



**The Law Foundation of Ontario**  
*Building a better foundation for justice in Ontario*

# **Connecting Across Language and Distance: Linguistic and Rural Access to Legal Information and Services**

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## **Connecting Across Language and Distance: Linguistic and Rural Access to Legal Information and Services**

### **Final report of the Linguistic and Rural Access to Justice Project**

This is the report of the Linguistic and Rural Access to Justice Project conducted by Karen Cohl and George Thomson at the request of The Law Foundation of Ontario. We would like to thank the Foundation Board of Trustees and staff, the project team, and the many individuals and organizations who shared their experience, expertise, and ideas.

This report is available on the Foundation's website at [www.lawfoundation.on.ca](http://www.lawfoundation.on.ca).

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# Chapter 1: Introduction

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## Origin of the project

When people need legal information or services, they are often in a time of crisis or experiencing pivotal events in their lives. The fact that they live in a rural or remote area of the province, or do not speak English or French, should not be a barrier to securing the legal information and services they need. That is the premise of The Law Foundation of Ontario's<sup>1</sup> Linguistic and Rural Access to Justice Project.

The Foundation's vision is to be a catalyst for advancing the ideal of a truly accessible justice system. The nature of grant applications for the Foundation's Law and Innovation Fund in 2007 revealed pervasive barriers to access to legal information and services for people who do not speak English or French and people living in rural or remote areas of Ontario. In addition to its ongoing funding of access to justice initiatives, the Foundation decided to engage in a broader dialogue to generate systemic solutions to these specific challenges.

In February 2008, the Foundation asked us (George Thomson and Karen Cohl) to lead the Linguistic and Rural Access to Justice Project, aided by a small team from within and outside the Foundation. This report presents our findings, along with our recommendations for ways in which the Foundation, working in partnership with other organizations, can make a strategic investment to improve linguistic and rural access to justice in Ontario.

## Scope

Access to justice is a vast topic. This project focused on low-income or vulnerable persons and their access to

- **Information** so that they can understand the legal problem and identify next steps
- **Services** of legal practitioners, such as lawyers, community legal workers, or paralegals, so that they can understand how the law applies to their situation, consider legal options, or obtain legal representation.

We did not address directly the measures that we believe courts and administrative tribunals and agencies should put in place to improve linguistic and rural access to justice.

Nevertheless, they are part of the vision described in Chapter 6 and potential partners in some of the recommended solutions set out in Chapter 7. Ultimately, it is for government to ensure that all members of Ontario's diverse communities have effective access to these public institutions.

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<sup>1</sup> The Law Foundation of Ontario was established in 1974 under the Law Society Act. It is funded by the interest earned on monies held in lawyers' and paralegals' mixed trust accounts.

In the context of linguistic access, we considered the communication barriers that affect access to justice for people with disabilities related to hearing and vision. Although we are aware that a great deal of specialized work remains to be done on this topic, we have made suggestions in a number of areas. We have also proposed that representatives from disability communities be included in the consortiums and networks recommended in Chapter 7 to ensure that the needs of people with disabilities are taken into account.

The Foundation decided when it launched this project that a separate process involving Aboriginal leadership would be required to identify specific solutions for Aboriginal communities. Others have identified the need to recognize the unique “social and cultural barriers that Aboriginal people face in using legal information and education services, and to adapt these services in culturally appropriate ways to ensure Aboriginal people benefit from them.”<sup>2</sup> Thus, we did not examine the unique access to justice needs of Aboriginal persons in depth. However, some of our recommendations may prove beneficial for those communities. We also learned of several innovative practices in Aboriginal communities that helped us in our deliberations.

Our project focused on non-official language groups and as such, did not specifically consider the barriers experienced by French-speaking people. Nonetheless, we recognize that access to legal information and services in French remains a challenge in some communities despite laws and policies in place to ensure the provision of services in both official languages. Francophones can experience many of the same barriers that other language groups face, often compounded by the challenges of living in a rural or remote area.

## Methodology

### Research

Through an extensive literature review and informal interviews with persons with related experience and expertise, we examined the challenges of linguistic and rural access in the Ontario context and ideas for dealing with those challenges here and in other jurisdictions. Important new reports came to our attention during our review, which allowed us to benefit from recent thinking on related topics.

### Consultation

Throughout our consultations, we sought perspectives on linguistic and rural access to legal information and services from a range of legal, community, and government organizations. The consultation began with informal interviews. We then produced a Consultation Guide and conducted formal consultations. After analyzing the input, we began to formulate

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<sup>2</sup> Gayla Reid and John Malcolmson, *Voices from the Field*, pp. 23–24.

recommendations. At that stage, we carried out some additional consultations to test and refine ideas and to gauge support for the proposed new directions.

### **Informal interviews**

The informal consultation stage began on February 1, 2008. At this stage, our goals were to understand the barriers to linguistic and rural access to justice, hear about current efforts to overcome them, and generate ideas for improvement. We also asked for ideas on strategies for conducting the project. During these interviews, we encouraged individuals and organizations to suggest others who would have valuable perspectives. This led to additional informal interviews and helped to create a list of people to receive the Consultation Guide. Informal interviews also helped us to identify themes for the Consultation Guide and opportunities for consultation events.

### **Consultation Guide**

Building on ideas emerging from our informal interviews, we developed a Consultation Guide. The Consultation Guide explained the project and its context, summarized what we had heard and learned from our research and informal consultations to that point, and set out our initial guiding principles for developing solutions. It also asked focused questions to help advance the discussion.<sup>3</sup>

We distributed the Consultation Guide to the contact list we compiled during the informal consultations and posted it on the Foundation's website in English and French. Print, large print and audio versions were also available. The Law Foundation offered to make every reasonable effort to facilitate discussion in languages other than English and French on request. We began distribution at the end of May 2008.

We also developed a two-page simplified guide, posted on the Foundation's website, for use by community organizations wishing to have discussions with their clients before providing feedback to the project team.

### **Consultation events**

We convened three roundtables (in Owen Sound, Thunder Bay and Kingston) in June 2008 to hear a range of regional perspectives on linguistic and rural access to justice. The Ontario Trillium Foundation helped us to identify community hosts for these three events:

- United Way of Bruce Grey (Owen Sound)
- Lakehead Social Planning Council (Thunder Bay)
- United Way serving Kingston, Frontenac, Lennox & Addington (Kingston)

These community hosts helped us to identify a maximum of 20 participants for each roundtable. The goal was to include diverse perspectives, including representatives of the legal community. The Kingston roundtable included representatives of organizations serving people

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<sup>3</sup> See Appendix 2, Consultation Guide Discussion Questions.

with communication-related disabilities. The roundtables lasted approximately two hours and focused on the topics of greatest interest to the participants. Participants received the Consultation Guide before the roundtables to help focus the discussion.

In May and June, we also held workshops at related events where a significant number of stakeholders were present.<sup>4</sup>

Over and above these events, we continued to consult informally with selected stakeholders on specific topics.

### Written submissions

In addition to the extensive input we received through consultation meetings and events, we received written submissions that provided formal responses to the questions in the Consultation Guide.

### Testing ideas

During the summer of 2008, we analyzed the information, ideas, and perspectives from the consultations and research and drafted a set of proposals. In September and October, we were fortunate to attend three stakeholder events where we had the opportunity to test our approaches with people who brought important experience to bear on the issues:

- The Ontario Rural Council held a roundtable in Guelph to discuss our draft proposals with Council members and other rural stakeholders. (The Council's report on this event is available on its website: [www.torc.on.ca](http://www.torc.on.ca).)
- We had many opportunities to test the draft proposals at a two-day conference co-hosted by Community Legal Education Ontario and the University of Toronto: "Learn, Grow, Connect: Practicing Community Legal Education in a Diverse Ontario."
- At OCASI's executive directors forum in Orillia, we obtained input from a focus group of community organizations serving immigrants.

We also had numerous follow-up meetings with individuals and organizations we had consulted early in the process to obtain their feedback on our findings and proposed directions.

With the benefit of the comments we received during this period, we refined our proposals and developed our recommendations and final report.

## Guiding principles

Our recommendations flow from guiding principles we established at the start of the project. We then refined and expanded them based on input from consultation participants.

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<sup>4</sup> See Appendix 1, Project Participants.

## Access to justice

- *Knowledge of legal rights is an essential element of access to justice.*

Formal legal representation is required in only a minority of cases. Early access to accurate information about legal rights, an opportunity to understand how legal matters intersect with non-legal difficulties, and a focus on preventing graver legal problems are fundamentally important.
- *Where possible, persons should receive legal information, advice and other legal services in their first language.*

We should not make the easy assumption that the second-best answer, interpreter services, must be the first-choice response. It is much harder to communicate through an interpreter and having to do so might deter some people from seeking help.
- *Disability access and accommodation are principles grounded in the law and need to be reflected in solutions.*

Under the Human Rights Code, people with disabilities have a legal right to be accommodated short of undue hardship. Standards for accessible customer service under the Accessibility for Ontarians with Disabilities Act, 2005 became law on January 1, 2008. Solutions need to embrace these and other legal requirements and the principles of accessibility and accommodation.

## Viable solutions

- *Solutions should be designed to work in the Ontario context.*

We should design solutions taking into account Ontario's demographics, strengths and areas of greatest need. Promising practices in other jurisdictions may be instructive, but they are not necessarily transportable to the Ontario context.
- *Viable solutions require collaboration to create synergy and to respond to people's needs in a holistic way.*

People rarely experience legal problems without facing non-legal problems at the same time. Viable solutions will require collaboration among legal, community, and government organizations to create synergy and use our collective strengths.
- *Solutions should not over-invest in any one technology.*

New technology shows great promise for bridging distances in rural and remote areas and connecting people to experts and interpreters. However, technological supports are not an end in themselves and do not work for everyone. Technology is always evolving, and today's new advances will soon be outdated.



- *Answers need to be practical and affordable.*

Legal needs will always outstrip demand. We should avoid answers that are too expensive or require more investment of effort in any one solution than is reasonable. We should avoid duplication of effort and find ways to share resources where possible.

## Learning and adapting

- *Solutions should be tested, evaluated and adapted.*

Solutions should include mechanisms for formal, objective evaluation to determine how they are working and how they can be improved. Solutions also need to be sustainable over the long term. In some cases, solutions should be tested in a limited way and then evaluated to determine whether they warrant full implementation.

- *Different answers may work for different communities.*

A given solution will not be right for every community. We also need to bear in mind that Ontario's demographic profile will continue to change. Solutions need to be flexible enough to respond to different communities and future shifts in immigration and settlement patterns.

## Law Foundation role

- *The Law Foundation of Ontario should act as a catalyst through strategic funding without impinging on the mandates of other organizations.*

The Foundation can foster innovative partnerships to promote access to justice, but nothing should detract from the essential role and responsibility of other organizations whose primary obligation it is to enhance access to justice in Ontario.

## Proposed new directions

In Chapters 2, 3, and 4, we discuss what we learned from our research and consultations about access to justice barriers and practices designed to overcome them. Chapters 5 and 6 set out our key findings and vision for moving forward. Chapter 7 offers recommendations for the Law Foundation to make a strategic investment in the following six areas to improve linguistic and rural access to justice:

1. Strategies to improve the capacity of non-legal community organizations to provide basic legal information and referral to their clients
2. A coordinated approach for enhancing linguistic and rural access to legal information and services in a designated geographic area

3. Creation of a legal interpretation network to improve access to interpreters, enhance quality assurance, and build a community of practice for interpretation in legal and community settings
4. Pilot projects to test strategies for using videoconferencing to increase linguistic and rural access to legal information and services
5. New articling fellowships to enhance the capacity of organizations providing legal services to persons isolated by language or distance
6. Ways to ensure that knowledge generated from this project and related initiatives is broadly accessible and contributes to our collective understanding of how best to remove barriers to linguistic and rural access to justice.

By providing strategic funding to bring partners together, the Foundation would play a catalyst role in the implementation of each of the six recommendations. In Chapter 7, we also suggest activities for government and leading legal bodies that would make a significant difference to linguistic and rural access to justice and complement the six recommended initiatives.

# Chapter 2: Linguistic Access to Justice

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## Assessing the need

*Unlike other professions or services, law is all about the use of language. It is therefore even more important in the context of law than in other contexts to ensure accurate communication between the service providers and their clients. Legal language is also highly contextualized. It is a reflection of the underlying socio-political systems and values upon which the law is crafted.<sup>5</sup>*

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The statistics alone do not give an accurate picture of the need for language assistance, but they provide some measure of the population in Ontario that may have difficulty accessing legal information or services because of linguistic barriers.

According to 2006 census data, about 1.8 million Ontarians speak a language other than English or French most often at home. According to the same census, nearly 270,000 people have no knowledge of either official language.

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<sup>5</sup> Consultation submission, Metro Toronto Chinese and Southeast Asian Legal Clinic.

<b>TABLE 1.* ONTARIO POPULATION SPEAKING A NON-OFFICIAL LANGUAGE MOST OFTEN AT HOME (2006)</b>		
<b>LANGUAGE</b>	<b>NATIVE SPEAKERS<sup>6</sup></b>	<b>SPEAK THE LANGUAGE MOST OFTEN AT HOME</b>
CHINESE, N.O.S. <sup>7</sup>	215,350	165,260
CANTONESE	181,825	139,105
PANJABI (PUNJABI)	152,650	115,595
ITALIAN	282,750	104,005
SPANISH	160,275	92,470
URDU	114,820	75,100
PORTUGUESE	155,310	74,185
TAMIL	98,905	74,125
POLISH	140,890	71,715
ARABIC	114,725	63,085
MANDARIN	75,330	61,245
RUSSIAN	78,765	56,155
PERSIAN (FARSI)	79,745	56,080
TAGALOG (PILIPINO, FILIPINO)	117,370	51,465
VIETNAMESE	67,150	49,925
KOREAN	60,000	45,360
GERMAN	158,000	41,865
GUJARATI	61,035	39,315
GREEK	61,330	25,200
SERBIAN	38,760	25,115
ROMANIAN	38,785	23,075
HINDI	41,160	21,255
BENGALI	30,415	20,890
UKRAINIAN	48,310	19,050
CROATIAN	37,635	15,360
HUNGARIAN	43,195	14,245
SOMALI	21,425	12,830

\* Languages with over 10,000 speakers.  
 Figures based on Statistics Canada, 2006,  
 Census of Population, Statistics Canada  
 catalogue no. 97-555-XCB2006029.

<b>TABLE 2.* ONTARIO POPULATION WITH NO KNOWLEDGE OF ENGLISH OR FRENCH (2006)</b>		
<b>LANGUAGE</b>	<b>NATIVE SPEAKERS</b>	<b>SPEAK NEITHER OFFICIAL LANGUAGE</b>
CHINESE, N.O.S.	215,345	37,085
CANTONESE	181,820	35,415
ITALIAN	282,750	22,920
PANJABI (PUNJABI)	152,645	21,520
PORTUGUESE	155,310	19,365
SPANISH	160,275	13,520
MANDARIN	75,335	11,575
VIETNAMESE	67,150	9,115
TAMIL	98,905	8,400
URDU	114,815	7,485
ARABIC	114,730	6,955
PERSIAN (FARSI)	79,740	6,440
KOREAN	60,000	5,905
RUSSIAN	78,765	5,815
POLISH	140,890	5,660
GUJARATI	61,035	5,600
GERMAN	158,000	4,255
GREEK	61,330	3,160
SERBIAN	38,760	2,380
ROMANIAN	38,780	2,025
HINDI	41,160	1,690
UKRAINIAN	48,310	1,650
SOMALI	21,425	1,395
TAGALOG (PILIPINO, FILIPINO)	117,365	1,320
BENGALI	30,415	1,275
CROATIAN	37,635	1,090
TURKISH	14,500	1,080
HUNGARIAN	43,195	1,025

\* Languages with over 1,000 speakers.  
 Figures based on Statistics Canada, 2006,  
 Census of Population, Statistics Canada  
 catalogue no. 97-555-XCB2006015.

<sup>6</sup> Figures include all ages.

<sup>7</sup> N.O.S.: "not otherwise specified."

Although not captured in these figures, *Community Interpreting in Canada*, a 2007 study completed for Industry Canada, included census figures for the number of people whose mother tongue is an Aboriginal language or who speak an Aboriginal language most often at home: Ojibway – 12,255 (mother tongue) and 5,925 (spoken most often at home), Oji-Cree – 6,235 (mother tongue) and 3,750 (spoken most often at home), and Cree – 3,495 (mother tongue) and 1,990 (spoken most often at home).<sup>8</sup>

Between the 2001 and 2006 censuses, the number of people in Ontario with no knowledge of either official language increased by nearly 34,000. During the same period, the number of people in the province who spoke a non-official language most often at home rose by nearly 275,000. About 98 per cent of both groups live in urban centres with populations of more than 10,000. This illustrates that linguistic access to justice is largely an urban issue. There are exceptions, however, such as the Aboriginal languages spoken in remote communities and predominantly Spanish-speaking migrant farm workers.

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<sup>8</sup> Fosburys Experts-Conseil, p. 14.

**TABLE 3.\***  
**NON-OFFICIAL LANGUAGES SPOKEN MOST OFTEN AT HOME IN ONTARIO URBAN CENTRES (2006)**

URBAN CENTRE	TOTAL POPULATION	SPEAK A NON-OFFICIAL LANGUAGE MOST OFTEN AT HOME
Toronto	5,072,075	1,363,690
Ottawa - Gatineau (Ontario part)	835,470	88,945
Hamilton	683,450	73,185
Kitchener	446,495	53,370
Windsor	320,730	39,050
London	452,575	38,680
St. Catharines - Niagara	385,035	24,390
Oshawa	328,070	13,085
Guelph	126,085	11,395
Leamington	48,770	7,250
Barrie	175,335	5,560
Kingston	148,475	5,390
Brantford	122,825	5,205
Chatham-Kent	107,150	4,750
Thunder Bay	121,050	4,370
Greater Sudbury / Grand Sudbury	156,395	3,565
Norfolk	61,860	3,225
Sault Ste. Marie	79,035	3,000
Peterborough	115,140	2,320
Sarnia	87,695	2,265
Belleville	90,255	1,750
Cornwall	57,290	1,680
Woodstock	34,780	1,260

\* Figures based on Statistics Canada, 2006, "2006 Census Highlight Tables, Population by language spoken most often at home and age groups, 2006 counts."

