

September 30, 2010

Mr. William MacKenzie  
Clerk of the House of Assembly  
East Block, Confederation Building

Dear Mr. MacKenzie:

I wish to table the 2009-10 Annual Activity Report of the Newfoundland and Labrador Legal Aid Commission. The report is being tabled in accordance with the *Transparency and Accountability Act*. You should note, however, that the report does not include the audited financial statements of the Legal Aid Commission as required by the *Legal Aid Act* and the *Transparency and Accountability Act* as they are not yet finalized. Once the statements are finalized, they will be forwarded to you for tabling.

I trust this is satisfactory.

Yours sincerely,



Felix Collins  
Minister of Justice  
Attorney General

**Newfoundland and Labrador Legal Aid Commission**

**Annual Activity Report 2009 - 10**

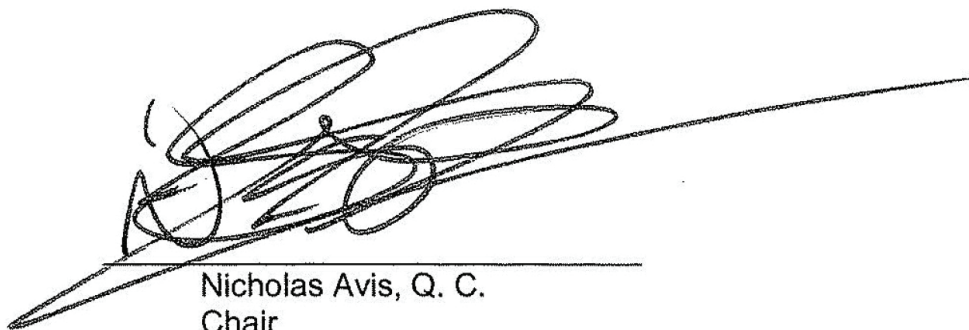
## Message from the Chair

As Chair of the Newfoundland and Labrador Legal Aid Commission I am pleased to present the Legal Aid Commission's Annual Report which outlines the Commission's activities in the 2009 - 10 fiscal year. This report was prepared under my direction and in accordance with the provisions of the *Transparency and Accountability Act*. This report does not include the audited financial statements of the Legal Aid Commission as required by the *Legal Aid Act* and the *Transparency and Accountability Act* as they are not yet finalized. Once the statements are finalized, this document will be submitted for re-tabling with the audited financial statements included.

The Legal Aid Commission is classified as a Category 3 Government Entity and as such must prepare an annual report which presents information on the activities of the entity carried out during the preceding fiscal year in compliance with its mandate.

The Legal Aid Commission operates under the *Legal Aid Act* which provides for the provision of legal counsel to represent eligible residents of the Province of Newfoundland and Labrador charged with offences under the *Criminal Code*, other federal statutes and provincial statutes, and to people who have family disputes or other civil matters. Duty Counsel services are provided to visitors of our Province and legal counsel may be appointed for non-residents either through the legal aid plan of the province in which they reside or our legal aid program.

The Board of the Legal Aid Commission is accountable for the results reported. I, as Chair of the Legal Aid Commission, accept accountability on behalf of myself and of the entire Board.



Nicholas Avis, Q. C.  
Chair

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## Overview

The Legal Aid Plan was established by the Law Society of Newfoundland and Labrador in 1968. Legal Aid was managed by a committee of the Law Society and was responsible for providing legal counsel to represent eligible accused persons and to assist others who were involved in family disputes.

In 1976 the Legal Aid Commission was established by the *Legal Aid Act (the Act)* to assume responsibility for the Legal Aid Plan.

The Commission consists of a seven person board of commissioners, two of whom are ex-officio, the Deputy Minister of Justice and the Provincial Director. The Lieutenant Governor in Council appoints five commissioners, three of whom are appointed from a list of nominees by the Law Society. The Lieutenant Governor in Council designates one of the Commission Members as Chair and the members select another member as Vice-Chair/Secretary.

