**Community Justice Help Workshop – October 28, 2020**

**Feedback generated by all participants in group discussion**

1. **What is missing in the proposed approach to community justice help? What has not been considered?**

**RESOURCES/INFORMATION/ENGAGEMENT**

* Librarian’s biggest problem to A2J: they don’t know which organizations offer legal info/help. They don’t know where to send people.
* Challenge: finding tools and materials that are out there to help the client. People need the support of social community justice helpers throughout the process, not just in the legal issue itself.
* Need for a toolkit or guide that is consistent.
* Proposed approach is based on a presumption of trust
* Creative and thoughtful discussion are needed
* Mapping client journey in Canada: At what point people act as information support and how much that info helps them; how much help does a person need and how they go about it. Something that’s more transparent, visual and accessible. Public librarians can be help. In the US, there is work being done on the journey that an individual takes.

**REGULATION**

* LSO: Has a good handle of who in ON is and who has what. But don’t know, as a regulator, what’s the measure and what are the consequences of this framework? Aware of T.I. and they do fantastic work to access help, but a formal framework requires accountability. What happens when something does go wrong in this framework? Further discussion needed on this.
* A need for an overarching regulator?
* LSO Rules do not loosen restrictions on people giving borderline legal advice. For example, there are no exceptions to the rule that an individual without a license “cannot act as a barrister”. Alberta’s rules would need to be altered to allow for more legal aid clinics.

**STAKEHOLDERS**

* Municipal workers and people that work in the 311 number in Vancouver.
* Add librarians to this framework. It’s important – the cost of justice reports that was done a few years ago, some of the surveys tried to track the sort of help people seek but not to that level of detail. It did take into account people that looked for help and didn’t get it.
* A distinction is needed for public librarians and law librarians. Public librarians are doing some of this work but without or not as much support that they need to develop that level of skill to occupy that role.
* Big disconnect with lawyers and judges. They don’t tend to know what the client has gone through before and after. Part of understanding a client is to see what a person goes through and sharing the stories. Lawyers say I don’t understand what the gaps… it’s shocking. They don’t understand the stories behind the person and not just the legal issue. Not solving just a legal issue but the whole person or client, and treating this in a holistic approach.
* Would like to see the framework integrated into the private sector.
* Existing community organizations may not recognize themselves as “community justice help”. There is an arbitrary line between advice and information. The point of the report is to re-examine that line, to worry less about it. The report does not aim to implement new structures, only help existing ones. Rather than funding, a better issue to focus on is what the report would look like in other jurisdictions.
* In Quebec, most helpers do not know they are part of a community justice help ecosystem. Our first step should be to raise awareness within community justice help systems.

**FUNDING**

* Underfunding is a major problem for the non-for-profit sector. Community workers do a lot of grunt work (including document gathering and preparation) but are not compensated fairly at all. Furthermore, there is available community legal support, but such support is becoming increasingly limited. The participant mentions that her specific organization (The Salvation Army) has lost the lawyer who gave them free weekly legal advice, and she believes this has to do with underfunding.
* Consider if there was any way to introduce legislation that would allow people to get a tax rebate on legal expenses. A people can claim medical expenses, something similar should be done with legal expenses.
* One wondered where funding (to integrate the framework) is going to come from.
* The report exists within existing funding. A more pressing problem related to resource shortages is the difficulty in obtaining liability insurance.
* Liability insurance coverage needs to be negotiated nation-wide, on a macro level.

**CLINICS**

* The clinic infrastructure that forms the basis of the report is non-existent in Alberta.
* Legal aid clinics are “centres of excellence” in legal practice. Clinics can be branched out to be sources of support and expertise. We need to grow a network of clinics, widen the net.

1. **The report lists several markers of good quality community justice help. Are there markers that you would add? Are there markers that stand out for you?**

* One group largely endorsed the markers, a few suggestions were to add markers relating to Aboriginal clients and trauma-informed help
* Marker for expertise and skills speaks to the problem of staff retention in these organizations.
* It is crucial for caseworkers to have access to lawyers, particularly on matters that require advice from a qualified legal practitioner
* The markers suggested are very thorough
* Some sort of seal of approval/logo that shows “certification/accreditation” - a visual marker to show quality (used the ‘Good Housekeeping’ seal as example)
* Also what happens if markers aren’t met – not for profits aren’t motivated by financial interests but there are other things that motivate them that we might not see.

