

# REPORT ON SERVICES PROVIDED BY DALHOUSIE LEGAL AID SERVICE

## **MESSAGE FROM THE EXECUTIVE DIRECTOR**

The past fiscal year has presented Dalhousie Legal Aid Service, staff, students, volunteers and board members with one of the most difficult challenges this organization has faced in many years. With the Provincial Government's withdrawal of funding for poverty law services, the decrease in government funding overall, and the imposition of a new funding arrangement on the operation of DLAS, changes to the way we work have been inevitable and necessary. It would be an overstatement to say it has been comfortable. While change and uncertainty can breed discontent, it has served to help re-focus our organization on developing strategies and insights into how we can best deliver our service and maintain our commitment to our tripartite mandate:

- *To provide legal aid services for persons who otherwise would not be able to obtain legal advice or assistance;*
- *To conduct research, provide information, make recommendations, and engage in programs relating to legal aid and law reform in the Province of Nova Scotia;*
- *To provide an educational experience for students enrolled in the Faculty of Law of Dalhousie University, in the solution of legal problems.*

## **BOARD OF TRUSTEES**

Members of Board of Trustees continue to be committed to serving DLAS as it struggles to maintain its commitment to the community, students and social justice. Much of the work of the Board has focused on funding issues, and strategies to maintain independence and commitment to the founding mandate. DLAS is grateful for the dedication, wisdom and service of these members who give of themselves and their time freely in the name of social justice.

## **FUNDING**

We have worked under the new funding arrangement instituted by the Legal Aid Commission over the past fiscal year. Difficulties and transitional adjustments have abounded. Some of the greatest challenges are outlined below:

### **Community Development and Law Reform Initiatives**

Included here are such services as community legal education which provides the tools for people to help themselves as well as education for front line workers; test case litigation and charter challenges which seek to reform the law to ensure equitable treatment for all; and participation in and development of initiatives to address issues of social justice.

Working under the new funding arrangement has had substantial implications for how DLAS works in the community and the types of services we are able to offer to those living in poverty. These implications run the gamut from loss of control over direct intake in the community through community agencies such as Bryony House, Adsum House, and Single Parent Centres to drastically changing our mandate with respect to provision of poverty law, community development and law reform services in the community.

At DLAS, all individual case work is legal aid work. A steady diet of limited preparation times provided by the tariff effects the ability of DLAS staff lawyers to fulfill other aspects of our mandate, particularly in the area of poverty law, community development and law reform.

The Legal Aid Commission funding proposal has translated into working in excess of tariff preparation times to ensure quality service to the client and maintenance of professional integrity. The return for the expenditure of hours has been less funding. In other words, the staff lawyers cannot charge a significant portion of their work on the files to the Commission because of the unrealistic preparation times. As a result, those hours usually committed by the staff lawyers to community development and law reform matters would be spent on individual client files. The expertise of the staff lawyers in this area would be a loss felt by the low income community.

Our staff lawyers have a developed expertise in the area of community development, poverty law and issues of law reform. Part of the formula that makes their work successful and meaningful is the link they have established with the community. This link enables them to identify needs and bring forward matters to develop initiatives to address issues of those living in poverty.

This is especially true of our staff lawyers working in the black and aboriginal communities. Such an expertise informed by experience, culture and hands on work would be difficult to duplicate. This underscores the importance of maintaining their ability to continue to work in these areas.

The difficulties outlined above had the potential of fundamentally changing the face of DLAS and eliminating this vital service which has become a hallmark of our work in the low income community. Through a generous commitment of funding in the amount of \$120,000 for the past fiscal year, the Law Foundation of Nova Scotia has given a life sustaining contribution and recognition to the importance and necessity of this work. The assistance of the Law Foundation in addressing and ameliorating the potential impact of these changes stands in testament to its commitment to access to justice for the low income community. The generosity and vision of the Law Foundation has enabled our lawyers to continue to provide services in the area of community development, law reform and poverty law.

- **Work in Progress: Service to Individual Clients**

The position taken by the Legal Aid Commission with respect to recognition of work in progress when the new funding arrangement was imposed has led to a host of transitional and resource difficulties. The refusal of the Legal Aid Commission to compensate or recognize fully the work in progress of DLAS, coupled with our professional obligations to complete cases for then current clients, lead to overwhelming demands on staff. We have and continue to struggle to meet billing targets carrying caseloads consisting of both billable and non-billable files. Not insignificantly adding to this burden is the life cycle of certificate files that often extend beyond a year and cannot be fully billed in the year received. We continue to take referrals from NSLA (HRM Offices) on a monthly basis, some of which will be received as new cases days before the close of our fiscal year, leaving them completely unbillable for the purposes of the meeting the funding target.

