

Annual Report

Dalhousie Legal Aid Service



2008

BOARD OF TRUSTEES

FINANCE

Our budget for the fiscal year April 1, 2008 to March 31, 2009 is attached.

As at December 31, 2008 we are showing a deficit amount of \$14706.00 year to date. However, an adjustment to our budget will occur prior to year end bringing us to a balanced budget.

Earlier in the fiscal year we experienced a higher than expected amount of intake on certificates from Nova Scotia Legal Aid (NSLA) which accounts for the high year to date revenue in External Recoveries (NSLA Certificates) . This period of greater intake has already slowed and we expect things will level off in the near future.

Once again, Dalhousie Alumni and current law students have been very supportive. Thanks to the extraordinary skills of Peter Sullivan, Megan Leslie, Sarah Dykema and Jennifer Morrison who organized the fourth annual "Legal Who" Masquerade Ball raising \$7,569.91 for the Clinic. A portion of these funds have been used to purchase new chairs for the student area, a much needed addition.

COMMUNITY DEVELOPMENT AND LAW REFORM

Our work under this branch of our mandate continues to be centered on test case litigation, community legal education and advocacy. We continue to challenge inequity and systemic deficiencies affecting the low-income community in the areas of income assistance legislation, housing, homelessness and mental health issues.

Test Case Litigation:

Charter Challenge to the Public Utilities Act: We received a decision from the NSUARB in February, 2008 dismissing the section 15 Charter claim and challenge to s. 67(1) of the Public Utilities Act. On behalf of four of the Appellants, and the Affordable Energy Coalition we filed an Appeal to the Nova Scotia Court of Appeal. The Appeal hearing was held on December 1, 2008 before Justices Fichaud, MacDonald and Hamilton. The Court of Appeal decision was released on Friday February 13, 2009. The Court dismissed the Appeal on the basis that section 15 of the Charter does not protect against discrimination against the poor, and because although the poor are disproportionately single mothers and children, persons living with disabilities and other protected groups, the difference in treatment is because they are poor, not because of those protected characteristics. [Boulter et al v NSPI; 2009 NSCA 17] We are currently taking instructions regarding an application for leave to appeal to the Supreme Court of Canada.

Res Judicata at Administrative Tribunals: We are currently involved in two applications (in the nature of Mandamus and Certiorari) before the Nova Scotia Supreme Court concerning the issue of *res judicata* and Income Assistance Appeal Boards. The blanket application of the *res judicata* doctrine to this tribunal effectively denies poor people the opportunity to have a dynamic and ongoing relationship with the Department of Community Services and results in injustice and unfairness. We are awaiting a decision from the Nova Scotia Supreme Court in these cases.

Income Assistance Overpayments: we continue to explore the best approach to using the *Charter* to challenge the collection of overpayments by the provincial government from recipients of income assistance as a discriminatory practice.

Admissibility of Statements of a Young Person: we were granted leave to appeal this matter on behalf of a young person to the Supreme Court of Canada. We are seeking to clarify the law around admissibility of statements of youth and ensure proper protections are in place and followed. We have made all written submissions and made our oral arguments on February 25, 2008. The decision in this matter was handed down on September 11, 2008 in our favour. We will now be working on the process of having changes to the way statements are taken from young people implemented in accordance with the decision.

Minister of Community Services v. Campbell: We are involved in a test case to secure medical marijuana through the Department of Community Services' Special Needs Program.

Community Legal Education

Extraordinary Assistance Plan: We continue to consider ways to make a claim under the Extraordinary Assistance Plan through Health Canada and the Public Health Agency of Canada for a client who was secondarily infected with Hepatitis C and HIV by a partner who acquired infection through tainted blood and cannot now be located. The claim can only be made with proof of the primary's medical records which are not accessible to the secondarily infected person.