1. **What challenges do you see in adopting the framework proposed in the paper? How would you address or overcome those challenges?**

**FUNDING**

* Not-for-profit organizations are often precarious themselves, funding and staff turnover
* Lawyer in ON: “Where does the line get drawn between CW and legal services?”
  + Worrisome than CW are not experts. Propose to fund legal clinics for new lawyers, or new lawyers interested in working in legal clinics and for them to do this work. What’s needed is funding for existing legal clinics to hire lawyers.
* Connecting Ottawa – there are always gaps especially for individuals in precarious situations because there isn’t the money to ensure broad spectrum of legal support – a huge challenge.
* Connecting Ottawa – We provide the service to their case workers and their case workers provide it to their clients. How do you do this and what have the challenges been? There needs to be directed funding to create this coordinated body that provides the service in the way that David and Julie have recommended. There are going to be challenges mostly in terms of getting the quality assurance bodies to recognize the service provided by community justice helpers within their framework.
* There is a lack of community services to begin with in some Saskatchewan communities
  + Supervision and education to reduce or address liability risks
* We don’t have funding. I refer people to the community law group for 30mins to get legal support.

**RESOURCES/INFORMATION**

* The reality is that most community groups don’t have a lot of resources.
* Many CW’s and non-profits do such grounded work on the frontlines, they often collect strong data and research and document trends in their field. It’s important to recognize this work and see them also as strong policy advocates. Often their work can positively influence policy and make important contributions to law reform initiatives.
* Would like the term “summary legal help” eradicated from the process. Every time we are giving assistance, we get stuck on this. Level of training and understanding of legal process is critical.

**INFO VS ADVICE**

* Sometimes, it’s not about a particular legal issue, but specific to form filling, in NL, cannot fill forms on behalf of a client, and don’t want to send to legal services because they’re too busy to do just that, and don’t want people paying out of their pockets for something like that.

**COLLABORATIONS/PARTNERSHIPS**

* Clerks are more knowledgeable in terms of certain forms – untapped resource.
* We need to build relationships. Most lawyers don’t want to work with a CW b/c CW’s don’t always have the experience and might mess things up. We must create relationships with lawyers. Support people can interfere with legal processes.
* As a community org we try to build relationships with colleges and students who are studying the law. Hard to find lawyers to work with us. We do need relationships in community service law. We can supplement each other’s skill sets.
* As a community lawyer we saw the immense help and knowledge base CW’s had to deal with clients on the ground – it was very valuable. CW’s can augment the range of services where legal help is a portion of it. They bring in a different type of expertise – like social work, mental health – that was very helpful. Many lawyers don’t have this training.

**IMPLEMENTATION**

* Concerned about the roll-out of this – have seen a lot of staff turnover in local organizations … concerned about the reality of non-profits struggling within themselves and to cope with the issues in our country right now
* York Region is regrettably, a bit behind on infrastructure development. We’re a large clinic and depend hugely on our Trusted Intermediaries – what happens when a non-profit doesn’t meet many or most of those criteria that Julie set out as being required?
* There seem to be an optimistic expectation in this research that all non-profits meet those criteria. I have to tell you we’re just north of Steele’s Avenue in Toronto and even here I’ve seen some agencies e.g. one that claims to serve more than 700 people per year giving out information in one of the mainstay areas our clinic practices in, and they claim to have served over 2,800 people in 4 years and not a single referral has come to the legal clinic. They’re interested in generating those numbers but not necessarily interested in sharing them. There can be strong self interest in the non-profit sector too.

**REGULATION**

* One participant believed that community workers should attack legal problems early on, so as to prevent the matter from going to court (and becoming expensive and messy). This prompted discussion on the “chill” that exists over community members in relation to regulatory regimes.
* A participant noted that some community members believe they can’t help individuals fill out a form, in fear of crossing a line.
* One participant noted his concern with the recommendation for the LSO to recognize community workers. He stated that the Law Society is mandated to look after the public interest by making sure that the information they are giving is ethical and competent. He sees CJH as overstepping the responsibility of legal practitioners. Although he supports community workers through a moral lens, he has a concern with officially recognizing them.
* It was noted that the Law Society may not necessarily prosecute non-for-profit organizations for giving help to individuals, but that in some situations, they do send out cease and desist letters to organizations, to stop their work. On a positive note, she believes that Law Societies are moving in a direction where they would like to work with non-for-profit organizations in their endeavor of increasing access to justice.
* Most jurisdictions grapple with the challenge of regulator’s view of legal information vs legal advice
  + need more buy-in by the regulators to embrace the role in the contribution that public legal organizations or community justice organizations are making
  + they don’t compete with lawyers by taking their potential clients because the people they often hear from never go to lawyers, and if they do, it’s usually through the organization making a referral
* A paralegal noted that the paralegal profession came to be as means of providing more accessibility to the justice system. In this regard, they hope for more cooperation with the LSO.

