



## **Pro Bono Initiatives in Alberta**

**Prepared for the Federation of Law Societies  
for presentation to the Minister of Justice,  
the Honourable Irwin Cotler**

**August 2005<sup>1</sup>**

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<sup>1</sup> Prepared by Susan V.R. Billington, Policy and Programs Counsel - with thanks to Sarah Pybus, 2004 summer student at the LSA for her background research information on pro bono legal services in Alberta

## **Executive Summary**

The Federation of Law Societies has asked each law society in Canada to provide information regarding pro bono initiatives in their province including funding and survey information on the participation of lawyers in pro bono activities in their jurisdiction.

## **Pro bono Initiatives in Alberta**

Access to justice, including through the provision of *pro bono* legal services, is an integral part of the values of the Law Society as the governing body of an independent, self-governing profession, acting in the public interest. The role of the Law Society in the provision of *pro bono* legal services is to provide structure, offer leadership and encourage and promote a culture of *pro bono* legal services in Alberta.

The Law Society of Alberta Pro Bono Committee has sponsored pro bono initiatives including the pro bono legal clinic start-up kit and the 2003 report entitled *Pro Bono Publico-For the public good*. The Pro Bono Committee has been given a clear mandate by the Benchers to implement the four recommendations from 2003 Report. The recommendations and an update on the progress of their implementation are detailed in this report.

Several pro bono legal clinics are currently in operation in Alberta including Calgary Legal Guidance (CLG) (1971), Edmonton Centre for Equal Justice (2001) and the Children's Legal Resource Centre (2003). Red Deer hopes to open the Central Alberta Legal Clinic in late 2005. Other communities across the province are investigating the viability of pro bono legal clinics for their communities based on the CLG model and the pro bono start-up kit.

Student Legal Assistance (University of Calgary Faculty of Law) and Student Legal Services (University of Alberta Faculty of Law) offer pro bono legal services delivered by law students.

Legal support is also available for non-profit and charitable organizations including Pro Bono Students Canada (U of A and U of C) and the CBA (Alberta branch) Volunteer Lawyers Service. Specialized pro bono initiatives have been developed for family law mediation services including the Calgary Dispute Resolution Office and Edmonton Child Support Resolution Project.

Pro bono legal information services are available through Public Legal Education Network of Alberta and the Family Law Information Centre.

## **Funding of pro bono initiatives in Alberta**

Generally, each organization, that delivers pro bono legal services, pieces together funding from a variety of private and public funds and foundations. The Alberta Law Foundation plays a major role in funding agencies that provide and coordinate pro bono legal services and public legal information. The Alberta Law Foundation receives its funds from the interest gained on lawyers trust accounts in the province.

## **Survey on Volunteerism by the Canadian Bar Association (Alberta Branch)**

The Canadian Bar Association (Alberta Branch) established the Task Force on Community Responsibility which surveyed the legal profession regarding pro bono services. The results of the survey demonstrated that the average lawyer spends over 15 regular working days per year, approximately 120.4 hours, volunteering their time, skills and expertise to individuals and organizations within Alberta.

## Introduction

The Law Society of Alberta was very pleased to attend the meeting convened by the Minister of Justice, the Honourable Irwin Cotler on June 28, 2005 to discuss pro bono initiatives in Canada.<sup>2</sup> The meeting provided an opportunity for dialogue among the various stakeholders in the legal profession across the country regarding pro bono legal services.

To continue to dialogue, Ken Nielsen, QC, President of the Federation of Law Societies, in his memo dated July 22, 2005 requested that the Law Society of Alberta provide the following information:

- Identification and brief description of pro bono programs in Alberta
- Information on the funding of pro bono programs in Alberta
- Survey results of lawyers regarding pro bono legal services in Alberta.

We are very pleased to provide this information which includes the following:

- I. Pro bono initiatives in Alberta
  - A. Law Society of Alberta: Pro bono Committee
  - B. Pro bono Legal Clinics
  - C. Legal Support for Non-profit and Charitable Organizations
  - D. Family Mediation Services
  - E. Legal Information Services
- II. Funding of pro bono initiatives in Alberta
- III. Survey on Volunteerism in the legal profession in Alberta by the Canadian Bar Association (Alberta Branch)

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<sup>2</sup> The Law Society of Alberta was represented by Douglas McGillivray, QC, President of the Law Society of Alberta and Susan V.R. Billington, Policy and Programs Counsel, Law Society of Alberta

## I. Pro bono Initiatives in Alberta

### A. Law Society of Alberta - Pro Bono Committee

The Law Society of Alberta established the Pro Bono Committee in 1998 and has been working since to promote and provide a structure for the delivery of pro bono legal services in Alberta.

#### 1. Pro bono clinic start-up kit

The first initiative of the Committee in 1998-99 was to sponsor the creation of a pro bono legal clinic start-up kit. The Benchers of the Law Society approved a \$27,000 budget for the project. The start-up kit is a “how-to” manual for beginning a pro bono clinic based the Calgary Legal Guidance model and was prepared for the Law Society of Alberta by Merrill Cooper, former Executive Director of Calgary Legal Guidance. The purpose of the kit is to provide a resource for starting pro bono legal clinics in other communities across the province.

The committee has been active over the years in promoting the development of pro bono legal clinics in the province and the kit has been provided to various organizations including; the Edmonton Centre for Equal Justice, the Children’s Legal Education Resource Centre, and the Central Alberta Legal Clinic Foundation. Most recently, the Lethbridge Bar Association have advised that they are investigating the development of a pro bono legal clinic in Lethbridge and the kit has been provided to them.