Aboriginal Focused Human Rights: We continue to be involved in representing Aboriginal individuals before the Human Rights Commission on race based complaints. To date we have been successful at resolving the majority of the cases we have taken on to the satisfaction of the clientele. These cases have provided the opportunity to address discrimination in the area of education and employment and their affect on the broader aboriginal community

Employment Support and Income Assistance Act: We have initiated a Welfare Rights Project to mirror our existing Tenants' Rights Project. Like the Tenants' Rights Project, the Welfare Rights Project includes Welfare Rights Information Drop-Ins in the community at Food Banks, community centres and soup kitchens. These drop-in sessions are staffed by volunteers, and offer welfare recipients a chance to get free, confidential, one-on-one legal information about their rights. We have also undertaken the writing of a Welfare Rights Guide to correspond to

our Tenants' Rights Guide. The Welfare Rights Guide is in the final stages of editing at time of this printing.

Advocacy for Advocates: We facilitated two workshops for advocates in HRM since September 2008; one on income assistance and welfare rights, the other on tenant's rights.

Aboriginal Legal Education: We consult on an ongoing basis as requested with individuals and organizations in the Aboriginal Community on legal issues affecting family, child protection, criminal matters, administrative law, human rights and aboriginal law. This initiative may result in providing legal advice, workshops, referrals, consultations, and/or representation.

African Nova Scotian Public Legal Education: We consult and present on a continuous basis with individuals and community groups and organizations on matters of law and legal issues affecting African Nova Scotians.

FLIPAW: We have participated as a member of the Justice Advisory Committee on this project entitled: Family Law Information for Abused Women. The project has produced a guidebook which was launched on December 5th 2008. We are currently in the process of implementing recommendations and the next steps are underway with ongoing meetings, conferences and upcoming think tank for government decision makers.

Income Assistance Workshops: We participated in workshops at St. Vincent de Paul and Adsum Centre, Connections Clubhouse.

Manoeuvring the Youth Criminal Justice Act: We present workshops on the Youth Criminal Justice Act to various community and professional groups.

International Women's Day Planning Subcommittee: We are a member of planning committee from various women's organization events for International Women's Day.

Community Advocacy

Equality

Aids Coalition of Nova Scotia: We continue our regular meetings with the Program Coordinator/Executive Director providing legal advice on policy development, bylaw amendments, employee and volunteer matters, consent forms review, disclosure issues, brochure development, staff and board training. We again partnered with ACNS in September 2008 in their annual fundraising campaign "Walk for Life" where 65% of proceeds our team raised came back to DLAS.

Stepping Stone: We supervised 3 students through Pro Bono Student Canada at Stepping Stone regarding several projects: conducting a workshop with staff on decriminalization and legalization of prostitution; researching legal issues pertaining to specific service users who are

awaiting trial or release from incarceration; researching basic court process information for service users; researching child trafficking laws and statistics for sex trade work in both domestic and international arenas.

In addition, we continue to offer advice and legal support to the staff of Stepping Stone. We are also doing a drop in clinic once per month with clients of Stepping Stone offering general legal information

Women’s Community Space: We are members of the task force operating the Women’s Community Space and have been a driving force behind this project which opened on March 7, 2008 at the YWCA on Barrington Street. The space is the location for programs about, by and for women. This space has been consistently used since it was opened by women’s groups for meetings and training as well as for programs offered by the task force.

The “Not so Silent” Vigil: We were members on a committee of various women’s organizations who organized the “Not so Silent” December 6th vigil to bring awareness to the issue of violence against women. Planning for the 2009 event is already underway.

Medical Marijuana: We continue to work with medical marijuana advocates to ensure that people with illnesses or disabilities whose treatment includes medical marijuana can afford to purchase their medicine. We are involved in 2 test cases that are trying to secure medical marijuana through the Department of Community Services’ Special Needs Program. We also continue to work with Maritimers Unite for Medical Marijuana to lobby changes to the Pharmacy Act that would allow the distribution of medical marijuana through pharmacies. We met with the Health Critics for the opposition parties, and are working to meet with Department of Health officials to bring attention to this serious problem.

BCAANS (Black Community Advocates Association of Nova Scotia): We continue to provide ongoing support to the advocates by imparting legal information. We are currently conducting research into the feasibility of an African Nova Scotian mobile legal clinic.

