

Legal Services Society

Community Workshop: Legal Aid Services and Family Law

Hotel 540
540 Victoria Street, Kamloops, V2C 2B2

Agenda
Thursday, September 30th, 2010

Time	Session	Speaker	Facilitator
07:30 – 08:30	Breakfast & Registration	<i>N/A</i>	<i>N/A</i>
08:30 – 08:45	Welcoming Opening Prayer and Housekeeping	<i>Charlotte Manuel (opening prayer)</i>	<i>Sherry/Baljinder</i>
08:45 – 10:15	Update on Recent Developments in Family Law and Child Protection Law	<i>Graham K. – Family Duty Counsel Linda T. – Recent Development of Family Law and LSS Family Law Services</i>	<i>Louise</i>
10:15 – 10:30	Break		
10:30 – 12:00	Small Group Discussion - “Real Case” Scenarios on Family Law and Child Protection Law	<i>N/A</i>	<i>John</i>
12:00 – 13:00	Lunch		
13:00 – 14:30	An Overview of LSS Services and Resources	<i>Louise R. – Local Community and Resources Branka M. – Intake and the demo Sherry M. & Baljinder G. – Aboriginal Services and Resources John S. – PLEI and community engagement</i>	<i>Baljinder</i>
14:30 – 14:45	Break	<i>N/A</i>	<i>N/A</i>
14:45 – 15:30	Other Community Services and Resources	<i>Denise Caldwell – ClickLaw Geoffrey L. – ProBono (video-conferencing)</i>	<i>Mike</i>
15:30 – 16:15	Legal Aid Q & A	<i>All LSS speakers</i>	<i>Branka</i>
16:15 – 16:30	Closing	<i>N/A</i>	<i>John</i>

Outline for community engagement session - Kamloops Workshop 2010

Friday, October 1st, 2010

Time: 9am – 12:00am, Oct. 1st, 2010

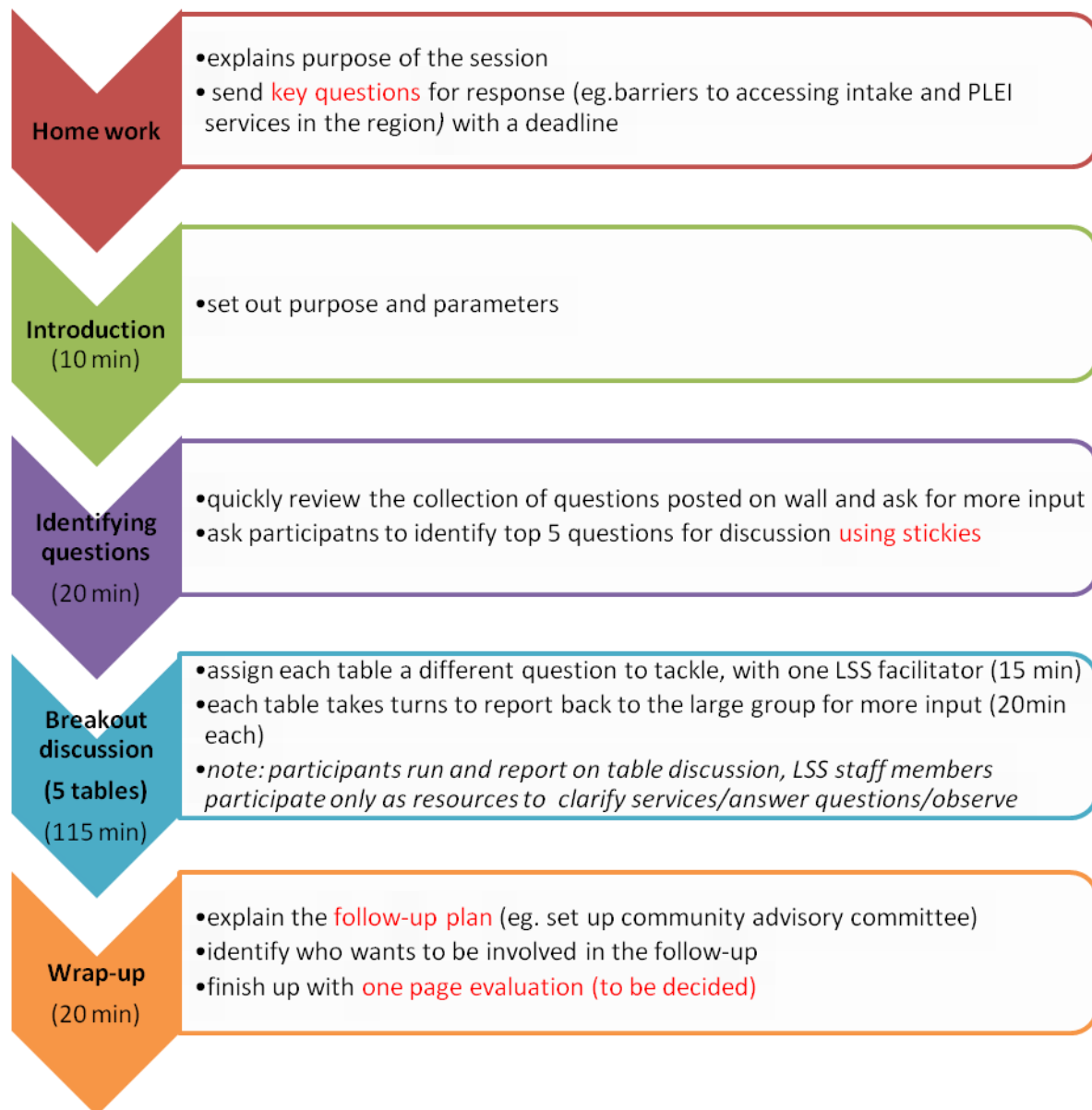
Venue: Ground floor, Rivers Room, Hotel 540 Kamloops