**TABLE 4.\***  
**POPULATIONS WITH NO KNOWLEDGE OF ENGLISH OR FRENCH IN ONTARIO URBAN CENTRES (2006)**

URBAN CENTRE	TOTAL POPULATION	NO KNOWLEDGE OF ENGLISH OR FRENCH
Toronto	5,072,075	212,900
Ottawa-Gatineau (Ontario part)	835,470	10,325
Hamilton	683,450	9,360
Kitchener	446,495	6,610
London	452,580	4,825
Windsor	320,730	4,230
St. Catharines-Niagara	385,035	2,495
Leamington	48,770	2,095
Oshawa	328,070	1,425
Guelph	126,080	1,380

\* Figures based on Statistics Canada, 2006, Census of Population, Statistics Canada catalogue no. 97-555-XCB2006015.

Immigration accounts for much of the increase in both the number of people who speak a non-official language most often at home and the number of people with no knowledge of English or French. According to Citizenship and Immigration Canada, 644,845 new permanent residents settled in Ontario between 2002 and 2006, 251,502 of whom had no official-language ability.<sup>9</sup> Women are much more likely than men are to come to Canada as family class immigrants or spouses and dependents. As Table 5 shows, spouses and dependents have the highest incidence of no knowledge of English or French. This can have an impact on the next generation. School boards routinely encounter Canadian-born children who need language training on enrolment because their mothers and grandmothers have no official language knowledge.

TABLE 5.* LACK OF OFFICIAL LANGUAGE ABILITY BY IMMIGRATION CATEGORY (CANADA, 2006)	
IMMIGRATION CLASS	NO OFFICIAL LANGUAGE ABILITY (%)
All new permanent residents	33.1%
Spouses and dependents of economic class principal applicants	42.5%
Family class immigrants	41.5%
Refugees	37.0%
Economic class principal applicants	10.9%
* Figures are from Statistics Canada, 2006, 2006 Census of Population, Statistics Canada catalogue no. 97-557-XCB2006021.	

The number of people in Ontario who would need some form of language assistance to access legal information or services would likely be somewhere between the number of people who have no knowledge of an official language and the number who speak a non-official language most often at home—between 270,000 and 1.8 million as of 2006.

For the 2006 census, Statistics Canada instructed respondents to indicate that they speak English or French only if they can “carry on a conversation of some length on various topics in that language.” A forthcoming research report by Community Legal Education Ontario notes that, “the ability to carry on a conversation about the weather would not be equivalent to absorbing information about legal rights and reading ability does not appear to be included in this question.”<sup>10</sup> If reading ability—vital to understanding even basic legal materials—is taken into account, the need for language assistance is even greater. The 2003 International Survey of Reading Skills found that in Canada, people whose mother tongue was not an official language had significantly lower literacy levels than native speakers did.<sup>11</sup>

<sup>9</sup> Citizenship and Immigration Canada.

<sup>10</sup> Community Legal Education Ontario.

<sup>11</sup> S. Grenier, S. Jones, J. Strucker, T.S. Murray, G. Gervais and S. Brink.

The 2007 Industry Canada study on community interpreting helps provide a closer estimate of the need for language assistance.<sup>12</sup> According to that study, about one million Canadian residents need an interpreter to communicate in an official language. Since Ontario has about half the national population that usually speaks a non-official language at home, and about half the population with no knowledge of an official language, it is reasonable to estimate that as many as half a million people in Ontario might need an interpreter. However, that figure can only be a rough estimate of the number of people who would need language assistance in a legal setting.

It is difficult to estimate the number of Ontarians who are Deaf, but there are national statistics available. According to The Canadian Hearing Society, almost 25 per cent of adult Canadians report having some hearing loss, although closer to 10 per cent of people would identify themselves as culturally Deaf, oral deaf, deafened, or hard of hearing.<sup>13</sup> The Canadian Association of the Deaf estimates that 310,000 Canadians can be considered profoundly Deaf.<sup>14</sup> It is also difficult to estimate the number of people who are Deaf who use neither English nor French sign language and thus face additional challenges in accessing legal information and services. Given that aging is the number one cause of hearing loss, The Canadian Hearing Society projects that the incidence of hearing loss will climb dramatically as the average age of Canadians doubles by about 2030.

## Languages relative to income

Tables 1 and 2 (above) show the non-official languages spoken most frequently at home and the languages spoken by people who do not speak English or French at all, in descending order of prevalence, without regard to other factors. When income level is taken into account, the order of prevalence changes, which indicates that some language groups experience higher levels of poverty than other groups do.

Community Legal Education Ontario commissioned data from Statistics Canada on language groups and after-tax income status based on samples from the 2006 Canada Census for Ontario and five census metropolitan areas (Ottawa, Toronto, Hamilton, Windsor, Thunder Bay). As the following tables show, languages such as Urdu, Arabic and Farsi “move up the list” for Ontario when income is included as a factor. Accounting for income level and other variables adds complexity to the task of determining priority languages for service, but this information is critical to understanding and addressing the needs of the most vulnerable population groups.

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<sup>12</sup> Fosburys Experts-Conseil.

<sup>13</sup> Consultation submission, The Canadian Hearing Society.

<sup>14</sup> Fosburys Experts-Conseil, p. 15.



<b>TABLE 6.*</b> LANGUAGES MOST OFTEN SPOKEN AT HOME (EXCLUDING ENGLISH OR FRENCH), WITHOUT REGARD TO INCOME (ONTARIO, 2006)	
<b>Populations over 100,000</b>	Chinese n.o.s.
	Cantonese
	Punjabi
	Italian
<b>(over 95,000)</b>	Spanish
<b>Populations over 25,000</b>	Urdu
	Tamil
	Portuguese
	Polish
	Arabic
	Mandarin
	Tagalog
	Russian
	Farsi
	Vietnamese
	Korean
	German
	Gujarati
	Serbian
	Greek
* Based on an analysis, prepared by Community Legal Education Ontario in October 2008 (not yet published), of data obtained from Statistics Canada based on samples from the 2006 Census.	

<b>TABLE 7.*</b> LANGUAGES MOST OFTEN SPOKEN AT HOME (EXCLUDING ENGLISH AND FRENCH), LOW-INCOME POPULATIONS (ONTARIO, 2006)	
<b>Populations over 20,000</b>	Chinese n.o.s.
	Cantonese
	Urdu
	Arabic
	Farsi
	Spanish
<b>Populations over 10,000</b>	Korean
	Mandarin
	Punjabi
	Tamil
	Russian
	Vietnamese
<b>Populations over 6,000</b>	Bengali
	Somali
	Polish
	Portuguese
	Gujarati
	Italian
	Tagalog
<b>(3,850)</b>	Hindi
* Based on an analysis, prepared by Community Legal Education Ontario in October 2008 (not yet published), of data obtained from Statistics Canada based on samples from the 2006 Census.	

## Small language groups

Government and community supports tend to develop over time for large language groups, but they may be lacking when the population speaking a particular language is small or relatively recent to Ontario. Multilingual information is less likely to be available to smaller language groups and it can be much more difficult to access services in one's own language or through a qualified interpreter.

Ontario often receives an influx of immigrants from a small group with a heightened need for services. For example, large numbers of Karen (an ethnic minority of Burma) refugees have recently arrived in Ontario urban centres. This highlights another problem for small language groups. Karen people speak three distinct dialects, which amplifies the difficulties of the language barrier, such as the availability of qualified interpreters. Indeed, dialects exist in many

languages. Since language statistics rarely reflect dialects, many more people may fall into a small language group for practical purposes than the statistics would suggest.

## Barriers to obtaining legal information and services

*Many newcomers suffer from isolation that stems from lack of proficiency in English or French, separation from family members, inadequate housing, cultural barriers, and living in poverty. They are often vulnerable to exploitation due to lack of knowledge of their rights in areas such as tenancy, employment, or education and schooling. Many are not sure where to get help for various problems.<sup>15</sup>*

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This project focused on people who face language barriers and who may also be vulnerable because of poverty, low literacy in their first language, unemployment or under-employment, physical or mental health problems, or a range of other factors. Generally, such persons do not have the financial means to obtain private legal assistance and must rely on public legal aid services or pro bono help, where available. They may not know where to go for help, or may not even know that their problem is a legal one with potential legal remedies. They may also lack the literacy skills (including computer literacy) and the knowledge of the legal system to pursue self-help options.

The vast majority of people who need language assistance are immigrants to Canada and come from countries with vastly different legal systems. Not surprisingly, many are unaware of their basic rights and responsibilities and the structure of the legal system in Canada. (Even people with good incomes and a good grasp of an official language are not fully aware of the justice system until the need arises, usually at a point of crisis in their lives.) Immigrants and refugees may also be hesitant to seek a legal remedy in their new country because they had negative experiences or perceptions of the legal system in their home country, or because they fear repercussions such as ostracism by their community or deportation.

People who do not speak English or French are unlikely to be able to read or understand public legal information unless it has been translated or to communicate without the assistance of an interpreter with legal service providers who speak only English or French. Providing legal information and services in a client's first language is ideal, but it is not always possible given the number of languages and dialects spoken in Ontario and the limited resources of legal and other organizations providing first-language services.

Some immigrants face cultural barriers to accessing services, in addition to language barriers, regardless of how long they have been in Canada. For example, one study conducted extensive interviews with 64 women who had been abused and who spoke neither English nor French. Many of the women were reluctant to access services that did not recognize their cultures and

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<sup>15</sup> Sarah Wayland, p. 21.

value systems, including their faith traditions. The women did not understand “a model of help which offers women support as individuals, but offers nothing to help their children and their husbands.”<sup>16</sup>

Not being able to communicate in one’s own language has inherent problems. When the language difficulties intersect with other factors, such as gender, race or ethnicity, and disability, the effects are magnified.

As the immigration class figures show, the need for language training and support is higher among women. However, many immigrant women are still unable to speak English five or more years after they arrive. A recent study focusing on the four largest language groups in which this is the case (Mandarin, Cantonese, Punjabi, and Urdu) identified significant barriers to their participation in language training.<sup>17</sup> These included financial hardship, lack of childcare, domestic responsibilities, pressure to pass on their first language to their children, and the experience of racism or discrimination in language classes. In addition to language barriers, patriarchal traditions, family obligations, a lack of independent income, and a lack of knowledge of or experience with social services can lead to social isolation. Women experiencing abuse are particularly at risk if they are also isolated from support systems and services because of language and cultural barriers.

Several notable studies have documented the far greater incidence of poverty among some ethno-racial communities (which include many language-minority groups), a persistent income gap between these communities and the general population (even where education levels are higher), and disproportionate contact with the criminal justice system.<sup>18</sup> A 2004 study commissioned by the Law Society of Upper Canada found that “visible minority” communities are significantly under-represented in the legal profession, and that fewer immigrants tend to join the legal profession compared with other fields.<sup>19</sup>

Despite the legal duty to accommodate people with disabilities short of undue hardship, people with disabilities continue to face significant attitudinal, communication, and other barriers to obtaining information and services. For people who are Deaf, deaf-blind, oral deaf, deafened, or hard of hearing, barriers include common misperceptions about their abilities, a lack of understanding of their culture and communities, and a lack of appropriate communication accommodations.

People who are blind or have low vision also face considerable obstacles to obtaining legal information and services. The cost of technology, a lack of transportation, and a lack of legal information in accessible formats all act as barriers.

Any of the barriers described above can put people at risk of social isolation. As we learned in our research and through our consultations, isolation is not confined to people who live in rural or remote areas of the province and must overcome distance to obtain the legal help they

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<sup>16</sup> Linda MacLeod and Maria Y. Shin.

<sup>17</sup> Kenise Kilbride, et al.

<sup>18</sup> See Michael Ornstein, *Ethno-Racial Inequality in the City of Toronto*; Avvy Yao-Yao Go; Grace-Edward Galabuzi.

<sup>19</sup> Michael Ornstein, *The Changing Face of the Ontario Legal Profession*.

need. People can be just as isolated, by language, culture, and a range of other factors, in urban centres where services may be available down the street. Without special efforts to connect with people isolated in urban centres, vital services may remain out of their reach.

*Urban areas can mimic rural or remote areas when the numbers of consumers in an urban area are relatively small.... Although Thunder Bay, for example, has a vital Deaf community, the consumer population is not as large as the population in areas of southern Ontario, and only one interpreter is available to serve a large region. Therefore, the Thunder Bay Deaf population does not necessarily have better access to legal interpreting services than someone in a geographically remote area.<sup>20</sup>*

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## Interpretation

Communication between clients and legal and non-legal service providers who do not speak the same language is a challenge for both parties. Clients may be deterred by the difficulties and they may not trust in the process. Service providers may have trouble identifying client languages and needs and then locating the appropriate language assistance. Communicating with a client through an interpreter also places demands on organizations that provide legal information, referral or services. They may lack knowledge of how to work with interpreters effectively and may have difficulty maintaining rosters of interpreters, assessing their qualifications, and securing adequate resources to pay for professional interpreters. Further, as immigration and settlement patterns change, the linguistic and cultural make-up of catchment areas changes over time. In some communities, this can lead to interpreter shortages for languages suddenly in high demand. These difficulties become more acute in legal settings where special expertise is needed to communicate often complex legal concepts.

### Access to interpreters during the legal process

*A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter. CANADIAN CHARTER OF RIGHTS AND FREEDOMS, PART I, S. 14.*

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Legal interpreters are needed in a variety of settings, such as formal court or tribunal proceedings, meetings with legal professionals, and legal information sessions. Each legal setting places different demands on interpreters.

The first stage of the legal process often involves obtaining basic information and referral from non-legal organizations. Access to an interpreter depends on the organization. Some (such as the Findhelp 211 information and referral line) provide a combination of multilingual staff and

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<sup>20</sup> Consultation submission, The Canadian Hearing Society.

telephone interpreters for additional languages. Some ethno-cultural organizations rely on staff and volunteers to interpret as best they can. Other organizations offer no interpretation services and clients must rely on family or friends.

Depending on the legal problem, some people will meet with a legal professional. If the legal matter relates to domestic violence, interpreters may be available from one of the nine agencies funded by the Ontario Ministry of Citizenship and Immigration. These agencies provide spoken language interpretation in over 60 languages to shelters and social, legal, and health care services that work with victims of domestic violence.

People whose matters proceed to a court or administrative tribunal will also require an interpreter. Individual tribunals vary considerably in providing access to interpreters. At one end of the spectrum, some tribunals provide sign language and language interpreters in the required language and dialect at no cost. At the other end, they provide French interpreters only, leaving it to the parties to find a friend, family member or professional interpreter to interpret for them in other languages.

The Court Services Division of the Ministry of the Attorney General provides language and sign language interpretation services in criminal and child protection matters and in other specified proceedings and circumstances (e.g., if fee waivers apply or if ordered by the court). However, in some cases, parties or witnesses may not be able to secure the assistance of an interpreter.

### **Quality and cost of interpretation**

Interpreters must be highly skilled and have some knowledge of the fields they work in, such as health care or legal settings. Ensuring quality in legal interpretation can be a challenge because of the various ways in which interpreters receive training and assessment and because of the lack of consistent standards for interpretation in legal settings.

There is no standard accreditation process for interpreters. Although accreditation processes exist for court interpreters and some tribunals, even there we heard that service can be inconsistent. Through a private statute passed in 1989, registered members of the Association of Translators and Interpreters of Ontario have the exclusive right to use such designations as “Certified Translator” and “Certified Court Interpreter.”<sup>21</sup> However, the statute does not affect the right of non-members to describe themselves as translators or interpreters or to practise those occupations.

Many interpreters are freelance and work part time, sometimes for more than one agency. Although community college programs include interpretation in a legal setting as part of their certificate courses, there are no education programs in Ontario that specialize in legal interpretation. The lack of full-time jobs makes it a field without a clear career path.

As we learned in our consultations, legal professionals and others serving low-income clients often rely on community agency staff and volunteers, clients’ family members and friends, and bilingual volunteers or students to provide interpretation. These supports are more readily

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<sup>21</sup> Association of Translators and Interpreters of Ontario, [www.atio.on.ca](http://www.atio.on.ca).

available, but there are obvious drawbacks to using untrained interpreters for legal matters. The quality of interpretation may be questionable, and other issues can arise, such as a lack of confidentiality and privacy (particularly when family members are interpreting) and potential conflicts of interest.

The major reason we found for both legal and non-legal organizations not using professional legal interpreters is cost. Legal Aid Ontario, for example, covers limited language interpretation for clients on certificates, but calls upon lawyers to “consider whether a friend or family member of the client can attend and assist the client with language issues without charge to legal aid.”<sup>22</sup> Working with a client through an interpreter takes more time, and legal aid fee structures often do not reflect this.

### Telephone interpretation

Some organizations have found commercial telephone interpreter services to be a convenient and relatively affordable way to access interpreters for a wide array of languages. Telephone interpretation also provides anonymity for the client. Other organizations report that the cost of telephone interpretation is still high. They have also noted that the interpreters can be located far from the area of service, possibly outside the country, and may lack the contextual knowledge necessary for interpreting in Ontario settings.

Even if quality is high, telephone interpreters cannot use body language and other non-verbal cues to assist the client. For clients who are particularly vulnerable and for some legal needs (such as the examination of documents), the assistance of an in-person interpreter is preferable.