#### 2. *Pro Bono Publico - For the Public Good - Report of the Pro Bono Committee April 2003*

In 2003, the Pro Bono Committee released its report entitled *Pro Bono Publico – For the public good*.<sup>3</sup> In this report, the committee articulated the role of the Law Society and guiding policy considerations for the Law Society regarding the provision of pro bono legal services. As well, the Committee made four recommendations that were adopted by the Benchers in April 2003. The guiding policy considerations and the four recommendations are summarized below.

#### **Guiding Policy Considerations**

- **Role of the Law Society** – Access to justice, including through the provision of *pro bono* legal services, is an integral part of the values of the Law Society as the governing body of an independent, self-governing profession, acting in the public interest. The role of the Law Society in the provision of *pro bono* legal services is to provide a structure, offer leadership and to encourage and promote a culture of *pro bono* legal services in Alberta.
- *Pro bono* service should not be mandatory
- **Definition of *Pro bono* Legal Services** - The definition of *pro bono* should be broad and inclusive, recognizing and encouraging the many contributions our members make to the community.
- **Focus on inability to pay for legal services** - The most pressing need for *pro bono* legal services is the need for legal advice and representation for persons who do not

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<sup>3</sup> The report in its entirety is posted on the LSA website at [www.lawsocietyalberta.com](http://www.lawsocietyalberta.com).

have the resources to pay for these services. The recommendations should focus on initiatives that will promote the provision of this form of *pro bono* work.

- **Legal Aid** - *Pro bono* legal services are meant to complement not replace a properly funded legal aid program.
- **Resources** – The Law Society needs to be cognizant of the resources that we have to expend on facilitating *pro bono* legal services. Not all of the solutions are within the power of the Law Society. The recommendations made by the Committee at this time, do not include programs staffed by the Law Society or dedicated funding to certain programs. We need to leverage our resources for maximum benefit and provide a structure so that *pro bono* programs can be developed by the appropriate agencies.
- **Non-duplication with existing *pro bono* programs** - In promoting a *pro bono* legal culture, we need to be cognizant of the *pro bono* legal services and programs already provided by others and not duplicate the efforts of other organizations. To accomplish this, liaison with other stakeholders is necessary.
- **Maximum profile and benefit to our members and the public** - In expending the time and effort to encourage and promote the *pro bono* legal services of our members, any program that is adopted should have a maximum benefit to and profile with our members and the public.

**Recommendations from *Pro Bono Publico – For the Public Good: April 2003*  
(with updates on recommendations to August 2005)**

**Recommendation 1: *That the Benchers adopt the definition of pro bono legal services as developed by the Committee.***

The Benchers adopted a definition of *pro bono* legal services in April 2003 as follows:

*Definition*

A lawyer who voluntarily provides legal services without fee and without expectation of a fee is providing a *pro bono* service, which may include:

- providing legal advice and/or representation to a client to ensure access to the courts, the legal system and legal services regardless of the ability to pay,
- providing legal advice and/or representation to a client whose case raises a wider issue of public interest,
- delivering community legal education,
- providing legal advice and/or representation to charitable, not-for-profit and community organizations, and
- providing ADR, mediation or preventative law services.

The Law Society also recognizes the value of and promotes lawyers providing services in the regulation and education of the legal profession or service on committees of professional associations.

*Pro bono* programs are meant to complement not replace a properly funded Legal Aid program.

**Recommendation 2: *That the Committee contact and liaise with the local bar associations such as Red Deer, Medicine Hat, Lethbridge and Grande Prairie to garner the legal community's interest in promoting the establishment of a CLG model legal clinic in those locations as was done with the ECEJ in Edmonton.***

The Pro Bono committee of the Law Society of Alberta has had a long term strategy of clinic development and network throughout Alberta which started with the development of the CLG start-up kit in 1998 as outlined above. The key to the success of the clinic initiatives is the participation of the private bar in each of the locations. The CLG clinic model in the estimation of the Benchers and the Committee, best organizes the delivery of pro bono legal services by lawyers.

The Kit has been provided to Edmonton Centre for Equal Justice, the Children's Legal and Education Resource Centre, the Central Alberta Legal Clinic Foundation Society and to the Lethbridge Bar Association. Lethbridge has not yet reached the stage for a scheduled opening date. The committee has plans to visit Medicine Hat bar association in the fall.

Each clinic that is in operation is discussed in detail below under pro bono clinics.

**Recommendation 3: *That the Committee in conjunction with the Insurance Committee review the possibility of the extension of insurance coverage to retired lawyers who provide pro bono legal services through approved pro bono clinics.***

This recommendation has been approved by the Benchers and by the Canadian Lawyers Insurance Association. The targeted date for rule changes is scheduled for February 2006 at which time retired and inactive lawyers will be able to provide pro bono services through the pro bono clinic model.

**Recommendation 4: *That a broad stakeholder Committee be formed by the Law Society including those identified organizations that already provide or have a stake in pro bono legal services. This committee would have as its mandate the development of a pro bono regime that maximizes and co-ordinates the resources for the delivery of pro bono services for those clients who do not have the ability to pay. This broader committee would also be mandated to review the suggested initiatives in this paper (such as the formation of an independent not-for-profit umbrella group, extension of existing pro bono programs, liaison with law firms, duty counsel, pro bono award, pro bono challenge, survey of the profession) which in the considered opinion of the Committee are best delivered and resourced by a broader section of stakeholders. A logical partner in the formation of this Committee is the Canadian Bar Association (Alberta Branch).***

The implementation of a pro bono award to be awarded as a category of the LSA/CBA Distinguished Service Awards is targeted to be held in conjunction with the Alberta Law

Conference in 2006. This will be an exciting extension of the Distinguished Service Awards which currently recognizes lawyers' contributions in the following categories: legal scholarship; service to the community; and service to the legal profession.

The committee is currently working on a proposal for the formation of an independent pro bono stakeholder group. This is part of a longer term strategy to ensure that the gaps in the delivery of legal services for those who are unable to pay are identified and addressed. The development of this stakeholder group is intended to ensure that there is not a duplication of services so resources are wisely spent.