- **Independent Individual Intake**

Funding constraints and referrals of cases from NSLA has had an impact on our ability to do independent intake in the community in many areas including referrals from community agencies. The commitment of hours far beyond those billable under the certificate system has resulted in concentration on billable files to the detriment of independent individual intake. The Legal Aid Commission has taken the position that only cases that are in conflict with NSLA offices will be billable to the Commission. Hence, any other intake taken on by DLAS must be funded through our own resources. This is an issue of importance to DLAS, and strategies to explore means of maintaining this link to the community and cases addressing broad areas of importance such as violence against women, discrimination and poverty law continue to be pursued.

- **Poverty Law Services**

The new funding arrangement also has implications for this branch of our mission. Both the board and staff of DLAS see maintenance of our work in this area as vital

to the issue of access to justice. An elimination of services would result in the most vulnerable of our society having no voice when they are unfairly treated with respect to accessing government benefits such as social assistance, or dealing with termination of essential services such as electricity. No longer would those dealing with discrimination on the basis of race, gender or income have access to representation to fight against inequitable treatment from the government, employers, the police or the school system.

In addition, the inability of DLAS to provide these services would impact on our capacity to develop broader initiatives in the area of law reform to address issues that individual poverty work brings to light. As a result of our limited resources, we have experienced a need to deliver our services in this area in a different form. Hence we have instituted the "Legal Links" program which seeks to provide information clinics to the poor from community based sites to address legal needs, strategies, self help remedies, and representation on issues identified by the communities. Once again, the contribution of the Law Foundation of Nova Scotia has been critical to the viability of this initiative.

## **FINANCE**

Our financial statement for the year ending March 2001 is attached.

Our financial statement for the year-to-date ending December 31-01 is attached.

Dalhousie Law School Alumni contributed \$3,625.00 during the 2000-2001 year, in addition to this, the alumni partnered with Eastern Front Theatre to present the fifth annual fundraiser, "Passion, Murder and Fraud". The proceeds to DLAS were \$3,723.00.

Funding from alumni continues to decline. We have been actively seeking alumni donations. In December we sent out a letter to all clinic alumni, along with our most current newsletter. To date, the response has been positive. It should be noted that operating budget deficits are covered by our alumni donation account. The current balance of this account is: \$88,032. It is anticipated that we will use a portion of this account to offset our deficit.

Normally the Law School appoints a faculty member to the Clinical Law Program, in addition to the Executive Director. Due to shortfalls in staffing at the Law School, it has not been possible for a faculty member to attend the Clinic. In response to this, the Law School has, once again, increased the Clinic's budget envelope by \$27,950. This helps defer the cost of hiring an additional staff lawyer on contract to fill the vacancy.

Our separate building and maintenance account has a current balance of \$35,603. It is anticipated that over the next two-three years a roof top air conditioning/heating unit will be required at a cost of \$30,000 to \$45,000.

## **COMMUNITY DEVELOPMENT AND LAW REFORM**

Our work under this branch of our mandate continues to be centered around test case litigation, community legal education, and advocacy. With many changes to the social assistance regime, much of our work has been focused on this issue. We continue to work in areas of public housing, violence against women and equality initiatives.

### **1. Test Case Litigation**

#### **CHARTER CHALLENGES**

**Mental Health-Hospitals Act:** We have experienced some movement around the issues in this case that have seen the Nova Scotia Hospital initiate a review of policy and strategies to address real problems evident in the provisions of the *Hospitals Act* regarding questions related to involuntary admission, the right to seek counsel, consent to treatment and due process.

**Mental Health-Access to Information and Accountability:** We are exploring a challenge to the provisions, in particular, of the Incompetent Persons Act that will address deficiencies in the Act in the areas of access to information and accountability. The equality provisions as outlined under section 15 of the *Charter* are central to this initiative.

**Intestate Succession Act:** We are challenging the failure to recognize common law relationships under this statute using *section 15 of the Charter*. Although the circumstances of those seeking to use this law may be similar to those who are legally married, they are denied similar access due to marital status.

### **2. Community Legal Education**

**Black Community Advocates Conference:** We provided information and training sessions on the new social assistance program for the Black Advocates training Conference.

**Education and Action for Change:** a one hour information session was held with the Women's Committee of the Nova Scotia Government Employees Union.