Nova Scotia Association of Social Workers: We sit as a member of the Board of Examiners and Discipline Committee. We also sit as a member on the Standards and Ethics Committee of the Board. The work of this committee has focused on developing a new code of conduct for Social Workers as well as new standards for practice.

In addition, have a member who sits on the new ad hoc subcommittee was recently formed at NSASAW: “Social Justice Inclusion in Standards of Practice”.

Family SOS- Access Supervision Project: Supervision of 2 pro bono students who are working on training materials for supervised access program at Family SOS.

HRM Youth Court Liaison Committee: We sit as a member of this committee for the Halifax Youth Justice Court. The work and purpose of the committee is to review and improve

practices and procedures in the Youth Court on an ongoing basis as issues arise. The committee sits bi-monthly and consists of Youth Court Judges, Prosecutors, correctional services, community agencies, and Defence Counsel.

Aboriginal Women’s Health and Gender Issues: We sit as a member on a national organization and network of First Nations, Métis and Inuit women interested in community based research focuses on the health and healing of Aboriginal women, their families and communities. One of the major projects involves gender equality for Aboriginal women.

Indigenous Black & Mi’kmaq Pilot Mentorship Initiative: We are assigned a student and act as a mentor based on area of practice and mentee’s interests.

Capital Health Research Ethics Board: We are a member of this Board. This board reviews research proposals from Capital and District Health Authority. The Capital Health Research Ethics Board (the “REB”) is charged with reviewing all research projects involving patients, staff, resources or data within the Capital District Health Authority. The role of the legal representative is to alert REB members to legal issues in relation to clinical trials and their implications. The REB plays a key role in scientific and medical research, as ethics review is required by Capital Health before such research can proceed. Our role is to make sure that they are not performing a questionable research study on vulnerable populations.

Dalhousie School of Social Work: We act as Agency Advisor to Bachelor of Social Work and Master of Social Work students completing their field placements at DLAS.

Mi’kmaq Native Friendship Centre: We continue to occupy the position of President on the Board of Directors of this organization which operates for the use and benefit of Aboriginal Peoples. This mandate is carried out through the promotion of educational and cultural advancement, assistance in meeting shelter needs and support for newly arrived Aboriginal Peoples in Metro Halifax.

Deafness Advocacy Associate of NS (DAANS): Supervising pro bono students in preparing legal information brochures on end of life issues for clients of DAANS.

Aboriginal Issues: We respond to inquiries from the Aboriginal individuals, organizations and communities on legal matters utilizing a holistic approach with regards to the issues.

Disability Rights Coalition: We continue to be a member of this coalition that is comprised of disability rights groups working on implementation of the recommendations of the Kendrick Report. In addition to being involved in consultations with the group, we act as a resource by providing information. One of the main issues being addressed by the coalition is supportive community housing. We are currently awaiting the results of a funding proposal submitted to assist in making an application to the Supreme Court for a declaration that the Department’s classification policy and unnecessary institutionalization of persons with disability are discriminatory.

Poverty

Special Needs Clinics: We have organized a “pilot project” on special needs clinics throughout the HRM. We are partnered with the Halifax Coalition Against Poverty to present vital information to income assistance recipients about the availability of getting special needs covered. The basic income assistance budget does not include coverage for transportation, special diets, childcare, or a telephone. The recipient must make a separate application for these expenses to be covered.

We held two Special Needs Clinics in May and July 2008. These community clinics saw approximately 40 welfare recipients come through our doors to access special needs recommendations from allied medical practitioners. Since the clinics we have been focusing on educating welfare recipients and their doctors about the special needs monies through an educational and resource package we have developed

Campaign to Repeal ESIA Regulation 67: Since October 2007 DLAS has been supporting the re-initiation of a campaign to demand the repeal of Employment Support and Income Assistance (ESIA) regulation 67 which erects substantial barriers against recipients of income assistance enrolling in post-secondary education programs of more than 2 years. We have been working with the Canadian Federation of Students, Nova Scotia Association of Social Workers, the Social Action Committee of the Dalhousie School of Social Work, the Halifax Coalition Against Poverty and others to raise awareness about the government’s discriminatory policies through media work and popular education. We have supported community in pressuring for legal reform around this issue by providing legal services and information in the form of representation for income assistance recipients who have been cut off for attending university, and educating community members about the legal issues so they can be effective political lobbyists.

