THE WAY FORWARD:

An exploration of how Clinics and LAO can work together to best serve the clinic law needs of Ontario's low-income communities.

ACLCO Submission in Response to LAO's Discussion Paper

December 19th 2008

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Executive Summary

I. Introduction: Preserving Strength and Fostering Change

For decades low income communities throughout Ontario have received high quality clinic law services from community legal clinics. Community clinics, in collaboration with the funders, initially the Law Society of Upper Canada, and now Legal Aid Ontario (LAO), have developed a community clinic model that is well-respected and world renowned. Ontario is recognized as the world leader in the provision of clinic law services.

The elements that have formed the foundation of our success, since the inception of the clinic system, are:

1. Clinics are independent community based and governed organizations, with the responsibility of assessing the needs of our communities, and determining the appropriate services to provide to our communities;
2. Clinics provide a broad range of clinic law services, including services that respond systemically to the root problems of our communities, such as community development, public legal education and information, test cases, law reform, etc…
3. Clinics receive secure core funding to do our work;
4. Clinics work together, as a provincial system, to collectively enhance the impact of our work.

But the maintenance of these basic elements does not mean that the clinic system has remained static. The clinic model, and especially the rootedness in, and accountability to, the local community has ensured that clinics have always been flexible, innovative and open to change.

Change has been a necessity for clinics in an environment where the legal and political issues are always changing, where communities evolve and change, and where clinics have always had to deal with capped budgets and ever-increasing demand. Over the years clinics have learned to change and adapt, yet while always maintaining those elements that have been the foundation of the system's success.

We look forward to continuing to take this approach. We want to work with LAO to constantly improve the services we provide to our communities. We see LAO's Discussion Paper on Roles, Responsibilities, Relationships and Accountability Regarding Clinic Law Services (Discussion Paper) as another opportunity to work with our funder to strengthen our model.

The Discussion Paper proposes important changes in some areas of the LAO – Clinic – ACLCO relationship that are worth exploring. We see potential for change and improvement in some of the ideas raised in the Paper. However, we also see the potential for unintended negative consequences to the underlying fundamentals of the clinic system in some of the proposed ideas as well. The challenge to both LAO and the clinics will be

to move forward with positive change, while avoiding unintended negative consequences to those elements that make the clinic system so strong.

II. Change Initiatives: Building on our Strength

Below we list some ideas for change that clinics would like to further explore with LAO.

1. Funding Innovation and Creativity through an "Innovations Fund"
2. Developing a new Accountability/Reporting regime that is appropriate for clinic law, and meets the needs of both LAO and clinics
3. Improve LAO – clinic Consultation and Communication processes
4. Examine the best way for clinics to receive support services
5. Examine the role of the ACLCO
6. Clarifying the roles of LAO and the clinics in the assessment and determination of clinic law services
7. Improve the present method of funding clinics
8. Expand the "reach" of clinic law services
9. Increase support for the governance/management function in clinics

III. Preserving the Strength and Effectiveness of the Clinic System: Avoiding Unintended Consequences

Our challenge here in Ontario is to institute change and progress, while not harming the existing strength of our unique clinic model. In this section we identify the unintended consequences that we see as vital to avoid, as we contemplate changes:

- Preserve core, and needs-based funding of clinics
- Preserve the clinic responsibility of determining clinic law services
- Maintain clinic independence from both government and LAO
- Avoid inappropriate tools to measure clinic law services, overwhelming administrative demands, and attempts to tie measurement directly to funding
- Ensure that support services are not "downloaded" onto clinics inappropriately, leading to a diminution of support for clinics
- Ensure that any increase in the ACLCO's role does not come at the expense of its ability to act as the advocate for the clinic system.

IV. Conclusion/Next Steps

As indicated above, the clinics stand ready to work with LAO on improving the LAO – Clinic – ACLCO Relationship in whatever ways could lead to improved services for our communities. Clinics and LAO share the common goal of always seeking to provide more and better clinic law services. The proposed "change initiatives" we have identified above, such as encouraging innovations, extending the reach of clinic services, clarifying

accountability, streamlining consultation and communication, supporting clinic managers, improving supports for clinics, etc…, could all assist in achieving the goals of the discussion paper without the potential for negative or unintended consequences that we have identified and that have been the experience in other sectors and jurisdictions.

The ACLCO is ready to work with LAO on next steps. The ACLCO would like to meet with representatives of both LAO's board of directors and senior management to discuss the vision of the future relationship as well as the implementation of any proposed changes.

I. Introduction: Preserving Strength and Fostering Change

> *It is widely acknowledged that community legal clinics are best suited to deliver poverty law services. This conclusion has been confirmed by numerous independent studies on this subject, including the 1974 Osler Report; the 1978 Grange Report; the 1987 Canadian Bar Association report, Legal Aid Delivery Models: A Discussion Paper; the 1992 Review of Legal Aid Services in British Columbia; and the 1997 report by Osgoode Hall Law School Professors Frederick Zemans and Patrick Monahan, From Crisis to Reform: A New Legal Aid Plan for Ontario.*
>
> *We have come to the same conclusion. Indeed, the community clinic model meets many of the goals we have identified for the larger legal aid system. The community clinic system can run on a capped budget; it works to understand and respond to individual and community needs; it utilizes lawyers, non-lawyers, public legal education initiatives, and other delivery systems in order to deliver services cost-effectively; it prioritizes needs and attempts to meet them strategically; it has developed linkages to nonlegal service providers; and it has recently adopted a quality-assurance program.*
>
> *Subject to the discussion below, we have concluded that the community clinic model is the most appropriate to deliver poverty law services and that independent community governance is integral to that model. We strongly support the continuation and expansion of the current clinic system and propose only discrete reforms designed to make the current system function more effectively.*

This is how the 1998 Report of the Ontario Legal Aid Review: A Blueprint for Publicly Funded Legal Services (the McCamus Report) began its discussion of poverty law services in the province of Ontario. (In this Submission we will use the term "clinic law services" because that is the term used in the *Legal Aid Services Act*.)

As pointed out in that Report, for decades low income communities throughout Ontario have received high quality clinic law services from community legal clinics. Community clinics, in collaboration with the funders, initially the Law Society of Upper Canada, and now Legal Aid Ontario (LAO), have developed a community clinic model that is well-respected and world renowned. Ontario is recognized as the world leader in the provision of clinic law services. Legal aid representatives from across the world come to Ontario to study our model and clinic representatives are invited to jurisdictions such as China, Bangladesh, Australia and the United Kingdom to help develop and improve their clinic systems. Former LAO board chair Justice Sidney Linden regularly referred to the clinic system as "the jewel in the crown" of Ontario's legal aid plan.

