent office. Mobile outreach services can also be provided by means of fully equipped traveling offices. Although this approach is used in a variety of jurisdictions, there is little information available about it. Examples of the traveling office approach include:

- A law office van that travels to rural areas surrounding the Carlisle Law Centre in England. According to the Centre's website, this model has been exported to Albania via Catholic Overseas Development, and is under consideration in Poland and other parts of England.
- A Mobile Legal Aid Scheme for Elders in Sri Lanka.
- The Legal-I train in South Africa, a fully equipped law clinic that stops and remains at a circuit of train stations for a week at a time. This is a joint project between Lawcall and Spoornet (South Africa's rail company), and Legal I (the community-based legal services program established by the four provincial law societies, the Black Lawyers Association, the National Association of Democratic Lawyers, and the Automobile Association).
- A mobile van that travels to poor areas in South Korea to provide on the spot counseling and information via the Korean Legal Aid Center for Family Relations.
- A 'law mobile' providing general legal services to seniors living in rural locations near San Diego, California.
- A 35-foot customized Winnebago in Ventura County, and the 'Courtmobile' in Santa Clara County, California. Each offers a range of legal services, including some poverty law.<sup>92</sup> The vehicles have a lawyer on board and are wheelchair accessible.

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<sup>89</sup> Supra note 14, p. 11.

<sup>90</sup> For example, the North Shore Community Law Office offered monthly legal services at two seniors' centres and regularly made house calls to hospital patients, clients with disabilities and the elderly.

<sup>91</sup> Care should be taken in selecting suitable cases for home visits. For example, if safety is a concern, the need for more than one staff person to attend a visit may undermine cost effectiveness.

<sup>92</sup> For Santa Clara, see [www.scservice.org/home/courtmobile.htm](http://www.scservice.org/home/courtmobile.htm).

A study by Steele and Seargeant<sup>93</sup> reviews some of the opportunities and challenges associated with outreach programs in the UK. These observations are worth reviewing because they highlight factors to consider in designing effective mobile services, or outreach services more generally. The most obvious advantage of mobile services is that they can go where other services cannot, extending services to locations in which a permanent office cannot be justified. They provide opportunities for face-to-face access at a lower cost than establishing an office, and fill gaps that telephone or internet services cannot. As already confirmed by poverty law providers in BC, in-person contact is necessary in certain circumstances. As well, Steele and Seargeant suggest that mobile outreach can create an 'on-the-ground' presence in communities lacking permanent services, thereby helping to build community partnerships and networks.

Several challenges associated with mobile services are also noted by Steele and Seargeant. Mobile outreach services require extra resources, particularly in terms of travel time. They estimate that outreach requires 20% more management input than on-site service, though greater efficiencies may be obtained in a well designed system. Outreach workers also need more than just legal or advocacy skills. Community development, networking, and marketing skills are essential, as is a network of local contacts. Without these elements, the service will not thrive.

Most outreach models offer only short client service sessions, and are seldom available for emergencies. To be successful, an outreach service must be viewed as more than a low level add-on. Unless equipped with computers linked to a central location, most follow-up work must wait until the client has left and the worker has traveled back to the base. This disadvantage could be somewhat mitigated by using up-to-date wireless technologies or well-appointed mobile offices. In light of these concerns, planners must not be lured into attempts to provide complex services without adequate funds.

With reference to the above noted report by Steele and Seargeant, Stevenson also reviews a variety of components that make up effective outreach services. His conclusions include:

- Outreach cannot be a substitute for more substantial services. It is one component of effective service delivery;
- Outreach services must be well resourced, including access to mobile equipment like phones and laptop computers;
- Outreach services should be grounded in a thorough assessment of the target population and area to ensure that they meet community needs and incorporate the most effective and appropriate accessibility options (hours of operation, drop in sessions vs. appointments);
- Outreach services should have a clear identity to ensure that clients recognize the service is reputable;
- Outreach services should use paid staff to provide substantial service rather than just initial contact to avoid deskilling;
- Outreach services should cooperate and collaborate with other services where appropriate;
- Outreach services should consider targeting services in courts, health centres, and other appropriate venues. This is generally seen as more effective than trying to cover outreach through geographically spread outlets.

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<sup>93</sup> Supra note 50.

## **Funding of outreach services**

No commentators appear to dispute the utility of the outreach concept. The key difficulty lies in the cost of this model of service provision. Unfortunately, quantitative information about mobile services is difficult to find. Since a detailed exploration of funding is beyond the scope of this project, additional research on the financial viability of outreach services will be needed prior to considering the application of this approach to BC.

## **Summary and conclusions**

In summary, good outreach services require careful planning, proper resources, and need to fit with existing community resources and needs. They should offer more than just an initial short contact, and staff must be knowledgeable and well trained. Venues for outreach services must be linked to community networks that offer ancillary services and have local credibility. Given its vast rural areas, it would be valuable for BC to consider one or more of the above outreach models. In the short term, the type of service will depend on existing resources identified by the research undertaken by this and other Law Foundation projects.

### ***iv) Model 4: Interdisciplinary Centres***

#### **Overview**

In all of the jurisdictions researched, there are some law centres that have legal staff supplemented by employees or volunteers from other ‘helping’ professions, including social workers, counselors, interpreters, and accountants. In other cases, legal services are only one of a number of departments within a multi-service agency. A good example of this approach in BC is Abbotsford Community Services, which continues to provide some legal service as one of its many programs.<sup>94</sup> Conversely, little mention was made of lawyers working in agencies whose principal services are not law-related.

Unfortunately, the lack of information focusing on this particular model of service delivery made it difficult to explore this approach in greater detail. Since most of the discussion under Model 2 applies equally well to Model 4, this section is confined to findings on the utility of collaborating with other professionals who traditionally serve people living in poverty. In theory – and arguably in well-planned practice – inter-professional collaboration that leads to seamless holistic client services has no downside. However, lawyers (and paralegals working under their supervision) must abide by Law Society regulations – rules that differ from other professional governing bodies. In addition, other professionals are not protected by solicitor-client privilege. This need not prevent collaboration among professions altogether, but it is an issue that must be taken into account when planning holistic services that include lawyers.

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<sup>94</sup> Interestingly, Abbotsford Community Services is also an example of how a multi-service agency with multiple funders can survive the termination of a major legal program, in contrast to the forced closure of stand-alone law centres with a single funder.

