

Feasibility Study

Community Justice Centre in Nova Scotia



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The complete study is available in French through the AJEFNE.

Executive Summary

The objective of the present Feasibility Study ("Study") is to assess the possibility of implementing a Community Justice Centre in Nova Scotia.

Initially, the Study examined compliance of the Canadian Justice System with the rights to equality pursuant to the *Canadian Charter of Rights and Freedoms*, particularly as it relates to the following: ". . . *each individual has the right to the equal protection and equal benefit of the law without discrimination*" (s. 15).

Numerous books, research papers, studies and surveys on the judicial system include very convincing facts, observations and arguments that conclude that all Canadians do not have access to the justice system in Canada. Therefore, not all people profit from the same rights to equal protection and benefit under the law, which would appear to be contrary to the following key pillar of Canadian law: "*the right to the equal protection and equal benefit of the law without discrimination*".

The Department of Justice of Canada posted on its Web site, Ab Currie's research paper entitled: "The Legal Problems of Everyday Life – The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians".

Mr. Currie's research findings indicate as follows: "*In general, 44.6% of the population experienced at least one justiciable problem, and these people experienced an average of 2.9 problems over the three-year reference period.*" Moreover, research indicates that only 41% of justiciable problems are settled within one year and 55% are still unresolved after a four-year period.

As well, Mr. Currie states that justiciable problems that have not been addressed appropriately often contribute to attracting additional issues and generating repercussions that will affect the individual's family as well as his or her mental and physical health. These issues cause not only distress and tragedy for those who are affected, but also create heavy financial burdens for society as a whole.

In addition, through his research, the author discovered that the majority of people are capable of settling their own justiciable problems. Individuals believe that the outcomes would be more positive with some guidance during the resolution process. According to the author, most justiciable problems need no intervention from the formal judiciary system, including lawyers and the courts.

In Canada, the provinces of Quebec, Ontario, Alberta and British Columbia have already established Community Justice Centres.

Quebec

Quebec is now in its final year of a three-year pilot project that established three Community Justice Centres situated in close proximity to courthouses in Montreal, Quebec and Rimouski.

This initiative was undertaken by Quebec's Department of Justice, with the financial support of the Barreau du Québec [bar], the Chambre des notaires du Québec [notaries' association] and the Société québécoise d'information juridique [legal information society]. Many legal partners offer support and services to the Community Justice Centres as well as being involved in the administration of this pilot project.

The Community Justice Centres provide legal information to the population at large based on the acknowledgement that each individual has the capacity of taking command of his or her own circumstances and also has the potential of making his or her own best personal choices.

Community Justice Centres refer clients to the appropriate resources available and guide them on the various procedures necessary to resolve their issues.

Since their implementation, the three centres have been remarkably successful. The Department of Justice has already committed to ensuring the continuity of their operations and is considering introducing twelve more centres across the province of Quebec. In order to finance this new initiative, a surcharge of \$4.00 will be added to all fines issued by the Province.

Ontario

There are three existing Law Information Centres (LInCs) in Ontario. Two are located in Toronto, at each of the Superior Court and Small Claims Court, and one at the Superior Court in Ottawa.

Law Help Ontario (LHO) is operated by Pro Bono Law Ontario, a charitable organization created in 2001 to act as a vehicle enabling private members of the Bar to respond to unmet legal needs. Legal information is available to the general population; however, litigants must meet the established financial eligibility criteria in order to receive pro bono assistance from LHO.

Firstly, LHO's objectives are to serve litigants who represent themselves, as long as they have the capacities and abilities to do so.

A large percentage of judges (80%) indicated that the assistance given by LHO, to help litigants prepare themselves for trial, alleviated the burden on the court system, thus allowing the judges

to spend less time giving direction during the trial and thereby saving time. As well, the judges were able to more easily maintain their neutrality.

The judges also stated that there was a reduction in the number of trials postponed by reason of litigants being ill prepared or lacking basic knowledge of the court system.

Alberta

In order to address the lack of coordination of the services available to litigants who represent themselves, and to assist them in better understanding the services available to help them, the Alberta government established Legal Information Centre ("LInC") offices under the jurisdiction of the Court Services Division of Alberta. These centres are located in courthouses in Calgary, Edmonton, Grande Prairie and Red Deer.

The LInCs offer legal information; however do not provide legal advice. Services are available in person, by telephone or by email.

A survey of LInCs' clients in 2011-2012 revealed that their level of satisfaction attained approximately 95%.

British Columbia

At present, two Justice Access Centres (JAC) exist in Vancouver and Nanaimo, under the jurisdiction of the Department of Justice of the Government of British Columbia. A third JAC will open its doors in Victoria in the fall of 2013, in partnership with the University of Victoria Law Centre.

JACs offer legal information and legal advice to the general population, as well as services through the Self-help and information Services program, and to individuals who are not represented by counsel in Supreme Court, respecting family and civil law matters.