### Appointed Members:

Nick Avis, Q.C., Chair  
Krista Gillam, Vice Chair/Secretary  
William Collins, Q.C.  
John Jenniex  
Katie Rich

### Ex-officio members:

Don Burrage, Q.C., Deputy Minister  
Newman Petten, Provincial Director

## Legal Aid Offices and Staff

The Legal Aid Commission employs a Provincial Director, two Deputy Directors, two senior lawyers, fifty-two staff solicitors, three social workers, six paralegals, a risk assessment officer, an information manager, an accountant, a client services officer, forty-three support staff, nine articling students, a family counselor, and four community workers. They work out of a provincial office, eleven area offices and six projects.

The Legal Aid Commission provides legal representation for persons that meet specified eligibility criteria, Duty Counsel service for first appearances on criminal matters before the Provincial Courts, and has a lawyer available 24 hours a day, 7 days a week, who may be reached at a 1-800 number to provide advice to people upon arrest, detention or being questioned by a peace officer. This service is referred to as Brydges Duty Counsel.

In addition to operating eleven area offices the Legal Aid Commission also has a number of special purpose offices. They are:

- The Aboriginal Project which operates out of the Happy Valley-Goose Bay office. It is intended to facilitate working with Aboriginal communities to better improve the quality of legal services to Aboriginal people who encounter the law. As part of this project the Commission has hired Community Liaison Workers for the towns of Nain, Hopedale, Natuashish and Sheshashiu.
- The Mental Health Office, in collaboration with the Health Care Corporation, works to improve and more efficiently deliver legal services to people with mental health problems. Through this office persons with mental health problems can obtain legal representation in the Mental Health Court and at the Mental Health Review Board.
- The French Speaking Project which has a staff solicitor fluent in French to provide legal advice by telephone, in person and when necessary to conduct trials in French.
- The Family and Child Legal Aid Services. There are offices in St. John's, Happy Valley – Goose Bay, and Corner Brook. Each office is staffed by a Director/staff solicitor, a social worker, and a paralegal. Their role is to assist parents of children taken into care by the Department of Child, Youth and Family Services (CYFS), to respond to the concerns of the CYFS, and to work towards the re-unification of the family where possible.
- The Client Service Officer whose role is to coordinate and facilitate all Legal Aid Commission communication with persons incarcerated anywhere in the provincial or federal prison systems or held in an institution.
- Family Justice Services in Central Newfoundland provides for a mediation and counseling service to parents in family separations.
- The Family Violence Court Project works with Provincial Court in St. John's to provide risk assessment services and legal representation to persons accepted into the new Family Violence Intervention Court process.

## Office locations and related staff are:

1.	Provincial Office – 251 Empire Avenue, St. John's	1 Provincial Director, 2 Deputy Directors, 2 Senior Solicitors, 1 Accountant, 1 Information Manager, 1 Client Services Officer, 2 Paralegals, 11 support staff
2.	St. John's – 251 Empire Avenue	16 staff lawyers, 9 support staff, 8 articling students
3.	St. John's – Atlantic Place	5 staff lawyers, 3 support staff, 1 articling student
4.	Marystown	1 staff lawyer, 2 support staff
5.	Clarenville	2 staff lawyers, 2 support staff
6.	Gander	2 staff lawyers, 2 support staff
7.	Grand Falls	2 staff lawyers, 2 support staff
8.	Corner Brook	5 staff lawyers, 3 support staff
9.	Happy Valley	6 staff lawyers, 3 support staff, 4 community workers
10.	Stephenville	4 staff lawyers, 3 support staff
11.	Carbonear	2 staff lawyers, 2 support staff
12.	Labrador West – Wabush	1 staff solicitor, 1 support staff
13.	Family and Child Legal Aid Services – St. John's	1 staff solicitor, 1 social worker, 1 paralegal
14.	Family and Child Legal Aid Services – Happy Valley	1 staff solicitor, 1 social worker, 1 paralegal
15.	Family and Child Legal Aid Services – Corner Brook	1 staff solicitor, 1 social worker, 1 paralegal
16.	Mental Health Court Project – St. John's	2 staff solicitors, 2 paralegals
17.	Family Justice Services – Central NL	1 staff solicitor, 1 support staff, 1 Family Counsellor
18.	Family Violence Court Project	1 Risk Assessment Officer

## **Mandate**

The mandate of the Legal Aid Commission is contained in Part V of the Act entitled "The Legal Aid Plan." The Act states: "The Commission may, upon receipt of an application, and where the applicant is found eligible, provide legal aid in criminal and civil matters without charge to an individual who is unable to pay and with partial charge to an individual who is able to pay a portion there of." Coverage is identified under Part VI of the Act. In criminal law, legal aid is provided for indictable offences and for summary conviction offences when certain conditions are met. In civil and family cases, legal aid is provided when there is case merit.