Length of the session: 180 minutes (including 15 minutes for break)

Purpose of the session: develop ideas for improving access in communities through community engagement

Approach: high level of participant engagement with LSS staff member facilitating the session
(*facilitators need to be aware of their role*)

Tables: 5 tables, 6 people per table



Kamloops Community Workshop – Legal Aid Services and Family Law

September 30, 2010

PRESENTATION OUTLINE

Linda Thiessen

1. *New Family Law Rules – BC Supreme Court*

- The Family Justice Reform Working Group report in 2005 outlined a new vision for family law in BC touching on a range of family justice services and processes that should be available to people in BC experiencing family breakdown
- One of the recommendations of the report was creating simpler family court rules to provide a more accessible and streamlined process for family cases in Supreme Court
- The rules were drafted by a committee of senior judges and family lawyers and came into effect July 1st, 2010
- LSS has worked with the Attorney General to develop resources to help the public understand and follow the new family rules

2. *Community Advocate Support Line (CASL) service*

- A senior lawyer provides legal advice, information and support to advocates working on behalf of clients
- Assistance is offered on legal matters such as housing, welfare, family law, employment insurance and employment law, benefits such as CPP disability, consumer and debt and bankruptcy issues

3. *The Simplified Family Tariff and proposed Simplified CFCSA Tariff*

- A priority of LSS has been to streamline administrative processes so that lawyers can focus more resources on client services
- One initiative was to simplify the tariff which outlines how lawyers are paid when they handle a family legal aid case
- The simplified tariff makes it easier for LSS and lawyers to explain to clients the range of services that are included in a legal aid referral
- The simplified family tariff came into effect June 29, 2010 and it provides a basic number of hours to the lawyer and much more discretion for the lawyer to decide how to use those hours to benefit the client suited to the client's particular needs

4. *The proposed new Family Relations Act – highlights of the White Paper*

- The Attorney General began a review of the Family Relations Act in 2006
- Goals of this review were to modernize the law, support cooperative approaches to resolving family law issues and create a statute that is easy to understand

- The review began with research into family law reform underway in other jurisdictions and recommendations for reform made by family law experts
- The Attorney General has issued the White Paper to allow the public an opportunity to comment on the proposed new family law
- Feedback from the White Paper will be considered and used to finalize the new family law before the bill is introduced in the Legislative Assembly of BC

5. *Lead Family Duty Counsel in Kamloops*

- The Family Duty Counsel Program has become part of core funding by LSS for family law
- Brief next step advice is offered in court to people with family law problems who do not qualify for representation through a legal aid referral
- LSS has contracted with lawyers in 8 locations in BC to provide this service
- These lawyers will act as a liaison for clients and the court registry and local lawyers to problem solve and help administer the program locally
- Kathy Kendall has been contracted to provide this service in Kamloops beginning October 1st, 2010