## **Range and type of poverty law services and service providers**

Close, on-the-spot collaboration with other professionals increases the effectiveness of poverty law services. It gives clients the ability to one-stop-shop, thereby reducing the risk of referral fatigue mentioned earlier. Multi-disciplinary collaboration also makes legal services more time and cost effective by relieving legal staff from lengthy counseling sessions which they may be ill equipped to handle. It supports in-house education for legal staff through regular meetings and ad hoc consultations with other staff professionals.

Calgary Legal Guidance has a full time psychologist in its social benefits advocacy program, plus a social worker in its Court Preparation/Restraining Order program. Northwest Justice Project in Washington State employs a community worker in its Farm Worker Unit. The Yakima office works cooperatively with family counselors to provide support services for victims of family violence. Collaboration has been successful in Australia, where staff in specialist CLCs work with a range of community-based financial counselors, consumer support workers, and others to address problems like pay-day lending. Many Australian Centres adopt a multidisciplinary, holistic approach to client services, especially when helping someone whose problem may not be amenable to a legal solution. They often employ social workers, tenancy workers, domestic violence workers, and community legal educators in offering a wide range of preventative services.<sup>95</sup>

This scope of this research does not permit in-depth study of multicultural and aboriginal issues, but the information reviewed indicates that most, if not all, poverty law programs make provision for cultural and linguistic differences. In Australia, there are Aboriginal CLCs that appear similar to the ones that previously existed in BC. By employing Aboriginal staff, they are more sensitive to clients' needs, and more aware of the particular legal issues affecting them. New Zealand also has a network of community law centres that serve the Maori population.<sup>96</sup>

Citizens Advice states in its annual report that 18% of offices regularly give advice in more than four languages. It is unclear whether this is accomplished via interpreters, or by employing multilingual staff. Unless demand is very low, using outside interpreters can be a cumbersome process for daily services, yet employment of a full time interpreter also risks becoming too costly and inefficient if agencies do not cater to specific linguistic groups. Employing legal and/or support workers from dominant ethnic communities can help create an atmosphere of accessibility for clients unable to communicate in English. A multi-service agency may find it easier to hire appropriate multicultural staff insofar as they are not restricted to searching for candidates with legal experience. As long as client confidentiality is maintained, staff from other programs are available to act as interpreters for legal clients. The presence of other professionals can also give legal staff a different and useful perspective about client circumstances.

Paula Galowitz, a clinical professor of law and previously a social worker, points out various similarities and differences between lawyers and social workers.<sup>97</sup> She notes that the needs of

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<sup>95</sup> [www.nacl.org.au](http://www.nacl.org.au)

<sup>96</sup> For information about poverty law and other legal aid services see [www.lsa.govt.nz/general/community.htm](http://www.lsa.govt.nz/general/community.htm)

<sup>97</sup> Paula Galowitz. 1999. "Collaboration Between Lawyers and Social Workers: Re-examining the Nature and Potential of the Relationship" *Fordham Law Review* vol. 67, no. 2123.

low income clients often transcend legal categories. They usually have a variety of problems that contribute to or affect their legal situations, and these problems may require services beyond the expertise of lawyers. Social workers need to appreciate and understand the implications of the legal system for their clients, just as lawyers benefit from some knowledge and understanding of the impact of a client's relevant psychosocial problems. This applies in particular to pro bono lawyers, who may have had little exposure to clients living on the margins.

One hurdle to overcome in fostering inter-professional collaboration is the uniqueness of the solicitor/client privilege. Although professionals such as social workers and counselors must adhere to strict confidentiality rules, there is no guarantee that they will not be ordered by a court to disclose confidential information that would be privileged in the hands of a lawyer. The opening statement of the confidentiality rules of the BC Association of Social Workers states that "Social Workers respect the privacy of clients by holding in strict confidence all information about clients. Social workers disclose such information only when required or allowed by law to do so or when clients have consented to disclosure."<sup>98</sup> Counselors have less stringent rules that permit disclosure if failure to reveal confidential information would result in clear danger to the client or others. The Code of Ethics of the American Association of Pastoral Counselors states:

We do not disclose client confidences to anyone, except: as mandated by law; to prevent a clear and immediate danger to someone; in the course of a civil, criminal or disciplinary action arising from the counseling where the pastoral counselor is a defendant; for purposes of supervision or consultation; or by previously obtained written permission. In cases involving more than one person (as client) written permission must be obtained from all legally accountable persons who have been present during the counseling before any disclosure can be made.<sup>99</sup>

The Supreme Court of Canada has confirmed that there are exceptions to solicitor/client privilege related to public safety. Some may argue make this guarantee not so far removed from above described disclosure rules for counselors:

[E]ven the fundamentally important right to confidentiality... cannot be absolute in solicitor-client relationships... When the interest in... the safety of members of the public is engaged, the privilege will have to be balanced against these other compelling public needs. In rare circumstances, these public interests may be so compelling that the privilege must be displaced. Yet the right to privacy in a solicitor-client relationship is so fundamentally important that only a compelling public interest may justify setting aside solicitor-client privilege.<sup>100</sup>

Galowitz tackles head on the argument that lawyers and other professionals cannot work closely together because they are bound by different confidentiality rules. Various strategies for collaboration that have been successful include lawyers and social workers working separately in the same agency, but available for consultation on an as-needed basis; holding regular meetings to collaborate on common issues of importance to both professions; and creating an integrated team approach. Collaboration requires clarity of purpose, written guidelines for each profession, and clear communication with clients about respective roles. One approach to establishing working relationships is to adopt a general rule that the confidentiality requirements of the primary service provider should prevail in any given case. A second method is to have a limited

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<sup>98</sup> At [www.bcasw.org](http://www.bcasw.org)

<sup>99</sup> At [www.aapc.org/ethics.htm](http://www.aapc.org/ethics.htm)

<sup>100</sup> Smith v Jones [1999] 1 S.C.R. 455 per Cory J. at [www.canlii.org/ca/cas/scc/1999/1999scc16.html](http://www.canlii.org/ca/cas/scc/1999/1999scc16.html)

relationship, in which discrete tasks are referred to members of different professions with no access by the social worker to the lawyer's file. Galowitz also recommends the introduction of collaborative models in law schools to sensitize students to the potential value and pitfalls of inter-professional collaborations.