**Assessing the New Social Assistance Regulations:** an afternoon briefing and discussion session was held with Anti-poverty activists concerning the just-released regulations to the new social assistance legislation.

**Revisions for Legal Information Society of Nova Scotia:** a consultation was held with this organization to update and revise their public legal information brochure on social assistance.

**What's Happening to Our Social Assistance System?** : An information session at Connections Clubhouse was held during the summer of 2001 on the changes and future regarding social assistance. The clubhouse is a support and drop in center of the QE II Health Sciences Center for persons with physical, intellectual and/or mental disabilities.

**The New New Social Assistance System:** an information session on this topic was held for People First, a support and advocacy organization for and of persons with intellectual disabilities.

**What's Happening to Our Social Assistance System?** : an information session on this topic was held for persons on social assistance at Lea Place, the women's center in Sheet Harbour, Nova Scotia.

**White People's Response to Racism:** we participated in a radio interview on this subject at CKDU-FM in October, 2001.

**Guaranteed Annual Income: A Socially Responsible Alternative:** we participated in a radio debate on this topic which was aired on CBC Radio One in October, 2001. We also made submissions and a presentation to the Federal Finance Committee on this subject.

**Child Poverty and Social Assistance:** we participated in a panel presentation at the opening of a national photo exhibit of child poverty in November, 2001.

**Street Feat Contributions:** We contributed two articles to this valuable and worthwhile paper that has a mission to provide a voice for the poor, educate and develop a critical conscience, to develop a community based solution to poverty and to generate income for those in need. The August /September 2001 issue dealt with Justice and Poverty featuring an interview with one of our community legal workers and the September, 2001 article dealt with the barriers and deficiencies in the education system for those from low income communities.

**Youth Criminal Justice Act:** we participated with the Department of Justice in a day long presentation on the new Act.

**Consultations:** We participated in a consultation with Justice Canada: Public Legal Education and Information to provide input for the development of a Framework Document identifying legal information and education needs and strategies to address the same. The report on this initiative has recently been released.

We participated in a consultation with groups in Prince Edward Island about the legal needs of the low income community and assisted in developing strategies to address deficiencies and gaps in the system.

### **Submissions to Law Amendments Committee of the Nova Scotia**

**Legislature:** Dalhousie Legal Aid made both written submissions and oral presentations to the committee on proposed legislation regarding the Employment Support and Income Assistance Act as well as the Domestic Violence Intervention Act.

**Knowing your Rights and Responsibilities:** We continue to make presentations throughout the Halifax Regional Municipality to elementary, junior high and high school students regarding how the legal system works with a focus on their legal rights and responsibilities as citizens. We also continue to participate in youth job shadowing programs.

### **3. Community Advocacy**

#### **EQUALITY:**

**Nova Scotia Aids Coalition:** we are working with the policy committee to develop policies to address issues of disclosure of HIV status and employee and volunteer obligations, as well as committee work to revise the organization's bylaws.

**Lesbian, Gay and Bisexual Youth Project:** we have participated in the project by offering information and advice concerning issues of consent as well as co-facilitating a Women's group offered twice monthly for young lesbian and bi-sexual women.

**Humanities Project:** we have participated by offering support, guidance and consultation to a group of social work students who are developing a course in the humanities to offer to people living in poverty.

**Nova Scotia Family Services Association:** we sit on the Board of Directors of this organization and have been involved with the strategic planning process regarding services for the Black community.

**Youth Alternatives Services - Ad hoc Committee:** we serve on this committee and participate in discussions concerning Black youth and the criminal justice system.

**BCAANS (Black Community Advocates Assoc of Nova Scotia)** we provide ongoing support to the advocates by provision of legal information. Many of the questions from the advocates are with respect to the criminal justice system and human rights, youth and the law. Many of the calls come from the HRM area as well as the Yarmouth, Kentville, New Minus Black communities

**Metro Coalition for A Non-Racist Society:** Dalhousie Legal Aid Service was a founder of this group and continues to be one of the primary resources to it. During 2001, the group focused its energy on education and community support regarding the *Campbell v. Derrick and Jones* libel case. Our work included press

releases and press interviews during and after a community rally supporting the defendants in this case in the fall of 2001.

**Nova Scotia Home for Coloured Children:** We sit on the Board of Directors of this institution. We provide support, resources and guidance to the Board on many issues.

**Mi'Kmaq Justice and Native Court Worker Program:** We have continued to provide resources and consultation services to this program that seeks to create initiatives and advance social justice for the Mi'Kmaq of Nova Scotia.