The LSA will be celebrating its 100 anniversary in 2007. The Pro bono Committee is working towards the development of a pro bono legacy project for presentation to the Benchers. The legacy project will be an extension of recommendation 4 in the development of a sustainable program and structure for the delivery of pro bono legal services, focused on those who do not have the ability to pay for such services. The LSA is actively seeking out partners in the legacy project which will commemorate this important milestone for the legal profession and the public in Alberta.

### **3. Funding of the Pro bono committee**

The Committee operates on funds allocated from the annual budget of the Law Society of Alberta.

## **B. Pro Bono Legal Clinics**

### **1. Calgary Legal Guidance**

Calgary Legal Guidance ("CLG") is a charitable society that provides free legal advice and assistance to individuals who do not qualify for legal aid and would not otherwise have access to legal services. CLG's long-standing presence in the community began in 1971. CLG receives funding and support from Alberta Justice, the Alberta Law Foundation, Alberta Community Employment, the United Way of Calgary, the City of Calgary, Homefront, an anonymous donor, and a roster of volunteer lawyers.<sup>4</sup>

#### **Services Provided**

- a. Downtown and Outreach Clinics** - The Downtown Clinic is open 4 evenings a week to assist individuals with a variety of different legal issues. Most of the clients who attend this clinic require assistance in the areas of family, poverty, criminal and immigration law, but other areas are addressed as well. With respect to criminal matters, CLG will assist only individuals charged with summary offences. As CLG does not wish to duplicate the services rendered by Legal Aid, it does not handle any matter that involves the possibility of incarceration.<sup>5</sup> In addition, volunteers may assist individuals who are entitled to legal aid but who are unable to access their entitlement due to language barriers, disabilities or other obstacles, or help them to access those entitlements. For

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<sup>4</sup> Calgary Legal Guidance, "Annual Report to the Community" (April 2002 to March 2003) at 4.

<sup>5</sup> Communication with Kim Feodoroff, Program/ Volunteer Coordinator, Calgary Legal Guidance, 24 June 2004.

many of CLG's clients, accessing justice is about accessing already existing entitlements.<sup>6</sup>

There are five outreach clinics, including the Eastside Family Clinic, Calgary Immigrant Women Association (CIWA), Calgary Chinese Community Services Association (CCCSA), Mount Royal College, and Family Law Duty Counsel. These clinics offer advice and assistance mainly in the areas of family and immigration law, but will also assist in other areas. The Eastside Family Clinic and CCCSA operate one evening per week, and CIWA and the Mount Royal College operate 1 to 2 evenings per month. The Family Law Duty Counsel provides assistance every morning from Monday to Friday.<sup>7</sup>

At the end of each evening clinic, volunteer lawyers complete advice forms, which are in turn reviewed by a staff lawyer. The staff lawyer then decides whether the individual will receive follow-up services, including actual representation, according to need and available resources. In 2002, 1727 (40%) of the 4350 clients who attended a clinic received follow-up services.<sup>8</sup> Clients for whom a file was not opened received assistance in other forms, including "negotiation of agreements, notarization or commissioning of documents, a follow-up appointment with a lawyer or articling student, assistance in preparing a court document or preparing for a court appearance, etc."<sup>9</sup>

- b. **Dial-A-Law** - The Alberta Law Foundation funds most of CLG's public legal information services, including the Dial-A-Law project and other topical services and seminars. Dial-A-Law provides free general information about the law and the legal system, and, since its merger with the Lawyer Referral Service, provides names of lawyers from across the province to individuals seeking representation. The service is particularly useful to individuals in remote locations who would be otherwise unable to obtain names of lawyers in their area who can address specialized issues.
- c. **Do Your Own Divorce** - The Do Your Own Divorce clinics are another service provided by CLG with a view to public legal education. Volunteer lawyers provide individuals with information about divorce, and assist in the completion of uncontested divorces. The hope is that clients will be able to obtain an inexpensive divorce, ideally for less than \$300. Clients attend a group session with a family law practitioner and are walked through the divorce process with a complete set of draft divorce forms. Clients are then given a manual to assist them to complete the good copies of the forms themselves. During its 2002-2003 fiscal year, CLG assisted 55 clients in the completion of their divorces.<sup>10</sup>
- d. **Court Preparation Service** - The objective of this program is to provide assistance to victims of domestic violence and help them to understand the court process, particularly when their abusive partner has been charged. The service is provided by a lawyer-social worker team that makes referrals for emotional support, emergency funds and temporary shelter, and provide legal information about custody and access to children.

<sup>6</sup> Communication with Mary Lynn Dorsey, Executive Director, Calgary Legal Guidance, 2 June 2004.

<sup>7</sup> Communication with Kim Feodoroff, *supra* note 5.

<sup>8</sup> "Annual Report to the Community," *supra* note 14 at 8. CLG's Annual General Meeting is generally held in September or October, and the 2003-2004 Annual Report will be available at that time.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.* at 9.

This service is rendered with the support of the Calgary Police Service, Victim Assistance Unit and the YWCA Sheriff King Family Support Centre.<sup>11</sup>

- e. **Restraining Order Service** - The staff lawyer who administers the Court Preparation Service also administers the Restraining Order Service, obtaining restraining orders to protect the victims of violence and prevent further violence. In 2002, 678 individuals received support from the service.<sup>12</sup> It is funded by the United Way, and supported by the Calgary Police Service, Domestic Assault Unit.
- f. **Social Benefits Advocacy** - Given the frequent confusion surrounding the complex web of social benefits programs available to Calgarians, the Social Benefits Advocacy program assists financially disadvantaged individuals access or maintain social benefits. The individuals who most need to access benefits are often the individuals least able to advocate for themselves, and need someone to advocate for them.