These sentiments are echoed in above cited recommendations from the conference proceedings recorded in the 1999 Fordham Law review. In particular, it is recommended that "interdisciplinary approaches to problem solving should be encouraged and barriers, such as those imposed by rules and culture, to collaboration between lawyers and other providers of service and advocacy should be eliminated."<sup>101</sup> Lawyers are also "encouraged to transmit legal knowledge to other professionals about rights and responsibilities of low-income people."<sup>102</sup>

The concept of sharing with other professionals has been put into practice in England, where Law Centre staff provide training on legal matters to municipal staff, including youth workers, social workers, home care staff, and probation officers. This alerts other professionals to the possible existence of legal problems which clients may be unable to articulate or define. This training is also useful for 'problem noticers' in health centres. Such collaborative models have been described as a participatory approach, with emphasis on active community participation in all facets of service delivery. For example, Jeffrey Falt, writing for the International Civil Society Forum, states that a poverty lawyer working in Sri Lanka:

...needs a holistic view of the situation to be addressed and the social resources presently available in the community and the skills which must be developed and the risks to be encountered... He needs to work in tandem with other specialists, and learn broader perspectives seldom taught in law schools.<sup>103</sup>

As Falt points out, this model requires the rare lawyer who must "possess sound social awareness, unflagging dedication to the interests of the poor, be a community organizer, social engineer, and be prepared to champion the poor against his social inheritance."<sup>104</sup>

### **Funding of interdisciplinary centres**

Research did not extend to this topic, largely due to the lack of available information. Additional investigation is needed should an interdisciplinary approach be considered appropriate to BC. Data from organizations like Abbotsford Community Services may be helpful in this regard.

### **Summary and conclusions**

It seems clear that collaboration with other professionals enhances poverty law practice, both for the client and for the legal service provider. Concerns about divergent professional rules of conduct do not appear insurmountable. Confidentiality rules for lawyers, social workers, and counselors are broadly similar, and there are models for collaboration that can work effectively

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<sup>101</sup> Supra note 61, p. 1766.

<sup>102</sup> Ibid, p. 1767.

<sup>103</sup> Jeffrey L. Falt. September 2003. *Legal Aid and the Empowerment of the Poor in Developing Countries*. International Civil Society Forum, p. 17. [www.icsf-2003.mn](http://www.icsf-2003.mn).

<sup>104</sup> Ibid.

within existing frameworks. Other jurisdictions have successful programs that involve collaboration between legal and non-legal professionals. Although further information is needed, BC could draw on these experiences in developing practice guidelines. In addition, past experience at North Shore Community Services – the multi-service agency that housed the Community Law Office – provides a local example of success. The guidelines formerly in use in that office stated that “all poverty law staff (and any other employees or volunteers) that have access to confidential client information are subject to the rules of confidentiality set out in the Lawyers’ Code of Professional Conduct and applicable case law.” In addition, “management, staff and volunteers must be made aware that non-legal staff may be subject to different rules than legal staff with respect to the production of documents and verbal testimony in court.”<sup>105</sup>

#### ***iv) From global to local: Key learnings for BC***

Although this project is designed to look ahead at services that may be crafted within the current context in BC, past experience should not be ignored. Many of the models described above have already been attempted in BC with varying degrees of success. Actions flowing from this project must take into account the unique geography, cultural mix, and specific legal needs of our population. As well, attention must be paid to factors in other jurisdictions that support or erode service stability, as well as problems or solutions that transcend national boundaries.

This section provides a summary of some of the key learnings and challenges associated with each of the four service delivery models discussed above. Opportunities and obstacles associated with two important issues relevant to all four service delivery approaches – the use of volunteers and legal supervision – are also included.

#### **Model 1: Advice Centres**

##### **i) Lessons learned**

- Advice centres have the ability to offer a depth of service from information to representation in a cost effective manner.
- Advice centres can be a mode of service delivery that puts people at ease by listening to and understanding their problems, and offering non-judgmental support.
- Many advice centres increase accessibility by employing paralegals and volunteers who can relate directly to clients’ life circumstances.
- Knowledgeable advice centre staff are an effective gateway to more complex services. They can direct clients to other resources if they are capable of helping themselves, or if their problem does not have a legal solution.
- Advice services that form a formal network or umbrella organization are able to influence government by presenting their views with a stronger voice.

##### **ii) Challenges**

- Advice centres are overstretched and under-funded.
- A number of advice centres rely on project based funding, which leads to instability and inability to make long-term plans.

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<sup>105</sup> North Shore Community Services Society Policies and Procedures.

- Many advice centres are moving towards increased reliance on paid legal staff due to the complexity of legal issues, a lack of trained long-term volunteers, and the expansion of services from information and referral to advice and representation.
- Increasing the depth of services can mean that fewer clients receive assistance. This can increase referral fatigue, client stress, and pressure around service fragmentation.

### iii) Possible actions and solutions

- Clear job descriptions for both employees and volunteers.
- Clear policies about the range and depth of the services offered.
- Respite arrangements for front line staff to minimize burn-out.
- Job rotation (if enough staff) to avoid burn-out and develop a back-up skill base.
- Networking within the community and/or region to establish reliable and effective referral networks.
- Community education about the nature and extent of available services.
- Access to regular training for staff to broaden skills and increase efficiency.

## **Model 2: Stand-alone law centres**

### i) Lessons learned

- Paid lawyers are an essential component of effective poverty law service delivery.
- The range of services that paralegals can provide is broadened and enhanced by on-the-spot supervision, mentoring, and training, by lawyers.
- Strong partnerships with other players in the legal system and the community foster stability, holistic and integrated service delivery, and are an important resource to insulate services during political change.
- A national network of law centres creates a strong and influential voice in a federal state.
- Independence from governments or other large funders/partners should be preserved to protect flexibility in service design, support responsive service provision, and insulate services (to some degree) from changes in funder priorities.
- Grass roots input and a bottom-up approach enable organizations to respond in a flexible and sensitive manner to local legal needs.
- Building on existing infrastructure can be an effective means of creating a stable poverty law system from a position of weakness – for example, through pilot projects.
- Lawyers can leverage articulated students, a cost effective source of poverty law staffing.
- University law schools can significantly add to the pool of available poverty law services and providers if they include poverty law clinical programs as part of their curriculum.
- Before adding or changing services, consult with local communities (geographical and interest based) to obtain input about local legal needs.