We held a forum on June 18, 2008 at Mount St. Vincent that featured a panel who spoke to the difficulties created for students by the ESIA regulation. Attendees included representatives from the major political parties, students and social justice activists.

Poverty Reduction Strategy Coalition: On October 17, 2008, the Coalition presented its document "A Framework for a Poverty Reduction Strategy for Nova Scotia." The framework includes the following six objectives:

- Establish Universal Access and Coordination of services for those in need;
- Create a social safety net that enables all Nova Scotians to meet the basic needs of individuals and families to participate in the social and economic benefits of society;
- Entitle all residents to a livable income for their labour;
- Establish a comprehensive, accessible, coordinated Early Childhood Development Strategy;
- Commit to a better educated population;

- Communicate the causes and consequences of poverty.

The Poverty Reduction Coalition is putting these objectives into action through the use of focused strategies, timelines and targets, setting out the policy changes required to succeed. We continue to be a member of a province-wide coalition working towards an implementation of a poverty reduction strategy in this province.

ARK Outreach: We work with community in dealing with the needs of street involved youth particularly as a result of the changes to the Motor Vehicle Act that would see provisions targeting "squeeeing" and further criminalization of poverty. We organized a media blitz and press conference at the Willow tree intersection along with street youth, and made presentations to the Law Reform Committee. Unfortunately, the amendments passed, so we are turning our efforts toward a test case challenge to these laws.

Landlord Exploitation of Vulnerable Tenants: We are working with other anti-poverty and homeless groups on the issue of landlord exploitation of vulnerable tenants. There are landlords in certain rooming houses that are selling mouthwash to their tenants for consumption, contrary to the Liquor Control Act.

We have interviewed former and current residents of one such rooming house to gather information about this issue. A working group has been established to come up with a substantive and careful response to this issue.

Housing

Tenant Rights Project: The Tenant Rights Project continues to grow and change with the needs of the community. We now staff four different tenant rights drop-in sessions around HRM: the Women's Community Space, the Halifax North Memorial Library, Stairs Memorial United Church in Dartmouth and St. Paul's Family Resource Centre in Spryfield. We are currently working to set up drop ins at Sunday Supper at St. Andrew's Church and the soup kitchen at Feed Others of Dartmouth. We have had great success with these drop ins which get us out into the community where people can easily access our service. We have assisted 48 tenants at our drop in sessions over this period. We continue to rely on the hard work of our students and our tenant rights project volunteers.

Our tenant info line has been very successful, and we continue to field many calls from tenants looking for information on their rights. Our tenant's rights website has also been popular and a user friendly place for tenants to seek answers to their questions. Since the launch of our website we have been fielding more calls from around the province. In the 2008 year our volunteers made 381 contacts with tenants!

Residential Tenancies Act Reform: Section 10 of the Residential Tenancies Act allows a landlord to give a notice to quit to a tenant without reasons, provided that the tenant has lived in the unit for less than 5 years. This lack of security of tenure in Nova Scotia has a dramatic impact

on the rights of tenants. We have been working with tenants and with elected officials to consider changes needed to the RTA.

Affordable Energy Coalition: We continue to have a very active role within the Affordable Energy Coalition, demanding access to energy for low income Nova Scotians. The AEC has become a strong voice on issues of energy poverty in this province, and our members are turned to regularly by government and media for their expertise.

The Nova Scotia Court of Appeal released its decision Feb. 13/09 concerning the constitutionality of the law on electricity regulation and ratemaking in Nova Scotia that bars programs to assist low income consumers. The AEC support for a Nova Scotia universal service program includes making homes more energy efficient, providing crisis relief to prevent power disconnections, and facilitating repayment arrangements and rate assistance credits to assist low income customers in paying their bills.