At the time the announcement was made concerning the JAC in Victoria, a statement released on the performance of the Vancouver JAC revealed that only one-third of its clients needed the services of the Court, most often because the opposing party or the Court had initiated the actions. In these cases, the majority was better prepared and the cases proceeded more smoothly.

Nova Scotia

The 2011 census shows a population of 390,328 in the Halifax Regional Municipality, which is approximately half that of the population census of the City of Quebec, which is 765,706.

With the exception of the justice centres, Nova Scotia can be compared with the other provinces studied, as it relates particularly to stakeholders in the judicial system. Among these, the following possess mandates similar to those in the justice centres studied:

- The Legal Information Society of Nova Scotia provides a free direct telephone line to legal information and answers questions from the public, and maintains a Web site containing legal information;
- The Family Law Information Centre is open to the public and staffed by court personnel who can answer questions of a general nature on family law; clients can obtain information documents on legal questions relating to family law and court procedures.

As is the case with the other provinces studied, Nova Scotia has a legal aid program and a university faculty of law that provides pro bono legal services and advice to qualified individuals.

In Nova Scotia, just as in Quebec and British Columbia, a person can be referred to a lawyer and receive a half-hour consultation for a modest fee.

Contrary to British Columbia and Quebec, the population of Nova Scotia does not have access to an extensive pro bono program.

With the exception of the Government of Nova Scotia and the Department of Justice, many stakeholders within the Nova Scotia legal system experience serious financial difficulties that lead them to set their priorities and make difficult choices.

Community Justice Centre – Benefits and Community Needs

The Community Justice Centres that were assessed during the course of this Study have been very successful, not only in dealing with the extensive clientele served but also with the service providers.

In all these cases, we have been advised about the substantial gaps in legal information that were bridged by the Community Justice Centres. We note that clients now have the resources and financial means to solve their differences on their own, and in many cases, without recourse to the courts or traditional legal systems.

It has been noted that the welfare of society in general is improved when people are given the opportunity to solve problems that they believe are important, consequently, eliminating negative side effects linked to the consequences of enduring problems that often trigger additional issues, such as social, financial, and mental and physical health, for the individuals and their families. This additional burden on society should be avoided.

Noted as well, is the increase of efficiency and the decongestion of the courthouses when parties who represent themselves are better informed and prepared to claim their rights and let their voices be heard.

Access to justice is highlighted. Staff members have mentioned that since the creation of Community Justice Centres in Quebec, the Department of Justice is promoting a new slogan: "Access to Justice".

A judge from Nova Scotia, whom I had the privilege of meeting, believes that at least one party represents himself or herself in 30% to 40% of criminal cases and in 50% to 60% of family-related cases (Supreme Court excluded).

The consequences of these self-representations are manifest, as it relates to the elimination of backlogs, improved equity and efficiency of representations as well as reduction in overtime by the court employees who provide legal information to clients.

Mission of a Community Justice Centre in Nova Scotia

One important question that has arisen relates to providing legal "information" rather than legal "advice". This still remains problematic in the Community Justice Centres evaluated during the course of this Study.

Through Law Help Ontario, Pro Bono Law Ontario promotes access to justice in Ontario by providing opportunities to lawyers who offer pro bono legal services to people with limited resources.

A number of concerned stakeholders in Alberta identified a risk factor associated with the coordinators who would provide legal advice rather than legal information.

In British Columbia, an assessment of the BC Supreme Court Self-Help Centre clearly indicated that there were considerable shortcomings with respect to the expectations and needs of clients who could not obtain legal "advice". Clients and service providers considered Pro bono services as highly important, and many agreed with the fact that if clients could be referred to this service, that was in itself a success.

Therefore, the decision makers must clearly determine the scope of the services that would be offered in a Community Justice Centre in Nova Scotia; services that would effectively contribute to the decongestion of the courthouses without infringing upon the rights of the clients of law professionals in private practice.

Short and Long-Term Objectives

According to Statistics Canada, the HRM population includes 42.3% of the total population of Nova Scotia, which represents a very convincing factor when choosing the site of the first Community Justice Centre in Nova Scotia.

Furthermore, the census agglomeration of Cape Breton has a population of 101,619 inhabitants, 11% of which represents the total population of Nova Scotia. The establishment of a second Community Justice Centre in Sydney could serve the majority of Nova Scotians.

In the short term, a Community Justice Centre could be established in Halifax as a pilot project. It would be necessary to partner and closely cooperate with all stakeholders in the justice system in order to ensure provision of the most efficient complementary quality services without duplication or overlap. In order to succeed, it is imperative to reach all stakeholders in the justice system and to work with them in order to find win-win solutions for service providers and clients.

Another short-term challenge consists in reaching the population in order to inform and convince individuals of the accessibility to the justice system in Nova Scotia. As is the case in Quebec, information sessions, advertising and other measures directed toward service providers and the population are necessary for the success of this pilot project.

If the pilot project is successful in Halifax, the centre could be expanded and merged with the Dalhousie Legal Aid Service, as is the case envisioned at present by the Justice Access Centre in Victoria, British Columbia, which will open its doors in 2013.