Clinics are justifiably proud of the clinic model we have built in Ontario over the past 35 years. We understand that LAO and the Ministry of the Attorney General are as well. We have listened with pride as Attorneys General of all political persuasion and LAO board chairs have sung the praises of our clinic model to audiences both here and abroad. We want to maintain the status of world leader in the area of clinic law. We want to continue to provide high quality clinic law services to our communities for another 35 years.

To do this we believe that we need to take the solid foundation that the clinic system is built on, strengthen it, and continue to move it forward.

The elements that have formed the foundation of our success, since the inception of the clinic system, are clear to all who have studied the clinics in Ontario. They are:

1. Clinics are independent community based and governed organizations, with the responsibility of assessing the needs of our communities, and determining the appropriate services to provide to our communities;
2. Clinics provide a broad range of clinic law services, including services that respond systemically to the root problems of our communities, such as community development, public legal education and information, test cases, law reform, etc…
3. Clinics receive secure core funding to do our work;
4. Clinics work together, as a provincial system, to collectively enhance the impact of our work.

These basic elements join together to form the foundation of Ontario's clinic model. It has been the preservation of these foundational elements that has been the secret of our success.

But the maintenance of these basic elements does not mean that the clinic system has remained static. Quite the contrary. Our model, and especially the rootedness in and accountability to the local community has ensured that clinics have always been flexible, innovative and open to change. Clinics change areas of practice to respond to the primary needs of our communities. Clinics shift methods of delivering service to maximize the limited resources clinics receive and to make best use of the skills in each clinic. Clinics develop innovative ways to expand the reach of our services, at both a provincial level (ie: the CRO, the Barrister Service, Tenant Duty Counsel, interclinic work groups, etc…), and in ways too numerous to mention at a local community level.

(Please see attached "Appendix A" for a few examples of local clinic initiatives that maximize our services.)

Clinics do not fear change; clinics have been adding to and improving on our system since day one. Change has been a necessity for clinics in an environment where the legal and political issues are always changing, where communities evolve and change, and where clinics have always had to deal with capped budgets and ever-increasing demand. Over the years clinics have learned to change and adapt, yet while always maintaining those elements that have been the foundation of the system's success.

We look forward to continuing to take this approach. We want to work with LAO to constantly improve the services we provide to our communities. We see LAO's Discussion Paper on Roles, Responsibilities, Relationships and Accountability Regarding Clinic Law Services (Discussion Paper) as another opportunity to work with our funder to strengthen our model.

The Discussion Paper proposes important changes in some areas of the LAO – Clinic – ACLCO relationship that are worth exploring. We see potential for change and improvement in some of the ideas raised in the Paper. However, we also see the potential for unintended negative consequences to the underlying fundamentals of the clinic system in some of the proposed ideas as well. The challenge to both LAO and the clinics will be to move forward with positive change, while avoiding unintended negative consequences to those elements that make the clinic system so strong.

We applaud the goals expressed in the Discussion Paper, which include, Creating Clarity, Ensuring Accountability, Fostering Innovation. We share these goals, and we believe that by building on some of the suggested initiatives in the Paper we can achieve these goals, and at the same time preserve the fundamentals of the clinic system.

In the next section of this Submission we will explore some potential positive initiatives. In the subsequent section we will examine potential unintended consequences to the strengths of the clinic system, and how to avoid them. Finally we will conclude with our thoughts about next steps in moving forward.

II. Change Initiatives: Building on our Strength

LAO's Discussion Paper proposes a number of changes that clinics believe could improve the services clinics provide, and create clarity, ensure accountability and foster innovation. As well the clinic system has a number of proposed initiatives that we believe are in line with these goals as well. Below we list some ideas that clinics would like to further explore with LAO.

It is important to note that the initiatives proposed in this section must be read in conjunction with the section on "unintended consequences". Some of the initiatives listed below must be carefully thought out, in order to avoid results that produce more harm than good.

1. Funding Innovation and Creativity – "Innovations Fund"

The Discussion Paper indicates that funding could be used to encourage flexibility and creativity. Although secure, core funding is fundamental to the preservation of a strong and effective clinic system (see below), we believe that there are ways of using funding that both retain the necessary security for clinics, while enhancing creativity.

Specifically, we would like to discuss the creation of an "Innovations Fund". This would be a pool of money set aside for innovative and creative initiatives from clinics. Aspects of this initiative could include:

- Both individual clinics and groups of clinics could apply to the Fund;

- Fund could be administered jointly by LAO and clinics, through the ACLCO (perhaps analogous to how the joint LAO-Clinic Provincial Learning Action Committee administers and allocates training funds for the clinic system);
- Criteria and application procedures would be jointly developed by LAO and ACLCO, and made public. The focus of the Fund would be to support innovative and creative approaches towards improving and expanding clinic services to our communities;
- Funding applications would be shared with all clinics. Clinics would be encouraged to collaborate with other clinics, legal aid services, and community partners;
- Money received from this Fund would not become part of a clinic's core funding. This would be short-term, project funding (ie: 1 – 3 years). At the end of the project an evaluation would be done and shared with the clinic system. If the project was determined to be a success, it would be considered whether it was feasible to make funds available for all clinics (who were interested) to run this project.

Clinics used to have access to "outreach funds" for special projects, but this seems to no longer exist. This is unfortunate, because clinics believe the existence of an adequately resourced "Innovations Fund" could foster creativity and innovation in the provision of clinic law services.

2. Rationalizing Accountability

The Discussion Paper raises concerns about the existing tools that LAO has at its disposal for evaluating clinic services and ensuring clinic accountability.

Clinics recognize our obligation to be accountable to LAO for the funds clinics receive. Clinics recognize LAO's obligation to be accountable to the government for legal aid funding. Clinics recognize LAO's statutory responsibility to monitor clinics and ensure the provision of top quality services to our communities. Clinics also are aware of our obligation to be accountable to communities for the services clinics provide.

Clinics are not convinced that the present mechanisms of accountability and reporting meet these varied obligations. Moreover the present accountability mechanisms place excessive reporting requirements on clinics, and do not provide the information that either LAO or most clinics want. Clinics are willing to work with LAO to develop a new accountability regime that meets these obligations, yet doesn't overly detract from client service delivery by overwhelming a clinic with administrative burdens. While clinics feel it is important to avoid an accountability regime that inappropriately measures what clinics do (see below), clinics believe that it is possible to develop mechanisms that are appropriate for the clinic system.

Such an accountability regime could include:

- Development of a streamlined set of evaluation and reporting tools that are useful to all parties, thus eliminating the "hodge-podge" of reporting requirements that have developed in an ad-hoc way over the years;

- Outcome Measurement of clinic activities that would measure the impact of the work clinics do, and particularly the impact of the systemic work (ie: PLE&I, Community Development, Law Reform, Test Cases, etc….) and community connectedness that defines the clinic model. Various clinic groups are already examining this issue, and the ACLCO's Performance Measures Working Group is working with LAO's IPMAC committee to develop appropriate outcome measures for clinics;
- Evaluation of clinics through a Peer Accreditation model, similar to the one used by the Ministry of Health and Long Term Care for Community Health Centres. This would build on the Quality Assurance Program model that was developed jointly by LAO and clinics for the community clinic system.
- The development of a reasonable cap on administrative/reporting requirements for clinics (ie: no more than 5 hours/week), jointly negotiated between clinics and LAO.