## **Vision Statement**

The vision of the Legal Aid Commission is to ensure all eligible residents of Newfoundland and Labrador and non-residents receive competent legal advice and representation.

## **Mission Statement**

The mission statement identifies the primary focus of the Legal Aid Commission during the 2007 - 2008 planning cycle and over the 2008 - 2011 planning cycle. It represents the key long-term results that it will be working towards as it moves forward on the strategic directions of Government. The statement also identifies the measures and indicators that will assist both the Commission and the public in monitoring and evaluating success.

Key aspects of the current mission statement include: improvements in the administrative structure of the Legal Aid Commission so it is more responsive to stated programs; implementation of the Lamer recommendations as they relate to Legal Aid's service; analysis of the legal aid services provided to family law applicants; implementation of the Child, Youth and Family Service project as a partial response to the Turner recommendations; improving access to the legal aid system; ensuring that services to the public are consistent and of the highest quality; and taking steps to ensure the Legal Aid Commission is responsive to the needs of Aboriginal communities. The Commission's mission statement is:



By 2011 the Legal Aid Commission will have enhanced its administrative structure and its services to the people of Newfoundland and Labrador.

### Measure

- The administrative structure and services of the Legal Aid Commission are enhanced.

### Indicators

- A new administrative structure is in place.
- Measures are in place to minimize barriers and increase efficiency.
- Recommendations in the Lamer Inquiry Report have been implemented.
- The Child Youth and Family Services Project has been established.

## **Lines of Business**

For all residents of Newfoundland and Labrador, and visitors to the province the following services are provided:

- Duty counsel to accused persons appear in the provincial and youth courts across the province.
- Brydges Duty Counsel, a 24 hours telephone service to people arrested or detained by the police.

For residents of Newfoundland and Labrador who meet financial and case eligibility criteria, and for non-residents, who qualify under the legal aid plan of the province or territory in which they reside, the following services are provided:

- Representation in criminal, family and civil cases.
- Represent in appeals before the Courts.
- Representation before administrative tribunals in areas such as: immigration and refugee claims, Canada Pension, employment insurance, and social assistance.

Eligibility for legal aid is dependent upon an applicant meeting the financial and case eligibility requirements specified in the Act and Regulations. Once an applicant is approved, services are provided by staff solicitors or, in approximately 2% of the cases, by lawyers in private. Private counsel are paid on a fee for service basis in accordance with the tariff found in the Regulations.

## Highlights and Accomplishments

### People Assisted

#### Applications

For the fiscal period ending March 31, 2010 – 8,924 people requested assistance from Legal Aid. This is a 9.9% increase in the number of applications the previous year and a 17.6% increase in the past two years. Of these who applied, 4,889 persons were provided with full service legal representation, a 10.3% increase in the number of persons provided with full service in the 2008-09 fiscal year and a 22.3% increase in the past two years. Those who were not provided with full service would have received advice. Persons are refused because they did not meet the financial eligibility guidelines or their cases were not ones for which legal aid would be granted.

#### Cases Completed

Staff lawyers completed 5,954 cases and 84 cases were completed by the private bar, amounting to 6,038 completed case. These cases represented approximately 12,635 charges and problems.

#### Labrador West

The Commission has a staff solicitor and a legal secretary working in Labrador West to better serve the people of that region. Up to last year the Legal Aid needs of Labrador West were being met by staff solicitors in the Commission's Happy Valley – Goose Bay Office. An area office for Labrador West opened early in the 2009-10 fiscal year.

#### Duty Counsel

Duty Counsel assisted 10,339 adults and 1,107 youths were assisted for a total of 11,446 people. This is an increase of 14.6% in the number of adults assisted in 2008-09 and a slight decrease in the number of youths assisted. There has been a 43.5% increase in the number of adults assisted in the past two years. Duty Counsel is a service provided to people on their first appearance before a Provincial Court Judge or Youth Court Judge.