The Advocate has an in-depth understanding of all the relevant legislation plus contacts within each agency. The Advocate attempts to resolve misunderstandings between agencies and clients, employing his or her knowledge of the timing and appeal processes and setting priorities if the client is accessing multiple benefit programs. The Advocate writes letters, explains forms and procedures, negotiates on behalf of clients, and accompanies clients to appointments and hearings. This program is funded by City of Calgary Family and Community Support Services, and helped 421 clients in 2002.<sup>13</sup>

**“Means” Test** - CLG does not publish its income guidelines, as the guidelines are subject to change and may, if appropriate, be derogated from. Although the Board of Directors does look to the income guidelines of other social and community organizations, it follows the federal “low income cut-off” (LICO) as determined by Statistics Canada. According to the 2001 Census Dictionary, a person or family is financially disadvantaged if they spend 20% more of their annual family income than the average Canadian or Canadian family on food, clothing and shelter, such that they have little or no income left to spend on transportation, health, personal care, education, household operation, recreation or insurance.<sup>14</sup> LICO is determined every 2 or 4 years, and is calculated by estimating the percentage of gross income spent by the average Canadian family on food, clothing and shelter and then somewhat arbitrarily marked up by 20 percentage points. Thus, people who fall below LICO likely meet CLG’s eligibility requirements. That said, CLG does afford its volunteers and clients some flexibility, and will take into account such factors as language barriers, disability, and other circumstances when determining whether to assist a potential client.

The 2001 Census Dictionary states that the LICO statistics for a city the size of Calgary (i.e., 500,000 or more residents) in the year 2000 were as follows:<sup>15</sup>

Family Size	1	2	3	4	5	6	7+
LICO	\$18,371	\$22,964	\$28,560	\$34,572	\$38,646	\$42,719	\$46,793

<sup>11</sup> *Ibid.* at 10.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.* at 11.

<sup>14</sup> “2001 Census: Low Income Cut-Offs (LICOs),” online: Statistics Canada <<http://www.statcan.ca/english/census2001/dict/fam021.htm>>.

<sup>15</sup> *Ibid.*

**Participating Lawyers** - CLG currently has a roster of approximately 130 volunteer lawyers from the Calgary bar who, among other things, participate in legal advice and divorce clinics, provide translation services, conduct legal information seminars and, less frequently, take on *pro bono* files. When files are opened, clients are almost always represented by a staff lawyer, or an articling or summer student. In 2002 only 61 clients were provided ongoing representation by volunteer lawyers without fee.<sup>16</sup> There are a handful of lawyers who have indicated a desire to represent clients, or have been expressly asked to do so by CLG, but it is certainly not a requirement.<sup>17</sup>

**2. Edmonton Centre for Equal Justice**

The Edmonton Centre for Equal Justice (“ECEJ”) is a community based project that provides legal assistance, information and referral to low-income individuals who would otherwise be unable to access such services. ECEJ began in 2001 as a project of the Edmonton Social Planning Council with the assistance of the Law Society through the provision of the start-up kit and promotion of volunteer lawyer services. In 2005, ECEJ became independent from the Edmonton Social Planning Council and established its own Board of Directors. It is funded by the Alberta Law Foundation, the Edmonton Community Foundation, the United Way, and the Edmonton Community Lottery Board.

**Services Provided** - Volunteer lawyers provide legal advice in any area of law at the evening clinics, however files are only opened in 7 principle areas: landlord/ tenant, employment, small claims (excluding cases taken on contingency), debtor/ creditor, income support issues, and human rights and immigration. ECEJ also assists clients with Legal Aid appeals, i.e., where the individual has been turned away by Legal Aid.

ECEJ does not generally assist clients with criminal or family matters; clients are referred to either Legal Aid or Student Legal Services (discussed below). If a client is turned away by Legal Aid, the Intake Coordinator will refer the client to Lawyer Referral Service, or may book the client for an evening clinic. However, if the client does attend an evening clinic, he or she is told beforehand that ECEJ will not be able to provide further assistance beyond that clinic.

Although the Centre has a short history compared to CLG, it is an efficiently run operation and is able to handle relatively large volumes. It currently sees approximately 800 clients per year, resulting in 200 court appearances. However, expansion of services is on the horizon.

**“Means” Test** - The Edmonton Centre for Equal Justice’s income guidelines are as follows:<sup>18</sup>

Family Size	1	2	3	4	5	6	7
Income/ month	\$1,525	\$1,970	\$2,500	\$2,890	\$3,150	\$3,410	\$3,695

These amounts follow the income guidelines set out by the Provincial Court under Regulation 18/91, whereby filing fees are waived or reduced for persons whose income falls under a certain specified amount. Unlike Legal Aid, ECEJ does NOT take into account the value of the client’s family assets, as ECEJ organizers believe that taking into account assets perpetuates the cycle

<sup>16</sup> “Annual Report,” *supra* note 4 at 8.

<sup>17</sup> Communication with Mary Lynn Dorsey, *supra* note 6.

<sup>18</sup> Communication with Patricia Bencz, Volunteer Coordinator, Edmonton Centre for Equal Justice, 3 June 2004.

of poverty. The guidelines are of course flexible to a certain extent, and will be judged on a case-by-case basis. There is a one-time \$20.00 administrative fee if ECEJ provides a person with direct legal services/ representation. There is no fee to attend an evening clinic.<sup>19</sup>

**Participating Lawyers** - ECEJ currently utilizes the services of approximately 40 volunteer lawyers from the private bar in the Edmonton area at 2 evening clinics per week, each 3 hours in duration.<sup>20</sup> Volunteers meet with clients and provide *pro bono* summary legal advice. Lawyers who volunteer are asked to donate one evening per month to the project. All areas of practice are welcome. If a legal file is opened by ECEJ then ECEJ's staff lawyer will represent the client in their legal matter. However, once ECEJ becomes independent and its clientele increases, it is open to discussing the possibility of having lawyers from the private bar supplement the staff lawyer's representation services.