**LIABILITY**

* Providing legal info is seen as a minimal, uninsurable risk.
  + Liability insurance is a huge issue if that is what is promoted as best practice b/c its unrealistic and feeds into regulator perception or misperception of there being a conflict in the rules that are provided
  + Most organizations don’t have any funding to create a liability aspect to it in terms of expanding beyond what the organization has to do to get that kind of coverage
* NS has a volunteer protection act that non-profit volunteers are protected from any liability as long as they’re acting in good faith – different than pay staff people but a lot of this work is done by volunteers
  + Might need to review volunteer protection legislation in other provinces
* Insurance – would you consider volunteer board members’ liability, b/c they have liability insurance for their members
  + Requires clarification in recommendation on what is the scope of the liability insurance b/c officers and directors won’t cover staff’s activities
* Some CW’s don’t have the knowledge and may prejudice the client. As a lawyer, we see the harm down the road. How do we prevent CW’s with the best of intentions to not harm their client? A little bit of help is better than none, but we need to be careful.

1. **What types of training and supports do you think are most needed by workers giving “community justice help” in Ontario? How do you suggest that these support programs be developed? Who should be involved? Can you suggest any current training or supports that could serve as examples?**

**REGULATION**

* LSO – often feel like we have a good handle on the ‘players in this field’, but what we don’t know (as Regulator) how do you acknowledge them, and what is the measure for excellence/quality work – and also, what is the consequence (when they don’t)
* How do you create that formal framework when it doesn’t have the ‘bells and whistles’ of regulation? (not that you want it, but what can you do about it?)

**COMPETITION**

* Feels that CLCs are competing with CLEO for PLE workshops
* It’s not to replace CLW’s or lawyers in clinic system – but I am wondering whether it is to supplement CLW’s and CLC lawyers – I like the “holistic” approach
* This project might call into question the role of clinic system lawyers and CLW’s
* Key message is the role of clinics in this. We’re now competing with CLEO for these PLE sessions.
* People at CLC’s are concerned about their role if CW are doing more of this work

**SUPPORT**

* One participant created the Indigenous Justice Network to improve access to services. Two main types of workers doing this work - court workers primarily based in Friendship Centres in urban areas and “Native Liaison Officers” (NILO’s) – they are overwhelmed with cases. Supports for people doing this work are limited.
* PLEAN only works part-time – they develop tools to help with court forms.

**REFERRALS**

* Right now with people at home, comm workers are trying to maintain their clients so they are shy about referring people to clinics – b/c numbers of clients are tied to funding

**TRAINING**

* while it’s a good idea to train people to detect legal issues, they need to be informed about referring clients to clinics
* training is needed for CW to do this work well
* We need to tie training processes to the people providing long-term support so that the training is substantive and contributes to the development of relationships over time. In other words, training should be integrated into what the service at a clinic actually looks like.
* May involve reciprocal training between legal service providers who know the law and community members who know their communities
  + More informal education, ways to educate where education does not become a barrier
* Mediation training helps immensely with communication between lawyers and clients. Mediation training helped Mary learn to communicate and understand client issues; she was better able to picture client issues as a whole and subsequently break them down to treatable sub-issues.
* training is essential b/c clients often come to them when they have been denied or made a mistake or have not disclosed something they should have disclosed
* It would be helpful for specialized lawyers to travel to community clinics and provide training there. Community clinics serve such a broad range of problems; they could use specialized support.
  + Difficult to realize because one community justice helper can serve in dozens of fields, meaning that helper will require multiple training sessions. A single training program to cover dozens of fields at once is unlikely.
* In NS, pro bono students at DalU work with community staff to help organizations that serve lower income people, but training tends to be piecemeal – no centralized legal community support staff training
* implement training through community college programs in ON with existing paralegal 2 yr certificate program
  + Might require a regulatory framework to see who can teach what in terms of private and public colleges
  + Whether private or public funded, courses can be set to meet this need to help with training there would be consistency in training, which would help with insurance concerns mentioned in Q3, as well as the quality of the information provided
* Legal Info Society NS are moving to online training for community volunteers and have found that to work BUT need centralized location catered to community members to help public which transcends line between paralegal and community person on legal information front
  + There could be continuing ed programs across all fields – LPNs, support workers, child and youth care worker, social workers, etc.
* How to find that sweet spot – those who are, can continue to do a great job – those with training. Problem is those without great training. And what do you do when something goes wrong?
* People have low computer literacy in some situations. CJH needed in the in between stages.