### Sign language interpretation

The Canadian Hearing Society’s Ontario Interpreting Services provides community interpreting services throughout the province and advises clients to book interpreters two to four weeks in advance. There is an acute shortage of qualified American Sign Language and *langue des signes québécoise* interpreters across Canada. The shortage is even more severe in rural communities, especially in northern Ontario. In addition to the issue of supply, The Canadian Hearing Society cites the following barriers:

- A lack of specialized training or ongoing professional development that addresses the unique needs of the justice system
- A lack of screening or qualifying activities to determine the required skills, knowledge, and attitude of interpreters working in legal settings
- The absence of a clear communication access policy framework in the Ontario government.

Many legal service providers and some administrative tribunals simply do not provide sign language interpreters for people who are Deaf. In our consultations, some legal service

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<sup>22</sup> Legal Aid Ontario, *Tariff and Billing Handbook*, pp. 6–20.

providers expressed frustration with the lack of sufficient funding to pay for sign language interpreters. Advocates told us that interpreter and intervener budgets are critical for all services that interact with Deaf or deaf-blind people.

While remote sign language interpreting shows promise, access in Ontario remains limited. One method (“Video Remote Interpreting”) allows communication between a person who is Deaf and a hearing person in the same location, connected to a sign language interpreter through videoconference. Although access to this type of remote interpretation is available, with limited capacity, within The Canadian Hearing Society, it is not broadly available. Another method (“Video Relay Service”) allows a person who uses sign language to place or receive a relay call to communicate with a hearing person through an on-line video interpreter. Video Relay Service is available in the US but not yet in Canada. Further, as noted in the community interpreting report for Industry Canada, hiring Canadian sign language interpreters to meet the needs of the US video relay market can further reduce the supply in high-need areas such as Toronto.<sup>23</sup>

## Translation of legal materials

Multilingual public legal education and information materials are vital to providing basic legal information in plain language for vulnerable clients and for the legal and non-legal organizations working with them. We heard frequently that these materials are most useful when intermediaries such as community workers and settlement workers who speak the client’s first language can deliver the materials to clients. Workers can explain the materials, reinforce key points, and answer questions.

Translating public legal education and information materials is not an easy task. The range of topics and the number of languages can be daunting. Translations must be legally accurate, up to date, culturally sensitive and relevant, and written in plain language. The translation must not only accurately reflect the meaning of the source text, but also read naturally in the target language. Translators have the additional challenge of translating technical terms that may not exist in other languages.

There has been good headway in producing multilingual text materials, but progress has been slower with audio and other formats. The use of audio recordings allows organizations to reach people with low literacy skills in their first languages, as well as people who are blind and prefer this format. Other alternative formats are also needed, such as Braille, large print, and American Sign Language and *langue des signes québécoise* translations of print documents.

## Ideas for overcoming barriers

Our research and consultations found many examples of efforts, in Ontario and elsewhere, to overcome linguistic barriers to access to legal information and services. Consultation participants also suggested ideas for overcoming these barriers.

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<sup>23</sup> Fosburys Experts-Conseil.

The practices and strategies we heard about can be organized under three main themes:

- Providing legal information and services in the client's first language
- Conducting special outreach to clients who are most vulnerable and isolated because of language, culture, and other factors
- Improving access to professional interpreters when first language services are not available.

Another key strategy that emerged from the project was enhancing the capacity of non-legal organizations to act as trusted intermediaries between clients and legal service providers. We discuss this strategy for improving both linguistic and rural access in Chapter 4.

## First language services

*All immigrant advocates recognize that having a bilingual staff – especially bilingual advocates – is the most important step a provider can take to increase and improve service to new immigrants. Some would argue that it is the only step that will do so.<sup>24</sup>*

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During our consultations, we often heard about the importance of providing legal services in the client's language whenever possible. Using an interpreter, even a highly qualified one, has inherent complications and limitations. There can never be enough legal practitioners to offer services in all the languages and dialects spoken in Ontario, but some promising practices and strategies suggest ways to do more to increase opportunities to serve clients in their own languages.

## Specialty legal services

*Just because you speak someone's language does not mean you understand his or her cultural situation.<sup>25</sup>*

*Ethno-racial communities need ethno-specific services because although the law may be neutral and universally applicable (from a mainstream perspective), legal issues facing ethno-racial communities are not neutral but rather specific and therefore the responses to them must also be specific.<sup>26</sup>*

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Ethno-cultural and ethno-racial legal clinics in Ontario and elsewhere provide culturally sensitive services, with some capacity for service in the client's first language. Lawyers,

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<sup>24</sup> Neil McBride.

<sup>25</sup> Uzma Shakir (Atkinson fellow), informal consultation interview.

<sup>26</sup> Anita Balakrishna.



community legal workers, and other staff combine first-language knowledge with in-depth understanding of the legal and other issues facing their communities. Some use interpreters to supplement their in-house language knowledge.

Specialty clinics in Ontario include the Metro Toronto Chinese and Southeast Asian Law Clinic, the South Asian Legal Clinic of Ontario, the Centre for Spanish-Speaking Peoples, the Nishnawbe-Aski Legal Services Corporation (and other clinics serving Aboriginal peoples), the African Canadian Legal Clinic, and French-language clinics. ARCH Disability Law Centre is a specialty legal aid clinic dedicated to defending and advancing the equality rights of people with disabilities.

Some of these clinics have difficulty fulfilling their broad mandates (in some cases, province-wide) with limited resources. In addition to serving clients directly, they play important roles in advocacy, test-case litigation, training, and outreach. They also work collaboratively with many other agencies serving their communities.

We heard recommendations to increase support to specialty clinics to enhance their ability to provide direct service to their target clients and allow them to help build the capacity of other legal and non-legal organizations. Suggestions included giving specialty clinics a greater role in developing public legal education materials, resourcing them to undertake wider outreach, and increasing province-wide capacity through hotlines housed, for example, within specialty clinics.

### **Hiring practices**

Many US legal organizations emphasize language skills in their hiring policies as a way to improve direct service in other languages. Some also offer language skill testing and training for staff who have some language skills but are not fluent enough to serve clients. In some cases, they tie language skills to compensation.

Other ideas included incentives for law offices to hire bilingual articling students and lawyers and focused recruitment to increase the number of bilingual lawyers available to provide low-cost or pro bono services. According to a 2005 Law Society of Upper Canada report, however, sole practitioners and small firms provide virtually all of the legal services in languages other than English, French, and Italian.<sup>27</sup> Providing pro bono or legal aid services or hiring articling students is more difficult for these practices than it is for larger firms.

### **Accreditation of internationally trained lawyers**

Internationally trained lawyers proficient in languages other than English or French, once licensed to practise in Ontario, would help increase the pool of lawyers who could serve clients in their first languages. However, internationally trained lawyers face difficulties in having their credentials, experience, and degrees evaluated, and in completing independent studies or further education at a law school. There are not nearly enough places in Ontario law schools to meet the demand, and since internationally trained lawyers are typically part-time students,

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<sup>27</sup> Sole Practitioner and Small Firm Task Force, p. 8.

they do not have access to the student and career services at the law faculties where they study.

There are recent promising developments to reduce some of the barriers and provide more support tailored to the specific needs of these professionals. In September 2008, the Law Society of Upper Canada amended its rules to allow internationally trained lawyers to apply for an abridgement of articles if they have worked in another jurisdiction for more than 10 months (as opposed to several years). This change means that fewer candidates will be required to secure articling positions—a particularly challenging barrier.

In addition, the University of Toronto Faculty of Law, in partnership with the Law Society of Upper Canada, the National Committee on Accreditation, and Osgoode Hall Law School, is working on creating a comprehensive bridging program for internationally trained lawyers. Areas under discussion for the program include academic programs, cultural fluency training, job search skills and support, and work placement opportunities.

### **Attracting bilingual law students**

*Since the law school ... represents the moment of greatest diversity within the legal profession, and since it is continuously being refreshed by new students, we believe that focusing on students as service providers will be of great benefit to the project.<sup>28</sup>*

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Student legal aid programs are an important source of legal help for low-income persons. Law schools in Ontario are becoming more diverse, and as law school populations become more reflective of Ontario, the linguistic capacity of legal organizations will correspondingly increase. One strategy for increasing the supply of lawyers who can serve people in their first language is to broaden the pool of law students fluent in the languages in high demand. Establishing bursaries for bilingual law students was one suggested way to accelerate this process.

Through summer placements, student pro bono programs, and articling positions, law students with expertise in non-official languages can help legal organizations provide first language services and enhance their outreach capacity. For example, some US specialty clinics hire bilingual law students to staff hotlines and refer callers to legal service organizations or pro bono attorneys.

### **Referral to bilingual legal practitioners**

Another strategy to facilitate access to legal practitioners who can provide service in clients' first languages is to provide better tools to support referrals. A recurring suggestion in our consultations was a comprehensive directory to assist both legal and non-legal organizations to identify lawyers by proficiency in non-official languages and by area of expertise. The suggestion often came from associations representing lawyers from specific linguistic

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<sup>28</sup> Consultation submission, Pro Bono Students Canada.

communities, accompanied by an offer to assist in compiling the directory. There are some good examples of directories that could form the basis for a comprehensive directory, like the Hispanic Ontario Lawyers Association's directory of Spanish-speaking lawyers and Reach Canada's directory of lawyers in the Ottawa region who will provide clients with disabilities, including Deaf clients, with up to three hours of free consultation. In its legal referral service, the Law Society uses data on legal professionals who have indicated that they speak additional languages, but this information is not publicly available.

### **Multilingual materials**

Various types of organizations produce multilingual materials that community organizations use to support in-person service or outreach activities. These include government, settlement agencies, specialty clinics, and legal and community organizations that focus on legal topics of interest to vulnerable populations.

The complexities and cost of translating legal materials usually require a focus on the most urgent topics and the most important information within these topics. Consultation participants often mentioned the need for improved translation capacity to allow organizations to produce materials on more topics and in more languages. Ideas for improving translation capacity included setting up a translation fund, enhancing or developing community college translation programs with an emphasis on legal translation, developing rosters of qualified translators, and creating a multilingual glossary of legal terms.

Community Legal Education Ontario's Six Languages project produced text and audio materials, on six high-need legal topics, in Arabic, Chinese (Mandarin and Simplified Chinese), Somali, Spanish, Tamil, and Urdu. The text and audio versions are both available on line. The Six Languages project has generated information on how to produce high-quality multilingual public legal education materials. The approach involved focus groups from the target community, plain-language translators, and bilingual lawyers to check translations. An advisory group evaluated the text translations and focus groups evaluated the audio versions for ease of understanding and appropriateness of the background music.

Many jurisdictions have focused recently on creating online repositories or portals for multilingual legal education materials. Portals allow agencies to more easily access materials, identify needs and gaps, and avoid duplicating high-quality work already available through partner agencies.

### **Alternative formats**

Multilingual text materials will always be important in helping organizations to provide legal information and services to clients. Clients with limited or no literacy also need audio and other formats to enable them to access information independently. Presenting information in different ways is also important because stress has a significant effect on the ability to retain

information. Community Legal Education Ontario's research indicates that individuals under stress must receive the same type of information at least five times in order to retain it.<sup>29</sup>

Service organizations such as the Canadian National Institute for the Blind and The Canadian Hearing Society engage in case-management and advocacy and need appropriate legal information for their clients. As we learned in our consultations, the lack of accessible plain language materials can pose significant barriers for these clients.

Basic legal materials translated into American Sign Language and *langue des signes québécoise*, and made available on DVD and on line, would help to alleviate these barriers. Materials in alternative formats, such as Braille, audio, and large print, and the transmission of documents electronically to clients who have the specialized software to convert them into the formats they can use, would improve access to legal information for people who are blind or have low vision. It is also critical for all organizations providing online legal information to ensure that their websites meet accessibility standards and guidelines. The Canadian National Institute for the Blind, for example, offers a web accessibility consulting service, including website audits, website certification, and seminars and training for web professionals.

## Special outreach

If people are unaware of their legal rights or do not know that help is available, they are unlikely to make use of legal clinics and other available services. Connecting with people who are isolated by language, culture (including religious rules and expectations and power imbalance within families), and other factors (such as domestic abuse) requires special outreach efforts tailored to the target communities.

Individual communities have pointed out that cultural factors can compound the problems of language barriers. As an example, the Canadian Council of Muslim Women has noted that, "Muslim women tend to be disengaged from the civic and political life of the country. They are also more likely to be absent from the labour market and tend to be more socially engaged within Muslim communities and less so in broader Canadian society."<sup>30</sup>

Settlement and community organizations have developed innovative approaches to outreach, including workshops, mini-clinics and the use of multilingual community media discussed below. Some place or post multilingual legal information notices in locations where their client groups are most likely to see them, such as health clinics, food banks and grocery stores, food hampers, and community bulletin boards. These efforts convey the message that help is available without placing the person receiving the information at risk.

## Workshops and mini-clinics

Another successful outreach strategy is to conduct workshops or legal mini-clinics in the languages of highest need in a community. Many organizations in Ontario and elsewhere do

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<sup>29</sup> Community Legal Education Ontario, p. 9.

<sup>30</sup> Daood Hamdani, in Canadian Council of Muslim Women, p. vii.

this, in locations convenient for the target community. A regular time for workshops or clinics makes outreach and publicity easier and helps to raise awareness in the community. Along with the language component, some clinics focus on specific groups, such as women experiencing abuse, elderly people, or agricultural workers.

Some workshops are offered through partnerships between settlement organizations and lawyers, pro bono organizations, or legal clinics. This enables the legal and non-legal partners to benefit from each other's experience and expertise. Dixon Hall's Legal Awareness Outreach Project for Toronto Downtown Mandarin-Speaking Newcomers involves workshops on 12 legal subjects, delivered in partnership with Metro Toronto Chinese and Southeast Asian Legal Clinic, Neighbourhood Legal Clinic, and Toronto Workers Health and Safety Legal Clinic. The South Asian Women's Centre is developing workshops on legal rights in five Asian languages. The Centre will collaborate with South Asian Legal Clinic of Ontario for legal advice, and lawyers, police, and social workers (using interpreters as needed) will facilitate the workshops.

Workshops or mini-clinics are often conducted through interpreters. In Toronto, for example, Parkdale Community Legal Services provides regular mini-clinics in Tamil, Polish, Portuguese, Vietnamese, and Spanish, and has received a Law Foundation grant for a Tibetan mini-clinic. The clinics are held at set times each week when interpreters for the target language are available to clients. Working with the same interpreters over time enables the interpreters to become familiar with the legal clinic setting and the community and helps clients to become comfortable dealing with the interpreters.

### **Multilingual community media**

Many organizations have used community multilingual newspapers, radio, and television to connect with people who may not otherwise become aware of their legal rights or how the law might help them. OMNI television, for example, is an important source of information for many communities in Ontario. The most effective media format, and the most effective time of day in the case of broadcasts, varies by community.

Community radio public service announcements, and call-in programs in which a legal expert from a general or specialty community legal clinic answers questions, emerged as particularly important in our consultations. Through multilingual media, people can obtain information without visibly accessing legal services or without having to go out for it. This is especially important for women, people with disabilities, or people who are confined to the home or experiencing abuse. Some individuals are simply more comfortable calling a radio station with their questions anonymously, and they would hesitate to ask a worker in person. We also heard that it is vital to these outreach strategies to provide people with contact information so that they can follow up with a legal or community worker if they choose.

### **Second language and literacy programs**

Incorporating law-related materials into English or French as a second language classes can also be an effective outreach method. The teachers in these classes are in a good position to provide basic information because students often see them as a trusted and capable resource.

Program materials for the government-funded Language Instruction for Newcomers to Canada Program include modules and links to reference materials on legal topics that instructors can build into their classes.

The Law Foundation has approved funding for a curriculum project based on the Six Languages project materials. Community Legal Education Ontario has hired an English as a second language instructor to develop the lesson plans and activities. Other jurisdictions are already running programs connected to English as a second language classes. The People's Law School in BC, for example, produces lesson plans and provides a staff teacher to visit classrooms. They report that the staff teacher approach is often more effective than introducing lawyers to the classes.

Some consultation participants also suggested incorporating legal content into literacy classes as a way of reaching people (both Canadian-born and immigrants) who lack basic reading and writing skills.

## Professional interpretation

*It is a common misconception that anyone proficient in two languages can interpret. In fact, interpreting requires a complex set of skills, all of which must be exercised simultaneously. The interpreter must listen, understand, store words and word order, search for the right concepts and words in the second language, reconstruct the message in the second language, and speak and monitor his or her own output, all while listening for the next chunk of dialogue to process.<sup>31</sup>*

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### Interpreter services

Our consultations raised the idea of a centralized interpreter service (similar to a model in Australia) as a means of enhancing the supply and availability of interpreters. The Australian government, through Translating and Interpreting Service National, provides interpreting services on a fee-for-service basis for people who do not speak English and for English-speakers who need to communicate with them. Services are free for certain transactions, including communicating with a private medical practitioner. Services are also free to “non-profit, non-government, community-based organizations for case work and emergency services where the organization does not receive funding to provide these services.”<sup>32</sup>

Many organizations we consulted favoured continuing with the variety of interpreter services developed in Ontario over time, which have relationships with and knowledge of the communities they serve. They considered it preferable to concentrate on ensuring that all

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<sup>31</sup> California Commission on Access to Justice, p. 19.

<sup>32</sup> Translating and Interpreting Service.

interpreters working in legal settings abide by common standards, guidelines, and protocols, and on providing access to good training and critical resources such as legal glossaries.

Organizations have taken a range of approaches to acquiring interpreter services for their clients. Kensington Bellwoods Community Legal Services, Jane Finch Community Legal Services, and Parkdale Community Legal Services in Toronto have collaborated to share the services of a full-time Spanish interpreter. Many settlement and immigrant service agencies maintain their own rosters, and the Languages Bureau of COSTI Immigrant Services operates its own commercial interpreter service. Other agencies hire interpreters from commercial agencies for their clients as needed.