**Pilot project for direct representation** - The Edmonton Centre for Equal Justice is embarking on a new pro bono pilot program with a private law firm. Miller Thomson, to provide representative legal services where the legal need has been established and the limited financial resources of the client have been screened by ECEJ. There are hopes and plans for the extension of this pilot project to other law firms within the Edmonton community. Discussions will be held with CLG to explore the possibility of the involvement of private law firms providing a similar initiative in the Calgary community as well.

### 3. Student Legal Assistance

Student Legal Assistance ("SLA") is a volunteer, non-profit, registered charity, comprised of students from the University of Calgary Faculty of Law, and supported by the Calgary legal community. SLA receives the majority of its funding from the Alberta Law Foundation, and the remainder from University of Calgary undergraduate students through their Students Union.

**Services Provided** - SLA provides assistance for civil claims up to \$25,000, including contract and debt disputes, wrongful dismissal, landlord/tenant, and motor vehicle property damage. SLA provides assistance to persons facing summary conviction, with no possibility of incarceration, for such crimes as theft under \$5,000, common assault, impaired driving, mischief, causing a disturbance, fraud, solicitation, and possession of stolen property. SLA also helps students respond to summonses and offence notice violation tickets, including traffic matters.<sup>21</sup> In this way, SLA supplements the services of Legal Aid, as Legal Aid will not assist individuals charged with summary offences who do not face the prospect of imprisonment.

Although assistance for family matters is limited, SLA's volunteers will assist with provincial court family matters (i.e., no divorce), including child support, custody, access, and private guardianship. Clients wishing to obtain a divorce are referred to Legal Aid. Finally, volunteers will assist students with academic appeals and non-academic matters, social assistance problems, and Workers Compensation claims.<sup>22</sup>

**"Means" Test** - SLA helps University of Calgary undergraduate students, as well as non-university students who cannot afford the services of a lawyer. For undergraduate

<sup>19</sup> Edmonton Centre for Equal Justice, online: <<http://www.ecej.ca/services.html>>.

<sup>20</sup> Communication with Patricia Bencz, *supra* note 18.

<sup>21</sup> Student Legal Assistance, online: <<http://www.fp.ucalgary.ca/SLA/>>.

<sup>22</sup> *Ibid.*

students, the service is free of charge. However, non-University of Calgary undergrads, including Masters and PhD students, must meet the financial guidelines and pay a one-time nominal disbursement charge. The disbursement charge is \$30 for a criminal file and \$50 for a civil file, although the fee may be waived under specific circumstances.<sup>23</sup>

SLA's income guidelines, based on monthly income, are as follows:<sup>24</sup>

Family Size	1	2	3	4	5	6	7+
Gross Family Income	\$1,521	\$1,895	\$2,357	\$2,855	\$3,188	\$3,526	\$3,861
Net Family Income	\$1,300	\$1,620	\$2,015	\$2,440	\$2,725	\$3,014	\$3,300

**Participating Lawyers** - At SLA, law students provide summary legal assistance and will, if requested, assist with legal issues from start to finish, including court representation. Over 150 volunteer lawyers from the community, as well as the judiciary and Crown Prosecutors office provide supervisions support and guidance to law students.<sup>25</sup>

#### 4. Student Legal Services

Student Legal Services ("SLS") is a non-profit, charitable organization formed by over 200 law students from the University of Alberta who provide year-round free legal services to individuals who cannot afford a lawyer. SLS is funded by the Alberta Law Foundation, the federal and provincial governments, and the University of Alberta Students' Union.

**Services Provided** - SLS has 3 principle projects, aside from Pro Bono Students Canada (discussed below): the Civil and Family project, the Criminal project, and the Legal Education and Reform project. Law students represent individuals before the Provincial Court of Alberta Civil, Criminal and Traffic Divisions, and act as agents before administrative tribunals for such matters as Workers Compensation, Employment Insurance, and academic appeals. Students cannot represent clients before the provincial Youth Court.<sup>26</sup>

- a. **Civil and Family Project** - As law students do not have standing in the Court of Queen's Bench, volunteers with the Civil and Family project may only assist clients with claims under \$25,000. Notwithstanding this limitation, however, students are able to assist in a wide variety of cases. With respect to family law matters, students provide information only about divorce and separation, custody and access, maintenance and division of family property. SLS operates several Do Your Own Divorce clinics each year, conducted by a family law advising lawyer over a 2 evening period, and each client is assisted by a student volunteer. Clients may only attend these clients if their divorce is uncontested.<sup>27</sup>
- b. **Criminal Project** - Volunteers with the Criminal project assist eligible clients in criminal matters, including summary conviction without the possibility of custody and

<sup>23</sup> Communication with Maureen Mallett, Executive Director, Student Legal Assistance, 14 June 2004.

<sup>24</sup> Communication with Maureen Mallett, *supra* note 23.

<sup>25</sup> Student Legal Assistance, *supra* note 21.

<sup>26</sup> "The Criminal Law Project," online: Student Legal Services <<http://www.slsedmonton.com/crim/index.html>>.

<sup>27</sup> "Student Legal Services of Edmonton: General Volunteer Handbook, 2003-2004," online: Student Legal Services <<http://www.slsedmonton.com/private/handbook.pdf>> at 32.

regulatory offences such as traffic related offences. Thus, like SLA, SLS represents clients in criminal matters where Legal Aid is unable to do so.