### ii) Challenges

- Stable and sufficient funding is difficult to access.
- Lawyers may be seen as a substitute, rather than an addition to, existing paralegal services.
- Systemic fragmentation can result from too much independence.
- Undue influence by large funders/partners can compromise independence and hamper service delivery.
- Low salaries can lead to high turnover.

- If they are not supported and trained, volunteers and articulated students cannot contribute effectively to service delivery.

iii) Possible actions and solutions

- Create more funded positions for lawyers to provide direct client services and second tier paralegal support services. Ensure that these positions do not come at the expense of paralegals.
- Do not undermine service delivery and stability by offering inadequate salaries.
- Collaborate with law schools, private law firms, and community organizations around expanding the use of articulated students.
- Consider a secondment system in which articulated students are rotated to law firms with pro bono programs that include temporary job exchanges between the firms and law centres.
- Encourage law schools to create or expand clinical programs to include basic poverty law services.

### **Model 3: Outreach services**

i) Lessons learned

- Properly staff, funded, and equipped outreach services can extend the reach of poverty law programs, particularly in communities that lack permanent resources.
- Outreach can effectively target geographic areas (e.g. rural communities) as well as population groups (e.g. seniors).
- Outreach can enhance the visibility and reputation of poverty law services.
- Outreach can create closer ties with communities served, and can provide valuable opportunities for in-person contact.
- Outreach can be particularly valuable for certain populations (seniors, persons with disabilities), and can generate cost and time efficiencies.

ii) Challenges

- The cost of providing effective outreach services tends to be high.
- Outreach requires considerable travel time, which adds to costs and may limit the number of clients served.
- Delivering services via outreach may lead to some duplication insofar as support staff and infrastructure is needed for each location.
- Outreach staff require additional skills, including networking and collaboration.
- A network of community contacts is an important precondition for successful outreach services.

iii) Possible actions and solutions

- Outreach should be viewed as a complement to other poverty law services, not a self-contained delivery model.
- Outreach should not be confined to short initial interviews. Accompanying substantive or follow-up services are needed.
- Outreach staff and services should be appropriately meshed with base services to avoid backlogs of work.

- Learn about the communities to which outreach services will be targeted to ensure an effective design that meets community needs and engages with existing service providers.
- Provide job rotation where possible to spread outreach skills, prevent burn-out, and keep outreach staff feeling connected to a broader team.
- Explore the possibility of unique partnerships – for example, with auto associations and or corporations – for donations or in kind support.
- Further research into the costs of outreach services is needed. Experimentation via the piloting of service options may be a valuable approach.

#### **Model 4: Interdisciplinary services**

##### i) Lessons learned

- Integrated and collaborative services assist the whole client rather than merely solving a legal problem.
- Other professionals can absorb much of the emotional load that legal staff may lack time and skills to handle.
- Interdisciplinary service delivery allows clients to benefit from one-stop-shopping.
- Within an interdisciplinary centre, service providers benefit from on the spot learning about the skills and contributions of other professions.
- Multicultural and multilingual can staff help to make a service environment more client friendly and facilitate effective communication (without the need for costly interpretation services).

##### ii) Challenges

- Conflicting confidentiality requirements can complicate collaboration among professionals.
- Compartmentalization of different kinds of assistance can undermine potential advantages that flow from an interdisciplinary environment.

##### iii) Possible actions and solutions

- Create clear guidelines around confidentiality to structure collaboration between legal and non-legal professionals. Guidelines should be tailored to the particular service delivery environment in question.
- Make provision for exceptions to these guidelines when necessary (for example, isolating a case if there is potential to trigger reporting duties by other professionals that might put legal staff in breach of Law Society rules).
- Strive to create a common culture within interdisciplinary centres to support collaboration, and avoid compartmentalization and tension.

#### **Use of Volunteers**

##### i) Lessons learned

- Advice centres and many law centres in the jurisdictions researched have a well established and accepted tradition of employing volunteers.
- Adequate training and supervision for lay and legal volunteers is essential.
- Volunteers can add significantly to the range and quantity of services offered. They can free paid staff to provide in-depth services to more clients, and reduce the amount of time paralegals would otherwise have to spend on non-legal client support and administration.
- Pro bono lawyers can broaden the range of available services, particularly with respect to filling gaps in representation services when paralegals reach the limits of their expertise.
- Pro bono lawyers can contribute to after-business-hours services that increase accessibility for clients.
- Interaction between paralegals and pro bono lawyers can enrich both groups by providing opportunities for mutual learning and skill development.

#### ii) Challenges

- Volunteers require a great deal of support and training to maximize their contributions. The amount of training required may be an impediment to recruitment.
- It is difficult to recruit volunteers willing to make a longer-term commitment.
- The complications posed by regular volunteer turn-over can outweigh the advantages of volunteer assistance.
- Effective volunteer programs require significant administration, which can detract from the time that paid staff have for case work and direct client services.
- Pro bono lawyers often lack experience with low income clients and their legal issues.
- It can be difficult to recruit pro bono lawyers to provide full representation services.
- Liability issues can be a concern for organizations that wish to incorporate volunteers.

#### iii) Possible actions and solutions

- Consult with existing volunteer centres for advice and assistance in setting up and maintaining effective volunteer programs, as well as recruiting and retaining volunteers.
- Explore options for funding volunteer coordinator positions in individual organizations, or as a central resource to which poverty law service providers can turn for assistance.
- Explore the possibility of creating training opportunities for poverty law service providers specifically addressing volunteers, including recruitment, retention, and training.
- Develop clear protocols around incorporating volunteers into poverty law service delivery, including job descriptions and formal processes for recruitment.
- Work with Pro Bono BC, the Bar Association, and private firms to explore opportunities for cultivating greater interest on the part of lawyers in pro bono poverty law work.

## **Legal Supervision**

#### i) Lessons learned

- Supervision is a key component of poverty law service delivery given the range of legal services delivered by non-lawyers.
- Proper supervision maximizes the contributions of non-lawyer service providers, including paralegals, articulated students, and volunteers.

- Supervision by experienced poverty lawyers adds to the value of paralegal work by expanding the breadth of available services, improving service quality, and increasing paralegal confidence.
- Involving lawyers in poverty law work becomes increasingly important as the kind of assistance required becomes more in-depth, and the legal issues more complex.
- Supervisors can provide valuable mentoring and on-the-job training opportunities.
- Supervision is one means through which knowledge and skills can be transferred from senior to junior service providers.