The Community Justice Centre initiative could continue with the implementation of a centre in Sydney. In the long term, centres in other parts of Nova Scotia could be contemplated, similar to the Community Justice Centres in Quebec.

Potential Clients

Initially, the Community Justice Centre initiative in British Columbia was directed only towards individuals who represented themselves before the courts through the BC Supreme Court Self-

Help Centre. This initiative was expanded to include the entire population with the establishment of the Justice Access Centre and the conversion of the BC Supreme Court Self-Help Centre into a Justice Access Centre.

In Quebec, Ontario and Alberta, the entire population can access the Community Justice Centres.

In Nova Scotia, a bilingual Community Justice Centre should open its doors to the entire population, without discrimination.

Partnership Opportunities (courts and communities)

The key factors of a successful Community Justice Centre initiative in Nova Scotia are obviously the creation of partnerships and cooperation with all the stakeholders involved with the justice system and the community. Support from major stakeholders, such as the Nova Scotia Barristers' Society, the Nova Scotia Law Foundation and the Federal and Provincial governments are also imperative for the success of this initiative.

The active and direct involvement of the Association des juristes d'expression française de la Nouvelle-Écosse would be absolutely essential to the governance and administration of the Community Justice Centre in order to ensure bilingual services in the Community Justice Centre.

Legal partners who participated in this Study revealed that the two following organizations already provide legal information: the Family Law Information Centre and the Legal Information Society of Nova Scotia.

In 2011, the population census of the City of Quebec was 765,706, approximately double the population census of Halifax, which was 390,328.

Based solely on this demographic data, it is logical to predict an average of 12 consultations per working day at a Community Justice Centre in Halifax, considering that the average was estimated at 23 at the Community Justice Centre in the City of Quebec during the year 2012-2013.

At all three Community Justice Centres in Quebec, 45% to 48% of consultations take place on site, 48% to 52% of consultations are undertaken over the phone and 27% of consultations relate to Family Law.

At present, the Legal Information Society of Nova Scotia operates a direct legal information help line in Nova Scotia and the Family Law Information Centre (FLIC) presently offers legal information services on Family Law in Halifax and Sydney.

By subtracting the consultations related to Family Law (27%) that are presently offered by the FLICs and the telephone consultations (48%) being offered by the LInC, the result would be a revised average of 4.6 consultations per working day in a Community Justice Centre in Halifax. At an average of 45 minutes per consultation, less than four hours per day would be dedicated to consultations.

In my opinion, cooperation and complementary efforts are essential for the success of a Community Justice Centre in Nova Scotia. The creation of strong partnerships would be an essential component from the outset.

Types of Services Offered

As with all the Community Justice Centres assessed in this Study, the Community Justice Centre of Nova Scotia should provide legal information to the entire population based on the acknowledgement that each individual has the capacity to take charge of his or her own circumstances and the potential to make the best personal choices.

Community Justice Centres in Nova Scotia could refer clients to other appropriate resources available and guide them through the various processes necessary to resolve their issues.

The question relating to the provision of information and legal advice has previously been raised and must be considered in more detail by the stakeholders in the Nova Scotia legal system.

In order to reach and serve the entire population more adequately, services should be offered in person, by telephone, on the internet, and perhaps through other means of communication, such as Skype.

A working room, which would include computers, Internet, fax machine, printer and telephone, should also be made available to clients of the Community Justice Centre.

According to the scenario suggested above, the Legal Information Society of Nova Scotia could provide legal information services by Internet as well as information pamphlets. In partnership with the Society, workshops and information sessions could be offered in various areas.

Human, Material, Technological and Financial Resources Required

The scenarios contemplated, with the cooperation of stakeholders, will have a significant impact on the role of the Community Justice Centre as well as on the resources necessary to implement and operate a Community Justice Centre in Nova Scotia. However, it is premature at this time to provide estimates on this very important question.

Possible Financing Sources

The Government of Canada has heard the voices of the majority of Canadians who support bilingualism in Canada and has taken considerable measures, with the initiative of the Road Map, to protect and promote linguistic duality in Canada. One of the priorities established is accessibility to justice in minority situations.

The Road Map is a government-wide investment without precedent in the amount of 1.1 billion dollars over a five-year period, ending March 31, 2013. The Association des juristes d'expression française would be in an excellent position to take advantage of financing opportunities should this initiative be renewed. According to my sources, this possibility is very likely.

Another possibility would be a contribution under the Grants Program of the Law Foundation of Ontario who received various amounts of money following settlements of class action cases.

Grants provided by the Law Foundation of Ontario have contributed to the promotion of access to justice and self-help, including access on the basis of linguistic and rural circumstances.

In Quebec, Community Justice Centres will be financed by the Department of Justice of Quebec by way of a surcharge of \$4.00 added to each fine imposed.

In Alberta and British Columbia, the Community Justice Centres are financed directly by their respective governments while those in Ontario are financed by a charitable organization supported by a broad range of volunteers.