Family coverage

General policy

To qualify for legal aid representation, an applicant must:

- Be financially eligible, and
- have a family law problem covered by the family coverage guidelines:
 - need an initial, or a change to the current, custody or access order where there is a risk of harm or violence to the client or to his or her child or children;
 - have custody of a child or children who have been unlawfully held by the access parent/party;
 - have been permanently or repeatedly denied access to a child or children;
 - need a physical restraining order or other legal assistance to protect themselves or their child or children from harm or violence;
 - need a non-removal order to prevent the other parent from permanently moving their child or children out of the province. The threat must be real and imminent, and involve a permanent change of residence;
- be eligible for coverage provided through the exception review process.

Who is covered

When the legal issue involves children, an applicant must be a:

- parent (including a same-sex parent), or
- party to the proceeding who is a:
 - member of the children's immediate or extended family,
 - relative or individual who has lived with the children in a parental or custodial relationship, or
 - member of the community who has a cultural or traditional responsibility towards the children (this applies to emergency referrals only).

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal aid representation.

Exception

Youth under the age of 18 who are wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

Exception reviews

An application dealing with a matter under the Family Relations Act can be sent for an exception review if:

- the applicant has a mental or physical disability and is unable to represent him or herself. There must be a significant barrier that will create an injustice if the applicant is not represented;

OR

- a significant injustice can only be avoided by the appointment of counsel;

OR

- the applicant is traumatized by past abuse such that he/she is unable to represent him or herself.

Considerations:

- the applicant's issue is a matter of significance;
- the outcome will benefit the applicant if the case is successful;
- there will be a reasonable likelihood of success for the applicant if the case goes to court;
- the applicant does not have other viable options, other than legal representation, to deal with the issue.

CFCSA

General policy

To qualify for legal representation, an applicant must:

- be financially eligible; and
- have a CFCSA problem covered by the CFCSA coverage guidelines.

An applicant must be:

- a parent (including parents in a same-sex relationships), or
- a party to the proceeding who is a:
 - member of the children's immediate family,
 - relative or individual who has lived with the children in a parent or custodial relationship, or
 - member of the community who has a cultural or traditional responsibility towards the children.

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal representation.

Where an applicant is financially eligible and his or her children have been removed or are at risk of being removed, coverage is provided.

An applicant is not eligible for legal aid if he or she is in the care of the Ministry of Children and Family Development (MCFD). In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

If legal representation is denied, an applicant may request a coverage review or a financial eligibility review.

LEGAL SERVICES SOCIETY ABORIGINAL SERVICES AND RESOURCES

Baljinder Gill

GOAL: One of LSS' goals is to improve legal services to Aboriginal people in BC and raise awareness of the services provided.

GLADUE IN A NUTSHELL:

Gladue rights apply to all Aboriginal people whether they are status or non-status Indian, First Nations, Metis or Inuit and whether they live on or off reserve. Gladue refers to the special consideration that judges must give an Aboriginal person when sentencing or setting bail. Gladue rights instructs the judges to keep in mind that Aboriginal offenders face special circumstances and sentencing is based on all options other than jail. This means that a person's sentence is to involve them in a program that would help them to address the issues that got them into trouble with law in the first place. This is called **Community Sentence**. However a Judge may have no choice but to send a person to Jail. In this case, the judge still apply Gladue when deciding how long the sentence can be or will be.

Gladue must also be considered at bail hearings.

LSS is raising awareness and providing training workshops to community organizations and intermediaries to develop a better understanding of Gladue rights. LSS Publishing team is also in process of publishing a **Gladue Primer**, as part of our initiative to educate the community and service providers.

Gladue must also be considered at bail hearings.

FIRST NATIONS COURT

The court sits in New Westminster once per month. Aboriginal offenders can apply to have their matter heard in First Nations Court for sentencing. First Nations Court hears criminal and related child protection matters. First Nations Court is not a trial court, it is for sentencing of criminal matters and mediation of Family Court Matters. The goal of the court is to take a First Nations Perspective and justice is viewed with a holistic approach which would place an emphasis on healing.

Legal Services Society is raising awareness and providing support to First Nations Court. A LIOW is always present there to enhance the intake application process and provide information. LSS also works closely with First Nations Clinic and the Native Court Worker Program.