#### ii) Challenges

- In the face of funding and human resource constraints, creating adequate and effective supervision arrangements can be difficult.
- Ineffective supervision requirements can be too onerous for front line service providers, and take time away from case work.
- Bureaucratic, standardized, supervision requirements alienate supervisors and staff alike, particularly if supervising lawyers are providing their services on a pro bono basis.
- Supervision directed solely to the resolution of individual cases is not the most effective way in which to develop new overall problem solving skills.
- When supervisors are private bar lawyers who lack poverty law knowledge and experience, it is unlikely that the experience of supervision will significantly expand paralegal skills.

#### iii) Possible actions and solutions

- Explore options for creating opportunities for lawyers with poverty law expertise to provide remote or in-person supervision and support.
- Supervision arrangements should be appropriate to the structure of poverty law service delivery and the staff providing front line services, not static and inflexible.
- Recognize the relationship between training and supervision, perhaps by creating training opportunities that paralegals and supervisors attend together.
- Recognize that effective supervision should extend beyond targeted case work to general legal knowledge.
- Explore options to cultivate greater willingness on the part of private bar lawyers to act as supervisors, and to participate in appropriate training opportunities.
- Consider providing ‘training for the trainers’ so that local supervisors can supplement their routine supervision services with local or regional training workshops.
- Recognize that in-house (or as least local) supervision is ideal, though remote supervision arrangements can also play a role.

## Section Three: Looking Ahead

This project is about exploring priorities for the delivery of poverty law services in BC. The insights we have collected from community organization and lawyer respondents concerning priorities for the development or expansion of services, the obstacles to moving forward in these areas, and the supports needed to begin to dismantle these barriers, are an important piece of the foundation for future planning. The overview of poverty law service delivery approaches in other jurisdictions adds to this foundation by offering some preliminary insights into the opportunities and challenges of different models, as well as their applicability and appropriateness to BC.

In this section, we bring together the results of the consultation process with the preliminary research findings. We first discuss what we call the *principles* that should be regarded as key touchstones in the development of any poverty law service delivery model. These principles are broad values, or lessons learned, from jurisdictional research and respondents' practical experience. They tend not to pertain to any single service delivery model, but rather inform the approach that should be taken to the development of services as a whole.

Under each principle, we also provide some specific suggestions as to areas of action motivated by the consultation and research processes. Some of these suggestions point to specific activities, while others flag the need for further assessment to evaluate utility and applicability for BC. Since this project is about first steps towards the development of poverty law services, more detailed data on implementation is generally required, particularly from the standpoint of linkages with existing services, and the level of funding required.

### ***i) Principles and Recommendations***

#### Adequate funding is important

Funding was the most commonly cited obstacle to developing poverty law services, as well as the most common resource required to extend service delivery. While this response no doubt flows in part from the fact that remaining poverty law service providers are still struggling with the fall-out from the elimination of legal aid, our jurisdictional research clearly demonstrates that the quantity and stability of funding are pervasive concerns in the poverty law field. In a context of limited funding, competition among service providers and the resulting sense of territoriality can complicate efforts to deliver comprehensive, non-overlapping services in an efficient manner. Whenever possible, future decisions about the allocation of poverty law funding should avoid withdrawing funding from one source in order to support another. This is particularly important in the present climate where the availability of services overall has radically declined, resulting in increased demands on remaining resources, and higher stress levels among staff and clients. With respect to areas of actual or perceived duplication, this may mean targeting energy towards forging a working relationship between the groups in question to better allocate resources, rather than withdrawing funding for one agency.

Though the collection of detailed cost information was not a goal of the research component of this project, some of our findings highlight lessons from the experience of other jurisdictions.

While their specific applicability to the BC context will require further exploration, these learnings provide a useful starting point when canvassing the range of factors to be considered in planning for the development of funding options:

- A diverse funding base provides greater stability. Programs that have the support of multiple funders are less vulnerable to interruption or suspension as a result of shifting funder priorities or interests. Although the importance of public investment in poverty law in BC emerged as a theme in the consultation process, efforts to combine public funding with support from other partners may help address identified barriers, including a lack of awareness or appreciation of the importance of poverty law.
- The independence of service providers can often be preserved to a greater extent when a service is not tied to a single source of financial support. With a single funder, the values or expectations of that body can condition the range of available services, eligibility criteria, or priorities. This message was implied by respondents in BC in comments concerning the importance of ensuring that available options for poverty law test case litigation are not limited to a government funded legal aid structure.
- Adequate core funding is essential. Service providers who rely on short term project funding are forced to spend valuable time searching and applying for grants that could be better spent on case work.
- Learning from the experiences of other jurisdictions, some ideas regarding potential partners in funding poverty law services in BC could include:
  - BCAA and ICBC, particularly with respect to in-kind donations around mobile poverty law services;
  - Real estate companies and developers, particularly with respect to legal services related to residential tenancy and housing;
  - Banks and credit unions, particularly with respect to debt and credit matters;
  - Federal government, particularly in terms of supporting job creation and student positions, as well as poverty related programs under federal jurisdiction (notably Employment Insurance and the Canada Pension Plan);
  - Private businesses, particularly with respect to donations of in-kind resources (as per the contributions of Microsoft in the US);
  - CBA, particularly with respect to joint funding poverty law articling positions to bring private firms on board, and funding for test case litigation.

Many European and other jurisdictions have implemented pre-paid legal insurance schemes. These differ from the ones recently implemented in North America and are worth discussing as an additional tool that could be applicable to BC. Pre-paid schemes in Sweden and the Netherlands were the result of their governments' attempts to reduce legal aid expenses. Civil legal aid is still available but only to those who either have no pre-paid contributions or have used them up. Swedes pay legal insurance premiums as part of their house insurance. Since most people pay house insurance, most are insured against legal expenses.<sup>106</sup> In South Africa, the largest scheme has 350,000 middle and lower class contributors who pay \$6-12 (US) per month for coverage up to \$12,000 (US). Since there is still a high unemployment rate in South

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<sup>106</sup> Correspondence with the Danish Bar and Law Society Secretariat in June 2004 confirms that 90% of Danes have legal insurance coverage under their basic family insurance policies.

Africa, there remains a large group of people who cannot afford even these small premiums. They are covered by civil legal aid.