3. LAO – Clinic Consultation and Communication

The Discussion Paper clearly recognizes the value in LAO consulting with the clinics on decisions that could impact significantly on them. Yet, understandably, LAO does not want consultation requirements to be so onerous as to paralyse effective decision-making.

Clinics share this perspective. Clinics see the value in a set of rules governing LAO's Consultation and Communication with clinics, but are open to considering the amendment of existing policies and procedures to ensure that they work for all parties, and are followed by all parties. In fact, the clinics recently amended our own internal Consultation Policy to allow the ACLCO to speak on behalf of the clinic system more effectively and efficiently.

4. Clinic Support Services

The Discussion Paper asks what is the best way for clinics to obtain the support services they need.

The present model of LAO providing numerous central support services to clinics has the advantages of economies of scale and expertise, of freeing up clinic time to focus on service delivery, and keeps LAO closely linked with clinics and aware of the system's needs. However, no-one would argue that the present model is perfect. Moreover clinics have expressed concerns that services previously provided centrally by LAO are now being downloaded onto clinics without consultation (ie: benefits administration, H.R. Support, central purchasing, etc…).

As proposed on page 32 of the Discussion Paper, clinics would be willing to look at each service individually to determine what would be the best way of providing it (ie: centrally by LAO or by another central body like the ACLCO, or locally by the individual clinic). Some support services such as supporting clinic learning and training might lend themselves more easily to handing over to the clinics, whereas other support services could be much more difficult to transfer. Of course any services that were handed over by LAO to the clinics must be accompanied by appropriate funding and support to

maintain that service, and a mechanism to ensure ongoing adequate funding. Clinics would be seeking an independent assessment of present and potential future costs.

5. Role of the ACLCO

The Discussion Paper raises a number of issues about the appropriate role for the ACLCO.

The ACLCO is the representative voice for community clinics in Ontario and the ACLCO's role is determined by our Bylaws and by our membership. Although clinics are clear in their view that the ACLCO must continue to be the strong and independent advocate on behalf of the clinic system, clinics are willing to examine some additional new directions in the role of the ACLCO.

- Upon examining the central support services that LAO presently provides to clinics, if it was determined that LAO should no longer provide some services, yet it made sense for them to continue to be centrally provided, the ACLCO would consider playing a role in ensuring that clinics continue to receive these supports;
- Beyond the central support services that are presently being provided to clinics, the ACLCO believes that with increased resources it can play an expanded role in supporting and assisting clinics in a number of ways, including:
    - Assisting the clinic system to engage in coordinated planning at a provincial level
    - Producing an annual clinic system report, including statistics and significant activities
    - Offering peer mentoring to clinic staff and board members
    - Increasing and improving the coordination and communication that already takes place between clinics
    - Raising the profile of the clinics with both justice sector partners and the broader public
- Consider a new way of funding the ACLCO. Although the ACLCO sees no significant problem in the present method of how the ACLCO is funded, it would be open to consider alternative approaches as long as they did not detract from the security the ACLCO needs to be able to act as the clinic system's advocate.

6. Determining Clinic Law Needs and Services – Clarifying Roles

The Discussion Paper asks how should LAO's and clinics' respective roles regarding the determination of clinic law needs be clarified?

It is undeniable that both clinics and LAO have a role to play in ensuring that Ontario's low income communities receive top quality clinic law services. This is apparent both from a reading of the *Legal Aid Services Act*, and from examining the goals and objectives of Legal Aid Ontario and of the 80 independent community legal clinics in Ontario. However, the legislation does not provide a clear road map of who is responsible for precisely what. The Act does not demand one particular way to construct

the LAO – clinic relationship in this area. Rather it provides enough latitude for clinics and for LAO to allocate responsibilities in the way that is most effective and efficient, and best serves the clinic law needs of Ontarians.

Clinics are prepared to discuss how best to do this. Clinics believe that the division of responsibility envisioned in the 4 bullet points at the bottom of page 27 of the Discussion Paper is a useful starting point for that discussion. Specifically, clinics believe that a reasonable allocation of roles and responsibilities would include:

- Shared responsibility for *assessing* clinic law needs; with local clinics playing the primary role in assessing local needs, and with LAO supporting clinics in that needs assessment function, and providing all clinics with province-wide information (ie: Stats Can data, provincial environmental scans, etc…);
- Based on the assessment of need, clinics having the responsibility to *determine* what services to provide to our local communities;
- Clinics working collectively to determine provincial strategies and approaches for clinic law, through interclinic work groups, provincial specialty clinics and the ACLCO. (Although this already happens to some extent, it is anticipated that, possibly with the assistance of the ACLCO, this could be done in a more systemic manner, particularly in coordinating between initiatives in different areas of clinic law.);
- An important role for LAO:
    - LAO, as the funder of all legal aid services in Ontario, has the sole responsibility of setting overall legal aid priorities. As part of this role LAO allocates appropriate funding to various legal aid services and modalities (ie: clinic law, criminal law, family law, duty counsel, certificates, etc…)
    - LAO does provincial needs assessments for all forms of legal aid services, including criminal law, family law, clinic law, etc…
    - LAO supports clinics in the clinic role of carrying out local needs assessments, both by providing clinics with information and data, and by funding and supporting clinic needs assessment initiatives;
    - LAO as the primary funder of clinics has the role of ensuring that clinics are meeting our responsibilities of assessing local need and determining services
    - LAO as the provider of certificate, duty counsel and other direct legal aid services, would work with clinics and other justice sector stakeholders, as partners, to engage in local service planning and coordination.

Clinics believe that an allocation of roles and responsibilities along these lines would avoid overlap and confusion, meet the statutory obligations of both LAO and clinics, and ensure that Ontarians were receiving the highest quality clinic law services possible.

7. Improve Funding Method

The Discussion Paper considers possible changes to the way clinics are funded by LAO.