**Aboriginal Peoples Health:** We are involved in a national organization conceived by the Royal Commission on Aboriginal Peoples. This initiative seeks to advance the health of Aboriginal Peoples by developing a holistic approach to health care in the aboriginal community.

**Native Housing:** We work with a not for profit society dedicated to strengthening efforts, policies and programs to ensure that all Canadians and in particular, native peoples have access to and benefit from adequate and safe shelter. We provide support and resources to this organization through consultation with the native community and development of negotiation strategies.

## **VIOLENCE AGAINST WOMEN**

**Bryony House:** We continue to provide information sessions to the residents of Bryony House on legal rights, responsibilities and new developments in the law. We also sit as a member of the Board of Directors for this organization and offer training to the front line workers. Most recently we presented a session to the staff members on the topic of *Being a Witness In Court Proceedings*.

**Stepping Stone:** We sit on the Board of Directors of this organization that seeks to address issues faced by those involved in the sex trade. We provide research and consultation as resources to this organization.

**Domestic Violence Module:** We participated on a panel of experts to provide information, perspective and guidance to health care students when dealing with issues of Domestic Violence.

## **POVERTY**

The drastic changes to Nova Scotia's social assistance system were adopted via legislation on October 31, 2000 and implemented on August 1, 2001 for people on social assistance, and October 1, 2001 for single parents. Persons with disabilities have not yet been switched to the new system. These changes have reduced assistance for single parents and their children previously on Family Benefits. As well, policies concerning employment and student loans have disintitled persons

formerly eligible. Dalhousie Legal Aid service continues to take a leadership role in educating people about these cuts and organizing people to fight against them.

**Anti-poverty Network:** Dalhousie Legal Aid organized this grass roots group of people in poverty in 1990. The mandate of the group is to give people in poverty a united voice on poverty issues. It carries out community education, lobbying and other law reform activities. Members of this group were active in making submissions to the law amendments committee of the legislature in November, 2000 and participating in demonstrations in August and November 2001.

**Community Advocates Network:** This is an alliance of anti-poverty, disability rights, and women's groups; community agencies, unions, churches and professional associations with a mandate to lobby for decent social assistance reform that meets the real needs of people. This group held its second annual *Fighting Poverty in Nova Scotia* conference on October 27, 2001. Single parents and persons with disabilities and their advocates from across Nova Scotia attended this conference. Our specific role was to present a session on the most recent changes and implications of the new social assistance system. Out of this conference has come a strategy to co-ordinate monthly Province-wide protests and public education actions about the cuts to social assistance, and instructions to research possible legal challenges to these changes.

The group also took a major role in providing workshops on social assistance reform in 2001. Three one-day workshops-two in Halifax and one in Sydney-entitled *August 1: Countdown to Chaos* were held in the summer of 2001 for persons on social assistance, community-based agencies, church groups, professional associations and unions. We were key players and major contributors to all aspects of this project-planning, designing, researching, presenting, evaluation and follow up.

Out of these workshops came a demonstration of August 1, 2001 to protest the implementation of the new social assistance act. This demonstration included a "grocery basket" action to educate the public about social assistance and poverty. The group developed budgets and organized grocery baskets filled with replica items to simulate how little families and individuals in poverty could purchase. Our work was also substantial in this project, which received extensive media coverage.

## **OTHER INITIATIVES:**

### **Legal Links**

This program was established through "pilot project" funding provided by a Millennium Grant from the Law Foundation of Nova Scotia. It has the following objectives:

- To better serve the community by providing access to general legal information, as well as, referral and resource information in an on site setting throughout the community.

- To provide law students with a meaningful opportunity to serve the community; to learn practical skills; to gain experience in dealing with people and problems in a supervised environment; to expand their knowledge with respect to substantive law and how it works; to instill a desire to continue to contribute to their communities after their law school education is complete.
- To operate as outreach for Dalhousie Legal Aid Service in the community and with other community organizations to assist in the identification of issues for law reform or community development initiatives.
- Explore the potential for setting up a phone information service or a 1-800-P-O-V-E-R-T-Y LINE to provide information, referrals and possibly preliminary or summary advice.
- To develop advice only intakes to provide client groups with information and advice about the legal system, accessing services, as well as guidance for specific topic areas.

We have been achieving these objectives throughout the year by hosting outreach information clinics on site in and for the low income community. Presentation topics have been those identified as important by the communities. We have also made a formal submission to Dalhousie Law School to have the program become a two credit course for second and third year law students.