Expanded Duty Counsel Service is provided by LSS for First Nations Court. Rob Fredrickson is the duty counsel for First Nations Court and can be contacted at (604) 825 – 1861.

LEGAL AID

Legal Aid coverage is available for all Aboriginal clients, but they have to be financially eligible and the issue must be one that is covered by LSS. If you have a client looking for criminal, family and / or CFCSA matter, please encourage them to apply for legal aid. A legal aid intake worker will determine their eligibility and will provide them with assistance.

For Aboriginal People, if the offence interferes with the offender's ability to follow a traditional livelihood of hunting and fishing, this may be covered by legal aid.

DUTY COUNSEL:

LSS has duty counsel service available in all courthouses throughout the province. They also have **Expanded duty counsel services**, which Aboriginal clients can access. LSS have expanded duty counsel in other court houses as well. LIOWs can be found in the following locations to help with the application process and to provide legal information and resources.

- Sheway, Vancouver
- First Nations Court New Westminster
- Williams Lake
- Port Hardy

ABORIGINAL COMMUNITY LEGAL WORKERS:

Aboriginal Community Legal Workers are paralegals who are supervised by a lawyer and can provide legal advice. We have two Aboriginal Community Legal Workers in the following locations.

- Donna Moon, Nanaimo
- Maggie Matilipi, Port Hardy

PUBLICATIONS AND FACT SHEETS

Aboriginal Child Protection Fact Sheets

- Understanding Aboriginal Child Protection / Removal Matters
- Understanding Aboriginal Delegated Agencies
- Understanding Court Orders and Hearings

Wall Charts / Wallet Cards

- Aboriginal Child Protection Process: Information for Aboriginal Parents and Communities
- Your Right to Get a Lawyer (Aboriginal child protection wallet cards)

Aboriginal Criminal Law Fact Sheets

- Are You Aboriginal? Do You Have a Bail Hearing? Are You Being Sentenced for a Crime? Do You Know About First Nations Court?

Aboriginal Publications

- Benefits, Services, and Resources for Aboriginal Peoples

- How to Make a Will and Settle an Estate: A Guide for First Nations People Living on Reserve
- Social Assistance on Reserve in BC

Binders

- Aboriginal People and the Law in British Columbia (binder)

Aboriginal Resource Website

This is work in progress that will enhance our website by highlighting reference links to additional resources outside of LSS that will assist Aboriginal People address their legal issues.

It will also contain a Frequently Asked Question (FAQ) Section which is a list of questions and /or common legal issues faced by Aboriginal communities along with the resources that exist to address those issues.

The Aboriginal Resource Website will be broken down as follows:

- **Aboriginal Legal Issues**
- **Aboriginal publications**
- **Who can help**
- **Gladue rights**
- **First Nations Court**

To order publications, please follow the LSS Publications link:

http://www.lss.bc.ca/publications/subject.aspx?s_id=2

Additional Resources:

Gladue and First Nations Court Fact Sheet:

http://www.lss.bc.ca/publications/pub.aspx?p_id=350

Are You Aboriginal? Do you have a bail hearing? Or are you going to be sentenced for a Crime?

Publication - this publication is on line or can be ordered from the Legal Aid Ontario at:

www.legalaid.on.ca

Toll free: 1-800-668-8258

In Toronto: 416-979-1446

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An Overview of Legal Services Society (LSS) Services and Resources — Public Legal Education and Information (PLEI) and community engagement

LSS provides a range of services under the Legal Services Society Act — information, advice and representation to help resolve legal issues. Legal information is available to everyone and is free.

Legal information for your clients include one-on-one assistance, over the phone and in person, to find information, print materials and web resources in many languages, referrals, and links to other services and resources.

Services for community workers include: the *Electronic Legal Aid News* (starting in January 2011, it will be issued as a blog and as a quarterly “best of” edition), Twitter feed, community training workshops, and conferences for community workers.

In Person:

In person services include:

- Intake workers in 33 community locations around BC, through Local Agents and at courthouses, who also provide access to PLEI materials.
- Legal information outreach workers in Vancouver and Terrace.
- Aboriginal Community Legal Workers —Nanaimo and Port Hardy.