In addition to language interpretation, the Ontario Human Rights Tribunal offers sign language interpretation, real-time captioning, interveners to interpret in-person communication, and audio recordings of its hearings.

Many legal clinics reported that they have difficulty paying for interpreters from their disbursement budgets. Legal clinics and community agencies both stressed the importance of ensuring that, at a minimum, telephone interpretation is readily available.

Some community agencies suggested asking Legal Aid Ontario to develop a centralized roster of approved interpreters to reduce the burden on individual agencies that must screen, train, and approve interpreters. Others thought that the Ministry of the Attorney General roster for court interpreters might be expanded to other legal functions, particularly in light of the efforts under way to improve the standards for court interpreters.

The 2005 Canada-Ontario Immigration Agreement includes a significant commitment to helping newcomers to Ontario integrate successfully. Citizenship and Immigration Canada's strategic plan acknowledged an increasing demand for spoken language interpreter services to enable newcomer access to justice, health, and social services. Citizenship and Immigration Canada has commissioned a study and report, expected shortly, that will recommend improvements and service delivery models for language interpretation and translation services in Ontario in the context of immigrant settlement.

### **Interpreter networks and standards**

In the health care field in Ontario, the network approach has been successful in bringing key partners together and setting standards for interpretation. Interpretation service providers developed the Healthcare Interpretation Network, mostly on a volunteer basis, with some early support from the Ontario Ministry of Citizenship and Immigration. The network's goals include education, research, and dissemination of information on language interpretation and translation services in the delivery of health care in Ontario. It provides resources for the education and training of qualified language interpreters and promotes common education and professional standards. Recent activities of the Healthcare Interpretation Network and Critical Link have included studies of the roles of community interpreters in health care and the development of a National Standard Guide for Community Interpreting Services.

The Ministry of Citizenship and Immigration provides funds for community agencies under the Language Interpreter Services program and helped to develop the Language Interpreters Certificate Program now offered at several colleges. The program focuses on spoken language interpretation in the legal, health care, social service and domestic violence prevention sectors, although the content on interpreting in legal settings is limited. The funded agencies also often conduct their own training courses using the ministry's curriculum.

In the case of court interpreters, the Ontario Ministry of the Attorney General is working with Vancouver Community College to develop new interpreter tests in the 25 spoken languages in highest demand, along with an English test, to evaluate the interpreting skills of all current and new court interpreters. In order to be on the Ministry registry of interpreters, individuals are required to pass an interpretation test and a training program. The Ministry has also produced rules of professional conduct for court interpreters, handbooks, and scheduling procedures.

Assessment for the Immigration and Refugee Board of Canada's approximately 1,000 interpreters includes a hearing simulation test, a sight translation test, and an official language comprehension test. (Tests are available in 52 languages.) Interpreters receive a two-day orientation, followed by a post-orientation test to ensure that they have assimilated the key elements and terms. The first two hearings by a new interpreter are audited.

In the US, the Consortium for State Court Interpreter Certification, founded in 1995, is a multi-state partnership dedicated to developing court interpreter proficiency tests, making tests available to member states, and regulating the use of the tests. Consortium resources achieve economies of scale across jurisdictional and organizational boundaries.

In addition to language interpretation, the Ontario Human Rights Tribunal offers sign language interpretation, real-time captioning, interveners to interpret in-person communication, and audio recordings of its hearings.

### **Telephone and video interpretation**

Despite some of the drawbacks of telephone interpretation, it is more easily accessible than in-person interpretation and it is relatively cost-effective. For less-common languages, it is a necessity. Telephone interpretation can be particularly useful in the early stages of a person's search for information, for simple tasks, and for quick or urgent consultations. The element of anonymity also appeals to some clients. The choice of telephone interpretation services is increasing, as is pressure for them to ensure quality control and reasonable prices.

Telephone interpreters are naturally suited to hotlines. The Findhelp 211 service, Justice Ontario, the Law Society's complaints and referral lines, the Federation of Metro Tenant's Association Tenant Hotline, and BC's LawLine are examples of programs that provide multilingual service, either partly or entirely through contracts with commercial telephone interpreting services. On a pilot basis, Findhelp is providing a multilingual hotline to support Community Legal Education Ontario's Six Languages project. The hotline offers basic legal information and referral based on the Six Languages materials.



Some commercial interpreter services are beginning to offer interpretation by videoconferencing, which better approximates in-person service and is essential for sign language interpretation. The Canadian Hearing Society has videoconferencing technology in each of its 26 offices. Increasing the use of videoconferencing appears to be a key strategy in helping to address sign language interpreter capacity, particularly in rural and northern communities.

# Chapter 3: Rural and Remote Access to Justice

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## Describing “rural” and “remote” Ontario

*While the rural poor look a lot like the urban poor – they too are disproportionately composed of single mothers, Aboriginal people, people with low educational attainment and elderly, disabled or unemployed individuals – they experience poverty very differently than their urban counterparts. This difference most often boils down to problems around transportation: rural Canadians have to travel further to see a doctor, apply for welfare, access education, buy fresh vegetables, or even just participate in community life. Ultimately, being poor in rural Canada means more than just not having enough. It also means having to travel long distances to get enough.<sup>33</sup>*

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There is no single definition of “rural.” It is identified variously in terms of demography, economic activity, and social and cultural factors, alone or in combination. The definitions referred to here focus mainly on population factors.

Statistics Canada uses population size and density to define “Urban Areas” and “Rural Areas.” Urban areas are places with a minimum population of 1,000 and a minimum population density of 400 people per square kilometre. “Rural Areas” are places that are not “Urban Areas.” Other definitions measure the degree of economic and social integration of rural areas with urban cores, including high commuter flow into the urban core.

As a working definition, the Ontario Ministry of Agriculture, Food and Rural Affairs considers rural Ontario to be the area outside the cities of Hamilton, Ottawa, London, Windsor, Thunder Bay, and Greater Sudbury, the regions of Niagara and Waterloo, and the Greater Toronto Area. Municipalities with populations of less than 100,000 are also included in the definition. By this definition, about 4.3 million people lived in rural southern Ontario and about half a million people lived in rural northern Ontario in 2006.

In general, “remote communities” are defined by their distance from urban centres. In Ontario, by at least two definitions, regions lying entirely above the 49<sup>th</sup> parallel can be considered “remote.”

Within the health care field, there have been efforts to develop indices that more accurately reflect the particular challenges of service delivery in rural areas. The Ontario Medical

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<sup>33</sup> Standing Senate Committee on Agriculture and Forestry.

Association has developed a “Rurality Index of Ontario.” This assigns points based on a number of factors, including travel time to nearest referral centres, community population, number of active general practitioners, population to general practitioner ratio, hospital capacities, social indicators and weather conditions. The index is used in several government funding formulas aimed at increasing the level of rural medical service. Such an index, adapted to legal services, would likely provide a better picture of the extent of the need in rural areas than population figures alone do.

By all definitions, Ontario’s urban regions are growing faster than its rural regions. There has been significant population growth in rural areas near cities, but according to one projection, 90 per cent of the population increase from 2005 to 2020 will have occurred in urban areas.<sup>34</sup>

Although the number of immigrants in rural areas of Canada is growing, the number of new immigrants in rural areas is still small.<sup>35</sup> This is not surprising, since immigrants tend to settle in urban areas, which have sizeable immigrant communities and networks and greater availability of jobs and services.

Thus, for most of rural Ontario, language is not a significant obstacle to accessing services, with some notable exceptions: Aboriginal peoples who speak neither English nor French and live in rural or remote areas, migrant workers, many of whom are Spanish-speaking (about 15,000 migrant workers live in Ontario for up to eight months each year),<sup>36</sup> and a significant German-speaking population.<sup>37</sup>

## **Barriers to obtaining legal information and services**

### **Distance and declining services**

At The Ontario Rural Council roundtable held for this project, participants identified distance as the number one barrier to obtaining legal information and services in rural or remote areas of the province. Legal service providers spoke about their rural clients walking an hour or more, or hitchhiking, to keep appointments with legal clinics or to attend administrative or court proceedings.

Public transportation is rare or non-existent in many rural communities. In some places, community transportation programs exist but are targeted to specific populations such as people who are elderly or who have disabilities. Even for people with private transportation, distances, poor roads, weather conditions, and the price of gas can be obstacles to accessing services and can influence every part of daily life.

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<sup>34</sup> David Sparling and Delia Bucknell.

<sup>35</sup> Roland Beshiri.

<sup>36</sup> Harald Bauder, Kerry Preibisch, Siobhan Sutherland and Kerry Nash.

<sup>37</sup> Ibid.

Due to distances and weaker economies of scale, rural services often cost more. With declining populations, many government and commercial services have moved from small towns to regional centres, making the challenges of distance even greater for many rural residents. One study conducted profiles of 22 rural sites across Canada, tracking service availability over time. The study sampled only four sites in Ontario, but the trend toward moving services (including legal, transportation, and community services) from local communities to regional centres was clear.<sup>38</sup>

The lack of services affects communities and groups in different ways. For rural women experiencing domestic violence, the smallness of the community may create personal conflicts and make it difficult to maintain confidentiality. The lack of childcare and transportation may make it impossible to get away to see a lawyer; and the lack of shelters and support services may make it impossible to leave. Specialty services and expertise may also be lacking to deal with the legal and other needs of youth, the elderly, and people with disabilities. For example, the critical shortage of sign language interpreters (discussed in Chapter 2) is even more acute in rural communities, especially in northern Ontario.

## Income and other factors

Compared with urban residents, rural residents tend to have lower education and literacy levels, lower incomes, fewer job opportunities and more seasonal employment, more housing in need of repair, and poorer health and access to health care.<sup>39</sup> All of these factors can contribute to poverty.

As the Senate report on rural poverty put it, people who are poor in rural areas “experience poverty very differently than their urban counterparts.” Distance, isolation, lack of transportation, limited services and the facts of rural life exacerbate the impact of poverty, particularly on people who are most vulnerable. Consultation participants noted that many rural barriers also affect people who may be considered “middle income.” Some rural residents may own their homes but have extremely limited cash flow. (One rural client we learned about owned her home outright, but supported herself and her four children on \$11,000 a year from child tax credits and minimal support payments from her ex-husband.)

The traditional cohesiveness of rural communities, while providing an informal safety net, can also contribute to the hidden nature of rural poverty. The Senate report found that the rural Canadian ethic of self-sufficiency can make rural Canadians reluctant to seek help when they need it. There can also be a stigma attached to seeking legal help in a community where everyone appears to know everyone else’s business.

As we heard in our consultations, intimidation or fear (of the legal system and legal language) can prevent many people from seeking legal help. There can also be a “cultural” barrier between people in rural communities and service providers located in cities. For example, one

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<sup>38</sup> Greg Halseth and Laura Ryser.

<sup>39</sup> Ausra Burns, David Bruce and Amanda Marlin.

participant told us of a social worker who did not believe that a rural client could not drive to Kingston in the winter because his wood stove would go out and the sole water pipe would freeze before he got home.

The impacts of poverty on the ability to access legal services may be much greater in rural areas. We heard about clients of rural community legal clinics who have limited or no telephone service, forcing them to rely on neighbours who may be kilometres away. The effects are even more severe in remote communities than they are in rural communities where resources may be available in nearby urban centres.

## Supply of legal services

There is limited current research on the need for and supply of legal services in Ontario communities. The 2005 Report of the Law Society of Upper Canada Task Force on Small Firms and Sole Practitioners found that 80 per cent of rural lawyers are small and sole practitioners.<sup>40</sup> They are aging as a group and tend to have high overhead and other financial and administrative costs, which limits the amount of legal aid and pro bono work they are willing to take on. Many rural small and sole practitioners (64 per cent) identified shortages of legal services in their areas, with the largest gaps in family law, lawyers willing to accept legal aid, and litigators.

Where legal services exist in rural areas, service providers face the challenges of large service areas, isolated clients, lack of public awareness of their services, and difficulty recruiting staff, including clerks, researchers, students, and support staff. In remote areas with few lawyers, lawyers are also more likely to encounter conflict of interest issues.

## The digital divide

The “digital divide” remains a significant obstacle to using communications technologies in Ontario, notwithstanding the significant efforts of governments and others to resolve the technological challenges. Broadband access is simply not available in many rural areas. A 2005 Canadian Radio-television and Telecommunications Commission study (cited in the Senate report on rural poverty) found that, at that time, 47 per cent of Canadian communities, mostly rural and small town, did not have broadband access.<sup>41</sup> The Senate report confirmed that there is still limited and spotty broadband connectivity in rural areas. Distance, sight lines, topography, and availability of high-speed backbones are obstacles to wider availability.

Even where broadband service is commercially available, many people do not have home computers or may be unable to afford the service. Many remote communities have group or organizational access through specific access points and community networks, including Aboriginal networks in the north. Through Industry Canada’s Community Access Program, free access to high-speed Internet service is available in some schools, libraries and community

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<sup>40</sup> Sole Practitioner and Small Firm Task Force.

<sup>41</sup> Standing Senate Committee on Agriculture and Forestry.

centres. However, significant travel time may still be required and the lack of privacy may be a problem for people dealing with legal issues.

The 2005 Canadian Internet use survey analyzed personal (non-business) Internet use, looking at a number of variables.<sup>42</sup> Income was found to have a strong positive correlation with Internet use; people with some post-secondary education were about three times more likely to use the Internet than those with none were; and people in urban areas were about 1.5 times more likely to use the Internet compared with those living in rural areas.

Concerns about the limits of technological solutions for rural and remote communities were echoed in our consultations, and the limits are not confined to Internet access. We were told that many rural residents have limited or no access to telephones and long-distance or toll-free service and limited or no access to cell phones (vast parts of the north have no cellular networks). For those with limited resources, pay-as-you-go long distance access is the norm, but many services, such as 1-800 toll-free numbers, are accessible only after long waiting times.

Internet and other text-based solutions are of limited use to people who do not have the literacy skills to use them or to use them effectively. Literacy was identified in our research and consultations as a barrier for many rural clients seeking legal information or services. The Ontario Rural Council roundtable identified literacy problems broadly, including not knowing how to find information in a phone book, not knowing where to look for information, having trouble expressing a legal problem, or having trouble understanding legal information.

Research and surveys have also highlighted these problems. As an example, the BC Rural Women's Project examined rural women's experiences of poverty and access to communication technology through community dialogues with women in six regions of British Columbia in 2002 and 2003.<sup>43</sup> The women who participated had concerns related to both telephone and Internet service. They felt that the increasing reliance on the Internet to access resources, information, and educational opportunities, and to facilitate communications, creates serious challenges for women with low incomes.

Over time, these technological challenges will recede and innovative solutions that facilitate access to technology for people in rural and remote communities will become much more realistic and practical to implement. However, consultation participants stressed the risk of making premature assumptions about what is possible under present conditions.

## **Ideas for overcoming barriers**

This section describes ideas for overcoming barriers of access to legal information and services for low-income or vulnerable people living in rural or remote areas. We have drawn the ideas

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<sup>42</sup> Larry McKeown, Anthony Noce and Peter Czerny.

<sup>43</sup> Nythalah Baker.

from suggestions made by consultation participants and from our research on practices here and elsewhere.

The ideas we heard about can be organized under three main themes:

- Providing legal services in rural locations
- Conducting special outreach to clients who are most vulnerable and isolated
- Using technology to bridge the distance.

Another key strategy recommended through the project was to enhance the capacity of non-legal organizations to act as trusted intermediaries between rural clients and legal service providers. This is discussed in Chapter 4.

## Providing legal services in rural locations

One way to increase access to legal services in rural and remote areas is to offer incentives or supports to legal professionals to practise in these communities. Some jurisdictions in the US, Australia, and the UK, for example, have made efforts to increase the number of rural private lawyers doing poverty law, legal aid, and pro bono work through various financial incentives. These have included support for operating and facility costs, free access to continuing legal education, and loan forgiveness for recent law school graduates. These are similar to the incentives offered in Ontario for health care providers to practise in rural and remote areas. Additional supports that could be offered to attract lawyers to rural practice or to make legal aid or pro bono work more feasible for rural practitioners include peer-support networks, practice-management advice, research services, and mentoring.

Projects in the US and Australia have explored offering the pro bono services of urban lawyers to rural clients. These projects usually involve a rural legal aid office, local charity group, or community legal service provider as a local sponsor and point of contact. Urban partners can include bar associations, law firm pro bono programs, and government or corporate in-house counsel, as well as legal aid or community legal services. Projects are usually confined to a small number of legal subjects targeted to local needs and include supports for pro bono volunteers (e.g., training and resource materials, mentorship, litigation support, and research assistance where possible).

Another approach is to mobilize law students to assist in providing legal services in underserved areas. For example, Pro Bono Students Canada has a long-distance placement program to place law students in community organizations and law clinics in rural areas.

The following are other ideas that came up in our consultations:

- Provide additional staff resources to satellite offices of legal aid clinics serving large catchment areas
- Establish a widely publicized, centralized toll-free line for obtaining pro bono assistance in Ontario

- Recruit lawyers and law students from rural or remote communities to provide pro bono services to their home communities on a temporary basis
- Connect law students from urban law schools with rural residents in need of legal information and services
- Create mobile legal clinics staffed by lawyers, community legal workers and law students (similar to mobile health services in the province).

## Special outreach

Given the low population densities of rural areas and the additional barriers of poverty and a lack of public transportation, it is clear that outreach must be a component of any legal services delivery plan.<sup>44</sup> Outreach can include workshops and public legal education to address specific legal topics or target groups.

