

## REPORT OF THE OCLN PROJECT

# Executive Summary

**M**ost people agree that access to justice is a fundamental right in a democratic society. It is important to examine barriers that Ontarians with civil legal needs may be facing when they seek legal assistance to access the justice system. This report is intended to provide an overview of civil legal needs, examine how those needs are being met, identify gaps, and to suggest strategies for addressing those gaps.

The Law Society of Upper Canada, Legal Aid Ontario, and Pro Bono Law Ontario share a common goal to improve access to justice for Ontarians. All three organizations already have in place a comprehensive range of programs and services designed to provide legal assistance to low and middle-income residents with a civil legal issue. Those services are heavily utilized. Until now, there has been no empirical data on how well those services are received, where there are unmet civil legal needs, and if existing resources could address those needs more effectively.

The three organizations agreed in 2008 to undertake a joint research project to identify and quantify for the first time the civil legal needs experienced by low and middle-income Ontarians. The research has three phases: a phone survey to assess quantitatively the civil legal needs, a series of focus groups with front-line legal and social service providers to identify gaps and areas for collaboration, and a mapping exercise to show the availability and range of existing services. The first two phases are now complete. This report contains the findings of the first two phases, which are focused on civil legal needs. The third phase, devoted to mapping the supply of legal services, will be completed in the fall of 2010.

The three partners agreed that the research results are intended to provide a baseline of reliable data about civil legal needs in order to inform planning and priorities in their ongoing response to civil legal needs. The partners' hope is that this study serves as a catalyst for further collaboration, coordination and innovation to ensure access to justice for all Ontarians.

## Accessing the justice system

This study underlines the need to help people demystify the justice system. For the hundreds of thousands of Ontarians who need help with a civil legal issue, the system is poorly understood or perceived to be inaccessible by many. By exploring the civil legal needs of low and middle-income Ontarians through a comprehensive research project, there is now for the first time a body of empirically sound data available for all to study and to use. Legal service providers, legal associations, social agencies, government and members of the justice system will all find in this report a thorough examination of the kinds of legal needs that arise among low and middle-income Ontarians, how they try to resolve those needs, and where resources could be better utilized.

Civil legal needs are a pervasive and invasive presence in the lives of many low and middle-income Ontarians. One in three low and middle-income Ontarians have had a non-criminal legal problem or issue in the past three years and one in ten has had multiple legal problems. Overall, almost four in ten people who had experienced a legal problem and sought assistance in the last three years reported that they were still working to resolve their most important problem.

The disruption that results in the daily lives of Ontarians when their civil legal needs cannot be met is significant. Unmet needs often cascade into greater problems for individuals and their families.

Civil legal issues include child custody disputes, wrongful dismissal, eviction from housing, powers of attorney, personal injury, and consumer debt. Resolving these issues can involve the courts, administrative tribunals, and regulatory bodies. The very complexity of the legal system itself can be a barrier to access to justice.

## Satisfaction with existing services

People are generally very satisfied when they get assistance from private lawyers and other professionals in the civil legal system. Almost 70 per cent of low and middle-income Ontarians who have experienced a civil legal problem in the last three years sought legal assistance from a lawyer whom they paid. Eighty per cent of those people stated that they found the assistance helpful.

The programs and other services provided by the Project partners are well received by those who access them. These are significant strengths in Ontario's civil justice system. They provide a valuable foundation for the way ahead.

A significant challenge is to find ways to encourage more people to receive the full benefit of the existing resources available to them. People often can't find

legal help because they don't know where to look, or because they perceive they won't be able to afford it. The study reveals, however, that fully half of the low and middle-income Ontarians who had civil legal needs were able to access free help or to resolve their legal problems for less than \$1,000 in legal service fees.

### **One size does not fit all**

The study reinforces the necessity of differentiating the needs of low and middle-income earners. There are vulnerability issues among many low-income Ontarians that compound the disruption and challenge created by a civil legal need. The specific legal issues are often different for the two groups. Middle-income Ontarians anticipate the need for legal assistance with wills, powers of attorney, or real estate issues. Low-income Ontarians are more likely to need legal help with disability-related issues, social assistance, personal injury or employment issues. More Ontarians in the lowest income group rely on non-legal sources of assistance for their problems, in particular friends and relatives.

Family law issues were seen by Ontarians across all income ranges as important to resolve. Other civil legal needs, however, can be disruptive and long-standing as well, including employment and personal injury issues. These findings suggest that there need to be multiple, diverse, and integrated access points and service responses.

### **Addressing legal needs on their own**

One in three respondents among low and middle-class Ontarians said they prefer to resolve their legal needs by themselves with legal advice, but not necessarily with the assistance of a legal professional. Legal advice was sought from a variety of sources, both legal and non-legal. In addition, many civil problems are resolved outside the formal justice system.

These responses indicate there are opportunities for the Project partners to broaden access to reliable information and assistance about legal processes and sources of self-help.

### **The traditional legal service model**

Legal service delivery traditionally assumes individual representation and direct legal support from a lawyer or paralegal in a traditional litigation model. More contemporary views augment the traditional model with an appropriate mix of alternative service models and providers based on an assessment of client needs.

The study also reinforces the value in continuing to rethink how legal services are provided to clients. Breaking down legal services into their component parts – or “unbundling” legal services – could in some cases provide clients the option of choosing which parts of a legal issue they resolve on their own and which parts are appropriate for professional help.

## Innovations

The study highlights the need for innovation, and recognizes the important innovations which already have been developed. For example, self-help centres allow self-represented litigants to access the justice system even if they cannot afford to retain a lawyer for full representation privately, or qualify for pro bono or Legal Aid. Pro Bono Law Ontario’s pilot project, Law Help Ontario, is a court-based self-help centre which provides a continuum of services based on a triage system that assesses litigant need and allocates resources based on those needs. During the pilot period, the walk-in centre served 6,845 clients, provided over 12,500 brief legal services with the support of over 200 lawyers, who contributed more than 2,100 hours of free legal assistance.

Another resource for those without legal representation is the Lawyer Referral Service (LRS) of the Law Society of Upper Canada. This is a free, public, bilingual service that helps people find a lawyer by providing a toll-free number, with client service representatives who provide the caller with the name and phone number of a local LRS member lawyer who is able to deal with their legal issue. If the person calls the LRS member lawyer, he or she will receive a free consultation of up to 30 minutes. In 2009, 48,329 calls were received by this service.

In addition to in-person self-help centres and referral resources, technology holds significant promise as a platform for the delivery of legal resources. According to the study, 84 per cent of low and middle-income Ontarians are connected to the Internet. The Internet is already an important means to convey legal information and resources. For example, CLEOnet, a project of Community Legal Education Ontario (CLEO), makes available an online collection of legal information and resources produced by community agencies and community legal clinics across Ontario. Technology creates opportunities beyond the transmission of legal information. For example, Law Help Ontario provides access to an online document assembly program that allows litigants to complete their court forms quickly and accurately. A total of 6,536 court forms were generated through this service in pilot period.

The survey revealed that most Ontarians are unaware of the online resources available to them through the Government of Ontario, the Law Society of Upper

Canada, Legal Aid Ontario and Pro Bono Law Ontario. Those who did use these resources, however, reported a very high satisfaction rate.

### **The way forward**

The report lays the groundwork for the three Project partners and other members of the legal community to work together in identifying and developing innovative solutions to continue to improve the access to justice for low and middle-income Ontarians. A range of solutions is required. Different people need different types of support based on their unique circumstances. A more vulnerable individual may need the assistance of a lawyer or paralegal while another individual may require access to clear and correct information.