**ACCOUNTABILITY**

* I’ve seen situations where comm workers in non-clinic settings fail to recognize legal problems and even when they recognize these legal issues, they don’t always refer to legal clinics
* Law librarian in Newfoundland: doesn’t know where to send people – who is providing CJH? The public are frequently sent to them - they don’t know why. Sending people to the RIGHT place is so important. Frustrates the public.

**STAKEHOLDERS**

* Better coordination, central receptacle of info and places for referral – WHO DOES WHAT? And what services can agencies provide? Needs consistency.
* Legal aid networks need to be widened across the province. For example, if a major clinic is based in Toronto, it can establish sub-clinics in Barry and other communities across Ontario.
* Understanding that legal professionals cannot provide all of the required community support, building networks with community support services will strengthen trust and relationships
* Experience with Aboriginal Legal Services Toronto, previous work with prisons at federal and provincial level. The situation has only gotten worse. He is a paralegal candidate. In the process of creating a training program, Indigenous community and corrections justice advocates.
* The spectrum of support in the communities is restricted. It is limited to court workers that are really only in urban areas and Native Inmate Liaison Officers (NILOs). NILOs are over-burdened with caseloads.
* Community legal clinic perspective about the unintended consequences of this project: what is the results of encouraging people outside of the clinic to give guidance to their clients on essentially legal matters while clinics drop their community legal workers. Has experienced people outside the clinic failing to recognize legal issues where it’s a secondary matter to what community worker is dealing with. They need to refer people to legal clinics and not feel they need to deal with it themselves or else they’ll lose their clients (especially where they are paid by the number of clients, e.g. settlement agencies). It’s a great idea that people are trained. They also need to be encouraged to recognize the role of the legal clinic in their neighbourhood.
* ON licensed paralegal:what about law clerks? Why aren’t we talking about them? All about lawyers and paralegals, but clerks know a lot about forms. It is an untapped resource.
* In BC they are called ‘paralegals’ but are not licensed. Law clerks, like practice assistants, legal assistants, can be quite knowledgeable about forms and processes. We need to include others.
* Law clerks do have to go through formal training – they have an association, it is a voluntary association, supervised by a lawyer
* If could extend this type of work to paralegals, the work would get cheaper and faster. The problem is the fact that these clients cannot pay out of their pocket, but Legal Aid could help out by including other lawyers.
* Volunteers should be allowed to sit in the courtroom with clients. Mckenzie friends play an important role – people don’t know about them. We need to get this out there so they can be better used as a support.

**APPLICATION**

* I need to read the report and understand WHY is this framework needed – CLCs are here, and we are doing the work – we do need system that supplements our work but we need to know where we stand, how does this impact our work?
* it is about supplementing work of CLC’s
* this project is all about supplementing and making sure CW are informed about the legal services that are out there to help clients
* the community justice help framework for its ability to re-imagine where clients’ needs are best served. When she was first trained to delegate tasks as a lawyer, she was directed to imagine the office as a hierarchy. The framework provides more of a venn diagram where clients, law students, and lawyers work together. Perhaps training should be designed from the ground up (i.e. lawyers’ input prioritized last).
* In support the holistic approach. Training is essential. Can’t tell you how many clients come to us with returned applications with mistakes (all due respect to settlement workers). Need to read the report to better understand “why think of this now? Clinics are here. We’re doing the work, we need the assistance and supplement, but where do we stand if this goes forward?”

1. **Do you think a system for monitoring quality of “community justice help” needs to be put into place? If so, who should run it? Should it be mandatory and thus subject to enforcement; if so, who should be responsible for the enforcement? If not, what approaches can be used to encourage or support a culture, network, or commitment to good quality community justice help?**

**REGULATION**

* Law Society should oversee this, but they could set up a board employed by CJH. They would have to enforce the standards
* cooperation between non-profit orgs and regulators
* LSO should be involved, key players need to know that they are given the right instruments they need to succeed in their court cases
* This help should be available only on a limited scope. But LSO should not regulate them. As long as the services provided are “elementary”, not sure how much liability would be incurred.
* Suggests a limited scope: for example, if the provider just accompanies someone to see a lawyer, no liability. Should be restricted to an elementary social service role.
* Sees access to services, but sees it as a “slippery slope” – where do we draw the line?
* There will be different regulatory situations across jurisdictions, might need more licensing of professions (ON has licensed paralegals but a lot of jurisdictions don’t)
* AB Law Society has a category of “approved legal service providers” which are basically non-profit agencies who are already providing assistance to people in other areas
  + Initially set up to allow lawyers not fully insured (inactive/retired) but insurance scheme would extend coverage to lawyer helping others under the auspices of the non-profit agency. It’s a hybrid model, but looks at competency and overall structure of organization to provide legal services
  + Education and evaluation/feedback should be ongoing and reciprocal
* Need some structure with LSO and other community reps, maybe develop a co-curriculum so CJ workers do it, and have ongoing training. To get quality assurance and consistency. The gov’t doesn’t need to be at table, can be an observer.
* Could have required certifications. Govt’ could say what’s in those certifications but that’s as far as he’d go. (story reworked with immigration consultants, who were unregulated, and problematic)