Several projects in the US and Canada conduct legal outreach aimed at migrant agricultural workers, who often face linguistic barriers along with rural isolation. One example is a partnership between the Industrial Accidents Victims Group of Ontario and Justicia for Migrant Workers, which delivers workshops and advice clinics in community locations (and develops Spanish and English public legal education materials for migrant farm workers in rural Ontario). The Indigenous Farm Worker Project of the Oregon Law Center has created audiotapes and illustrated handouts to serve similar target groups in a number of languages.

Some projects have used libraries as public legal education resource centres in rural areas and have provided training and resources to the participating libraries. A Canadian example is the BC Courthouse Library Society's LawMatters project. It plans to provide public libraries with bibliographies of recommended current resources, research guides on specific legal topics, training for public library staff, reference and referral support, and financial assistance to purchase appropriate legal resources. Others have co-located legal information services with existing medical or other non-legal priority services.

Participants at The Ontario Rural Council roundtable discussion emphasized the need to bring legal information to places people already go and to provide information through people and services they trust. They suggested using Friendship Centres, band offices, Mennonite Central Committee offices, ethnic media, places of worship, health locations (doctors, dentists, health centres, pharmacies), Liquor Control Board of Ontario outlets, grocery stores, food banks, and other similar locations.

Other outreach ideas came up in our consultations:

- Put up posters about legal issues and where to find out more in libraries, post offices, courthouses, and other public places
- Issue news columns on legal topics of interest to the region, like the bimonthly "Legalese" column in the *Frontenac News* of Sharbot Lake

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<sup>44</sup> Larry Spain.



- Use community radio and television more extensively to provide information on legal rights and services available in the community
- Use the Ontario government's ServiceOntario network as a partner for distributing legal information and holding meetings.

## Using technology to bridge the distance

*One of the challenges is generalized versus personalized information. Generalized information needs to be available 24/7. But people still need access to a lawyer to see how it applies to their situation.* OWEN SOUND CONSULTATION

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The importance of in-person assistance for vulnerable clients, for both linguistic and rural access, was a recurring theme in our consultations. Our research supported that theme. For example, BC's Social Planning and Research Council interviewed individuals involved in poverty law services for its 2004 report, and the respondents consistently considered it a priority to obtain information from an advocate or lawyer in person rather than on line or over the telephone.<sup>45</sup>

Although technology cannot replace in-person support and is not accessible to everyone, it is a natural solution to providing access to legal information and some legal services to a broader audience over distances. Our project focused on three distance methods: telephone hotlines, delivering legal information and some forms of live or "just-in-time" assistance on the Internet (e.g., emails and online forums), and videoconferencing.

### Hotlines

Legal hotlines offering information, referral, and limited service have been set up in many locations in the US, the UK, and Australia. In Canada, legal hotlines exist in Alberta and BC and are emerging in Ontario. The Ministry of the Attorney General's Justice Ontario service includes a multilingual legal information hotline, and Legal Aid Ontario is developing one.

A hotline that provides general information may also be used to convey legal information and to refer callers to legal services. Findhelp 211 is an example of a general information and referral hotline that covers many topics, including legal issues. This service is being expanded, with government support, to cover the whole province.

Legal hotlines are most effective when there is some form of follow-up or ongoing support for those who use them. Many clients, particularly the most vulnerable, may not be capable or confident enough to use information or advice from a hotline on their own.<sup>46</sup> Equally important to the hotline's effectiveness is the ability to make good referrals to the appropriate legal service or professional. Recorded legal information can be of some value, but people who need

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<sup>45</sup> Andrea Long and Anne Beveridge.

<sup>46</sup> See Focus Consultants and Robert Echols and Julia Gordon.

the information are usually eager to connect with someone, or with some added material, to help them apply the information to their own circumstances. We also heard that it can be difficult for a centralized hotline to provide specific information about local circumstances, programs and services.

## Internet

Public legal information on websites can benefit people who need basic legal information, regardless of where they live. However, as we heard in our consultations, individuals often need help to navigate websites and understand online legal information. Community organizations also use websites to get basic information to pass on to their clients. For example, the CLEONet portal in Ontario is primarily aimed at community organizations and social service workers who need information on legal topics.

A few projects in Canada and the US are experimenting with the use of email or online forums for legal advice. The Nishnawbe-Aski Legal Services/Pro Bono Law Ontario “Ask a Lawyer” project, for example, allows community legal workers to consult with pro bono lawyers specializing in a wide range of areas through queries on a website. Many legal information and service providers in the US use “Live Help” or similar software, which allows users to communicate with advisors via instant messaging for assistance in navigating the websites. In British Columbia, a variety of Internet applications are being used, particularly in support of self-help. (See discussion in Chapter 4.)

Despite the digital divide, some consultation participants told us that Internet use is increasing and is becoming more acceptable than previously supposed, as more and more remote communities are getting high-speed Internet access.

## Videoconferencing

Videoconferencing offers potential for a more personal, full-service approach to distance service than hotlines or websites can deliver. It is not a universal solution, however. It is not ideal for vulnerable clients who need in-person support, and it is not suited to all legal purposes (for example, reviewing a large volume of documents). Videoconferencing also requires travel to an access point. For client interviews, a private space and a local assistant are needed. The wider the range of other, non-legal services available through the video access point, the more likely people are to use the service to obtain legal advice. Combining services increases the usefulness of the system and decreases reluctance to use it.<sup>47</sup> Combined services enhance privacy because nobody knows exactly which service people plan to use when they enter the video access point.

As the technology moves to low-cost hardware and standard broadband Internet connections, videoconferencing is becoming increasingly ubiquitous. Webcam quality and reliability were problems in early experiments in other jurisdictions, but good low-cost cameras are becoming available. Several jurisdictions are now using videoconferencing to deliver legal information

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<sup>47</sup> Legal Services Commission [UK].

and advice. In Ontario, the *Centre de santé communautaire* Hamilton/Niagara received a grant from the Law Foundation to establish virtual links between francophone lawyers in Toronto and Ottawa and clients in Hamilton. The Western Canada Society to Access Justice organization operates pro bono clinics via videoconferencing in the remote areas of British Columbia.

Videoconferencing is also being used more generally to provide training or specialist advice, or to link services such as the various legal aid offices across a sparsely populated US state. Montana Legal Services Association shares a videoconference network and access points with the state court system. An evaluation report suggests that this program used videoconferencing successfully for internal meetings, staff training, self-help clinics, court appearances, and attorney-client meetings, although in the last two categories, the number of instances was low.<sup>48</sup>

In Ontario, the government's Justice Video network operates about 200 videoconferencing sites across the province, with installations in many court, corrections, and police locations. Initially, the network was used for short bail and remand hearings. Now it is beginning to be used for additional purposes such as case conferences, remote witness and expert testimony, sign language interpretation, solicitor-client hearings, training sessions, and meetings. In addition, Legal Aid Ontario uses the network to take legal aid applications from clients in some correctional facilities.

Ontario also has an extensive medical videoconferencing network (Ontario Telemedicine Network) and videoconference facilities for sign language interpretation at The Canadian Hearing Society's offices across the province.

Other ideas about videoconferencing came up in our consultations:

- Make videoconferencing available at community centres, libraries, post offices, and health care facilities and other access points
- Use videoconferencing to deliver sign language interpreting services to the north
- Use videoconferencing to connect community clinics with their satellite offices
- Use videoconferencing for pro bono lawyers to provide legal services or training sessions for rural individuals and community organizations
- Use videoconferencing for client meetings with legal professionals, with travel assistance to get to video access points, assistance in transmitting documents, and onsite technical help.

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<sup>48</sup> Richard Zorza.

# Chapter 4: The Search for Legal Information and Services

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*Front end information and assistance has been shown to help empower clients with the means to resolve their problems and to help prevent their problems from multiplying or cascading.<sup>49</sup>*

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Before we could begin to propose new directions for access to legal information and services, it was important that we understand the current situation:

- What areas of law are priority needs for our target populations?
- Where do they go for legal information and referral or for advice and representation?
- What new approaches or trends have emerged that support people who need legal information or services?

## Priority areas of need

During our research and consultations, we heard a consistent message about the areas of law where the need for information and service is greatest for low-income linguistic minorities and persons living in rural or remote communities. Many areas of law are common to both groups: consumer protection, criminal justice, employment, family and child protection, health care and mental health, housing, human rights, immigration and refugee status, and income support. As would be expected, immigration and refugees issues are more prevalent among linguistic minorities. Basic information about the legal system and the legal process was a high priority for both groups, no matter what the area of law.

The areas of law that Legal Aid Ontario's network of services<sup>50</sup> and other specialty legal and non-legal organizations address confirm the validity of this list and underscore the urgent needs:

- Some Legal Aid Ontario community legal clinics are dedicated to specific areas of law (housing, income security, workplace issues, HIV and AIDS) or specific population groups (Aboriginals, seniors, children and youth, persons with disabilities, African Canadians; Chinese and Southeast Asian, South Asian, and Spanish-speaking communities)

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<sup>49</sup> Michael Trebilcock, p. 104.

<sup>50</sup> "Legal Aid is available to low income individuals and disadvantaged communities for a variety of legal problems, including criminal matters, family disputes, immigration and refugee hearings and poverty law issues such as landlord/tenant disputes, disability support and family benefits payments." Legal Aid Ontario, *Legal Aid Services*. According to the Poverty Law Advocacy Network of Canada, "Poverty law services are those that enable poor people and marginalized communities to advance legal interests and protections for their most fundamental needs, such as housing, food and income security."

- Legal Aid Ontario's staff law offices specializing in criminal, family or refugee law provide legal services where private certificate lawyers may not be available
- The Ontario Human Rights Legal Support Centre provides information and support for persons with human rights complaints
- At Family Law Information Centres in family court locations, members of the public can attend legal information sessions and obtain materials about separation, divorce and other family law matters, and an Advice Lawyer from Legal Aid Ontario will provide general legal information or, in specific circumstances, legal advice
- Organizations like Justicia for Migrant Workers and the Centre for Spanish-Speaking Peoples do special outreach and employment law work with migrant workers in their catchment areas
- Family Legal Education for Women is a project that provides accessible information to help vulnerable or isolated women understand and exercise their rights in family law
- The Barbra Schlifer Commemorative Clinic provides free and integrated legal, counselling, interpretation, information and referral services for women who have experienced violence
- The JUSTICE@work employment law practice, led by the Community Legal Clinic of Simcoe, Haliburton, Kawartha Lakes, provides free legal advice and some brief services to all workers and full representation to those who qualify on the basis of income or disadvantage
- The Office of the Worker Adviser, an independent agency of the Ontario Ministry of Labour, provides free services to non-unionized injured workers and their survivors in workplace insurance matters.

In parts of the US, access to justice commissions, typically created by the state supreme court, play an important role in assessing the civil legal needs of low-income people and overseeing initiatives to meet those needs. They have also undertaken projects to make courts and other parts of the legal system more accessible to people with limited English proficiency.

The Ontario Civil Legal Needs Project, currently under way, will provide valuable additional insights into priority needs in Ontario. The Law Society of Upper Canada and Pro Bono Law Ontario are leading this project. The goal is to identify the obstacles low-income and middle-income Ontarians face in obtaining meaningful access to justice. The three phases of the project will be a large-scale survey with low-income and middle-income Ontarians, focus groups with front-line legal and social service providers, and mapping of legal service resources available to low-income and middle-income Ontarians. The project will assess both the legal and social service components of civil legal needs and identify strategies to meet those needs.

## Where people go for legal information, advice and representation

*Until you need help, you don't know anything about it, and then you have to scramble for it.* OWEN SOUND CONSULTATION

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### Legal information

It is not easy to identify with precision where our target groups now go for essential legal information. It is, we think, risky to make generalizations based on broad surveys or research that relates to the general population or to other fields such as health information.

One exception is the recent consultation conducted by the Family Legal Education for Women project, in which participants were asked where they now seek family law information. Since the organization's mandate is to bring family law information, in multiple languages, to isolated or vulnerable women, the responses may bring us closer to understanding the sources of legal information for some in our target populations:

- word-of-mouth, advice from other women in social circles
- local women's centres, shelters
- community centres
- physicians, health clinics
- legal aid clinics
- the Internet (google, 211 toronto)
- and to a much lesser extent the police, the courts and Service Canada<sup>51</sup>

Family Legal Education for Women concluded that, "where family law issues are concerned the preferred resources or contact points are those that are private, anonymous/confidential, accessible, credible and trustworthy, free or low cost, and risk-free."<sup>52</sup> We heard similar conclusions from community workers during our consultations.

### The Internet

One study suggests that most people in rural Ontario look to doctors and the Internet for information about their health concerns (60 per cent and 59 per cent, respectively).<sup>53</sup> This research did not focus on the low-income population, and there are other reasons why seeking legal information from lawyers and the Internet is not analogous:

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<sup>51</sup> Family Legal Education for Women, p. 8.

<sup>52</sup> Ibid., p. 9.

<sup>53</sup> Roma M. Harris, C. Nadine Wathen and Jana M. Fear.

- People are quite likely to realize that they have a medical problem and much less likely to recognize that they have a legal problem
- Doctors are more readily accessible than lawyers are, and the cost of consulting a doctor is covered by OHIP
- Useful, accessible health information is currently more readily available on the Internet than is legal information.

Owing to barriers described in Chapters 2 and 3, legal professionals and the Internet are less accessible for both linguistic minorities and residents of rural and remote areas. However, the availability of Internet access and web-based legal information is improving. This is sure to make the Internet more useful, over time, as a means of seeking legal information.

### Community organizations

*In small communities, there are “go-to” people who assist others to find and use services and who are known in their communities as credible sources of help. The research indicates that these people may be librarians, victim service workers, transition house workers, nurses, and social workers – a community leader/champion of any kind. When these people know how to access legal resources and whom to call for more guidance, they can become key intermediaries between the client and the service.<sup>54</sup>*

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A clear theme that emerged through our project was the need to foster more formal relationships between legal and non-legal service providers to help community organizations (“trusted intermediaries”) to provide better legal information and referral for vulnerable clients. It is common for both linguistic minorities and people in rural or remote areas to turn to the organizations they know and trust when they have a problem. In the course of helping clients, community workers are often the first to recognize that a problem has a legal component and to provide basic information or a referral.

Trusted intermediaries include organizations that focus on social services, services to people with disabilities, immigrant settlement, health care, education, advocacy, or a particular faith or ethno-cultural group. They also include agencies that serve the public generally, such as libraries, community centres, information and referral services, and hotlines.

Community organizations know the needs of their communities and clients and are often experts in outreach. Particularly in urban areas, community agencies may also have staff and volunteers who can serve people in their first language. Collaboration with settlement agencies and other organizations has become one of the most important ways for legal services to reach communities of non-official language speakers. The Law Courts Education Society of BC recently announced a new consortium of immigrant settlement and public legal education and

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<sup>54</sup> Gayla Reid and John Malcolmson, *Voices from the Field*, p. 93.

information agencies to create a collaborative and coordinated approach for providing legal information to new immigrants.

During our consultations, community workers spoke about challenges many organizations face, including a lack of core funding, high staff turnover, and reliance on volunteers. They also emphasized the need for additional resources, tools, and training to enhance their capacity to provide legal information to clients. Many community organizations already use the public legal education materials that are available (particularly on line) to provide basic legal information to their clients. Some have also formed partnerships with legal clinics in their communities to receive workshops and training for staff.

Suggestions for additional tools included a hotline staffed by legal professionals to support front-line workers in non-legal organizations; a dedicated legal resource person, either a lawyer or a community legal worker, to be shared among community agencies in a given rural area; and more training on legal issues. Some suggested that e-learning modules would be a practical and cost-effective approach to offering this training to community organizations.

The Community Law School (Sarnia-Lambton) provides one model for enhancing the capacity of community organizations. It provides workshops on a variety of social welfare law topics to non-profit community organizations, social service agencies, and low-income citizen groups. In conjunction with Lambton College, it also offers online courses for “lay advocates,” often front-line agency workers, so that they can help their clients learn about and exercise their legal rights. The Community Law School has worked with the College to keep the cost of its courses as low as possible to enable agencies and individuals with limited funding to take advantage of them.

### **Other sources**

In some cases, people receive legal information when they are not actively seeking it but an organization is actively reaching out to them. Public legal education organizations often use community media for this purpose, and, as mentioned in Chapter 2, legal information is being included in some ESL curricula and other educational programming. In the case of vulnerable populations likely to have specific legal problems, organizations also conduct the kinds of targeted outreach described in Chapters 2 and 3.

## **Legal advice and representation**

### **Deciding whether to seek legal assistance**

With or without access to information, many people choose not to seek legal assistance. A 2006 nationwide telephone survey asked 6,665 Canadian adults about aspects of legal problems, including how they dealt with them:

- Handled problem on own: 44.0%
- Assistance – non-legal: 22.1%



- Took no action – reason: 16.5%
- Assistance – legal: 11.7%
- Took no action – not important enough: 5.7%<sup>55</sup>

Respondents gave a number of reasons for not taking action:

<b>Reasons for Not Taking Action</b>		
	<b>Number</b>	<b>Per cent</b>
Thought nothing could be done	317	33.6%
Was uncertain of my rights	99	10.5%
Didn't know what to do	22	2.3%
Thought it would take too much time	94	10.0%
Though it would damage relationships with the other side	83	8.8%
Thought it would cost too much	60	6.4%
Thought the other side was right	47	5.0%
Was too afraid to take action	25	2.7%
Thought it would be too stressful	49	5.2%
Other reasons	146	15.5%

Source: Ab Currie, *The Legal Problems of Everyday Life*, p. 56.