Clinics recognize a number of problems with the existing funding model:

- Clinics are not adequately funded to meet the needs of our communities, nor to recruit or retain staff;
- The clinic funding grid was once a reasonable and rationale attempt upon which to allocate personnel funding to clinics. However years of underfunding has led to compression and a lack of equity and reason in the grid;
- Particularly, LAO's recently imposed cap on replacement hiring, imposed without consultation with the clinic system, has created significant personnel problems and exacerbated the recruitment and retention crisis;
- Although some operational needs are funded in accordance with actual costs (ie: rent, hydro), others bear no resemblance to reality (library costs, travel budgets, etc….). And there appears to be no rationale for why some clinics receive a certain amount for some operational costs (ie: library, board travel, etc…) and others receive different amounts. The present criteria for funding is not always clear or transparent;

Clinics would like to discuss with LAO how to fix these problems. However it is not apparent how a move towards "envelope funding" would provide a solution. Rather it would likely simply download the problems to individual clinics, who would be far less able to respond to these issues. For example giving a clinic the "flexibility" to move funds from its rent budget line to salaries is an illusory "flexibility" if there is not enough funding to cover both these costs. Clinics are concerned that they would have to cut services (ie: move to a less accessible location or give up telephone lines) to be able to meet salary obligations. These are for the most part systemic problems, that were created at a systemic level, and LAO must be involved in their solution.

8. Expanding the "Reach" of Clinic Law Services

The Discussion Paper refers to the need for clinics to meet growing clinic law service demands.

Clinics agree and are always striving to do this on a local level. However, some challenges cut across communities and demand systemic solutions. Clinics are always striving to expand services and to reach communities that are not yet comprehensively serving being served. Unfortunately, some communities are more difficult to reach than others:

- The face of Ontario is changing. There are a growing number of communities whose first language is neither English nor French. Ensuring access to clinic law services for many of these communities is a particular challenge;
- In a similar vein, ensuring access to clinic law services to members of the community of persons with disabilities presents particular challenges;
- Many clinics serve rural and remote communities. The challenges involved in meeting the clinic law needs of these communities present particular challenges as well.

Although individual clinics are striving each day to expand our reach to these communities there are solutions to the challenges that are more systemic in nature. Clinics would like to work together with Legal Aid Ontario on initiatives to meet these challenges. Clinics have been working with the Law Foundation of Ontario in its Linguistic and Rural Access to Justice Project. The Law Foundation is to be commended for this initiative. But it will not be sufficient. Clinics and LAO together must work to develop methods of expanding our reach to these communities.

9. Supporting the Governing/Management Function in Clinics

The Discussion Paper refers to the need to improve management processes in clinics.

Clinics are independent agencies, with all the rights and obligations of any non-profit organization under the Corporations Act. Clinic boards of directors and on-site managers govern and administer these 80 corporations, and have done so effectively for over 35 years. Yet clinics are open to improving management functions.

There are obviously challenges in governing and managing clinics. Executive directors who have no formal management training manage most clinics. Clinics are governed by volunteer clinic board members, most of whom are primarily interested in meeting the clinic law needs of their communities. Over the years, some supports have been developed to assist clinic managers and board members in carrying out their management and governance functions. Unfortunately however these supports have never been extensive, and some actually seem to be shrinking recently:

- Provincial management training for clinic managers used to be an annual affair, funded and facilitated by LAO, but this hasn't taken place for many years;
- Clinics used to rely on the Clinic Services Office for certain management supports, such as advice in the area of human resources, analysis of legislation impacting on non-profit corporations, etc… These supports have been diminishing in recent years, and the elimination of the Clinic Services Office during LAO's 2007 regional restructuring has exacerbated this problem;
- The Quality Assurance Program (as it was then known) engaged in quality audits of every clinic in the system, providing extensive support and advice in the areas managing and governing (including the sharing of "better practices"), however this program was discontinued by LAO, and quality assurance assistance to clinics has been scaled back significantly;
- Fortunately, learning and training opportunities for clinic board members have expanded through the Provincial Learning Action Committee and particularly the Board Supports Working Group. However the scope of these opportunities is limited by the small amount of resources dedicated to this initiative;
- Clinic managers are making efforts to support each other through initiatives such as the Community of Practice and the Knowledge Management Transfer. Although admirable, these initiatives also suffer from a lack of LAO funding and support.

Clinics recognize their management and governance responsibilities. Yet, clinics also want to focus the bulk of their attention on providing services to our communities. Clinics would like to work with LAO to develop and expand provincial systems that would support clinic boards and managers in carrying out their management functions, thus freeing up time for vital service provision functions.

III. Preserving the Strength and Effectiveness of the Clinic System: Avoiding Unintended Consequences

As illustrated by the way the clinic system has evolved over the years, and by the list of change initiatives provided above, clinics are not adverse to change. However clinics are understandably cautious. Not every change is a positive one. We are surrounded by examples in the non-profit sector here in Ontario and Canada, and the community clinic sectors elsewhere in North America and overseas, of changes that have limited the effectiveness and efficiency of those sectors.

Occasionally these negative changes have come as a result of direct assaults by governments and funders who wanted to limit the work of these sectors. But quite often, negative changes arise due to the unintended consequences of poorly thought out initiatives meant to improve things. Two brief examples:

In Australia the federal funder of community law centres (the equivalent of community legal clinics in Ontario) felt that it needed a quicker and simpler method of measuring the effectiveness and efficiency of their funded clinics. So, it began to measure law centres on the basis of their "won-lost" records and the number of cases they could handle in a year, and indicated that future funding would be based on "productivity increases" in these measures. These new measurement tools were chosen because they were simple to administer and easy to read. Not surprisingly many law centres responded to these measures by engaging in "creaming", the practice of taking cases that are easier to win or resolve in a short period of time. Individuals who were difficult or time-consuming to represent, and were most in need of representation, were denied service (because no clinic can represent everybody). Similarly, some law centres were less likely to take "test cases" with a low likelihood of successs. Those law centres "scored well" on the productivity measures, and the funder had "good statistics" to demonstrate efficiency. The only losers were the most vulnerable individuals and communities in Australia. Ultimately the funder had to back away from this short-sighted method of ensuring efficiency and effectiveness, but not before incredible damage was done to the reputation of community law centres and to the clients they serve.

In England the central funder has begun to use project funding to fund English Law Centres. Rather than providing core funding to law centres and then allowing them to determine what services to provide, the central funder determines the bulk of services through project funding grants. Law Centres in England feel they no longer are connected to and accountable to their communities, in fact many speak of the difficulty of finding community board members because they only serve as a "rubber stamp" for decisions made by "bureaucrats in downtown London". Law centres end up focusing

their services on the priorities of the central funder or even the government, leaving important local demands unmet. Moreover, because their funding is no longer secure, law centres compete with each other for scarce funds, rather than co-operate. The decision of which community gets services has more to do with the entrepreneurial nature of the law centre manager than the actual needs of the community.

In both countries, because of these initiatives, law centres found themselves competing with each other for funding or for the best statistics, and therefore were less willing and able to work together co-operatively.

There are many such examples of unintended consequences flowing from change initiatives in the non-profit and legal clinic world. Fortunately we can learn from these experiences. Our challenge here in Ontario is to institute change and progress, while not harming the existing strength of our unique clinic model.