## **Projects**

### Mental Health Project

This project works, in collaboration with the Eastern Health, to efficiently deliver legal services to people with mental health problems. It was a key partner in the establishment of the Mental Health Court. The project strives to provide for both the civil and criminal law needs of persons with mental illness. The Legal Aid Commission contributes 2 staff solicitors, two paralegals, and office space. Eastern Health contributes two social workers, and two LPNs.

### Family Violence Court Project

In March 2009 the Family Violence Intervention Court at Provincial Court in St. John's began operation. The Legal Aid Commission has been an active participant in the planning for this Court and plays a significant role by providing risk assessment services and legal representation to persons to have their cases dealt with under the new Court process. A risk assessment officer, based in the Commission's Provincial Office, assesses persons whose cases are being considered for inclusion in the Family Violence Intervention Court. Staff solicitors from the St. John's and Atlantic Place offices handle the provision of advice and representation to accused persons.

### Family and Child Legal Aid Services

It has been recognized that cases involving the removal of children from their parents by Child Youth and Family Services need to be handled differently than matters in other areas of law. Specialized knowledge, timely response, and innovative procedures are needed to ensure that the best interests of a child and its parents are met. The Legal Aid Commission has offices in Corner Brook, St. John's, and Happy Valley – Goose Bay to handle such cases. Each office is staffed by a staff solicitor, a social worker, and a paralegal who all work closely with parents and who bring a collaborative approach to the settlement of child protection cases.

### Client Services Officer

In the 2007/08 fiscal year the Legal Aid Commission implemented a program to improve communication between persons in institutions and the Commission. As part of this program a Client Service Officer (CSO) position was created whose role is to coordinate and facilitate all Legal Aid Commission communication with persons incarcerated anywhere in the provincial or federal prison systems or held in another institution. The CSO travels extensively visiting each prison and institution where persons are held to meet with officials at each institution, meet inmates, and collect information on how to better service this population.

## Activities

### **Issue 1: New Administrative Structure**

The administrative structure of the Legal Aid Commission had not changed since its inception over thirty years ago and was failing to reflect the increased supervision necessary to manage and monitor the quality and level of service. To ensure sound management for the future in 2007 – 08 the Legal Aid Commission implemented a large-scale reorganization to meet those needs.

<b>Goal:</b>	By 2011 the Legal Aid Commission will have completed the restructuring changes.
<b>Measure</b>	
Administrative restructuring completed	
<b>Indicators</b>	
Position responsibilities are approved by the Commission	
Position reporting requirements and reports are developed and approved	

<b>Objective 2:</b>	By 2010 the Legal Aid Commission will have completed the preparation of documentation and staff training on the new positions, policies, and practices.	
<b>Measure</b>		
Documentation prepared and staff training completed		
<b>Indicators</b>		<b>Actual Results</b>
Documentation prepared	During this fiscal year several manuals and guidelines, including a Performance Development Program and a Financial Eligibility Manual were produced. Prior to the production of these documents, staff and other stakeholders were consulted and focus groups were held.	
Staff training completed	New documentation and directives have been distributed to staff with explanatory material. For more complex programs, such as Performance Development and the Financial Eligibility Manual, all staff directly involved with the implementation of these programs received several days of training. In the summer of 2010 a team of management personnel will be travelling to each of the Commission's offices providing ongoing training on these programs to all staff.	

### **Objective and Indicators for Fiscal Year 2010 - 11**

<b>Objective 3:</b>	By 2011 the Commission will have analyzed the impact of the administrative changes on the quality of service provided to the public.
<b>Measure</b>	
Study of impact of administrative changes completed.	
<b>Indicators</b>	
Documentation prepared	
Staff training completed	

### **Issue 2: Access Improvements**

The Lamer Inquiry Report highlighted concerns that the Legal Aid Commission had not always communicated effectively with persons who were incarcerated and who needed their services. Similarly, concern has been identified by community groups, individual clients and the courts that people are having difficulty accessing legal aid. In 2009 – 10 studies of how to improve service have been completed. However, such studies are an ongoing process and so, to ensure that new initiatives on providing improved access continue to be developed, the Gardiner Centre from Memorial University has been retained to do a study of the Family and Child Legal Services Project and the Client Services Officer Project. This study has encompassed interviews, with staff, clients, other stakeholders, and the courts. A final report is expected in September 2010.

