

## **Community Justice Help: British Columbia**

### **Blogpost for Access to Justice Week**

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By Julie Mathews (CLEO: Community Legal Education Ontario / Éducation juridique communautaire Ontario) and David Wiseman (uOttawa Faculty of Law)

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 British Columbia, where the [Law Foundation of BC](#) supports a network of legal advocacy programs through which non-lawyer advocates are embedded in community-based not-for-profit organizations around the province. Over 100 advocates in more than 50 communities across BC are currently funded through this program.

Most legal advocacy programs focus on poverty law, providing support with issues such as income assistance, housing, debt and other issues. There are also 24 programs that focus on providing family law services to communities around the province. Several organizations provide specialized services that support people in all parts of the province – organizations such as [Seniors First BC](#), [Disability Alliance BC](#), the [Tenant Resource & Advisory Centre](#), and the [Migrant Workers' Centre](#).

Legal advocates provide a range of services, including information and referral, summary advice, representation in administrative law matters, and help preparing some documents. The services of some programs are connected with the broader set of services offered by the not-for-profit organization housing the program, supporting a holistic approach to services provision. The advocates are highly and regularly trained, and are supported and supervised by an experienced lawyer. And the programs are regularly evaluated by the Law Foundation.

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 British Columbia stand somewhat in contrast to the approach in Ontario, 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. British Columbia uses a ‘lawyer-centric’ approach, similar to Ontario’s, in regulating the for-profit provision of legal services; it recently cut short a pilot program to explore the feasibility of permitting independent paralegal practise in selected areas of law. Very recently, it has been reported that a ‘regulatory sandbox’ will be set up to provide a protected space for supervised experimentation with new initiatives and mechanisms for non-lawyers to expand the provision of legal assistance (including through technology).

But, in contrast to Ontario, the law in BC explicitly exempts non-lawyers who provide services at no cost to the client from the prohibition against the unauthorized practice of law. Nonetheless, it is not clear whether this exemption has significantly lessened the chill related to the provision of law-related assistance by community justice helpers. Some shifts may be occurring; anecdotal evidence suggests that, in the last year or two, BC not-for-profits that are providing law-related help have become increasingly aware of the exemption and are reassured by its existence.

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](mailto:communityjusticehelp@cleo.on.ca).

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