In the previous section we listed some initiatives where we see the potential for positive change. In this section we will identify the unintended consequences that we see as vital to avoid, as we contemplate changes:

Funding Mechanisms

As indicated above, core funding is a fundamental part of what makes our clinic system strong. As opposed to many non-profit organizations, clinics are freed from having to be constantly chasing funding, and are instead able to focus on providing appropriate services to our communities. The security and stability of core funding enables clinics to engage in long-term, strategic planning and allows clinics to take strong and sometimes even controversial advocacy positions on behalf of our communities.

Conversely, changes to clinic funding model could lead to problems:

- The use of "**project funding"**, either as a replacement for existing core funding, or as a replacement for future core funding increases, would have serious negative consequences. It would introduce insecurity and instability into the clinics. It would also have the effect of transferring the decision of what clinic law services are provided from the local clinic to the central funder, which interferes with the clinic's accountability to its community and its credibility with its clients as an independent advocate. As indicated above, clinics have no problem with encouraging creativity through an "Innovations Fund", as long as it was not a replacement for ongoing increases in core funding;
- A move towards "**differential funding increases**" would also lead to negative consequences. Presently clinics receive most of their funding in line with what other clinics receive. The percentage increase for one clinic is close to the funding available to other clinics. This makes sense in Ontario's clinic system because clinics work together collaboratively as a system and because every community has unmet clinic law needs. Therefore clinics think it is appropriate to share the resources to meet those needs. Favouring one clinic over another would break down the

collaborative model that presently exists. Clinics would be less likely to work together and assist each other if they felt that some clinics were being rewarded with more resources than others, while each community had unmet needs.

- Clinics also have some concerns about a move towards "**envelope funding**". Clinics are small community agencies with little discretionary funding; any funding model that did not meet actual needs could have seriously negative consequences. In the non-profit sector, the move to envelope funding has typically been accompanied by the availability of less funding and the need for the community agency to dip into personnel and other budget lines to cover obligatory costs such as rent and hydro. The real issue is to ensure that clinics continue to be funded in accordance with their actual costs. The ability to retain surpluses, which typically is a component of an envelop funding model, is of interest to some clinics, however all clinics recognize that not everyone would be equally able to create surpluses. Also, recouped individual clinic surpluses have traditionally been pooled and used to collectively meet the needs of the entire clinic system, whether to purchase new computers or to fund special training events or to meet special one-time needs of individual clinics. Clinics want LAO to continue to be able to meet these needs, rather than renounce responsibility and ask each of the 80 clinics to deal with the situation individually. Moreover, clinics do not believe that envelope funding would result in increased capacity for innovation or creativity in developing new or alternative ways to deliver services.

Determination of Clinic Law Needs and Services

Since the creation of community clinics in Ontario, clinics have been given the responsibility of determining the clinic law needs of our communities. The Discussion Paper however suggests a new role for LAO in determining clinic law services.

As indicated above, the determination of clinic law services by the independent boards of community clinics is not only the foundation of the clinic model, it is the primary component of its success. Determination of clinic law services by independent clinics is critical to the success of the clinic model. This is vital, as acknowledged in the McCamus Report, for ensuring our ability to zealously advocate on behalf of our clients, and in the timely provision of accountable and flexible clinic law services. Clinics essentially are "needs assessment machines" due to the way clinics are structured, the work clinics do, and the way clinics do it. The very purpose of the clinic model, the reason clinics were created, is to be "on the ground", directly linked to the community receiving service, and accountable to that community. In this way services are tailored to the specific needs of the community, and clinics are in the best position to make decisions about the rational allocation of scarce clinic law resources.

By comparison, LAO is not structured in the same way as clinics are to assess clinic law needs or to decide upon appropriate clinic law services. LAO is governed by a board appointed by the government, not elected from and accountable to the communities being served served. LAO does not generally provide clinic law services, while clinics help clients with clinic law issues every day. LAO does not participate in coalitions and law

reform campaigns with community partners and activists. LAO, due to its relationship with the provincial government and the fact that its employees come under the *Public Services of Ontario Act*, appears proscribed from acting as an advocate on behalf of low-income communities. LAO is a large organization with a head office in downtown Toronto where most decisions are made, not a series of small, independent and flexible community based offices.

An increased role for LAO, at either a local or provincial level, in determining clinic law services would seriously detract from the efficient and effective model of determination of clinic law services by clinics. This would inject a lack of clarity, overlap and even conflict into what has been for over 30 years a highly functioning model with clear accountabilities. It could lead to service provision decisions that are no longer accountable to local communities, and decisions that met the needs of central funders (either the government or LAO) rather than the communities being served.

(Please see attached "Appendix B" for examples of why service provision decisions should remain a clinic responsibility.)

Clinic Independence

LAO's Discussion Paper suggests that clinics are independent of the government, but *interdependent* with LAO.

Clinics recognize the close relationship with LAO. Clinics are aware that LAO provides the bulk of clinic funding, and clinics are accountable to LAO for that funding pursuant to a Funding Agreement. Clinics know that it is important to work closely with LAO and welcome the opportunity to do so for the benefit of our clients. However, clinics are independent from LAO. Clinics are non-profit corporations, pursuant to *The Corporations Act*. Despite receiving funding from LAO, clinics are not a part of the LAO corporation anymore than a private bar lawyer whose practice consists mostly of legal aid work is a part of LAO. Clinics are just as independent of LAO as any non-profit corporation that receives funding from a government ministry or from the United Way is independent of those funders.

Clinic independence from government and from LAO (whose entire board of directors is appointed by the government) is vital for to our ability to zealously defend the interests of our clients, and to have the trust and support of our communities. These communities quite correctly do not make a distinction between independence on administrative issues and independence regarding service delivery. They understand them to be inextricably linked. As the McCamus Report stated over a decade ago, "independence is vital to the clinic model".

The clinics do not share an interpretation of the Legal Aid Services Act that does not recognize clinic independence from both LAO and government. Moreover, beyond issues of statutory interpretation, the clinics believe it is important to avoid any changes to the LAO – Clinic relationship that could in any way compromise clinic independence as these would not lead to improved client services.