On the Phone:

Provincial Call Centre — call no charge, providing access to legal aid from anywhere in BC
604-408-2172 (Greater Vancouver)
1-866-577-2525 (call no charge, elsewhere in BC)

In Print:

- Free Publications — family, criminal, immigration, Aboriginal, and related topics such as welfare rights and consumer creditor/debtor.
- Order stock from Crown Publications for your agency at no charge, or have copies sent to one of your clients directly.

On the Web:

- Family Law Website www.familylaw.lss.bc.ca — extensive resources on family law process, guides and forms and links to other resources, “What’s new in family law” with an RSS feed.
- LSS website www.legalaid.bc.ca — online publications and links to Aboriginal and other resources.
- ELAN — *Electronic Legal Aid News* — quarterly issues with information about recent developments in the law, legal aid and other services that can help people resolve legal issues. A blog version will be released in January 2011.
- Twitter — LSS posts tweets daily on topics of interest www.twitter.com/legalaidbc.

Related Resources/Partnerships:

- Clicklaw www.clicklaw.bc.ca — an online portal to legal resources with HelpMap to find services.
- Immigrant PLEI Consortium www.immigrantlegal.ca — online education, information and other resources for newcomers and the people who help them.

New Developments in PLEI at LSS:

Community outreach services — LSS was restructured following changes at LSS in March 2010 to better meet the needs of our clients and community. Four new positions were created to support services and new staff were hired to address the following roles:

- Community Engagement — focuses on developing a new approach to improving access to intake and PLEI services in rural, remote and Aboriginal communities; engaging communities through partnerships, small contracts and other initiatives.
- Community Training and Outreach — provides training through community workshops.
- Publications Development — works collaboratively with community organizations to identify needs and develop new publications, ensuring that materials are useful and that distribution strategies are effective.
- Online Outreach — addresses the needs of a growing online audience so that they have access to accurate information and useful online services.

LSS is continuing work to improve access to PLEI throughout BC.

Are you a member of the public or helping someone with a legal problem?

The Clicklaw website offers a single place to start on the Internet for quality legal information, education and help for British Columbians. Here are **five key ways you can use Clicklaw**:

The screenshot shows the Clicklaw website interface. At the top, it says 'British Columbia, Canada' and 'Text size: A A A'. The main navigation bar includes 'Home', 'Solve Problems', 'Learn & Teach', 'Reform & Research', and 'HelpMap'. A search bar is also present. The main content area is titled 'Welcome to Clicklaw' and provides a brief overview of the site's purpose. Below this, there are several sections: 'Solve Problems' (with sub-sections like 'Your money', 'Your family', 'Your daily life', 'Your safety', 'Your communities', and 'Your legal system'), 'Common questions' (with 'Popular questions' and 'New or updated questions'), 'HelpMap', 'Learn & Teach', and 'Reform & Research'. A 'What's new on Clicklaw' section lists recent updates, and a 'Find us on Facebook & Twitter' section is at the bottom right.

1 In Solve Problems, find understandable information on your legal rights and options to solve legal problems

2 Choose from over 100 **common questions**, which offer starting points for common legal problems

3 On HelpMap search for someone in your community who can help with legal problems

4 Find resources and services that are in **languages** other than English

5 See what's new on the Clicklaw blog or find Clicklaw on Facebook or Twitter

Introducing the Clicklaw HelpMap

Integrated with Google Maps, the HelpMap assists the public in British Columbia with finding those who can provide assistance with legal problems in their community. It also assists service providers and helpers who are making referrals for clients who have legal issues.



HelpMap

Find someone in your community who can help with legal problems.

Three steps to finding law-related help on the HelpMap

1 Search by keyword or city/town at www.clicklaw.bc.ca. Or you can browse by topic.

Search the HelpMap for law related help with a Keyword OR Location

Keyword or

Campbell River
 Chilliwack
 Clinton

2 [optional] Refine your search by topic, location, type of service, or language.

You searched for
Campbell River

Refine your search

Topic
Crimes & offences (9)
Legal help & lawyers (9)
Family law (8)
Alternatives to court (5)
Wills, estates & life planning (5)
more topics ...