- c. **Legal Education and Reform Project** - The Legal Education and Reform project involves 11 different outreach clinics, as well as educational seminars and presentations at high schools, ESL groups and interested community organizations. At outreach clinics, volunteers assist clients by opening civil and criminal files for clients and answering law related questions.<sup>28</sup>

**“Means” Test** - The Student Legal Services’ Volunteer Handbook states that SLS’s income guidelines are identical to those of Legal Aid (see above), and the organization’s funding is dependent on SLS abiding by this policy.<sup>29</sup> Services are rendered free of charge, but clients are responsible for all unavoidable fees. Clients must pay filing fees to bring a claim before the Small Claims court – i.e., \$100 for a claim \$7,500 or under, and \$200 for a claim between \$7,500 and \$25,000. In addition, clients who attend a Do Your Own Divorce Clinic must pay \$25 for the material provided by SLS, as well as a filing fee, a process server fee and photocopying fees.<sup>30</sup>

**Participating Lawyers** - SLS retains the services of several lawyers from the Edmonton bar to advise students in the areas of civil, criminal and family law. There is currently one lawyer employed by SLS in the area of family law, one in the area of civil law and an Edmonton firm, Anderson Dawson, paid to assist in criminal matters. In addition, 2 criminal and 6 civil unpaid lawyers assist law students with files. Volunteer lawyers are not asked to make a minimum commitment to SLS. They are available to assist students when the paid lawyers are unavailable, or unable to help for some other reason.<sup>31</sup>

## 5. Children’s Legal and Education Resource Centre

The Children’s Legal and Education Resource Centre (CLERC) is a relatively new, non-profit legal and educational resource centre for children, youth and their families. It was incorporated under the *Society Act* in 2002, and is funded by Family and Community Support Services, City of Calgary with project support provided by the Calgary Foundation and the Alberta Law Foundation.

**Services Provided** - CLERC provides representation to children and youth 19 years of age and younger. CLERC runs a legal clinic where it assists children and youth with legal matters relating to family issues, such as child support, independent living, adoption, pregnancy and arranged marriages, as well as immigration, wills and estates, employment, landlord and tenant disputes, and human rights issues. CLERC does not represent young people charged with criminal offences, summary or indictable, or those who access legal services through Child Welfare. In either case, children and youth generally access legal representation through Legal Aid, although CLERC will, if possible, assist through its referral and information services.<sup>32</sup>

In addition to providing actual representation, CLERC delivers legal information and education. The project is currently developing an interactive website on legal rights and services, and, in

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<sup>28</sup> *Ibid.* at 61.

<sup>29</sup> *Ibid.* at 10.

<sup>30</sup> *Ibid.* at 32.

<sup>31</sup> Communication with Loret Mock, Student Legal Services, Edmonton, 25 June 2004.

<sup>32</sup> Children’s Legal and Education Resource Centre, online: <<http://www.clerc-calgary.ca>>.

conjunction with the Alberta Civil Liberties Research Centre, two sets of written material about family law. These materials include a pamphlet for young people that presents family law issues from the perspective of a child, and a handbook about children's issues for parents, services providers and professionals involved with children.<sup>33</sup>

CLERC staff are involved in developing training programs for lawyers to ensure that legal service provided to young people is child and youth focused and appropriate.

**“Means” Test** - All children and youth 19 years of age and younger may access the CLERC's services. There are no eligibility requirements or income guidelines; CLERC does not take into account the income of the child or youth's parents.

**Participating Lawyers** - CLERC does not currently have a program whereby lawyers from the private bar volunteer their time for direct service. In the future lawyers may be able to volunteer to assist with an internet advice service, or in the provision of actual representation, but CLERC must first develop a training program to prepare volunteers. Although the project is very much in its beginning stages, several lawyers have expressed interest in volunteering. Once a volunteer program has been developed, CLERC will likely need the volunteer assistance of approximately 50 lawyers in order to deliver the kinds of services it would ultimately like to deliver (i.e., internet advice, representation, etc.).

With respect to the project's governance, there are currently 12 to 13 lawyers who sit on CLERC's Board of Directors or on its various committees.

## **6. Central Alberta Legal Clinic**

The Central Alberta Legal Clinic (CALC) has received funding from the Alberta Law Foundation in the amount of \$145,000 and is currently raising funds in the community to set up a pro bono legal clinic based on the Calgary Legal Guidance model. Because CALC will be a regional clinic, they are looking for innovative ways to deliver pro bono legal services throughout the central Alberta region. CALC hopes to start operations in late 2005.

## **C. LEGAL SUPPORT FOR NON-PROFIT AND CHARITABLE ORGANIZATIONS**

### **1. Pro Bono Students Canada**

Pro Bono Students Canada (“PBSC”) began at the University of Toronto in 1996, and now operates at most law schools across the country. PBSC is a national network of over 1000 law students, community organizations and lawyers across Canada that matches law students with public interest and non-governmental organizations, government agencies, tribunals and legal clinics for the provision of *pro bono* legal services. PBSC became a project of SLS in Edmonton in 2001. In Calgary, PBSC operates independently of SLA, through the University of Calgary Faculty of Law.

**Services Provided** - Volunteer students participate in education seminars, research pending legislation, legal issues and current policy questions, draft policies and manuals for organizations, and help organizations provide legal information and assistance to clients. PBSC students may also work with lawyers that are providing *pro bono* legal services, or various

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<sup>33</sup> *Ibid.*

government agencies that are doing public interest work. PBSC students do not represent individuals or organizations in court.<sup>34</sup>

**“Means” Test** - To participate in this program an organization must be an incorporated, non-profit organization that offers public interest programs to the community or deals with issues of public interest in some other capacity. Membership in PBSC is available at no cost to qualifying organizations.<sup>35</sup>

**Participating Lawyers** - Lawyers from local private bars volunteer to assist and supervise students on their *pro bono* projects. For the 2003-2004 academic year 29 volunteer lawyers from the Edmonton area volunteered with PBSC in Edmonton and its roster in 2004 was 34.<sup>36</sup> In Calgary the program is smaller, as the Faculty of Law is smaller and there are fewer student volunteers. During the 2003-2004 academic year 13 lawyers from the Calgary bar volunteered their time and expertise. The majority of the lawyers supervised one placement, although 3 lawyers were able to supervise more than one placement.<sup>37</sup>

Participating lawyers assist students in a variety of ways. They help with legal problem solving, ensure that the material students produce is legally correct, and review the project before it is used by the organization. As PBSC does not provide direct legal assistance to individuals, volunteer lawyers do not participate in actual representation of clients. Volunteer lawyers are able to give back to the community without an enormous time commitment; most projects require lawyers to commit fewer than 10 hours per project.

