



The Benefits of Investing in Legal Aid Innovation

Presentation to the Select Standing Committee on Finance and Government Services

September 22, 2011, Courtenay, BC

Mark Benton, QC, Executive Director

Introduction

The Legal Services Society (LSS) was created by provincial legislation in 1979 and is BC's legal aid provider. I am going to explain how a small investment in legal aid innovation can improve the lives of many British Columbians while saving money for several government ministries at the same time.

I have been with the Legal Services Society for more than 25 years, and I have been executive director since 2002. One of the most important things I, and the board of directors, have learned is that the justice system must be focused on helping people find timely and lasting solutions to their legal problems so that they can get out of the justice system and get on with their lives.

What would you rather have – a family crisis that drags on for a year and ends up in court with all the attendant justice and social costs or a family crisis that gets resolved out of court within a month by a mediator or a counselor and the family moves on to the next stage of their lives? In both cases, the problem has been resolved in what we broadly call the justice system. But one path is obviously better for the family, for the community and for the taxpayer.

Achieving this requires a reframing of justice system priorities and a different focus for justice system investment, and that's what I'm going to talk about this morning. I will begin with some brief background information about legal aid in BC so that you will have some context for my comments. Then I will describe three low-cost, innovative programs LSS has introduced and the benefits they bring.

Background

Most people think legal aid is lawyers representing clients in court. Legal aid is actually a lot more than that. The Legal Services Society provides three types of assistance:

1. The first is self-help information through websites and publications.
2. Second, we have advice programs that assist people to resolve problems on their own. This is done through lawyers stationed in courthouses who help unrepresented litigants and through telephone advice programs.
3. And finally, we provide representation in court.

Our advice and representation services are only for people with serious family, criminal, and immigration matters. We do not have funding to cover other areas of law such as poverty law matters, employment law, or the full range of legal problems that tear families apart.

Representation and advice services are provided by private lawyers. In 2010/11, fewer than 1,000 of BC's 11,000 lawyers took legal aid referrals. The average lawyer earned about \$52,000 from legal aid work. Nobody gets rich doing legal aid.

Ninety per cent of our funding – nearly \$67 million - comes from the Ministry of Attorney General. In the 2009/10 fiscal year, BC's per capita legal aid funding was fourth lowest in the country. There are more than 50 locations around the province where you can get help from the Legal Services Society including private law offices, courthouses, and community service agencies. And finally, it is important to remember that 25 per cent of legal aid clients are Aboriginal.

I turn now to three, low-cost, innovative programs run by the Legal Services Society and their benefits.

Legal Information Outreach Workers

The first innovation is using non-lawyers to make the justice system run smoothly.

The justice system is an overwhelming, confusing place for just about everyone. Many court users, particularly in the criminal system, have substance abuse and mental health issues that prevent them from getting to court on time let alone understanding the proceedings.

Step inside any courthouse and you will hear people asking "Where do I go?" "What do I do?" "What does this mean?" Answering these questions doesn't require a lawyer's training. Nor do they require a judge's decision. The problem is that the way our justice system is structured, lawyers and judges often end up answering the questions because they are in direct contact with the person asking the question.

Lawyers and judges are an awfully expensive resource for this type of service. The solution is to use lower cost, non-lawyers to help court users navigate the justice system. At the Legal Services Society, we call these people Legal Information Outreach Workers. They perform a similar role to the patient-navigators we are now seeing in the health care system.

We have a Legal Information Outreach Worker who is stationed at Vancouver's Community Court. She helps people with court forms, explains the proceedings to them and helps them get to their next hearing. She makes the justice system run more efficiently. Here's an example of the kind of work she does and the benefits she brings.

One day, a man she had helped in the past stopped by with some good news. He had a job. He would be leaving the downtown eastside and off the streets. Our information worker reminded him that he was subject to a court order that required him to meet with a probation officer. The man did not realize that if he left town, he would be arrested for breaching the order. So our information worker took him to duty counsel who went to the judge and got the probation order varied so the man could travel to his new job.