## LEGAL SERVICES TO CLIENTS

Below is our individual case work and billings to the Nova Scotia Legal Aid Commission for the 2000-2001 and 2001-02. Our poverty law work, and unbillable work in progress that we continue to carry is included with regard to numbers of files, but not in the funding analysis. It should be noted that neither of these case types are funded by the government.

<b>Individual Legal Services to Clients 2000-2001 CLOSED AND BILLED</b>		
<b>Category</b>	<b>Total Files</b>	<b>Total Amount</b>
Family Law	76	\$96,284.00
Civil Law	153	\$77,800.00
Young Offender Matters	61	\$33,915.00
<b>Total</b>	<b>290</b>	<b>\$207,999.00</b>

<b>Closed, Unbilled Individual Client Files 2000-2001 CLOSED AND NON-BILLABLE</b>		
Category	Total Files	Total Amount
Civil Law	25	\$ 8,815.00
Young Offender Matters	43	\$21,407.00
<b>Total</b>	<b>68</b>	<b>\$30,222.00</b>

<b>Total Closed Individual Client Files 2000-2001</b>	
Category	Total Files
Civil Law	178
Young Offender Matters	104
<b>Family</b>	<b>76</b>
<b>Total</b>	<b>358</b>

<b>Individual Legal Services to Clients 2001 YTD (April 1-01 to December 31-01) CLOSED AND BILLED</b>		
Category	Total Files	Total Amount
Family Law	98	\$51,444.00
Civil Law	6	\$ 4,410.00
Young Offender Matters	42	\$15,615.00
<b>Total</b>	<b>87</b>	<b>\$71,469.00</b>

<b>Individual Legal Services to Clients 2001 YTD (April 1-01 to December 31-01) CLOSED AND NON-BILLABLE</b>	
Category	Total Files
Family Law	19
Civil Law	89
Young Offender Matters	13
<b>Total</b>	<b>121</b>

<b>Current Open Caseload                      (April 1-01 to December 31-01)                      (Billable Certificate Files)</b>		
Category	Total Files	Total Tariff Hours
Family Law	121	1019
Young Offender Matters	23	161
Total	144	1180

<b>Current Open Caseload                      (April 1-02 to December 31-01)                      (Non-Billable Files)</b>	
Category	Total Files
Family Law	73
Young Offender Matters	7
Civil Law	96
Community Files	23
Total	199

## CLINICAL LEGAL EDUCATION

For many law students, the ability to provide services to the elderly whose pharmacare has been unfairly terminated; the disabled who cannot access services; and the single mother who is facing eviction or termination of social assistance due to discrimination is an experience that is otherwise unparalleled in the context of their legal education. It instills in them a broader perspective on how the legal system operates and effects this segment of our society. It often leads to a commitment to public and community service in their professional lives and brings to life what is referred at Dalhousie Law School as "The Weldon Tradition."

We have been honoured this past year by a social work placement student who has brought many talents to his work with us. We have experienced a drop in enrolment rates from past years for a number of complex factors. We also understand that the nature of our student numbers is often cyclical and unrelated to the value of the experience and learning. The following table sets out the number of law students who have participated in the program over the past three years.

<b>Current Open Caseload (April 1-01 to December 31-01) (Billable Certificate &amp; Non-Billable Files)</b>	
<b>Category</b>	<b>Total Files</b>
Family Law	194
Young Offender Matters	30
Civil Law	96
Community Files	23
<b>Total</b>	<b>343</b>

## **STAFFING**

The management of Dalhousie Legal Aid Service has been carried out by the Executive Director, Donna Franey since May, 1995. Our Faculty Lawyer position continues to be filled on contract by our staff lawyer, Susanne Litke. We continue to benefit from the dedication and expertise of our core Staff Lawyers, Claire McNeil, Shawna Hoyte and Heather McNeill. Our Community Legal Workers are Jeanne Fay and Angela Peckford. We had the pleasure of welcoming Susan Young to our organization as a staff lawyer this past year. We are also appreciative to our diligent, dedicated support staff. Catherine Currell is the Office Manager, Cathy Leiper is the Receptionist, Melinda Shaw and Susan Jones are our Legal Assistants.

We are indebted and appreciative of the many volunteers who work behind the scenes to make delivery of the program possible. Although, their work is far from glamorous, it is essential to the stable operation of the service. Most recently we have welcomed Robin Hunter, a law graduate from UBC and Kendall Sterling, a Dalhousie graduate.

# **December 2000 - December 2001 ANNUAL REPORT**



**DALHOUSIE LEGAL AID SERVICE**