

Community Justice Help: Alberta

Blogpost for Access to Justice Week

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Once again, Access to Justice Week provides an opportunity for those of us who work in Canada's justice sector to convene and take a close look at progress that has been made - and where gaps persist - to make justice more accessible to people across the country.

This year, our conversations are taking place in the midst of the COVID-19 pandemic. This public health crisis has resulted in the need for many Canadians to stay in their homes, a huge reduction in jobs, and a loss of regular income for many. In turn, this has spurred a host of problems: demands for emergency income support, worries about getting evicted due to non-payment of rent, concerns about being required to return to unsafe workplaces, and fears of domestic violence that are heightened by increased family isolation.

A few things jump out when considering these challenging circumstances. First, how interconnected these problems are, how one problem leads to and compounds another. Second, the multi-dimensional nature of the problems - they can be seen as health problems, financial problems, housing problems, and family problems. But, as the law underpins most of them, they can also be viewed as legal problems. A person experiencing one or more of these problems might seek support and assistance from a source that they know and trust, and that they can easily access at this extraordinary time. They might not seek help from a legal professional, particularly when they're first starting to look for support.

This takes us to the report that we authored, supported by funding from [The Law Foundation of Ontario](#) and recently released by CLEO, "[Community Justice Help: Advancing Community-Based Access to Justice](#)". In our report, we highlight the existence of an important source of help for people experiencing law-related problems: frontline workers at community-based not-for-profit organizations who are trained to assist their clients in the organization's area of specialty.

These workers understand the social context of their clients' lives and the interwoven nature of their problems. They give holistic help, including help with a law-related aspect, in response to clients' multi-faceted problems. And they often connect their clients with other experts in the community, including licensed legal services providers. Our paper calls this type of assistance "community justice help". We propose that it be supported and enabled, and we offer [a framework](#) for recognizing when it is of a high standard.

Examples of high-quality community justice help are abundant across Canada, including in Alberta. At the [Edmonton Mennonite Centre for Newcomers](#), for example, social workers help people navigate “complex systems” like the legal system, the health system, and child services; through their many locations, they serve thousands of newcomers every year. Caseworkers at the [Workers’ Resource Centre](#) help people access a variety of employment-related benefits and entitlements, and serve as agents for their clients in small claims court proceedings. And the [Elizabeth Fry Society in Edmonton](#) runs a program to support people appearing in provincial criminal court, explaining court procedures and terminology, and giving practical assistance and emotional support.

Our report notes the concern - often put forward by licensed legal service providers - that some community workers might provide help that exceeds their knowledge and skills, putting the public at risk of harmful consequences. This is, of course, a valid concern. But it is tempered by the reality that many people, especially those who are vulnerable or have low incomes, will not get help with their legal problems without intervention from a community justice helper, putting them at risk of injustice.

As well, the concern about “bad help” should be considered in light of the evidence. Through our research and consultations, we heard anecdotes of bad help being provided by both licensed and non-licensed sources of law-related assistance. But we did not find evidence of a high or pervasive risk of community workers providing bad quality help, or evidence of substantial harm resulting from bad help.

In fact, what we did find was that there are strong quality assurance mechanisms in Ontario’s not-for-profit sector - and, no doubt, in not-for-profit sectors across Canada - to protect the public interest; a commitment to protecting the public is not unique to legal services providers. Community workers do not charge clients for assistance; generally, there is no incentive for them to exceed their level of expertise. The very nature of their work is to serve the public interest. In a context where traditional legal expertise is inaccessible to many low- and moderate-income people, we argue that community justice help - trusted support that many people already turn to - should be recognized and better supported.

One aspect of community justice help that our report delves into is whether an impediment to community justice help exists in the regulatory regime and policies that apply to the provision of legal services. We note that the rules and policies in Ontario are slowly evolving to support a less “lawyer-centric” approach: for example, the creation of a “licensed paralegal” class,

allowing people with paralegal experience or training to provide some legal services in some areas of law.

Still, in Ontario, this “liberalization” has been slow and incremental. At present, it extends only to expanded licensing programs and to allowing alternative business structures for civil society organizations that employ lawyers or paralegals. And there has long been a perception that frontline workers can provide only general legal information and referrals. Our paper takes the position that this is a misperception – that the provision of community justice help is in alignment with the current regulatory regime – and gives our reasons for this conclusion. In the meantime, we are concerned that the lack of clarity – and the occasional “cease and desist” action taken by the Law Society of Ontario – creates a chill that impedes the ability of frontline workers to offer community justice help.

The rules in Alberta, although different in their specifics, are generally similar to Ontario’s in taking a lawyer-centric approach, as we’ve discovered in research we’re currently conducting for the Department of Justice Canada; in that research, we are examining the rules in other provinces and commonwealth countries. Our review of Alberta’s rules indicates that there does not appear to be any exceptions that authorize the provision of law-related assistance in the nature of community justice help.

Generally, in Alberta, the rules do not authorize non-lawyers to provide legal services. Alberta does have a relatively robust sector of private-market paralegals who operate independently of lawyers (but they are deliberately not subject to a dedicated licensing regime) and their activities appear to be based on, but not necessarily limited to, a collection of separate statutory permissions for representation by agents. As well, Alberta’s Law Society has relatively recently initiated a program for registration of Approved Legal Services Providers (ALSPs) in order to recognize and support non-profit organizations and programs in ‘delivering or facilitating the delivery of pro bono legal services.’ The ALSP appears to be similar to the allowance provided in Ontario to civil society organizations to provide legal services via licensed lawyers and paralegals, and so is also relatively ‘lawyer-centric’ in approach, although resonant with the community-based orientation of community justice help.

We do sense, very recently, a heightened recognition that enough is enough, and that we must take action – big and small – to make meaningful change to increase the ability of people in Canada to access justice. In our view, increasing access to the formal legal system **and** supporting community justice help are both vital to improving access to justice for people who experience social disadvantages; this is not an either/ or proposition.

Our report sets out one small action to increase access to justice, one with little downside but, we think, significant upside. Moving forward to advance and support community justice help is something best done by the legal profession and frontline professions working together – work that we hope that many of you will engage in.

For more information:

- [Read the full report](#) “Community Justice Help: Advancing Community-Based Access to Justice”
- Read a [summary of the full report](#)
- View a [short version of the framework](#)

Questions or comments? Please email communityjusticehelp@cleo.on.ca.