The Court ruled that section 67(1) of the Public Utilities Act, which restricts the Nova Scotia Utility and Review Board from providing a program to accommodate low income consumers who cannot afford to pay their power bills, does not violate section 15 of the Charter. The decision means low-income Nova Scotians must now look to the provincial government to step in to insure electricity costs are affordable.

Although this decision is disappointing, the AEC expressed unanimous support for going forward with the case, and are hopeful that the Appellants will agree to file a joint application. The option at this point is to apply for leave to appeal to the Supreme Court of Canada.

We attended a follow up meeting with NSPI about their credit and collections policies, and, after working together on a pilot project that would offer more manageable arrears settlement for low income Nova Scotians, we presented a 6-month pilot project to the Utility and Review Board, and were successful in getting one section of the Regulations suspended for the duration of the pilot. This pilot project has been adopted by NSPI as part of their procedure, which in and of itself is a positive step forward. However, we continue to get many calls from NSPI customers who are in arrears or at risk of having their power disconnected that they are getting the same response from NSPI Credit and Collections department – meaning they are not being offered an extended repayment period. The AEC will be in talks with NSPI about their plan to fulfill their policy obligations.

Access to Justice

Legal Aid Appeals Project: The Legal Aid Appeals Project assists people with their appeals for legal aid funding from the Nova Scotia Legal Aid Commission. Our volunteer law students assist with the drafting of appeal briefs to the Commission, and will provide support at appeal hearings. The students have been doing a great job and are committed to supporting people through this process.

Legal Links: This continues to be a major initiative of Dalhousie Legal Aid to assist the low income community in accessing services and information about their rights and representation. The Legal Links project is in its 6th year of operation. The project provides information to clients who either meet with Legal Links in the community, or make contact by phone.

We have noticed an increase in number of calls received by our community legal workers. As a result, we have set up a project with volunteer students who have already completed a clinical term to assist with the first contact on many of these calls, offering legal information and summary advice. We are excited to supervise a project that gives law students an opportunity to work with clients directly, and that can increase the number of people that we can assist. This project has proved to be successful for both the law students and the community at large. We will continue this project as long as we have resources.

In total, staff and volunteers made 286 contacts with people over the phone, offering them legal information, summary advice, and referral information.

We continue to hold legal "clinics" at organizations around HRM. The host organization books 1/2 hour appointments, with someone from DLAS, at their organization. This provides us with an opportunity to reach diverse, vulnerable and at risk populations within our community in a safe, confidential setting. In total we met with 122 individuals and families at these clinics, offering assistance on a variety of legal issues. We offer these monthly legal clinics at: Metro Immigrant Settlement Association, Adsum House women's shelter, Bayers Westwood Parent Resource Centre, Stepping Stone, Direction 180 and the Single Parent Centre.

We are currently working with Metro Turning Point men's shelter to develop a legal clinic that would meet the needs of their organization.

We continued to facilitate workshops on a broad range of legal issues. In 2008 we held our second "Winter Legal Workshop Series" for newcomers to Canada, in partnership with the Metro Immigrant Settlement Association and Community Justice Society. The series was very well attended, with anywhere from 25-40 people in attendance, complete with translators for a range of languages. We have finalized our schedule for upcoming legal workshops in 2008 our 3rd year of this great project.

Our staff facilitated several workshops as requested on youth law, custody access & maintenance, Income Assistance, debtor creditor, tenant rights, affordable energy issues and child protection. The host organizations were the Aids Coalition of Nova Scotia, Bayers Westwood Parent Resource Centre Supportive Housing for Young Mothers, Indigo for Women, MISA, Single Parent Centre, Adsum Centre, Doulas, School of Social Work, Women Unlimited, Colchester Anti Poverty Network, Maggies Place in Amherst, Amherst Advocates, YMCA New Comers, Dartmouth Family Centre, Nova Scotia Public Interest Research Group and Phoenix for Youth.