**ACCOUNTABILITY**

* The first point of access is important, need to build trust. Paralegals could also play the kind of role that CW workers do.
* laying burden on community justice helpers may actually increase burden on non-profit legal service providers. Community justice helpers are in a different role to legal service providers, and that balance is important to keep in mind
* issue of accountability needs to be sorted out, taking people’s concern about being cautious about regulator trying to regulate non-licensees and the dangers that might arise.
* Not in favour of another system. When asked ‘what kind of system do you propose then?” Response: informal, like rate your doctor or rate your profession. Some do that on yelp.
* When we talk about imposing requirements, it comes with costs of people’s time as well as money. The funding question needs to be highlighted. If quality assurance is formalized, then who will pay the bills, especially when clinics are being cut.

**LIABILITY INSURANCE**

* In the age of data, monitoring is never a bad thing. Metrics are important for success. Monitoring should be mandatory.
* Quality representation is not a matter of data. Data will not make poor quality representation disappear.
* Quality can be measured by success rates.
* Data can be screened for successful cases, skewing the numbers. Measuring the quality of community justice help is a matter of supervision and complaint procedure.
* Attaching minimal conditions and enforcement provisions to community justice help will limit the number of helpers being brought in.
* reluctant to suggest mandatory quality assurance program, because it seems more like gov work, and often you don’t get anybody
  + Community justice organizations would be really hands strong in being able to get on and provide the services they deliver because often it’s an organic process to attract people
    - have it as an expectation that community justice organizations are going to provide appropriate training – link it with community college discussion in Q4
* If have liability insurance – provides its own incentive to deliver good service.

**6.  Are you aware of models in other fields, or in other jurisdictions, that promote and give some assurance of good quality in the provision of important services to the public?**

* In what other fields is this applicable? Suggested refugee centers or mental health providers
* Medicine/health? Eg: Nurse practitioners are vital to healthcare delivery
* Pharmacists are recently able to write prescriptions without additional training
* Refreshers for legal assistants and court workers who already have expertise and recognizing/capitalizing on that experience
* LSO was surprised to hear of other models in other jurisdictions at earlier A2J Week session
* Transitional support worker in women’s shelter, and supports women who go to court. However, because of liabilities, they do not intervene. They might help fill in forms, etc. One challenge – clients are lower income, so some lawyers will not help – she would like to help more especially when lawyers cannot or will not help.
* CJH seems to have a more volunteer aspect to it – who will regulate how much for example paralegals charge? The claim must go to the Law Society. So, it’s going to be the same. The lawyer who is getting less from Legal Aid will allow less questions from lawyers.

**Moderators report back:**

* More attention needed on client journeys. This type of information could be beneficial for lawyers and judges.
* Saskatchewan – need for a way for justice folks to learn from on-the-ground community workers. Talked about pharmacists having more responsibility in recent years is an interesting parallel – putting trust in people who know their communities best.
* Nova Scotia - Cross jurisdictional analysis – better coordination, we don’t have a central place in our respective provinces in Atlantic Canada re what community justice workers are out there? Understanding where to send people would help. Unsure how regulation would be carried out. Concern whether community justice workers would undermine legal clinics. Engaging law clerks and legal assistants would be good.
* One participant talked about training – important, role of legal professionals, how and when to refer appropriately, role of community legal clinics in the process, because of our ties with local agencies, recognition of need especially for Indigenous agencies.

**Concerns**

* These people are not lawyers, even as lawyers we have to keep developing expertise/experience. Can’t have regular people providing ‘legal services’. Don’t see how this will work. Echoes concerns about regulation.
* Isn’t this the reason why legal clinics were created? Poverty law, housing, immigration – shouldn’t we fund these legal clinics better? Lawyers without jobs will gladly go to these clinics. In Ontario anyway. They want to work in Social Justice – hire them!
* Better than creating a new, pseudo service – slippery slope. How about staffing shelters with lawyers? 24-hour legal clinics that shelters can call?