## **2. Volunteer Lawyers Service**

The Volunteer Lawyers Service is coordinated by the Alberta Branch of the Canadian Bar Association, and is sponsored by the CBA – Alberta Branch, the United Way of Calgary and area, the Law Society of Alberta, the Association of General Counsel of Alberta and the Centre for Non-Profit Management. The Law Society of Alberta recently approved funding for the program in the amount of \$5,000.00 in order to expand its services, and hire an individual for approximately 10 hours per week to conduct matches.

**Services Provided** - The Volunteer Lawyers Service (VLS) provides free legal assistance to non-profit and charitable organizations in Alberta by matching lawyers with non-profit and charitable community-based organizations that have insufficient funds to pay for legal services. VLS does not assist individuals. Legal services and advice are provided in a range of areas, including tax and business, labour and employment, administrative and human rights, real estate, civil litigation, and trusts and estates. Organizations will often request assistance to incorporate a non-profit organization, apply for charitable status, or review bylaws.

**“Means” Test** - To qualify for receipt of *pro bono* legal services, the organization or association must be a registered charity, or have a mission that demonstrates a charitable purpose, as defined under the *Income Tax Act*. In addition, the organization must demonstrate an inability to pay any amount for legal advice excluding acceptable disbursements. Each organization must pay the volunteer lawyer’s disbursements and out-of-pocket expenses such as court and government filing fees.

<sup>34</sup> Pro Bono Students Canada, online: <[http://www.law.utoronto.ca/probono/main\\_e.htm](http://www.law.utoronto.ca/probono/main_e.htm)>.

<sup>35</sup> *Ibid.*

<sup>36</sup> Communication with Chad Zima, Pro Bono Students Canada Coordinator, Edmonton, 16 June 2004.

<sup>37</sup> Communication with Tracey Erler, Pro Bono Students Canada Coordinator, Calgary, 16 August 2004.

**Participating Lawyers** - To date, VLS has matched approximately 60 requests from non-profit agencies with 60 volunteer lawyers from the Alberta bar, with one match currently pending the appointment of a volunteer lawyer.<sup>38</sup> Once a match is made, the organization may utilize the lawyer's services until December of the following year (e.g., a match made in July 2004 will last until December 2005).

The lawyers who participate in VLS do not necessarily indicate a willingness to volunteer prior to being contacted. The CBA coordinator who makes the matches, contacts lawyers from a roster of lawyers who have taken Continuing Legal Education courses. She also may also contact the Chairperson of the various Calgary sections within the CBA for assistance in locating a lawyer who may be willing to volunteer. Occasionally, an uninsured lawyer will already be providing an organization with *pro bono* legal services, and will request that VLS formalize the match in order to ensure the lawyer has insurance coverage for their *pro bono* services pursuant to Rule 148(2.1) of the *Rules of the Law Society of Alberta*.

## **D. FAMILY LAW MEDIATION SERVICES**

### **1. Calgary Dispute Resolution Office**

The Dispute Resolution Office is a project of the Calgary Court of Queen's Bench, administered by the Court's Family Law Information Centre. The project receives funding and support from the Child-Centred Family Justice Fund of the Family, the Family, Children and Youth Section of the Department of Justice Canada, Alberta Justice and the Alberta Court of Queen's Bench.<sup>39</sup>

**Services Provided** - The DRO project is intended to provide individuals with an opportunity to resolve legal disputes related to family matters without going to court, or requiring as little court time as possible. This saves both the parties and the courts much time and resources. Attendance at a DRO mediation session is mandatory when a notice of motion is filed for an initial, interim or variation child support application, or an annual recalculation of child support. DRO officers may also conduct settlement conferences on ongoing matters at any stage in the proceeding if both parties have consented, and sort out contested motions referred by a judge.<sup>40</sup>

**"Means" Test** - The parties and their counsel are required to attend at least one DRO session before proceeding to court to deal with a child support matter. There is no fee associated with this service, nor any question as to financial eligibility. This program is available to all persons making an application through the Calgary Court of Queen's Bench.<sup>41</sup>

**Participating Lawyers** - Fifty-four senior family lawyers from the Calgary bar, having practiced in the area of family law for at least 10 years, currently volunteer one half day every 3 to 4 weeks to mediate family law disputes.<sup>42</sup> DRO officers do not have responsibilities to the parties outside the mediation session; they do not represent parties in court.

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<sup>38</sup> Communication with Lindell Larson, Publications Coordinator, Canadian Bar Association Alberta, 6 July 2004.

<sup>39</sup> Jeanette T. Gomes et al., "An Evaluation of Calgary's Dispute Resolution Officer Pilot Project and the Edmonton Child Support Resolution Pilot Project" March 2003, online: Alberta Courts <<http://www.albertacourts.ab.ca/qb/dro/DROCSRevaluation.PDF>>.

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> Communication with Colleen Nicholls, Court Staff, Family Law Information Centre, Calgary, 23 June 2004.