Location

Type of service
Information or self-help (8)
Legal advocacy, advice or representation (7)
Counselling or support (3)
Government services (2)

Language

We've found some results

12 results in: [Solve Problems](#) [Learn & Teach](#) [Reform & Research](#) [HelpMap](#)

Sort by: [most viewed](#) | [alphabet](#)



6 Services available by phone or web access only

Access Justice

Our volunteer lawyers provide free legal advice to persons who cannot obtain legal aid or afford a lawyer. Some common legal issues include motor vehicle claims, + More details

From Western Canada Society to Access Justice

Topics: Abuse & family violence; Accidents & injuries; Alternatives to court; Business & non-profits; + all topics

101-500 South Dogwood St., Campbell River, BC, V9W 6R4



Courthouse Libraries BC

Provides legal information service to the public via a network of libraries throughout BC. Librarians can help find legal information but cannot offer legal advice + More details

From BC Courthouse Library Society

3 Click on a service to see details on the Clicklaw HelpMap.



What can you find on the HelpMap

- pro bono clinics, community legal clinics, and legal aid offices
- organizations with community legal advocates
- court registries
- courthouse libraries
- Native Courtworkers
- victim support programs
- key government agencies
- dozens of other law-related helping services



Access Pro Bono (“APB”) promotes access to justice in BC by providing and fostering quality pro bono legal services for people and non-profit organizations of limited means.

APB offers the following pro bono advice and representation services:

Summary Advice Clinics

Access Pro Bono runs 85 summary legal advice clinics in community centers, social agencies, churches and courthouses located throughout the province. Some of our civil law clinics are operated in conjunction with the Vancouver Justice Access Center and the Salvation Army Access Centre located in the Vancouver Supreme Courthouse. By having clinics in such locations clients are able to access a variety of helpful services.

Lawyers at our legal advice clinics typically volunteer for 2 hours each month as they advise people in up to 4 half-hour appointments. Lawyers receive advance client and case information for each appointment, including the client’s name and a brief description of their legal issue, to ensure time for conflict checks and any minimal preparation that may be necessary. Client legal matters are matched according to each lawyer’s areas of practice.

Clients that need more help can book additional clinic appointments or may be able to get representation through APB’s Roster Programs.

Roster Programs

The Roster Programs provide pro bono legal representation services to individuals and non-profit organizations of limited means. Currently APB runs roster programs in the areas of Family Law, Court of Appeal matters, Judicial Review matters, Federal Court matters, Wills and Estates and a Solicitor’s program for non-profit organizations. Lawyers receive pro bono opportunities by e-mail on a “no obligation to respond” basis, according to their location and areas of practice. Responding lawyers choose the scope of their services and qualify for disbursement funding of up to \$2500 per case. The Roster Program provides excellent opportunities for barristers and solicitors alike to gain more in-depth involvement with compelling cases. We also encourage mentoring relationships through the Roster Programs by connecting younger lawyers wishing to do pro bono work with more senior lawyers willing to provide guidance. We also connect

lawyers doing pro bono work with law students and non-lawyer legal professionals, such as paralegals, who are willing to assist lawyers on pro bono files.

Vancouver Civil Chambers Duty Counsel Project

Access Pro Bono operates the Civil Chambers Duty Counsel Project twice per week in Vancouver. The Project is conveniently located in the Vancouver Supreme Courthouse. On a yearly or twice yearly basis, Access Pro Bono lawyers provide legal assistance and representation to unrepresented low and modest income litigants appearing in civil chambers at both Supreme Court and Court of Appeal levels. As with the Summary Advice Clinics, lawyers receive advance client and case information for each appointment, including the client's name and a brief description of their legal issue, to ensure time for conflict checks and any minimal preparation that may be necessary. Duty Counsel lawyers' services range from providing extended consultations to appearing in Chambers with the client.

Nanaimo Children's Lawyer Project

The project is currently available in the Nanaimo Provincial Court but may extend to Nanaimo Supreme Court in the future. This initiative deals with high conflict custody and access cases and provides a "voice to children" ages 10 through 18, through the Nanaimo Children's Lawyer office on a pro bono basis.

In order to assist children whose parents are involved in high conflict separations, several Nanaimo lawyers saw a need for children to be represented, and with the guidance of a local Provincial Court Judge, have come together to establish the Nanaimo Children's Lawyer.

Where a Provincial Court Judge is of the view that a matter before the Court would benefit from the appointment of legal counsel for a child, he or she can make an order requesting that the Nanaimo Children's Lawyer become involved. A lawyer is then appointed who meets with the child as much as is necessary to properly obtain the child's evidence, which is ultimately presented in an affidavit sworn by the child.

The project is managed by Joan Cotie, who has significant experience in family mediation and child protection mediation.