### Advocates and lawyers should work together to deliver poverty law services

When both advocates and lawyers are in a position to make the contributions to poverty law service delivery warranted by their respective skills and areas of expertise, the result is high quality services, comprehensive coverage of poverty law issues, and efficient use of human and financial resources. At present, BC is not capitalizing on the potential of this symbiotic relationship due to the lack of paid, full time, accessible, poverty law lawyers. The scope of work that advocates can take on, the confidence with which they undertake it, and the quality of the result, are all enhanced by having lawyers available as back-up supports and supervisors. On the flip side, the expertise and skills of advocates are uniquely suited to informal advocacy and front line work with poverty law clients. With advocates to play these roles, lawyers' time and legal expertise is directed to where it is most needed.

To support a collaborative approach to poverty law, the following suggestions flow from findings in sections one and two of this report:

- Explore the possibility of creating joint training opportunities in which advocates can help educate lawyers about specific poverty law issues, client circumstances, and the context for poverty law work, while lawyers help educate advocates about relevant legal precedents, legislation, and the legal process.
- Explore options for expanding the availability of legal supervision for advocates. While in-person contact with local supervisors is preferred, further consideration may need to be given to options for telephone-based services (particularly toll-free services to avoid additional long-distance phone costs for advocates) in the current context.
- Explore the possibility of creating a comprehensive poverty law practice manual for use by advocates and lawyers.
- Consider how cooperation and collaboration can be supported in funding arrangements, so that designated time and money is available for these activities.
- Increase efforts to forge connections with the legal profession to increase awareness of poverty law, including the role of advocates within this arena. As per the findings from sections one and two of this report, options could include:
  - Consulting with the CBA, the BC Bar Association, Pro Bono BC, and others as appropriate, regarding pro bono work, and possibly the creation of a mandatory minimum pro bono contribution;
  - Improvements to training opportunities for law students and lawyers by connecting with BCCLE, and expanding programs currently delivered through the Law Foundation;
  - Consulting with universities and colleges to determine the feasibility of adding a poverty law component to their law, paralegal, legal assistant, criminology, and other programs as appropriate.
  - Expanding the number of poverty law positions for articled students (perhaps with funding assistance from the CBA) by approaching private firms and

extending opportunities to more community organizations with poverty law advocacy programs.

Adequate legal support is essential for direct service delivery as well as supervision and support

Both the consultation and research components of this project firmly emphasize the importance of having lawyers participate in poverty law work, both in terms of direct service provision (particularly around representation and legal advice), as well ‘second tier’ supports like legal supervision and advice. This is a particularly important message to be taken from this project.

The fact that interviews with community organizations and lawyers both yielded a strong emphasis on the need to make more lawyers available for poverty law work is not wholly surprising given the elimination of poverty law staff lawyer positions within legal aid, and the closure of local community law offices and native community law offices. However, the degree of emphasis that respondents placed on the need for additional lawyer involvement was unexpected. As noted in the above comments on the need for collaboration between lawyers and advocates, respondents believe that a poverty law system that includes lawyers will be more efficient and effective from the standpoint of clients, staff, and funders – a sentiment supported by the experience of other jurisdictions. In addition, having dedicated poverty law lawyers will help address many of the disadvantages respondents associate with lawyer involvement in poverty law, specifically with respect to lack of knowledge and experience with poverty law, and lack of compassion for clients or appreciation of their circumstances.

In light of the high priority attached to the need for more lawyers to provide representation, advice, and supervision, high priority should be attached to exploring options for creating a core group of funded poverty law lawyers who will work in this area full time, and cultivate the resulting degree of expertise and visibility. The following considerations may be important from the standpoint of determining how to act on this recommendation:

- A core group of lawyers should have a mandate to provide representation on more complex poverty law proceedings, to provide advice and supervision to advocates, and to support the work of advocates more generally.
- A key function of core poverty law lawyers should be to facilitate representation of clients by advocates in administrative tribunal and board proceedings – an area in which advocates are already doing considerable work, and where it is unlikely (in the short term) that funding will permit lawyers to play a significant role. Respondents consistently affirmed the importance of representation, and also consistently indicated that access to this kind of assistance has radically declined since the cuts to legal aid.
- At least two core poverty law lawyers should have specific knowledge on issues related to income assistance, since this is by far the greatest area of need identified by respondents.
- At least one core poverty law lawyer should have constitutional expertise, and be capable of acting as a resource to other lawyers and advocates concerning the application of the *Charter* to poverty law issues.
- A core group of poverty law lawyers should not be billed as an alternative to the (re)creation of a more comprehensive poverty law system, such as that which formerly existed under legal aid. However, for the purpose of addressing immediate and pressing

needs, even a small number of core lawyers would have a significant impact on the breadth of available services.

- As per the above noted comments concerning the value of a collaborative approach to poverty law service delivery between lawyers and advocates, the addition of lawyers should not come at the expense of existing advocate positions.

Based on consultation findings and service delivery research, some considerations that require further exploration with regard to the development of a core group of poverty law lawyers include the following:

- Further investigate options for the location of a core group of poverty law lawyers. Based on insights from the research and consultation processes, options to consider include:
  - Piggybacking lawyers onto existing community organizations;
  - Adding lawyers to Legal Services Society regional centres;
  - Housing lawyers at a single location, in a model akin to Calgary Legal Guidance.
- Further investigate options for developing outreach services in the BC context. In particular, this should include collecting more detailed information on cost considerations, and exploring options for remote outreach to advocates using the phone, internet, and video technologies.

#### Be realistic about the contribution of pro bono lawyers

While research on the use of pro bono services suggests that some other jurisdictions have enjoyed greater success in mobilizing voluntary contributions from lawyers than BC, respondents remain skeptical about extent to which pro bono is a resource in which it is worth investing. There is general recognition of the fact that the legal advice delivered through pro bono clinics does add to the spectrum of available poverty law services, particularly in the present context where the advice function within legal aid has virtually disappeared. Similarly, respondents recognize that the volunteer participation of lawyers in test case litigation through public interest organizations like CLAS and PIAC yields important results. However, respondents also suggest that neither of these functions is an adequate foundation for a more comprehensive poverty law system, nor are they easily expanded to provide such a foundation as a result of barriers around time, funding, and expertise.