Measurement and Accountability

As indicated above, clinics are open to discussing new methods of clinic accountability to LAO for the funds clinics receive, if these new methods are helpful to both clinics and LAO. However, the potential for unintended consequences in this area is great. Some of the potential problems would be:

- *Inappropriate measurement*. Most clinic services are not easy to measure. Clinics are complex, human services organizations that often deal with hard-to-serve clients. Clinics engage in some easily quantifiable activities such as summary advice and casework, and other much harder to measure activities such as law reform and community development. Because clinics have the mandate of affecting systemic change, clinics must ensure that the less quantifiable activities are not given short shrift. Unfortunately, most funders tend to use numeric tools to measure the easy-to-measure because it is simpler to do and cheaper. This type of approach would not provide an accurate assessment of clinic work, nor would it yield useful data to measure quality of services provided or how they may be improved in the future. In fact, it would provide a distorted assessment of clinic work.
- *Comparative Measurement*. Most clinics believe that comparing clinics to each other for the purposes of evaluation or determining funding is not helpful. Clinics are independent agencies that serve distinct communities and each clinic develops it's own plans of work and services to meet the particular needs of our communities. Clinics should be measured against their own work plans and the impact clinics are having on our communities, and against our own work in previous years. Seeing data about what services other clinics are providing to their communities may be interesting and useful from the perspective of knowledge transfer and sharing innovative ideas, but not as a means of comparing clinics and certainly not as the basis of making funding decisions.
- *Overwhelming Administrative Demands*. It seems that each year new reporting and accountability demands are being placed on clinics. Clinics are aware of our need to account to funders for the funding received, but a reasonable balance must be struck between the funder's administrative requirements and the provision of services to our communities. If new reporting requirements are developed, some existing requirements must be dropped or reduced (ie: move to a funding application every 3 years).
- *Funding determination should not be tied to performance measurement*. The amount of funding a clinic receives should be based on the needs of its community, not its "performance". A community should not be punished because of the "performance" of its clinic. If a clinic is not performing well, this should lead to increased support and assistance for that clinic from the funder and peers. In the extreme case, if a clinic is chronically unable to meet its obligations to provide services to its community, LAO would have recourse, through the *Legal Aid Services Act* and the Dispute Resolution Policy that is appended to the LAO – Clinic Funding Agreement, to defunding and other options.

Inappropriate forms of measurement and evaluation would negatively impact on clinic effectiveness and efficiency. This would be true even if these inappropriate forms of measurement were a small part of a larger measurement and accountability process. They could drive clinics to work towards measurement, rather than working towards the needs of our clients. Clinics could push towards higher numerical "productivity" at the expense of quality services and systemic initiatives. Moreover, performance based funding and comparative measures could also lead to competition between clinics negating the co-operative model now in place.

LAO's Role as a Central Service Provider

As indicated above, clinics are open to examining the role LAO is presently playing in providing central support services to clinics. However, there are some concerns about the potential unintended negative consequences of changes in this area:

- Clinics are worried about a "downloading exercise", with clinics being given the responsibility for services, but not the funds or supports to handle them. If responsibility is transferred for any services, clinics would want to ensure the existence of a process that will ensure that ongoing funding for these services remains adequate. Adding administrative burdens to clinics would only detract from and decrease the services that could be provided.
- LAO's present role in supporting the clinic system is one way of ensuring that LAO remains directly aware of the practice of clinic law and the challenges clinics face in providing those services. There is a concern that if LAO no longer provided these services it would be easier for LAO to "disengage" from clinic law and clinics. LAO is more than just a funder of the clinic system, it also supports the clinic system, and by extension the provision of clinic law services. Funder engagement in Ontario's clinic system is unique to our model, and should not be discarded without careful consideration.
- Any potential transfer of support services should also be viewed from the context of whether the effect of that transfer would diminish the capacity of clinics to work together. As an example, if each clinic was left to purchase their own computer system, would this impact negatively on the ability of clinics to easily communicate and cooperate with each other?

Role of the ACLCO

As indicated above clinics are open to considering changes in the role of the ACLCO. But clinics strongly believe that changes in the role of the ACLCO can not detract from its primary role as representative voice of clinics in Ontario and the ACLCO must continue to advocate on behalf of clinics and our communities. Advocacy is not seen by clinics as a negative activity, either by clinics on behalf of our communities or by the ACLCO on behalf of its members. Clinics expect their representative association to work constructively with LAO and other organizations (ie: government, law society, judiciary, media, etc…), and clinics see this as consistent with the ACLCO mandate of representation and advocacy. The role of the Association as advocate for clinics is not

inconsistent with its role of supporting clinics, or for that matter, of supporting LAO in meeting shared objectives in ensuring the best possible clinic law services for low-income Ontarians.

IV. Conclusion/Next Steps

As indicated above, the clinics stand ready to work with LAO on improving the LAO – Clinic – ACLCO Relationship in whatever ways could lead to improved services for our communities. Clinics and LAO share the common goal of always seeking to provide more and better clinic law services. The proposed "change initiatives" we have identified above, such as encouraging innovations, extending the reach of clinic services, clarifying accountability, streamlining consultation and communication, supporting clinic managers, improving supports for clinics, etc…, could all assist in achieving the goals of the discussion paper without the potential for negative or unintended consequences that we have identified and that have been the experience in other sectors and jurisdictions.

The ACLCO is ready to work with LAO on next steps. The ACLCO would like to meet with representatives of both LAO's board of directors and senior management to discuss the vision of the future relationship as well as the implementation of any proposed changes. An in-depth discussion of implementation is particularly important, because it is our experience that it is in the details of any change that either success or unintended consequences can be found.

Because we have such a highly functioning community clinic model right now we urge caution and deliberation. We need to ensure that no changes are implemented without considering its potential impact on the services we provide and on the clients we serve.

Finally, although we welcome the opportunity to work together on improvements to our services, we also want to remind LAO of the need to reach a place of stability in the near future. To clinics it seems like the last ten years have been characterized by constant insecurity. Since Ontario's legal aid system was restructured in 1998, through the *Legal Aid Service Act*, the clinics have also undergone the MAG Program Review, LAO's Strategic Planning Process for Clinic Law, and LAO's 2007 Restructuring that led to, among other changes, the elimination of the Clinic Services Office and the Vice President for Clinic Services.

It feels like the sands have been shifting beneath our feet on a permanent basis for the last ten years. Although positive change can be good, stability is important as well. Each new initiative demands our attention and each change demands some alteration in what we do. These administrative demands detract our attention from our clients and the services clinics provide to our communities. Clinics look forward to a future where our primary focus can once again be on our clients and communities.

We are prepared to work closely with LAO to get us to that place.

Appendix "A"–

Clinics working to find innovative solutions to stretch clinic law services further:

During the course of the ACLCO's consultation with clinics, written clinic input was sought to describe efforts clinics had made to "stretch clinic law funding dollars further." In response to this request clinics provided numerous examples, some of which are reproduced here. All material contained in this appendix is either direct quotes from clinic staff, or paraphrases of longer submissions provided by clinics.