Thinking that nothing could be done, being uncertain about their rights, and not knowing what to do accounted for almost half of all responses (46.4 per cent). Not knowing their rights made up just over 10 per cent of all reasons for not taking action. The other responses suggest that many people require support to overcome fear, anxiety and the practical difficulties that may prevent action.<sup>56</sup> A report that discussed the survey noted that, “most of the responses suggest the potential value of initial legal information and advice to assist the person in understanding the nature of the problem and the courses of action that may be open.”<sup>57</sup>

Although the survey did not focus on our target groups, it is nonetheless instructive to see reasons why people choose not to act on their legal problems. The impact of the decision not to take action is also more evident when legal difficulties combine with other life challenges. Another report focusing on civil justice problems and disability and health status found that

<sup>55</sup> Ab Currie, *The Legal Problems of Everyday Life*, p. 55.

<sup>56</sup> *Ibid.*, p. 56.

<sup>57</sup> *Ibid.*, p. 57.

Canadians with disabilities are more likely to have persistent and unresolved legal problems, and that their problems are more likely to get worse.<sup>58</sup>

### Sources of legal advice and representation

Depending on the nature of the legal problem, low-income Ontario residents may consult a community legal clinic, staff office, advice counsel, or duty counsel within the Legal Aid Ontario family of services. Service providers within these bodies include lawyers, community legal workers, and paralegals.

People with legal problems can also seek assistance from legal organizations that are similar to community legal clinics but not part of the Legal Aid Ontario network, law school services, private lawyers, or paralegals. Low-income clients are unlikely to be able to afford private legal services except under a legal aid certificate or on a pro bono basis. As mentioned earlier, some people choose not to proceed to resolve their legal issues or choose to attempt resolution without legal assistance.

People who do seek help from a legal practitioner may obtain a referral from a friend, family member or a community organization. They may also use the Law Society's lawyer referral service, which also provides 30 minutes of summary legal advice from a lawyer at a cost of \$6.

## New approaches to support people who need legal information or services

Chapters 2 and 3 highlight current approaches and new ideas for addressing the barriers to legal information and services faced by low-income or vulnerable persons who do not speak an official language or who live in a rural or remote area. Our research and consultations also identified two broad trends or approaches, which we considered in terms of their potential impact on our target groups. The first is the use of broadly based holistic services. The second is the development of self-help services and supports for persons who choose to address their legal issues without formal legal assistance. We heard about the value and necessity of both approaches in our consultations.

### Holistic services

*Problems often do not occur in isolation. They occur in clusters in which certain problems can sometimes serve as triggers for other problems.<sup>59</sup>*

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<sup>58</sup> Ab Currie, *Civil Justice Problems and the Disability and Health Status of Canadians*, p. 11.

<sup>59</sup> Ab Currie, *The Legal Problems of Everyday Life*, p. 42.

*There are lots of people who don't use our services. There's no one place to get to them. It isn't one size fits all – and most people have multiple issues, so there are multiple points of contact.* THUNDER BAY CONSULTATION

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Problems often occur in “clusters,” with one problem triggering a cascade of other problems. The initial problem may or may not be law-related, but without early intervention, it may trigger further problems, legal or otherwise. Individuals with a multitude of problems are often subject to numerous referrals tied to specialist institutions—a “silo” approach that can lead to “referral fatigue” and leaves many problems unresolved.<sup>60</sup>

The existing trust in and reliance on community organizations makes them natural partners with legal service providers for a holistic approach to multiple problems. Just as legal problems emerge when people approach community organizations for help with other problems, non-legal problems become evident to legal professionals in the course of dealing with legal issues.

The United Kingdom’s Citizens Advice Bureaus are a well-established example of a holistic approach. These bureaus provide help with a wide range of non-legal issues along with legal information and assistance. Some of the more than 500 bureaus are located in health centres and other community locations. Bureau services are not restricted to vulnerable people in need and there is no means test for obtaining legal advice.

The way in which legal and community services have evolved over time in Ontario likely makes this kind of major shift less feasible here. It is more realistic to think of building partnerships between specialized services rather than replacing them with multi-service organizations. However, some Ontario agencies are recognizing the value of combining services that are obviously related. For example, the Francophone Community Health Centre Hamilton/Niagara, a multi-service agency providing health and social services to French-speaking clients, also includes a legal clinic for refugee issues. Others, such as Flemingdon Community Legal Services, are part of a partnership of neighbourhood agencies.

The Family Legal Health Program at The Hospital for Sick Children is a new program in which low-income child patients and their families receive free legal services and advocacy in addition to health and social services. Social workers and medical staff receive training that enables them to spot legal issues that affect patients and their families. The legal services are provided pro bono or through legal aid. This program is a partnership between the hospital, Pro Bono Law Ontario, Legal Aid Ontario, and two law firms.<sup>61</sup>

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<sup>60</sup> Michael Trebilcock, p. vi.

<sup>61</sup> The two law firms are McMillan Binch Mendelsohn and Torkin Manes Cohen Arbus.

## Self-help services

*Self-help applies not only to going to court but to all levels of the resolution of legal problems. The research defines self-help broadly, to cover all services in which a person who has the legal issue is taking responsibility for some or all of the activities necessary to complete a legal transaction.<sup>62</sup>*

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A great deal of recent effort has focused on supporting those who act on their own within the legal system. The number of people who do so has grown for a variety of reasons, including the cost of legal advice and services, limited access to legal aid, and the decision some make that they are able to deal with the legal system on their own. Self-help services have been less available in Ontario than they have been elsewhere, although that seems to be changing. In the US, where legal aid services are often in short supply, and in provinces such as British Columbia, which faced major cutbacks in legal aid services, necessity has been a strong impetus for a wide range of innovative self-help initiatives.

Self-help used to mean appearing in court without a lawyer. Now, the term covers a much wider range of activity and is “intimately connected to the provision of formal legal advice in ways that fall short of representation.”<sup>63</sup> With the broadening of the definition, it is not easy to draw a line between providing legal information and services and supporting self-help. Legal information from an intermediary or a website, if it enables individuals to apply the information to their specific circumstances, can be the foundation either for an appropriate referral or for a decision to proceed on their own. Interactive online programs that carefully take the user through the steps of a legal process or the completion of an essential legal form can start to look very much like a legal service.

Services that use hotlines, websites, or advice centres where lawyers or paralegals assist with concrete legal tasks straddle the line between giving a legal service and assisting the person to act on his or her own. Programs that separate the legal task into parts that require assistance from a legal professional and parts that people can manage on their own recognize that some legal steps are too demanding or complex to be completed without expert assistance. The distinction between a self-help service and providing legal information may be a question of what the provider expects the individual to do with the information.

A 2008 report on rural self-help in BC emphasized that clients are most likely to use self-help materials effectively if they have a high level of literacy, comprehension, and confidence.<sup>64</sup> Earlier studies in the US, UK, and Australia had reached the same conclusion. For that reason, and because marginalized groups need targeted assistance, the BC report found that self-help materials may not be suitable for people facing multiple barriers.

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<sup>62</sup> Gayla Reid and John Malcolmson, *Voices from the Field*, p. 6.

<sup>63</sup> *Ibid.*, p. 13.

<sup>64</sup> *Ibid.*

*Marginalized clients likely lack the skills and capacities necessary to negotiate their way through. While many clients have no choice but to self-represent, some lack the capacity to do so. Some people miss out on service altogether.*<sup>65</sup>

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The authors also pointed out that an intermediary to provide guidance, problem-solving and searching skills, and support greatly enhances the effectiveness of self-help materials. The personal approach is especially important for self-help services provided at a distance. The research showed that it is important to clients to be able to interact with a “live person.” The authors recommended that technology-based self-help projects take a “technology with a helper” approach; that is, link an intermediary to the technology.

In Ontario, Pro Bono Law Ontario’s Law Help initiative includes two pilot self-help centres for low-income unrepresented civil litigants in courthouses in the Toronto area. Lawyers are available at the centres to provide 30 minutes of legal advice, general legal information, and help with difficult tasks. The Law Help Ontario website also offers self-help resources such as tip sheets and guidebooks to various legal procedures and a video on self-representation in small claims court. Legal Aid Ontario is implementing a legal information website with a supporting hotline. Among other aims, it will assist users in proceeding with some matters on their own.

Responding to budgetary constraints in legal aid, British Columbia has taken a comprehensive approach to self-help and related services. The approach involves many different organizations, working independently and together. Services now available or under development include

- A Supreme Court self-help information centre
- Family law duty counsel and a civil chambers pro bono duty counsel project
- Establishment of a Justice Access Centre in one community (and another in the planning stage)
- Interactive online self-help programs (court tips, small claims, administrative law) developed by the Law Courts Education Society
- Various legal information websites, such as the Legal Services Society family law website
- A Legal Services Society hotline to provide summary legal advice and to help people navigate their way through the legal aid system
- A public legal information website called Clicklaw (about to be launched), expected to become a unified point of web-based access to diverse sources of legal information, education and practical help
- Law Matters, a new program that will place a basic legal collection in every public library and provide training to librarians on how to assist people in accessing legal information.

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<sup>65</sup> Ibid., p. 8.

Each of these services includes components that might help some individuals see the value of getting professional advice instead of proceeding on their own, or components that can help them to obtain legal advice and services. Other BC programs focus primarily on providing legal information or summary legal advice, but they also serve as resources for individuals proceeding on their own. These include the three pro bono legal services, the community-based legal information outreach workers (they assist individuals with income security, welfare, unemployment assistance, Canada Pension Plan, disability and residential tenancy problems, supported by a hotline), the lawyer referral service, and the People's Law School materials and educational programs.

An Alberta project undertook mapping of self-represented litigants in that province.<sup>66</sup> The report from that project proposes self-help centres, which would make considerable use of technology to support residents of rural or remote areas. Following the report, "law information centres" have been established in three regions of Alberta, with a fourth scheduled to open in 2009.

Other approaches have been tried in the US. For example, in Ventura County, California, a Mobile Self-Help Center has been operating since 1999. In this program, a customized motor home containing self-help materials, video terminals and computers serves people who cannot come to an existing network of permanent self-help centres. The mobile centre travels on a regular schedule and is staffed by trained volunteer lawyers and student interns.

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<sup>66</sup> Mary Stratton.

# Chapter 5: Conclusions

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Drawing on the input from consultation meetings, submissions, and research, we reached some conclusions to guide our recommendations.

## Key findings

### 1. These are fundamental access to justice issues

There are many aspects of access to justice, but we believe that the Law Foundation properly identified linguistic and rural access as two fundamental issues. As Ontario becomes increasingly diverse, and as rural and remote communities face lost or regionalized services, the need for innovative solutions is ever more pressing.

Low-income or vulnerable people in both groups face legal difficulties that relate to the most critical issues in life, such as income support, access to work, immigration status and settlement issues, housing, family problems, or health concerns. They also face a shortage of lawyers to help them in their community or in their own language. Isolation is common to both groups, whether social, geographic or both. For different reasons, they often have less access to and comfort with technology and may be more likely to have low literacy.

Low-income persons in rural and remote areas face challenges due to diminishing services, distances, and lack of transportation. The limited availability of clear and accurate multilingual legal information and interpretation services poses challenges for linguistic minorities. In addition, organizations trying to serve language groups have the pressure of trying to keep up with continually changing demographics.

### 2. Vulnerable people need legal service more than self-help

We believe that vulnerable people, because they face language barriers, isolation, poverty, or a cluster of other difficulties that often accompany a legal problem, need to receive direct services rather than to rely on self-help.

Truly accessible information enables the person to identify and understand the legal problem, on its own and in its broader context. It is not sufficient simply to make the information available on line or in written format. People need to connect legal information to their own circumstances. Often, they need someone to help them define the problem, find the relevant information, apply the information to their situation, and make referrals to legal professionals who can advise and represent them in legal matters. For vulnerable people, this personal attention is essential, and they often need the additional support of a trusted intermediary.

In recent years, legal self-help tools have become prevalent. The innovations in this area are valuable, especially for people who do not qualify for legal aid and cannot afford representation. In some jurisdictions, self-help is especially important due to reductions in legal aid and other services. However, there are three reasons why we think it is reasonable to take the approach of emphasizing, as much as possible, access to legal advice and assistance for vulnerable client groups in Ontario.

First, Ontario has features that make personal access a more realistic goal than it is in many other jurisdictions. Legal Aid Ontario is one of the most extensive legal aid programs. Ontario's community legal clinic system covers the entire province and specialty clinics address unique needs of particular relevance to these vulnerable populations. In family law, and in the area of domestic violence in particular, a variety of government, community, and legal organizations are developing innovative ways to make legal information and advice available to those who need it most.

Second, legal service providers are making major gains in understanding how to expand legal services for our target groups with the help of pro-bono lawyers, paralegals, law students, and well-trained intermediaries who have access to good information and legal help when they need it.

Third, although we have to bear in mind the risk of expecting and promising too much, technology seems to be on the cusp of becoming a realistic, affordable means of supporting wider access to expert legal advice and services.

Nonetheless, self-help is often a necessary or reasonable choice, even for vulnerable persons, and it is simply unrealistic to suggest that the desired level of legal support can always be available. Therefore, recent experiments to assist people to proceed on their own are vitally important. The emergence of self-help services where legal professionals continue to provide some support is a welcome approach that combines professional advice with self-representation. Offering clients legal help on the most complex or technically difficult parts of their problem, for example, is preferable to leaving clients completely on their own. Similarly, programs that prepare clients well for whatever contact they will have with a legal professional can help to ensure the best use of scarce legal resources.

### **3. There is general agreement on the priority areas of law**

We asked legal organizations, public legal education providers, front-line clinic lawyers, immigrant settlement workers, disability organizations, and other stakeholders about the areas of law where there is the greatest demand for information and services. The feedback we received was quite consistent, and largely common to both target groups:

- Consumer protection
- Criminal justice
- Employment
- Family and child protection



- Health care and mental health
- Housing
- Human rights
- Immigration and refugee status
- Income support

We also heard that both groups have an urgent need for basic, general information about the legal system.

Of course, the most pressing needs vary from community to community. For example, immigration issues are usually associated with urban linguistic minorities, but with pockets of need in some rural areas. In general, the need for information in family law appears to be particularly acute. Within family law, legal information and assistance for parents involved in child protection matters is an area that seems to be falling through the cracks.

We look forward to learning more about legal needs from the Ontario Civil Legal Needs Project currently under way under the leadership of the Law Society of Upper Canada and Pro Bono Law Ontario.

#### **4. We need to create a system, not an entity**

Most legal problems are inextricably linked with other issues. For that reason, linguistic and rural access to justice cuts across both the various elements of the justice system and the many community organizations that serve other needs. Improving linguistic and rural access to justice therefore requires a systemic response, and we have concluded that no one organization, existing or new, can or should “own” that response.

We believe that the preferred solution is to provide multiple points of access to an integrated system, which, from the client’s perspective, is seamless. In our recommendations, we propose ways to move toward such an integrated system and ways in which the Law Foundation could play an important role in supporting those efforts.

#### **5. Community agencies are an essential part of an integrated system**

Community organizations are often the first point of contact for linguistic minorities and rural and remote residents with legal difficulties. These are the places where both groups generally go for services and are very often the door to a broader spectrum of services, including legal information and advice. Access to a “trusted intermediary” in a health, social service, or other organization is particularly important for persons who are isolated, not comfortable with technology, and less able to pursue self-help options.

Many people rely on advice from friends and family when seeking information about problems that have a legal component. Beyond that, however, our research showed that they turn to

organizations they trust and see as relevant to them and the challenges they face. An effective systemic response should encompass the array of community organizations to which our target groups turn for help. We see them as essential partners in an integrated system.

## **6. A commitment to collaboration is the foundation for effective and sustainable results**

In the course of our work on this project, we observed that promising access to justice strategies, here and elsewhere, were usually grounded in a collaborative effort on the part of multiple organizations to achieve a shared objective. Often, the effort involved sharing resources or looking for solutions that made best use of the resources available.

Thus, as a corollary to creating a system rather than an entity, we see a need to build partnerships or consortiums that share a common vision and are prepared to work together to make it a reality. Both legal and non-legal organizations expressed willingness to be part of that effort, and we believe that the Law Foundation can play a key leadership role in fostering and supporting collaboration.

## **7. The timing is right to move ahead on linguistic and rural access to justice initiatives**

Our research and consultations have convinced us that Ontario has the capacity to build a system that meets the needs of linguistic minorities and residents of rural and remote communities. Legal and non-legal organizations and the provincial government, all of whom have other responsibilities and interests, are recognizing the need and turning their attention to the issue. Many of the promising practices we highlighted in Chapters 2 and 3 are made-in-Ontario initiatives.

These developments, coupled with the Foundation's commitment to linguistic and rural access to justice, place Ontario in an ideal position to make significant improvements in these two important areas.

## **Ontario's strengths and challenges**

To build an effective, integrated system, we need to incorporate the elements of the Ontario context that work well and address those that could hinder progress.

## Strengths

### Legal Aid Ontario and community legal clinics

*A reconceptualization and broadening of the mandate of the clinic system may be an important first step along the path to greater integration in the provision of legal aid and related social services.<sup>67</sup>*

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Ontario has one of the strongest legal aid programs in existence. The well-developed network of community legal clinics funded by Legal Aid Ontario is a remarkable resource. The clinics are expert in many areas of law of importance to vulnerable people in both target groups. Unlike other jurisdictions that do not have a comparable legal aid or clinic system or have cut back on these methods of providing legal service, Ontario has protected and even expanded its province-wide network of community legal clinics. Specialty clinics focus on specific areas of the law, specific functions (such as public legal information), and specific populations (such as persons with disabilities, seniors, Aboriginal peoples, and ethno-racial and linguistic groups). This system of legal aid services, including community-based and specialty legal clinics, is a unique resource simply not available in most other jurisdictions.

Today, clinic catchment areas cover all parts of the province and many clinics have satellite offices to help reach clients in rural or remote areas. The clinics have close connections with the communities they serve. Agencies that directly assist linguistic minorities and rural and remote populations repeatedly told us that the general service and specialty clinics have earned high credibility in the communities they serve.