While the respondents in this project largely agree that pro bono services will likely remain only a supplement to more mainstream poverty law services, they also report that there is both direct value to this contribution in terms of extending the range of available services, and indirect value from the standpoint of promoting greater understanding and community commitment within the legal profession. These things are particularly valuable within the current context of limited services. In this vein, further exploration of options for cultivating pro bono resources is needed to determine an appropriate course of action.

Drawing from the findings in this report, further research should explore in greater detail the pro bono models considered most relevant to BC, paying particular attention to methods of motivating participation and delivering training. Any additional research should also closely

involve advocates, community organizations, and lawyers to ensure a collaborative approach to determining where resources should best be directed. Some initial steps in this regard could include:

- Cross referencing the findings from this project with the Law Foundation's ongoing initiative exploring poverty law training for pro bono lawyers;
- Working with Pro Bono BC to develop a directory of pro bono lawyers, including a bank of those with sufficient training and experience to take on full representation cases;
- Investigating proven methods for recruiting pro bono lawyers and building support within the legal community for poverty law work. This could be combined with efforts to collect best practices from the voluntary sector on volunteer recruitment and retention more generally;
- Exploring the feasibility of secondment from private firms as an option for developing lawyer competency on poverty law, and increasing the number of lawyers available to do poverty law work. Models to explore could include the United Way's loaned representation program;
- Funding a pilot project that would model the kind of intake and referral system used at Calgary Legal Guidance to create greater connections between staff based services and pro bono services.

#### Expand the training opportunities available to advocates and lawyers

A theme that emerged from both consultations and research is the importance of training. Discussion of this theme has two dimensions. On one hand, the legal training and expertise of lawyers was flagged as a key advantage of lawyer participation in poverty law, as was the specific knowledge that advocates possess on poverty law issues. On the other hand, respondents suggested that both lawyers and advocates could benefit from additional training. Lawyers need to be more familiar with poverty law issues, and to gain greater understanding of the importance of this area of law and the circumstances of clients. Advocates require training to stay current on relevant legislation and regulations, as well as to continue to expand their advocacy skills.

The value of making training opportunities available to poverty law service providers was cited on a variety of levels. Adequate training yields better quality and more comprehensive services, greater efficiency in the delivery of services, and more confidence on the part of the service providers. In addition, some respondents noted that the availability of supports like training helps create connections among service providers, which can be an important source of emotional support. Training was also flagged as an important issue for lawyers, principally with respect to learning about particular poverty law issues – an area of law with which most private practice lawyers have little experience. More generally, greater awareness of the legal needs of poor persons, and the importance of poverty law in terms of protecting fundamental rights and facilitating access to justice, were also viewed as topics with respect to training for lawyers may be appropriate.

From the standpoint of expanding training opportunities for both advocates and lawyers, the following considerations emerged from the consultation process and jurisdictional research:

- Explore possibilities for joint advocate/lawyer training sessions, including sessions that involve advocates and their particular legal supervisors;
- Explore possibilities for creating more local training opportunities in the interior and the north. While in-person sessions may be the preference, creative use of media like video and web links may have a role to play within the current context;
- Consider extending some of the existing training models into the interior and northern regions of the province. Examples include the training sessions hosted by the Law Foundation, and the Front Line Advocacy Workers regular meetings. Even when travel funding is available, local or regional training would increase accessibility and permit organizations to include more staff and volunteers;
- Consider the use of pilot projects to test the efficacy of new training options;
- Investigate the viability of holding joint and/or concurrent advocate and pro bono lawyer training sessions by expanding the range of existing LSS training programs;
- Explore opportunities for bringing more poverty law training to private practice lawyers in collaboration with organizations like BCCLE, Pro Bono BC, and the CBA;

#### Facilitate interaction and communication among poverty law service providers

Research into other jurisdictions indicates that service providers that form strong and supportive networks are more stable over the long-term, and less susceptible to loss of funding and other resources. Consideration should be given to building on this research to determine in more detail those factors that make such networks effective, and how strategies that are successful in other jurisdictions might be adapted for use in BC. To this end, existing resources that could be built upon are Povnet, Front Line Advocacy Workers, and Pro Bono BC. Careful attention should be given to the strong experience of collaboration within Australian Community Legal Centres.

## Appendix 1: Lower Ranked Service Delivery Options

The service delivery options assigned a lower priority by community organization respondents are referrals<sup>107</sup> and the informal settlement of disputes. Representation by a lawyer in boards or tribunals was also assigned a lower ranking by community respondents, but given that comments in section II concerning lawyer representation apply equally well to this delivery option, it is not discussed further in this section.

In terms of the impact of the closure of LSS and Community Law offices, no new themes are identified with respect to informal dispute settlement and referrals. The dominant concerns remain a lack of available services, and the resulting implications for service quality and client stress. Obstacles to further developing informal dispute settlement and referral services are also similar to other service delivery options, specifically encompassing the lack of funding for staff, and resulting pressures around time. With respect to referrals, respondents also specifically mention the limited number of local services to which to direct clients, and a general lack of awareness concerning available services. Funding is identified as a specific support needed to overcome all of these obstacles, as is increasing the number of lawyers available to work on poverty law issues within communities. However, respondents also strongly indicate that advocates are best positioned to deliver informal dispute settlement and referral services, though the value of having established connections between advocates and lawyers is noted.

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<sup>107</sup> With respect to referrals, it is important to note that our respondent pool did not include organizations that primarily provide information and referral services – topics specifically addressed by a concurrent project on public legal education and information. The omission of organizations of this type may contribute to the lower weight attached to referrals as a service delivery priority.

## **Appendix 2: Lower Ranked Service Delivery Mechanisms**

The service delivery options that received low rankings by community organization are: use of volunteers, telephone services, and online services. Respondents' perceptions concerning the role of volunteers will be discussed separately. Comments on the value of telephone and online services are similar, and are discussed together.

Organizations that currently rely on volunteers to help deliver administrative and/or advocacy services report that their use of volunteers yields positive impacts for the organization. Particular outcomes include expanding the number of clients served, greater efficiency (assuming appropriate supervision), enabling staff to do more work, and supporting the very existence of the organization. The primary negative impacts that can flow from working with volunteers concern the time and resources required for training and supervision, though the issue of volunteer turnover is also noted. Unsurprisingly, obstacles to increasing the use of volunteers are consistent with these complications – notably a lack of funding for staff to devote time to recruitment and training. For respondents at organizations that do not currently employ volunteers, no clear themes emerged as to why volunteers are not being used. Some of the responses offered include concerns about liability, lack of staff expertise/time for recruitment, and difficulty finding and keeping volunteers.