<b>Goal:</b>	By 2011 the Legal Aid Commission will have enhanced access to its services.
<b>Measure</b>	
Access to Legal Aid services enhanced	
<b>Indicators</b>	
Review of current application process completed	
Plan to improve application process developed	
Plan to improve application process implemented	
Time to process applications reduced	
Time taken to assign counsel reduced	
Time from the assignment of counsel to first meeting reduced	

<b>Objective 2:</b>	By 2010 the Legal Aid Commission will study means to improve access to its service.	
<b>Measure</b>		
Study completed		
<b>Indicators</b>	<b>Actual Results</b>	
Working groups established	During this fiscal year staff working groups were established which have studied several aspects of the Commission's service delivery and have made proposals for improvement.	
Service timelines established	The establishment of service timelines has been occurring throughout this fiscal year. Examples are timeframes for responding to applications from persons held in institutions; the time to process appeals to the Provincial Director and to the Commission Board; and time frames for the processing of applications at the Commission's area offices. In each case the establishment of time frames has had the intent and effect of reducing delay. It is anticipated that the completion of the Gardiner Centre report will also give rise to other areas in which service timelines would be beneficial.	

***Objective and Indicators for Fiscal Year 2010 - 11***

<b>Objective 3:</b>	By 2011 the Legal Aid Commission will introduce improvements to access to its services	
<b>Measure</b>		
Improvements introduced		
<b>Indicators</b>		
Time to process applications reduced		
Time taken to assign counsel reduced		
Time from the assignment of counsel to first meeting reduced		

### **Issue 3: Aboriginal Justice**

Since the release of the Aboriginal Justice Project Report the Legal Aid Commission has implemented several of the recommendations contained in it. It has also continued to study, consult and assess resources needed to ensure proper representation and presentation of Aboriginal persons' cases before the courts.

<b>Goal:</b>	By 2011 the Legal Aid Commission will have further analyzed the requirements to implement the recommendations of the Aboriginal Project Report and implemented them to the extent funding allows.
<b>Measure</b>	
The recommendations of the Aboriginal Justice Project report are implemented	
<b>Indicators</b>	
Stakeholders' comments and suggestions are solicited and considered	
Existing programs are revised and improved	
Legal Aid Commission service to Aboriginal communities is enhanced	

<b>Objective 2:</b>	By 2010 the Legal Aid Commission will have studied the recommendations for change and will have identified those that may be implemented within its existing budget and which will require additional funds.	
<b>Measure</b>		
A report on which recommendations can be implemented will be prepared		
<b>Indicators</b>		<b>Actual Results</b>
Recommendations that can be implemented have been identified	A senior solicitor from the Commission's Happy Valley – Goose Bay office completed and presented to the Commission's Board a study of the implementation of the recommendations of the Aboriginal Justice Project Report. This report identified which of the Project Report recommendations had been implemented and which were outstanding, still relevant and could be implemented.	
Recommendations that require additional funding have been identified	The senior solicitor's report also made a number of recommendations of improvements which would require additional funding to implement.	
Proposals for budget process have been prepared	Budget proposals for improvements to the delivery of Legal Aid to Aboriginal communities were prepared.	

### **Objective and Indicators for Fiscal Year 2010 - 2011**

<b>Objective 3:</b>	By 2011 the Legal Aid Commission will improve Legal Aid service to Aboriginal communities
<b>Measure</b>	
The recommendations of the Aboriginal Justice Project Report will have been implemented to the extent funding allows.	
<b>Indicators</b>	
Report on improved service is prepared	
Analysis of further needs for additional services is prepared.	

### **Issue 4: Maintaining Profession Quality**

The Legal Aid Commission provides legal services of the highest professional quality. To ensure that the Legal Aid Commission does not lose the trust and confidence of the public it is necessary that the Legal Aid Commission take steps to ensure that the legal services provided to the Newfoundland and Labrador public continue to be of the highest standard and that the workload of the legal staff is properly managed so that every client's case receives proper attention.