I Collaboration and Reliance on Community Partners:

- "The Grey-Bruce Community Legal Clinic serves a population of approximately 150,000 people over a 9,500 square kilometer area. This cannot be done effectively without being present throughout the two counties, because there is virtually no public transit within our catchment area and many of our clients are unable to travel to Owen Sound where our permanent office is located. Although we have adequate funds for travel, we do not receive any funding to rent space for satellite [offices]. We have addressed this challenge by developing relationships with other service providers that have offices throughout the catchment area and generally serve the same client base that we do. At no cost to us, these agencies are willing to provide us with office space for one or two days per month so that we can meet with clients within, or close to, their own communities. For obvious reasons this arrangement benefits the clinic, but it also benefits the satellite host agencies as they are able to offer an additional service to their clients, their profile and value is raised in the eyes of their own communities and funders, and agency staff themselves gain convenient access to clinic services. Beyond this, these agencies are usually willing to act as intermediaries between satellite dates by making referrals, faxing client documents, etc."
- In Kingston, the city counsel provides grants for eviction prevention programs. Although the local legal aid clinic was unsuccessful in its application for a grant, it was able to partner with another local agency that obtained the grant and provides supervision and direction to the eviction prevention workers of the partner agency. This means the eviction prevention workers have more time to work with the clients and assist on a broad range of issues such a debt management. The end result is better outcomes for a community where eviction has been a significant problem.
- "The Hamilton clinics have collaborated for years at the staff and board levels as a means of leveraging additional service... We partner with local agencies to meet needs and take on joint initiatives for the community. A prime example … is the Hamilton Tenant Education Project."

II Volunteers:

- "[Our clinic relies] a great deal on volunteers to help with administrative tasks such as inputting of statistics and updating of lawyer referral lists. We use volunteer private bar lawyers to help with our brief services clinics on Thursday afternoons. We often assist over 20 clients in the space of three hours with affidavits and notarizations."
- A Toronto area clinic ED noted, "[we] use *pro bono* students regularly and have, for the past few years, had articling students who regretfully must work as pro bonos. [We] do give them an excellent articling experience and many are foreign lawyers seeking accreditation. Still, it is a shame not to be able to provide them with some sort of stipend. Luckily [we] have been successful in getting them jobs upon their call [to the bar]."
- "Our Hamilton *Pro Bono* Project is entirely administered by volunteers and we have 30 members of the local bar volunteering their time to draft wills and powers of attorney…"

III Special Projects:

- "Our Clinic [in northern Ontario] has a big provincial disability allowance appeal caseload. We are trying to stretch our dollars by helping doctors to diagnose and refer better. In particular, Fetal Alcohol Spectrum Disorder (FASD) is a diagnosis which may explain why some of our clients just cannot function in the world of work. We are helping the Community Counseling Centre to apply for Trillium funding so that they can help in the identification and treatment of people with FASD. If both are done better, those eligible for provincial disability allowances on the basis of this syndrome will not be forced to go through the expensive hurdy gurdy of hearings before the Social Benefits Tribunal."
- "The clinic has been increasingly involved in helping clients with employment issues. The importance of providing this service can be easily seen when one considers how stressful it is to lose a job and income all of a sudden. There is a cascading effect: people need advice immediately, and not just around wrongful dismissal; but around EI issues, OW issues, labour law issues, and many other related areas. Our outreach this year has largely been in Employment Law. Through co-operative efforts with Woodgreen Employment Centre, we have attended a monthly information session for unemployed workers [where] we take time to give clients individual advice.... In order to support our work in the Employment Law area, we have extended our hours to include evening hours one day each week so that those who experience problems with their employment do not have to take time off work to seek legal advice and assistance. We anticipate that this will be an enormous benefit to the working poor. We will evaluate the success of this new schedule after six months' time. Nevertheless, this is a way in which we try to stretch our limited resources to ensure that our communities' legal needs are met."
- "When we were contemplating the disaster of 2 Secord Avenue [that left 200 tenants homeless] we realized that: 1) we did not have the resources to do a class

action law suit for the tenants; and 2) we could piggyback on the expertise of private bar lawyers who were more than willing to bring their expertise on class action matters together with our expertise on RTA and its limitations in disasters where no one really knows who is at fault for the explosion. We also utilized the resources of our local city councilors and their staff when organizing the meetings to talk to all of these tenants (there were 200 apartments in that building) about their legal rights."

IV Pilot Projects and Innovation:

- *Ottawa ODSP Appeals Caseworker Pilot Project :*

  "In 2007, the Ottawa clinics submitted a proposal to Legal Aid Ontario to fund a new 'ODSP Appeals Caseworker' position. We proposed that Ottawa's clinics would share responsibility for this position. Our primary goal was to increase the Ottawa clinics' capacity to respond to the high volume of ODSP appeals. Our proposal also detailed our expectation that funding this position would result in a reduction in legal aid certificates and a large net savings for Legal Aid Ontario.

  In March, 2008, LAO agreed to fund this position as an 18-month pilot project. The Ottawa clinics hired a caseworker in June. Within 3 months, her caseload was approaching 75% of the expected annual number of files (i.e., 90 files out of an anticipated 120 for the year).

  After the first three months, we reported to Legal Aid Ontario that the project was meeting its goals. With respect to costs, LAO issued 53 fewer ODSP appeal legal aid certificates than in the same quarter of 2007. We anticipate the savings to LAO to be significant.

  The Ottawa clinics are continuing with this important and useful pilot project."

- "We run the Hamilton Tenant Helpline, with outside funding for a full time staff person and this year got Law Foundation money to launch a language line component with simultaneous interpretation for callers in virtually any language.…"

V Technology:

- The Hamilton clinics have "partner[ed] with local agencies to meet needs and take on joint initiatives for the community. A prime [longstanding] example is the Hamilton Tenant Education Project: we have produced electronic, written and video resources available in a number of languages on our web site..."
- One clinic has adapted its website to provide an online portal through which clients can access information pertaining to their case by secure means (under password protection); they can download forms to be filled out; and there is a message board through which case updates are provided. On the public side they provide public legal

education; the clinic has not undertaken to provide direct legal representation (including summary advice) through the portal.

- An injured worker specialty clinic has received Law Foundation funding to place their entire library catalogue (a considerable resource to other clinics and groups serving the injured worker population) on line, and available as an electronic resource. This places a vast wealth of legal information literally at the fingertips of those practicing in the field.
- The Canadian Environmental Law Association has combined their communications budget with outside funding to: develop sophisticated website(s) with portals dedicated to specific environmental law topics; establish an online library; and develop a bulletin board to ensure the timely dissemination of emerging trends and practical information in this area of the law. According to its ED, "[t]his practice of using the internet to provide free access to all of our materials (particularly information that is repeatedly requested) enables staff to more effectively and efficiently focus one-on-one time on either specific client needs or more complex matters that require direct contact beyond what can be provided on-line."
- The CLEO Six Languages Text and Audio Project has provided key materials that are in "high demand" in Arabic, Chinese (Mandarin and Simplified Chinese), Somali, Spanish, Tamil and Urdu, as well as in English and French.
- See reference to the Hamilton Tenant Hotline Project (above, Appendix A, sub-section IV, bullet point 2).