As noted under “Challenges,” below, we believe that clinics could do more to operate as a system. However, clinics do collaborate in a number of ways. Clinic training is coordinated, and regional executive directors meet at least a few times per year to discuss regional issues. In several cases, two or more clinics have pooled their resources to hire a shared caseworker or interpreter, or to create materials such as an intake manual on a specific topic. In addition, both general service and specialty clinics participate, at the regional and provincial levels, in inter-clinic work groups in the main areas of poverty law. In housing and social assistance, two specialty clinics provide coordination and support for other clinics on those two legal issues.

An example of collaboration within the legal aid community is the Four County Legal Aid Ontario Service Coordination Network (Frontenac, Hastings, Lennox and Addington, and Prince Edward counties), in which clinics, area offices, and duty counsel collaborate on referral protocols, joint staff training, web-based resources, and joint community outreach.

Legal Aid Ontario has been the subject of recent and ongoing reviews, and discussions are under way on how best to use the web to provide legal information and interactive assistance.

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<sup>67</sup> Michael Trebilcock, p. 81.

## **New and established legal bodies**

Ontario's legal establishment is robust. Established legal institutions such as the Law Society of Upper Canada and the Ontario Bar Association are looking at a variety of access to justice issues, including better ways to meet the needs of a diverse population. There are numerous lawyers' associations, including those representing specific ethno-cultural or linguistic groups. Organizations such as the Barbra Schlifer Commemorative Clinic and the Human Rights Legal Support Centre have emerged to provide services, separate from Legal Aid Ontario, for vulnerable people. Reach Canada, which facilitates access to lawyers for persons with disabilities, is another example of a legal organization formed to meet specific needs.

Ontario also is fortunate to have relatively new organizations, established with support from the Law Foundation and other funders, which enrich the scope for access to justice initiatives:

- The Ontario Justice Education Network has made significant efforts to help students and their teachers learn about the justice system and fundamental legal instruments such as the Canadian Charter of Rights and Freedoms. By using volunteer lawyers and judges and partnering with educational organizations, it represents an innovative approach to delivering legal information.
- Pro Bono Law Ontario represents the first major, organized effort in this province to make available, in planned and innovative ways, volunteer legal service from the legal community. It has developed a broad range of programs that provide pro bono legal assistance to individuals, community organizations, clinics and community workers in remote Ontario communities.
- The newly established Law Commission of Ontario will recommend law reform measures that will, among other things, enhance the accessibility of the legal system, clarify and simplify the law, consider how technology can enhance access to justice, and stimulate legal research, policy, and debate.

## **Law students**

As Ontario's law schools increasingly reflect our diversity, law students will be more able to provide legal information and (under supervision) legal advice and services in minority languages. There are also good examples of law students and student legal aid programs supporting community organizations and applying innovation to bringing services to rural and remote communities. Pro Bono Students Canada is a catalyst in this effort.

## **Community organizations**

Community organizations may be crisis-response services such as shelters or hotlines, immigrant settlement agencies, or general services such as libraries, community centres, and information and referral organizations. They may provide a cultural connection, or they may have already provided health care or other essential services to a person now seeking help with a legal difficulty. Elsewhere in this report, we have noted the importance of community organizations that serve one or both of our target groups. We wish to add that we were enormously impressed with their dedication, commitment, and eagerness to work on solutions with legal community partners.

## Government of Ontario

The government of Ontario has assumed a special role in efforts to protect victims of family violence. It supports a network of interpreter services and innovative efforts to enable victims to access information and advice. The government has also developed an impressive videoconferencing network that serves the courts, police, and correctional services and may provide a foundation for more extensive use of this technology in other justice settings. It also recently launched the Justice Ontario website, which provides information about the legal system and several areas of the law.

## Challenges

Earlier chapters summarize many barriers that limit access to justice in Ontario for our two target groups. This section highlights a few primary obstacles that stand in the way of having Ontario organizations working together as a system to address the barriers. It is important to acknowledge the obstacles because they affect the decision about where the Law Foundation can make an important contribution.

A continuing concern, repeated throughout our consultations, was the gap between the need for services and the resources available. For example, we heard about the limits of legal aid funding, the lack of core funding for community agencies, concern about family law supports for low-income persons (particularly in the child protection area) and the overall shortage of legal services in the priority areas of law. Our research confirmed that such concerns are common to all jurisdictions trying to address these problems. At the same time, we also saw evidence that projects linked to a shared sense of direction can produce real progress, provided that investments are made strategically, where they can have the greatest impact.

We also observed that efforts to incorporate technology into new approaches have been more modest and slower to evolve in Ontario than in other jurisdictions.

There is little evidence of province-wide or regional efforts to create a systemic response to access to justice challenges that builds from a shared vision, involves all who need to be part of it, identifies the highest priorities, and explores the benefits of working together. While some collaboration and innovative partnerships exist, there are few incentives to create and nurture them. As a result, systemic issues do not get sufficient attention.

*Better integration of legal services in Ontario's clinics, staff offices and duty counsel offices, coupled with a referral system based on strong partnerships with the social service sector would be a highly desirable goal.*<sup>68</sup>

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<sup>68</sup> Michael Trebilcock, p. vi.

We also believe that the link between community agencies where people go for help and providers of legal advice and services is generally weaker than it should be. Much of the frustration we encountered revolved around the cycle of unhelpful referrals.

Finally, while community clinics are a valuable resource and collaborate in many ways now, we believe they have even greater potential to achieve results by working more as a system, within the Legal Aid Ontario network of services and with other legal and community partners. We believe that it is possible to preserve the community connections that are essential to the clinic model while also introducing measures that create a system that is much more than a sum of its parts.

# Chapter 6: Vision

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## Overarching vision: a coordinated system

In Ontario now, there is some innovation and promising, isolated experiments to improve linguistic and rural access to justice. Apart from some notable exceptions in particular areas, however, there is no harmonized sense of direction, and no collective decision-making about areas of priority. With a concerted effort to develop a coordinated system, the opportunity exists to create synergy in the good work of many dedicated organizations and make concrete and sustainable improvements.

Based on the guiding principles and all that we heard, learned and concluded, we have developed an overarching vision for a coordinated system:

### Building a System

Legal and non-legal organizations will work together as a coherent system to improve access to legal information and services for persons who do not speak English or French or who live in rural or remote areas of Ontario, especially those who are low-income or vulnerable.

### A Catalyst for Collaboration

The Law Foundation of Ontario will serve as a catalyst for collaboration through strategic funding to make this system a reality.

A coordinated system would have two main elements:

### *A learning approach*

Participants in the system would adopt the premise that evaluation and collective learning are essential to linguistic and rural access to justice. This would mean a concerted effort to test and evaluate new approaches, learn from experiences here and elsewhere, and adapt programs where required.

### *Partnership and coordinated planning*

Multiple points of entry would lead to ready access to a coherent, planned system through which people can obtain legal information and services.

Legal and non-legal organizations that serve as points of entry or provide legal information, advice, and services would collaborate to coordinate and customize

processes and establish innovative solutions to linguistic and rural access to justice. They would support one another in serving clients who have legal problems.

## What would a coordinated system look like?

*Justice is not access to information. It's the resolution you gain through using the information. KINGSTON CONSULTATION*

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The following steps outline what people with legal problems would experience in the course of obtaining information and services in a coordinated system and how the system would work to support them at each stage:

### Recognizing a legal problem

What clients would experience	How the system would work
People who consult a non-legal organization would learn whether their problem has a legal component and how the law might be able to assist them.	<ul style="list-style-type: none"> <li>Legal professionals would help community organizations to recognize the legal components of clients' problems.</li> </ul>
People living in isolation due to language or location (e.g., women experiencing domestic violence, migrant workers) would receive public legal information that raises their awareness of how the law might be able to assist them.	<ul style="list-style-type: none"> <li>Community and legal bodies serving vulnerable clients would employ outreach strategies to help "hard-to-reach" persons receive the information they need in places they already go.</li> <li>Outreach could include community and multilingual media; ESL curricula, literacy and school programs; and partnerships to provide community workshops and information sessions.</li> </ul>

### Information to understand the problem

What clients would experience	How the system would work
People with an identified legal problem would receive basic information from a legal professional or "trusted intermediary."	<ul style="list-style-type: none"> <li>The legal community would support non-legal organizations in building their capacity to provide initial legal information and referrals, e.g., through advice, training, and interactive websites or hotlines for front-line staff.</li> </ul>



What clients would experience	How the system would work
	<ul style="list-style-type: none"> <li>• Community workers would help legal professionals to understand the needs of vulnerable clients.</li> <li>• This partnership would help avoid what has been called “referral fatigue.”</li> </ul>
<p>Helpful information would be readily available in a variety of formats, including print, audio, websites, hotlines, and accessible formats for people with disabilities.</p>	<ul style="list-style-type: none"> <li>• Legal information websites and hotlines would be linked and coordinated, with multilingual and disability access features. Help would be available to find information and navigate websites.</li> </ul>
<p>People who do not speak an official language would have access to public legal information on key issues in their first languages.</p>	<ul style="list-style-type: none"> <li>• Organizations producing public legal education material would translate key information into priority languages. Community advisors and bilingual lawyers would vet translations to ensure linguistic and cultural fit and legal accuracy. There would be ongoing testing of alternative formats, with particular emphasis on community media.</li> <li>• The commitment of public legal education organizations to accessible, plain language materials would be maintained and strongly supported.</li> </ul>

## Legal referral and summary advice

What clients would experience	How the system would work
<p>Clients would easily obtain summary advice and referral to a legal professional.</p>	<ul style="list-style-type: none"> <li>• Legal referral services would coordinate their efforts to make their approaches consistent and to prevent “referral fatigue.”</li> <li>• Legal Aid Ontario would help people navigate within the network of legal aid services.</li> <li>• Where necessary, the link between the intermediary and the legal professional would be maintained to ensure post-referral support to the individual.</li> </ul>

## Legal advice and representation

(From legal clinic, certificate, staff or advice lawyer, duty counsel, pro bono lawyer, paralegal, or law student)

What clients would experience	How the system would work
<p>People in rural and remote communities would have better access to direct legal services.</p>	<ul style="list-style-type: none"> <li>• Legal service providers would implement programs and strategies for providing direct services in rural and remote areas.</li> <li>• Access would be enhanced through incentives and supports for legal professionals to practise in rural or remote areas, mobile services, law student placements, and articling positions in rural communities.</li> </ul>
<p>Aided by technology, clients at a distance from legal services would have access to legal services.</p>	<ul style="list-style-type: none"> <li>• The system would make strategic use of technology such as videoconferencing. The objective would be to connect vulnerable people or intermediaries with legal service providers at a distance.</li> </ul>
<p>Clients who do not speak an official language would have better access to legal service providers who speak their languages.</p>	<ul style="list-style-type: none"> <li>• Lead organizations would facilitate access to legal professionals who can provide multilingual services. Measures would be in place to enhance the ability to serve clients in their own languages:               <ul style="list-style-type: none"> <li>• Directories of multilingual practitioners</li> <li>• Articling positions for bilingual law students and for internationally trained lawyers who seek admission to the bar and who speak other languages</li> <li>• Building the capacity of specialty community legal clinics to serve as an expert resource for other legal service providers on strategies for serving clients in their own languages</li> <li>• Hiring practices designed to broaden linguistic capability</li> <li>• Educational programming to build cultural sensitivity and the communication skills of legal professionals who work with vulnerable persons from diverse communities.</li> </ul> </li> </ul>

What clients would experience	How the system would work
When providing legal services in the client's language is not possible, high-quality language interpretation services would be available in person, via videoconference, or by telephone. Sign language interpretation, real-time captioning, and other accommodations would be available for people who are Deaf.	<ul style="list-style-type: none"> <li>• A coherent and planned approach to interpretation services would be in place. It would include needs assessment, interpreter standards and qualifications, education and certification, policies, protocols, and glossaries.</li> <li>• There would be special emphasis on measures to provide quality assurance.</li> </ul>
At a minimum, telephone interpreters would be available for the client's meetings with legal professionals.	<ul style="list-style-type: none"> <li>• In the short term, providers of legal services would make a concerted effort to ensure that telephone interpreter services are available, across the system, for legal aid, pro bono, and other legal services.</li> </ul>

## Self-help

What clients would experience	How the system would work
If individuals, upon receiving information, choose to proceed on their own, self-help tools would be available to support them.	<ul style="list-style-type: none"> <li>• The system would aim to give vulnerable clients direct access to legal professionals. Self-help supports would be developed to help make best use of that access (e.g., to prepare for legal meetings).</li> <li>• Organizations with legal expertise would also develop tools to help people proceed on their own with parts of the legal process if necessary.</li> </ul>

## Role of The Law Foundation of Ontario

A coherent, understandable system that meets linguistic and rural access to justice needs in a planned way and makes best use of available and emerging resources depends on a strong partnership of effort. Many organizations have an interest in promoting access to justice, and a coordinated system would have to encompass their expertise and strengths.

Our recommendations envisage roles for the Foundation in keeping with its mandate as a catalyst for improving access to justice:

## **1. Support efforts to build key components of the system**

The Foundation can help to ensure progress in building key components of the system. Examples include enhancing the capacity of community organizations as front-line providers of legal information, improving access to qualified interpreters, testing technology solutions for linguistic and rural access, and increasing the capacity of legal organizations to provide service to clients from rural or remote areas and to persons who do not speak an official language. By funding strategic projects in these areas, and ensuring that they include thorough evaluation, the Foundation would make a significant contribution to overcoming the barriers identified in this report.

## **2. Support comprehensive planning and collaboration**

The Foundation could help ensure a planned and collaborative effort by helping to bring together legal and non-legal partners to work on the design, implementation, and evaluation of solutions. In funding the components described above, the Foundation would ensure a planned approach to building the system. The Foundation could also fund a comprehensive initiative that tests the implementation of multiple components of the system in one or more geographic regions.

## **3. Encourage partnerships**

We suggest, as a basic principle, that a partnership of effort be a required element for obtaining Foundation support for linguistic and rural access to justice initiatives. Applicants for funding should demonstrate that they have considered how those who should be partners in the initiative would be involved in its implementation. Instead of creating an entity or assigning one organization to lead or manage the overall initiative, the preferred approach would be to create consortiums and advisory groups for each major project, with funded staff support when necessary.

## **4. Develop funding protocols and facilitate implementation**

In addition to encouraging partnerships in the specific ways mentioned above, the Foundation could contribute to creating an integrated system by developing consistent protocols for approving funding applications related to linguistic and rural access to justice. We recommend that the Foundation retain a dedicated implementation coordinator to develop implementation strategies, help projects get started, maintain linkages among them, share information, ensure that projects are formally evaluated, and keep the trustees informed of progress on the overall initiative.

# Chapter 7: Recommendations

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## Summary of recommendations

We recommend six initiatives for the Law Foundation to fund and support as strategic investments in linguistic and rural access to justice:

1. **Building Community Capacity**

Form a consortium to improve the capacity of non-legal community organizations to provide basic legal information and referral to their clients. Strategies could include training and real-time legal help for front-line workers and access to public legal education materials in a variety of languages and formats.

2. **Regional Planning Model**

Select one or more geographic areas to form a consortium to develop, test, and evaluate a coordinated approach for enhancing linguistic and rural access to legal information and services in that region. Strategies could include joint outreach and needs assessment, common protocols and tools, technology pilots, shared resources for service delivery, and joint training.

3. **Ontario Legal Interpretation Network**

Assist in the creation of a legal interpretation network to develop strategies to improve language and sign language interpretation in legal settings. Strategies could include improved access to interpreters, quality assurance and building a community of practice.

4. **Videoconferencing Pilot Projects**

Conduct pilot projects to increase linguistic and rural access to legal information and services through videoconferencing. Strategies could include using video to train front-line workers, provide access to language and sign language interpreters in legal settings, and connect low-income clients with legal service providers.

5. **Articling Fellowships**

Create new articling fellowships to enhance the capacity of organizations providing legal services to low-income or vulnerable persons isolated by language or distance. Some positions would be for bilingual students, including internationally trained

lawyers, who can provide legal services to clients in their first language. The others would be for organizations providing legal services to clients in rural or remote areas.

## 6. **Learning from the Experience**

Evaluate the strategies implemented under the above five initiatives, individually and as a whole, develop a framework for evaluating access to justice programs and policies, and establish an online clearinghouse for information related to linguistic and rural access to justice.

We also make several complementary proposals for governments and leading legal bodies, such as Legal Aid Ontario, the Law Society of Upper Canada, and Pro Bono Law Ontario.

## **Detailed recommendations**

This section describes each of the six initiatives in more detail and outlines how they could be implemented.

### **Recommendation 1: Building Community Capacity**

#### **Purpose**

Building community capacity would improve the ability of non-legal, community organizations to identify legal issues and to provide basic legal information and referral for their clients.

#### **Rationale**

Non-legal organizations often work with clients whose problems include a legal component. Organizations (such as settlement agencies, health services, community centres, disability organizations, and information and referral services) are usually the first point of contact for people who are vulnerable or marginalized and need legal assistance. They serve as trusted and accessible intermediaries between their clients and a complex legal system that, for many people who are vulnerable, is otherwise impenetrable. Since community organizations often build relationships with their clients over time, they can be effective advocates for clients navigating the legal system and can follow up when they refer clients to other services.

Many community organizations already use the public legal education and information materials available through a variety of sources. Some may also have access to legal training or advice through legal clinics, pro bono lawyers, or online programs. Most organizations, however, are stretched thin and have limited ability to meet their clients' needs for legal information, particularly in diverse languages and in accessible formats.

Enhancing the capacity of these organizations would support them in reaching out to people who may have urgent legal needs but who are unaware that help is available. They would also be able to assist up to the point of providing clients with a basic understanding of their legal issues and making appropriate referrals.

Partnerships between legal and non-legal, community organizations are critical to meeting the legal needs of people who do not speak English or French, those who live in rural or remote communities, or those who are isolated by both language and distance. Such partnerships are mutually beneficial. They allow legal service providers and community organizations to share and combine their areas of expertise.