## **2. Edmonton Child Support Resolution Project**

The Edmonton Child Support Resolution Project is administered through the Edmonton Court of Queen's Bench Family Law Information Centre. The project is supported by funding from the Department of Justice Canada, resources and personnel from Alberta Justice (Court of Queen's Bench), and volunteers from the Family Law Bar.<sup>43</sup>

**Services Provided** - The CSR project is similar to the DRO program in that it designed to help parties resolve family law disputes without, or limiting, the necessity to go to court. However, unlike DRO, CSR serves only self-represented individuals who intend to file a court application related to child support. Both the self-represented applicant and the respondent must attend a CSR meeting before the applicant may file a court application. A notice to attend a child support resolution meeting is completed by a clerk of the court. This notice sets out the type of application: an initial child support order, a variation, or termination of the payor's obligation to pay child support. The project is designed to address only child support issues, unless both parties agree to discuss other matters.<sup>44</sup>

**"Means" Test** - As with the Dispute Resolution Officer project, attendance at a Child Support Resolution meeting is mandatory before the applicant can proceed to court.

**Participating Lawyers** - In contrast to the DRO program, the majority of the child support resolutions are conducted by two staff lawyers from the Family Law Information Centre in Edmonton.<sup>45</sup> There are, however, approximately 36 volunteer lawyers from the private bar involved with the program as well. Volunteers commit to 1 to 2 or more CSR meetings per month. Thirteen of the volunteer lawyers in March 2003 reported that they had an average of 16.2 years practicing family law, ranging from 6 to 31 years. The majority of volunteer CSR officers have training or experience in mediation, and 64% have training or experience in interest-based negotiation. Just under half had published in family law, and all had completed Continuing Legal Education courses in family law.

## **E. LEGAL INFORMATION SERVICES**

### **1. Public Legal Education Network of Alberta**

The Public Legal Education Network of Alberta (PLENA), a member of the Public Legal Education Association of Canada, is a network of over 100 agencies, organizations and individuals united by their common interest in educating the public about law and justice. PLENA receives the bulk of its funding from the Alberta Law Foundation, and is also the designated recipient in Alberta for Department of Justice Canada public legal education and information funding. PLENA also funded by a multitude of other revenue sources. PLENA has been in operation since 1980, but was not incorporated under the *Societies Act* until 1989.<sup>46</sup>

The purpose of PLENA is to assist and support members in the delivery of legal education and information services to Albertans. Membership is available to all Albertans who provide legal

<sup>43</sup> "An Evaluation of Calgary's Dispute Resolution Officer Pilot Project and the Edmonton Child Support Resolution Pilot Project," *supra* note 39.

<sup>44</sup> *Ibid.*

<sup>45</sup> Communication with Colleen Nicholls, *supra* note 42.

<sup>46</sup> Public Legal Education Network of Alberta, online: <<http://plena.org/new/index.asp?id=76>>.

education and information to the public, although the majority of its existing members do so on a not-for-profit basis. As a network, PLENA provides a forum through which its members can establish and maintain contacts amongst themselves, share programming resources and expertise, and take part in professional development.

## **2. Family Law Information Centre**

The Family Law Information Centre is administered by the Alberta Court of Queen's Bench, and supported by funding from Alberta Justice and Justice Canada. The Centre's staff teaches self-represented individuals about Child Support Guidelines, helps them determine how much maintenance they should receive, and shows them how to make support application in the Court of Queen's Bench, as well as oppose a family law application. The Centre also provides individuals with free information pamphlets about a variety of family law issues.<sup>47</sup>

## **II. Funding of pro bono initiatives in Alberta**

Pro bono legal services are funded in a variety of ways throughout Alberta. There is no one organization or agency that provides funding or coordinates the funding of pro bono services in the province. In general, each organization that provides pro bono legal services or information pieces together their funding from a variety of private and public funds and foundations.

It must be recognized that the Alberta Law Foundation plays a major role in funding agencies that provide and coordinate pro bono legal services and public legal information. The Alberta Law Foundation receives its funds from the interest gained on lawyers trust accounts in the province.

## **III. Survey on Volunteerism in the legal profession in Alberta by the Canadian Bar Association (Alberta Branch)**

The Alberta Branch of the Canadian Bar Association established the Task Force on Community Responsibility to determine the level of volunteerism related to being a lawyer. The Task Force conducted a survey of lawyers in the province and received 1462 responses, representing 21.5% of lawyers in Alberta. The results of the survey demonstrated that the average lawyer spend over 15 regular working days per year, approximately 120.4 hours, volunteering their time, skills and expertise to individuals and organizations within Alberta.<sup>48</sup> The survey also indicated that lawyers in Alberta are involved in the provision of *pro bono* services in many ways other than through the organizations listed above.

The Task Force also received feedback from lawyers who did not participate in the survey. Some lawyers indicated that their volunteer activities were undertaken altruistically, without the expectation of recognition or credit, and therefore they did not wish to take part in the survey.<sup>49</sup> The CBA concluded that by implication, volunteerism amongst Alberta lawyers is higher than shown in the survey results. The efforts of lawyers who to deliver *pro bono* legal services to

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<sup>47</sup> Family Law Information Centre, online: <<http://www.albertacourts.ab.ca/familylaw>>.

<sup>48</sup> Tom Achtymichuk, "Volunteerism Report" (April 2004) 29 Law Matters at 7.

<sup>49</sup> *Ibid.*

individual clients are essential to ensuring access to justice to low-income, needy individuals and should be taken into account in analysis of *pro bono* legal services in Alberta.

## **Conclusion**

The LSA has made every effort to be comprehensive in replying to the Federation of Law Societies request for the information regarding pro bono initiatives in Alberta. Most certainly, there are other formal or informal pro bono initiatives taking place in Alberta that the LSA has not been made aware of and we would be most pleased to add those initiatives to this report when they come to our attention.

If we can be of assistance in providing further information, please do not hesitate to contact the Law Society of Alberta as follows:

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