<b>Goal:</b>	By 2011 the Legal Aid Commission will have policies and practices in place to ensure that its professional staff have the tools and training to consistently provide the highest possible quality of legal service.
<b>Measure</b>	
All needed professional training and resources are provided to Commission staff.	
<b>Indicators</b>	
The Commission's Senior Solicitors provide a report on the training and resource materials needed to raise Legal Aid Commission's professional standards	
Regular professional training is implemented	
Standards of practice in specific areas of law are developed	
Review Processes are implemented to ensure consistently high standards are applied by all legal staff	



<b>Objective 2:</b>	By 2010 the Legal Aid Commission will implement its program of professional training and resource development	
<b>Measure</b>		
Professional training and resource development program is implemented		
<b>Indicators</b>	<b>Actual Results</b>	
Training materials and programs prepared	<p>In 2009-10 the Senior Solicitors responsible for Criminal Law and Family &amp; Civil Law prepared extensive manuals of material for use by staff solicitors and support staff.</p> <p>The senior solicitors have prepared detailed practice standards documents which are currently before the Commission Board. Once the practice standards documentation has been approved it will be distributed to staff solicitors and training will be provided to all.</p> <p>The Senior Solicitors have also implemented a program of regular audits of files handled by staff solicitors in each of the area offices to ensure that there is a consistent high quality of work done.</p> <p>A committee of all staff solicitors who are principals of articling students has also been formed to ensure that articling students receive the best possible training and that the Commission gets feedback on the performance of each student.</p>	

***Objective and Indicators for Fiscal Year 2010 - 11***

<b>Objective 3:</b>	By 2011 the Legal Aid Commission will have reviewed the success of the professional development program, determined any necessary changes, and implemented those changes.	
<b>Measure</b>		
Report on professional development program has been prepared and any recommended changes have been made		
<b>Indicators</b>		
A study of success of program is prepared		
Consultation with staff is held		
Determination is made as to necessary changes		

## Opportunities and Challenges Ahead

In the past two fiscal years the number of applications received for Legal Aid service increased by 17.6% over 2007 - 08 year. The number of matters accepted for full service increased by over 22.3%, and the demand for duty counsel assistance in the Provincial Court increased by 43%. Of even greater concern, in recent years there has been an increase in complexity of cases and the amount of court time needed and the time necessary to prepare matters for trial. The Commission has been able to cope with this increased demand due to a welcome growth in the resources provided by the Provincial Government in the last few years and through improving efficiency. However, if the demand for Legal Aid assistance continues to rise those resources may no longer be adequate to provide the same level of quality service.

The Legal Aid Commission has been operating for over forty years and, over that time, the number of client and administrative files that have accumulated has become a major problem. The Commission has a project to review the stored files, to identify files which can be destroyed, and to put in place an up to date file organization and retention system. This has proved to be an even larger undertaking than first envisioned. Additional resources have been allocated to this project so that much of the unnecessary documentation can be destroyed in the 2010 – 2011 fiscal year. The remaining documents will be dealt with under an approved Retention and Destruction schedule in the following year.

As part of its commitment to improving the quality of service, the Commission implemented a Performance Development program for its entire staff in the 2009 – 10 fiscal year. In the 2010 – 11 year this means that each staff person, from management on down, will be evaluated on her/his performance and will be part of a dialogue with management on opportunities for professional and personal development. It is anticipated that this process will put an increased load on management staff to ensure the program is conducted properly and that staff expectations are met. As well, there will need to be a detailed analysis done of the successes and failings of the program in its first year so that improvements can be made before the next year's evaluations.

## Financial Statements ( unaudited)

Expenditure and revenue figures included in this document are based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for Fiscal Year Ended 31 March 2010.

	Actual \$	Estimates	
		Amended \$	Original \$
05. Professional Services.....	-	1,300	1,300
10. Grants and Subsidies.....	14,050,288	14,319,300	14,319,300
01. Revenue - Federal.....	(147,515)	(2,313,900)	(2,313,900)
Total: Legal Aid and Related Services.....	13,902,773	12,006,700	12,006,700

### Contact Us

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