Appendix "B" –

The Importance of Local Service Delivery Priority Determination:

During the course of the ACLCO's consultation with clinics, written clinic input was sought to explain (and provide examples of) why it is necessary that the determination of local services priorities should be a clinic responsibility. In response to this request clinics provided numerous examples and detailed explanations for why they felt this remaining a clinic responsibility was in the clients' interest; some of these submissions are reproduced here. All material contained in this appendix is either direct quotes from clinic staff, or paraphrases of longer submissions provided by clinics.

I Service Priority Process: Triage in the context of insufficient resources:

- One ED described the dilemma in the following terms: "In the community legal clinics, no clinic has ever had the resources to meet all the clinic law needs of its low income community. Every clinic makes tough triage types of choices every day, but they are rational decisions. It is essential for the clinic to understand the needs of the community and the alternate resources available in the community to help, and the quality of those resources, in order to most effectively channel the clinic's limited resources to meet the most critical needs of the community. A clinic may decide not to do Canada Pension Plan disability benefit reconsideration requests because the local Member of Parliament's constituency assistant is very effective at that. A clinic may choose to handle workers' compensation appeals because the local Ministry of Labour Office of the Worker Adviser has a lengthy waiting list and a reputation for turning down all but the easiest appeals on the basis of a "merit review." A clinic may refer Greek speaking community members seeking to appeal an Employment Insurance benefit denial to the local Greek Community Centre because they will help, and accept Tamil speaking clients with the same issue because there are no alternative resources in the Tamil community. Any attempt to establish services priorities centrally by the funder would result in reduced outcomes for the clients, and other forms of inequity based on the application of uniform principles that to situations that are fundamentally variable across catchment areas. Clinics have to make those decisions every day, and they are accountable to the community when someone has a concern about a denial of services.
- An Ottawa clinic ED noted that, "just as the overall demand for legal aid services is far greater than service providers' ability to provide services, legal clinics are not able to respond to all demands for service in all areas of "poverty law" needs. The consequence of high demand for services is that legal clinics regularly decide which clients to assist (and which not to assist) and which services to provide.

Making decisions appropriately requires that legal clinics take several factors into account, including:

- the availability of other local legal clinics (or other legal aid service providers) to deliver the services requested, based on any local agreements among legal clinics/legal aid service providers to coordinate services;
- the availability of other community resources;
- if consideration is being given to direct the client to another service provider or resource, the ability of the client to access that resource;
- the possible consequences for a client if the legal clinic does not provide legal services to him or her;
- if services are to be provided to a client, the possible effect on the legal clinic's ability to deliver other services; and
- the social dynamics of the community that the legal clinic serves."

The ED went on to note:

- "Here are some Ottawa-based examples of how legal clinics apply these considerations when deciding whether to offer services to a client:

  - One clinic has agreed to offer advice about federal Employment Insurance appeals to clients living in the catchment area of another clinic;
  - Some clinics have reduced the extent of their delivery of legal services related to workers' compensation law because the Ottawa-based Office of the Worker Adviser specializes in this work and expeditiously provides excellent advice; and
  - Most clinics make it a priority to assist clients who present with serious mental health difficulties, to avoid the risk of the client not following up with the service provider to whom a clinic might otherwise refer them.

  This entails having a strong, regularly updated understanding of the legal needs arising in our community. This kind of detailed knowledge is only possible from the vantage point of the case workers and community partners who work in the community and serve clients, along with ongoing review and monitoring by community-based boards. Legal clinics are uniquely suited to make such determinations"

II Clinics are best positioned to understand their communities' needs:

- "Provincial downloading has had a dramatic impact on the City of Hamilton's budget and capacity to meet social services needs. Several years ago, the City threatened to cut special benefits to social assistance recipients, things like dental coverage, eye glasses and funerals. The three Hamilton clinics organized local agencies to lobby the City. The effort was successful and lead to a collaboration with the City to take on the province, through the formation of a joint committee to address the annual shortfall. A clinic staff person was a key player in lobbying the Province to provide huge payments in the last several years, as much as $18M a year. The ability to identify this need and

the capacity of agencies and politicians to respond could only be assessed locally based on our knowledge and grassroots experience working with the stakeholders involved."

III Process of Determining Needs (keeping your ear to the ground):

- "Having direct contact with our clients is a major way in which needs are determined. For example, the need for change in the WSIB Serious Injury Program was identified in a couple of our files. We attended several meetings with WSIB officials, where we brought forward issues identified in casework. As a result, the WSIB made revisions of all WSIB materials sent out to injured workers whose claims are in this unit….

  Needs and services are also identified through our work with the Ontario Network of Injured Workers, other clinics and inter-clinic working groups. One example of this is the WSIB Summary Advice Clinic at the CSSP… As well, needs and services are identified by our member-elected board of directors."

IV Doing our Work is assessing the Need:

- "North Bay used to be a big tourist town. As a result, we have lots of motels in a particular part of the city which have not seen a member of the vacationing or travelling public for years, but house low income people. Some of the operators of these establishments (which charge up to $600 a month for a single room plus bathroom) try to pretend that they are motels, and thus not covered by the security of tenure provisions of the *Residential Tenancies Act* [RTA]. Some property owners want to be able to command "OUT, NOW!" We have worked hard to reduce motel evictions by providing educational sessions to the local police force on, among other topics, when the [RTA] applies. The police now contact us, sometimes at least, before turfing tenants in situations to which the RTA might apply. This frees us up from spending large amounts of our time trying to get evicted tenants back into their apartments, which is virtually impossible in any event.

  North Bay also has a large population of people who live on provincial disability allowance, twice the provincial average per thousand of our population, to be exact. We need more affordable housing here, as rents are high. The Clinic is participating in the process of drafting North Bay's new Official Plan, and pressing for City Hall to take steps which will encourage the construction of more affordable housing. These suggestions will not cost money to implement, but they will help our people to be able to feed the kids and afford the rent. Whether these suggestions result in housing being constructed that our clients can move into, or such housing being vacated, does not matter. The point is, we will have less heart breaking evictions to defend against, evictions which result in homelessness. …. It is more effective to stop the conditions that lead to evictions happening in the first place than to try to stop them at the Landlord and Tenant Board.

We need to, on a local basis, determine the needs and services for our community. As earlier noted, we have relatively more students, more people on social assistance and more crappy motel type housing than other places North Bay's size. Finally, we have relatively more psychiatrically disabled people. Our provincial psychiatric hospital, which has been slowly shutting down for the last few years, has a huge catchment area. When people get better, or when they are discharged the umpteenth time, they tend not to go back to their little, remote communities in Northeastern Ontario. They remain here to take advantage of the out-patient clinics and other supports. They often become our clients in housing cases, but we also represent people on welfare trying to get on O.D.S.P. or stay housed.

We need to be able to allocate resources to public legal education and outreach, thereby targeting our particular client groups. A few strategically directed initiatives are a lot more effective than centrally directed cookie cutter services. We are in the best position to know how to effectively and efficiently use our resources than some people in Toronto, however well intentioned they might be."