The benefit to the man is huge – he won't be arrested for breaching the probation order and he gets to keep his job. The benefit and costs savings to society are also huge. We now have one less citizen in breach of a court order. One less person in the justice system. One less person for police and corrections officials to deal with. And the cost to legal aid was minimal – a few minutes of an information worker's time. Probably not much more than you spent on a coffee this morning.

Right now our funding only allows us to have this one court-based information worker. A small investment in legal aid would allow us to hire more Legal Information Outreach Workers for more courthouses around the province. And with more information workers, the savings to the taxpayers would be increased exponentially.

Collaboration with other social services

The second innovation is collaboration with social services agencies.

Today, low-income people face more difficulties than ever before. Homelessness, poverty, addiction and mental health are just a few examples. Many legal aid programs now work with social service agencies to address underlying issues such as these that result in legal problems.

LSS currently has two successful collaborative programs in place. Both are medical legal partnerships. One is at BC Women's Hospital and the other is at a Hastings-and-Main drop-in centre in Vancouver's downtown eastside. Both are for women who are pregnant or have babies and have drug and alcohol problems. Most of the women are Aboriginal.

We provide a lawyer for one-half day per week at each location. That lawyer assists the women with family law, child protection and other issues. The total cost of both programs is about \$30,000 a year. The benefits of collaboration with social services are, however, much greater.

We are able to help these women find early resolutions to their problems before they fester and become worse. Stable resolutions help these women get their lives back on track, help them get out of the downward spiral.

For example, the lawyer can work with the Ministry of Children and Families to resolve child protection issues without having to go to court. Maybe the lawyer can work out an agreement that will allow the mother to stay in touch with her children until her problems are resolved. Maybe they can make arrangements for a family member or an Aboriginal elder to care for the children.

This results in savings for the justice system, the health care system and for a number of other government-funded entities. A small investment in legal aid would allow us to develop more collaborative programs with social services. And with more collaborative programs, the savings to the taxpayers would be increased exponentially.

Telephone advice services

The third innovation is telephone advice services.

Since 2002, funding for family law legal aid has been limited. As a result, representation by a lawyer is available only in emergency situations involving violence, the threat of violence, or the threat of parents losing contact with their children. The vast majority of our family law clients are women.

People who qualify for legal aid, but whose family law problem is not an emergency can get advice from duty counsel at a courthouse. LSS also has a self-help, family law website. Obviously, there is a big gap between those who need help and those who qualify for help.

To fill that gap, LSS launched, in November 2010, a service called Family Lawline. It is a telephone service that provides advice on the full range of family issues such as child custody, adoption and spousal or child maintenance. Callers to a province-wide, toll-free phone number are quickly screened for financial eligibility then transferred to a family law lawyer for advice.

LSS contracts with private lawyers who access the telephone system remotely from their offices anywhere in the province so there are no overhead costs. The goal of Family Lawline is to help people solve their legal problems, often without having to go to court. Those who have to appear in court will be better prepared, thereby reducing the time spent in court.

One client told us the advice he got from the Family Lawline saved his life.

We currently offer the service part time and take about 200 calls a month. The total cost is about \$138,000 a year. A small investment in legal aid will allow us to run more low-cost telephone advice programs that help people resolve their problems. For example, we could offer telephone services that help people with welfare issues, or employment insurance problems. And with more of these programs, the savings to the taxpayers would be increased exponentially.

Conclusion

The three programs I have described – information workers, collaborative services, and telephone advice lines – together represent a modest expenditure, but their benefits are far greater than their costs. Each of these programs is scalable depending on demand and can be provided anywhere in the province.

Increasing government investment in programs such as these will provide measurable benefits to people caught up in the justice system and measurable savings to the government.

You will have heard from many quarters that our justice system has problems. Cost, delays and complexity are often mentioned. If we are going to solve those problems, it is time to develop a new justice system agenda that focuses more on early resolution and less on court resolution.

The Legal Services Society is developing innovative programs such as those I have described that will achieve this goal. And with more investment from the government in legal aid innovation, we can make a difference in more lives and save even more money.