Urban Aboriginal Housing: Look at issues facing Aboriginal people in urban settings with respect to adequate and affordable housing. We also sit on the Board of Directors of Tawaak Housing Association.

Mental Health Bedford-Sackville: We attended group meeting with elderly women living in abusive relationships regarding family law issues.

Out of the Cold Winter Shelter: We sat on the Out of the Cold Winter Shelter Organizing Committee that formed in response the provincial government's decision not to fund the running of Pendleton Place this winter. Our committee is comprised of faith-based organizations, support service providers, shelter providers, medical staff and social workers from the community. We mobilized because we saw an immediate need to offer an alternative shelter to people living on the street who either can't or won't access the other shelters. Our committee experienced many roadblocks to setting up this shelter - we received no money from either the provincial nor federal government and we struggled to find a place to run the shelter. We were confronted with strong "not in my backyard" sentiments from some community members who were vehemently opposed to having the shelter operate in their community. However, we were also overwhelmed (pleasantly) by the 80+ people who volunteered to work at the shelter. Our organizing committee provided volunteers with training and guidance on how to effectively/safely work in the shelter. The shelter will be open until the end of April and is operating 100% on donations and volunteer time. The shelter provides a much needed service to some community members who find it unsafe and challenging to stay at the already full existing shelters.

LEGAL SERVICES TO CLIENTS:

During this period we opened 408 new client files; 177 in the area of administrative or poverty law, 12 adult and child protection, 135 young persons involved in the criminal justice system, 58 family law, and 26 community files. This brings the total number of open files to 489, 53 of which are community files and 134 of which are in the poverty law area.

CLINICAL LEGAL EDUCATION

Participation of third year law students in the work of Dalhousie Legal Aid Service continues to be a high priority. Our community development projects and law reform initiatives play a key role in their education. The exposure of students to systemic and discriminatory problems faced by the low-income community broadens their perspective regarding the impact of the law on the lives of the disadvantaged and powerless.

We continue to be active in student placement activities, participating in a recruitment session with law firms and government departments held at the Dalhousie Law School. The inquiries and expressed interest continues to be high.

Student enrolment was oversubscribed for the summer and fall terms in 2008 and we had a waitlist for the winter 2009 program. Unfortunately, students on the waitlist for these terms were unable to receive the benefits of the program due to oversubscription.

STUDENT ENROLMENT						
Term	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
Summer	9	13	11	11	11	12
Fall	6	13	15	15	16	16
Winter	13	14	16	15	16	16
Total	28	40	42	41	43	44

STAFFING

The management of Dalhousie Legal Aid Service has been carried out by the Executive Director, Donna Franey since May, 1995 and she has been a member of staff since 1990. Our dedicated staff consists of Staff Lawyers, Claire McNeil (1991), Shawna Hoyte (1995), Heather McNeill (1997), Susanne Litke (1999) and Susan Young (2001). Our work was enriched by the valuable contributions of our Community Legal Workers, Megan Leslie (2004 - August 2008), Fiona Traynor (September 2008) and Cole Webber (2007). Our support staff continues to be dedicated to the work of the clinic. The year started out with Catherine Currell as Office Manager and she was replaced in May 2008 by Reena Cipryk. Cathy Leiper (1976) and Lynette Colley (2005) share Reception duties, Melinda Shaw (1984) and Susan Jones (1999) are Legal Assistants. In addition, Adam Panko continued his articling position until the end of August 2008.

Our volunteers have been numerous this year and we have students from ProBono Student Canada, SALSA, law students and Dalhousie Undergrad students. These students have been serving our clients, staff and clinic students. Many thanks to Spencer Dellapinna, Rick Eng, Mat Kelly, Eric Little, Brian MacDonald, Connie MacIsaac, Scott Millar, Jackie Pidduck, Angela Potvin, Andrew Robb, Georgina Vibert, Jen Warford, Mark Wolf, and Maren Zimmer.

Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,

Donna D. Franey
Executive Director

cc: Dean, Phillip Saunders
Encl. (2008-2009 Budget)