Very few respondents consider telephone and online resources to be a priority for poverty law service delivery. However, it is important to note that several respondents did acknowledge that services of this type do have a place so long they are offered in combination with more direct, in-person advocacy options.

Respondents are generally familiar with online and telephone resources like Povnet, LawLink, and the Law Line, and suggest that these resources tend to be of more value to advocates than clients. Obstacles to effective client use of online and telephone resources include language barriers, literacy barriers, difficulty getting through to phone systems, lack of internet/phone access, lack of personal contact, and general difficulty navigating automated system(s).

## Appendix 3: Jurisdictions Reviewed

### Australia

The history of poverty law services in Australia substantially mirrors that of Ontario and BC. Over the last 30 years a network of not-for-profit Community Legal Centres has developed, which rely heavily on contributions from pro bono lawyers and lay volunteers. Australia is also similar to Canada in terms of jurisdictional divisions, and the vast geographical area that services must cover. Although the review does not focus on aboriginal issues, Australia also has similar concerns about delivering legal services to this population.

### England

Due to the large number of recent studies related to civil legal aid and advice bureaus in England, there is a wealth of information available about the type and range of services, use of volunteers, outreach to rural areas, and so on. Although England is relatively rich in poverty law legal resources compared to most other jurisdictions surveyed, it is worth reviewing for its variety in service delivery models, mix of urban and rural clients, and growing pro bono lawyer programs.

### Scotland

Scotland was included in this project because jurisdiction over legal aid and advice centres is similar to BC, and because it is starting from scratch to develop a new civil legal aid system out of what has always been a lawyer driven judicare service. As a result, Scotland has published a number of recent reports on the roles of advice and community legal centres. Scotland's population is also similar to BC's, and includes large and sparsely populated rural areas.

### South Africa

South Africa has been undergoing a revolution in its civil legal services for the poor, which has generated a number of recent studies and reports. A major focus in this jurisdiction is outreach, along with the integration of services provided by lawyers, paralegals, law students, and volunteers. University law schools play an important role in service delivery – a strategy that may be transferable to BC.

### United States – Washington and California

There is a wealth of literature from the US on topics ranging from the role of pro bono lawyers and paralegals to mobile legal services. The April 2004 SPAN Report provides an overview and comparison of civil legal services in each State, including BC's neighbours in Oregon and Washington.<sup>108</sup>

### Canada – Alberta

Alberta has no tradition of government funded poverty law services but has a long-established integrated model of service in Calgary Legal Guidance which has been duplicated in Edmonton and may soon spread to Red Deer. It also has a network of non-lawyer advocates that are members of Povnet. Its government funding climate for poverty law services has long been similar to the one now imposed on BC.

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<sup>108</sup> Supra note 29.

## Appendix 4: Community Organizations Contacted

Action Committee of People with disAbilities  
Active Support Against Poverty  
Advocacy Centre  
Advocacy for Women and Children  
Advocacy Outreach  
Anti-Poverty Coalition of Victoria  
BC Association for Community Living  
BC Coalition of People with Disabilities  
Bread and Roses Women's Centre  
Bulkley Valley Anti-Poverty Group  
Campbell River and Area Multicultural & Immigrant Services  
Campbell River Transition Society  
Campbell River Women's Centre  
Canadian Mental Health Association  
Cariboo Friendship Society  
Central Okanagan Emergency Shelter Society  
Central Vancouver Island Multicultural Society  
Citizen's Advocacy  
Chawathil First Nation  
Community Advocacy Office  
Community Rights Against Poverty  
Comox Valley Advocacy Centre  
Comox Valley Women's Resource Centre  
Cowichan Valley Intercultural & Immigrant Aid  
Cranbrook Women's Resource Centre  
Dawson Shelter Society  
Downtown Eastside Women's Centre  
Downtown Eastside Residents Association  
First United Church  
Fort Nelson Women's Resource Centre  
Fort St. John Women's Resource Centre  
Helping Hands Against Poverty  
Hiie'yuLelum House of Friendship  
Howe Sound Women's Centre  
Immigrant and Multicultural Services Society  
Information and Advocacy Services  
Kamloops-Cariboo Regional Immigrant Services  
Kamloops and District Elizabeth Fry Society  
Kelowna Community Resources  
Kelowna Women's Resource Centre  
Kettle Friendship Society  
Ki-Low-Na Friendship Society  
Kootenay Region Métis Association  
Law Students Legal Advice Program  
Mental Health Action Research and Advocacy  
Métis Family Services  
MOSAIC Paralegal Assistance Program  
Native Courtworkers and Counselling Association  
Nawican Friendship Society  
Nechako Fraser Junction Métis Association  
Newton Advocacy Group Society  
Nicola Valley Advocacy Centre  
North Island Advocacy Coalition  
North Island AIDS Coalition  
North Peace Community Resources Association  
Okanagan Valley Resource Society  
Port Alberni Friendship Centre  
Prince George Native Friendship Centre  
Regional Traveling Poverty Advocate Program  
Salt Spring Island Community Services Society  
Salvation Army – pro bono legal clinics  
South Fraser Women's Services  
St. Paul's Advocacy Office  
Sunshine Coast Unemployment Action Centre  
Tansi Friendship Centre  
Terrace Anti-Poverty Group Society  
Together Against Poverty Society  
Wachiy Friendship Centre  
Women's Contact Society Advocacy Program  
Unemployed Action Centre Society  
United Native Nations Advocacy Resource Centre  
University of Victoria Law Centre  
Upper Skeena Counselling and Legal Assistance Society  
Vancouver Island Human Rights Coalition  
Vancouver Mental Patients Association  
Victoria Immigrant and Refugee Centre Society  
Victoria Status of Women Action Group

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Advice Services Alliance [www.asauk.org.uk/index.htm](http://www.asauk.org.uk/index.htm)

Advice UK [www.adviceuk.org.uk](http://www.adviceuk.org.uk)

American Association of Pastoral Counselors Code of Ethics [www.aapc.org/ethics.htm](http://www.aapc.org/ethics.htm)

BC Alliance of Information and Referral Services [www.vcn.bc.ca/bcairs/](http://www.vcn.bc.ca/bcairs/)

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