## Description

We recommend three key components for this initiative: access to legal information and referral training, real-time help, and public legal education and information materials. It is likely that these components would evolve, and additional priorities and activities would emerge as the partners involved give shape to the initiative.

### 1. Legal information and referral training

Access to training would be enhanced for front-line workers, telephone information and referral providers, and others in community organizations. Training would cover important topics that would help these workers provide effective service to clients with legal problems:

- Understanding key legal issues relevant to their clients
- Identifying the legal components of clients' problems
- Understanding the limits of the legal assistance a non-lawyer can provide; for example, the line between providing information and providing advice
- Awareness of the range of information and referral services that currently exist and what they can offer, particularly in terms of language accommodation and accessibility for people with disabilities
- Making appropriate referrals to legal services.

We suggest the following activities as components of enhancing access to training:

- Assess priority training needs in consultation with community organizations and set goals for training
- Determine what kinds of training materials and opportunities already exist in order to build on good practices, avoid duplication, and identify gaps
- Develop and test tools for legal professionals to aid them in providing training, as well as tools to help community organizations conduct their own basic training for staff and volunteers
- Develop and test options for delivering training (on line, by videoconference, in person)

- Build partnerships with educators and educational institutions to develop and offer training.

## **2. Real-time help**

Front-line workers in community organizations would be able to get real-time help (help available at the time it is needed) from lawyers, paralegals, or community legal workers, particularly when they are serving clients in crisis. Through interactive websites and hotlines, sufficiently resourced and staffed, and coordinated or linked, community organizations would not have to sort through multiple information sources to find the assistance they need.

We suggest the following activities as components of providing real-time help:

- Create, enhance, and coordinate telephone hotlines and interactive websites so that front-line workers can get immediate assistance from legal professionals
- Establish a directory of clinic and pro bono lawyers, by area of expertise and languages spoken, whom community organizations can contact for information or summary advice
- Connect community organizations with legal partners who can offer information and summary advice sessions to client groups directly on areas of greatest need, and in the clients' first languages where possible
- Develop strategies to build relationships between community organizations and local legal service providers to increase awareness of the needs of vulnerable people among legal professionals and help community organizations identify additional sources of real-time legal help.

## **3. Public legal education and information materials**

Increasing the availability and coordination of public legal education and information materials in priority languages and in a variety of formats, including accessible formats for people with disabilities, would enhance the capacity of community organizations to provide legal information and referral.

We suggest the following activities as components of improving the accessibility of public legal information and materials:

- Assess the range of materials available in languages other than English or French and in alternative formats to identify gaps
- Translate or create new materials on selected topics in priority languages and formats to meet the most pressing needs
- Develop for community organizations a best practices guide on translating materials, which would include topics such as identifying priority languages and legal topics, translation processes, and testing of materials
- Provide translation and plain language workshops and advice to organizations producing their own materials on legal topics.



## Implementation

### 1. Form a consortium

We recommend that the Law Foundation hire an Access to Justice Implementation Coordinator to support all six of these initiatives. In the case of Building Community Capacity, the implementation coordinator would support the formation of a consortium of legal and non-legal organizations to lead the development of the initiative.

We suggest that, to get the process started, the implementation coordinator convene a facilitated meeting for organizations to provide advice on establishing the consortium. Types of organizations would include the following:

- Legal organizations with experience in working with low-income or vulnerable clients from ethno-cultural or rural communities, such as general service legal clinics, specialty clinics, pro bono organizations, and other legal entities (We suggest that the Association of Community Legal Clinics of Ontario be asked to consult with legal clinics to identify a mix of clinics to participate in the meeting.)
- Community organizations relevant to our two target groups, such as immigrant settlement organizations, rural organizations, and general information and referral services
- Community organizations that have been involved in effective partnerships with the legal profession, or that have expertise in providing legal information, translation, or training
- Organizations representing people with disabilities related to communication
- Education bodies with expertise in providing legal training to community organizations in innovative ways.

At the initial meeting, participants would discuss who would be part of the consortium, how it should operate and communicate (e.g., forming subgroups, using online collaboration tools), and next steps to prepare for its first planning meeting. Reasonable costs would be covered for member organizations and participants would receive a modest stipend for attending meetings.

One organization would volunteer to provide administrative and planning support to the consortium and apply to the Law Foundation for funding to assume this function.

It will be important that the legal and non-legal organizations joining the consortium or otherwise taking part in this initiative make a long-term commitment to the project and the task of building community capacity to provide legal information and referral. Given the resource pressures that some community organizations face, it may be advisable to begin with a pilot consortium of a small number of key community agencies. Although the consortium would be province-wide, the members could decide to test and implement initiatives in particular regions.

## **2. Develop a plan and funding proposals**

The consortium would identify priorities, develop a plan, establish timelines, and coordinate funding applications to the Law Foundation to carry out the plan and monitor and evaluate progress.

The plan would identify a lead organization and partners for each undertaking. Each lead organization would prepare an application to the Law Foundation for funding to implement its component of the plan. The consortium would submit the applications to the Law Foundation as a package, including proposals to monitor and evaluate the success of the individual components and the overall plan. The consortium would also coordinate applications to other potential funders.

The Law Foundation's implementation coordinator would facilitate ongoing liaison between the consortium and the Foundation and with the other initiatives undertaken as a result of the recommendations in this report. This would help to support the implementation process, share learning and create synergies among the various initiatives under way.

## **3. Implement the approved initiatives**

Subject to funding approval, the lead organizations would undertake their projects and report to the consortium (through mechanisms decided by the consortium). The consortium would then meet the Law Foundation's reporting requirements.

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## **Recommendation 2: Regional Planning Model**

### **Purpose**

This initiative would test strategies to improve linguistic and rural access to legal information and services in one or more regions of the province. A consortium of local legal and non-legal organizations and provincial bodies would develop the strategies, working together as a coherent system within the region.

### **Rationale**

One of our key findings was that, although there are examples of innovation and partnerships in Ontario, there is no coherent system to provide access to justice for people isolated by language or distance. This results in missed opportunities for collaboration and collective learning. It produces a patchwork of legal services, making it difficult for people, particularly those who are most vulnerable, to access a continuum of legal support. Through partnerships, formal or informal, organizations can share expertise, pool resources (such as interpreters and

technology), coordinate services, provide training, distribute legal information, and conduct outreach to target populations.

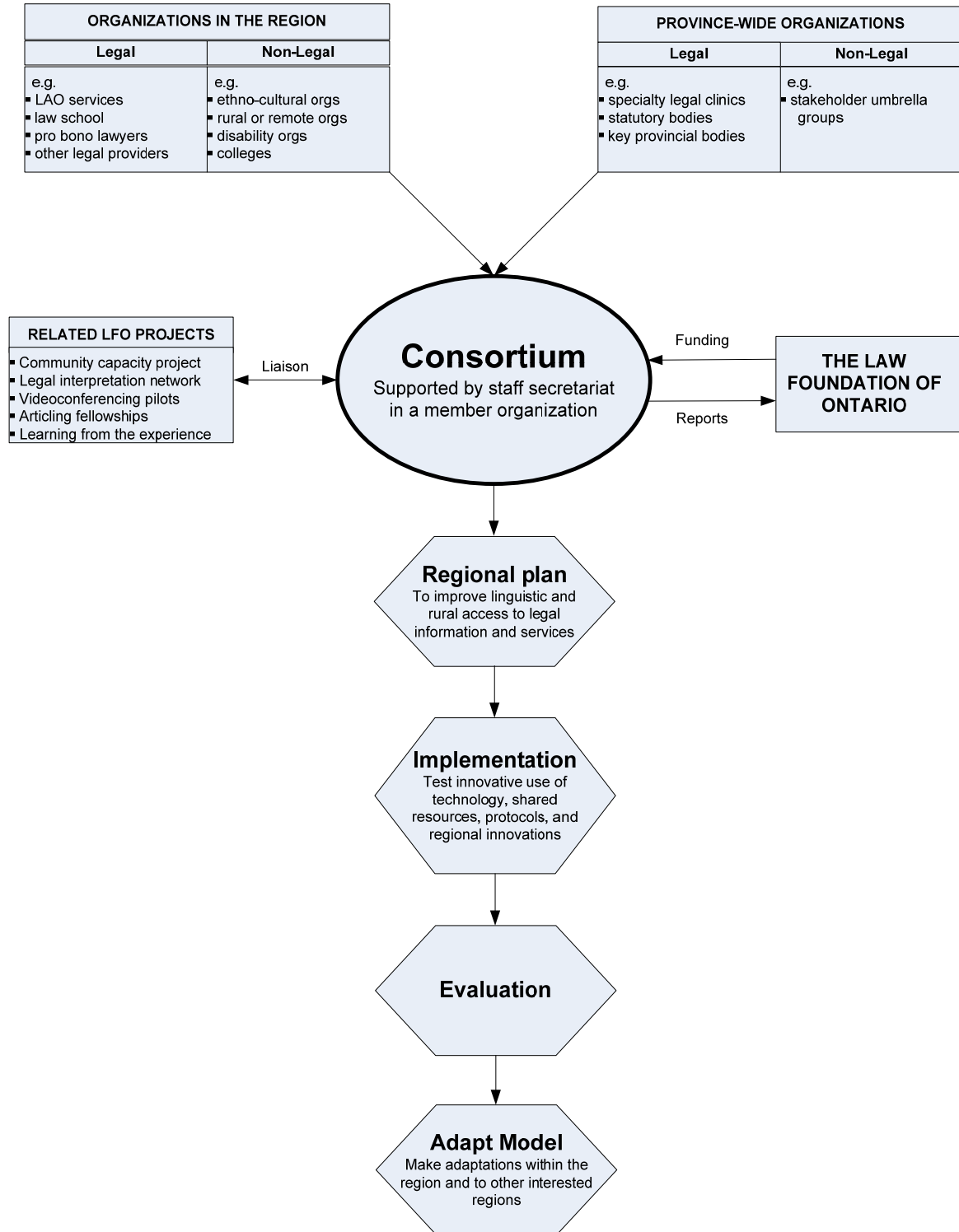
A wide range of legal and non-legal organizations can form partnerships, including general service legal clinics, specialty service clinics, pro bono lawyers, law schools and other educational institutions, ethno-cultural organizations, disability organizations, and social service agencies. Many legal and non-legal service providers are ready to work together, but they need dedicated resources to support and develop a model of collaborative priority setting, planning, delivery, and evaluation. Through strategic funding and coordination, the Law Foundation can be a catalyst for making this collaboration a reality.

This initiative would create a model for a coherent system for linguistic and rural access to justice. The components would support people at every stage of the legal continuum: recognizing that they have a legal problem and understanding how the law might help them; getting information to understand the problem; obtaining appropriate referrals and summary advice; and connecting with a lawyer or other legal professional for advice and representation.

Province-wide planning for a coherent system is unrealistic because of the number of organizations involved and the wide variations in community services and needs. Our approach is a model that can identify problems and customize solutions by region. Once developed and tested in one area of the province, the model could be shared widely and adapted to the unique needs of other regions in Ontario and perhaps elsewhere.

## Description

### REGIONAL PLANNING MODEL



## Implementation

### 1. Select a region

The Law Foundation's implementation coordinator would work with a small advisory group of key legal and non-legal stakeholders to develop the criteria for selecting an area in which to develop and pilot the regional planning approach. The criteria would likely include the following:

- The linguistic and/or rural or remote communities to be served
- A range of local and provincial partners committed to the initiative, including organizations with front-line experience working with clients from the target groups
- The participation of organizations serving people with disabilities
- An organization prepared (with additional funding) to lead the consortium
- An area within one of Legal Aid Ontario's service regions.

Once the Foundation has approved the criteria, organizations would be invited to submit an application to be selected as the region to pilot the Regional Planning Model. If the Foundation receives more than one particularly promising application, it could consider funding more than one regional planning process.

### 2. Hold a regional conference

A lead organization in the region or regions selected would apply to the Foundation for funding to plan a regional conference or series of meetings to launch the initiative. The application would identify key participants, including legal and non-legal organizations and provincial bodies.

The conference would have several goals:

- Agree on the principles and overall goals that would guide the collaborative effort
- Identify priorities for improving linguistic and rural access to legal information and services within the region
- Identify existing services, examples of successful collaboration, service gaps, and capacity within the region
- Begin to develop strategies to build on existing services, enhance collaboration, and test technological solutions and other innovations
- Canvass participants for interest in forming a consortium to sustain work on the initiative, and define the consortium's mandate
- Identify next steps for forming the consortium and developing the regional plan
- Decide on a monitoring and evaluation framework so that the initiative can be documented from the start, improved along the way, and evaluated.

### **3. Form a consortium**

Drawing on ideas from the conference, representatives of organizations forming the consortium would meet to set priorities and decide how the consortium should operate, communicate (e.g., subgroups, use of online collaboration tools), and make decisions. The Foundation would cover reasonable costs for member organizations and they would receive a modest stipend for attending meetings. A member organization would volunteer to provide administrative and planning support to the consortium and apply to the Law Foundation for funding to assume this function.

### **4. Develop a regional plan and funding proposals**

The consortium would lead the development of a regional plan and establish timelines to implement the priorities identified at the inaugural conference and subsequent meetings. The plan would identify both short-term and long-term initiatives for improving linguistic and rural access to legal information and services. Depending on the needs of the region, it could include joint outreach; common protocols and tools; technology pilots; coordinated processes and websites; shared resources for needs assessment and service delivery; or joint training. The consortium may choose to hold a second conference or series of meetings to give a larger group of interested organizations an opportunity to review, revise, and endorse the regional plan.

The consortium would coordinate the funding applications to the Law Foundation from lead organizations and submit them as a package. It would also coordinate applications to other potential funders. The consortium would also apply to the Law Foundation for funding to conduct a formal evaluation of the Regional Planning Model.

### **5. Implement the regional plan and evaluate its impact**

Subject to funding approval, the lead organizations would undertake their projects and report to the consortium (through mechanisms decided by the consortium). The consortium would then meet the Law Foundation's reporting requirements. The evaluation would document the process, deliverables, and lessons learned, and provide insight into the model's potential for sustainability in the region and applicability to other regions and issues.



## **Recommendation 3: Ontario Legal Interpretation Network**

### **Purpose**

This initiative would assist in the creation of an Ontario Legal Interpretation Network to develop standards and practices for language interpretation to help clients who do not speak English or French communicate with legal information and service providers.

### **Rationale**

Where possible, people should be able to receive legal information and services in their first language. However, there are not enough legal professionals and front-line workers in community organizations to serve clients in sign language or in every language and dialect spoken in Ontario. We therefore identified an overwhelming need for high-quality interpreter services to improve access to legal information and services for people who are Deaf or who do not speak English or French.

Almost two million people in Ontario speak languages other than English or French at home. This population is concentrated in urban centres, with some notable exceptions such as Aboriginal persons and migrant workers living in rural or remote areas of the province. Many newcomers to Canada receive some training in English or French, but many never become fluent. Even for people with some knowledge of an official language, the stress of legal problems and the complexity of the law and legal terminology make communicating in their second language in this situation very difficult. People often rely on friends or family, even minor children, to interpret for them. For people who are Deaf, sign language interpretation or other accommodations are critical to facilitating communication.

We heard about the myriad challenges legal and community organizations face in trying to provide interpreters for their clients. These include a shortage of qualified language and sign language interpreters, a lack of clear and consistent standards for interpreting in legal settings, a lack of protocols and training for legal and community organizations using interpreters, and insufficient funding to cover the cost of interpreters. Some college training programs exist for community interpreting, but there is no regulatory framework or mandatory certification process. Although not the focus of this project, we often heard about the difficulties of gaining access to high quality interpretation at some tribunal and court proceedings.

There are examples of promising initiatives in the province, such as the Ontario Ministry of Citizenship and Immigration funding for interpretation for victims of domestic violence and the new court interpreter tests being developed by the Ministry of the Attorney General. There is also much to be learned from progress in Ontario's health sector and innovative programming in other jurisdictions such as British Columbia, the United States, and Australia.

An Ontario Legal Interpretation Network would help build on these best practices and establish a community of professional legal interpreters.

## Description

Developing a professional legal interpreter community would take a sustained effort. It would require participation, expertise, and support from diverse partners:

- Organizations with experience in providing interpreter services in legal settings
- Interpreter associations
- Ontario's Healthcare Interpretation Network
- The Canadian Hearing Society's Ontario Interpreting Services and other organizations representing or serving people who are Deaf
- Education bodies in Ontario and other jurisdictions that provide interpreter training or would be interested in developing training programs in this area
- Legal and non-legal community organizations that provide basic legal information and referral to clients who do not speak English or French
- Government representatives (e.g., from the Ontario Ministry of the Attorney General, Ontario Ministry of Citizenship and Immigration, and Citizenship and Immigration Canada).

We recommend that the Law Foundation fund a process to bring these and other organizations together to set priorities for measures that could be implemented and tested over time.

We suggest that priorities focus on improvements in three key areas, broadly defined as access to interpreters, quality assurance, and building the interpreter community. The partners involved in developing this initiative would no doubt refine the specific components in these areas and identify additional priorities.

### 1. Access to interpreters

- Assess the need for language and sign language interpretation throughout the legal process: information and referral, meetings with legal professionals, and proceedings at administrative tribunals and courts
- Identify priority languages in each area of the province and update them according to emerging immigration patterns and demographic changes
- Work with The Canadian Hearing Society and other key organizations to develop strategies to improve access to sign language interpreters
- Develop strategies and test innovative solutions to meet the demand for interpretation in person, by telephone, and via videoconferencing, and develop consensus on when the use of each method is appropriate. (See also suggestions for Legal Aid Ontario and other organizations to implement telephone interpretation under "Additional Proposals," below.)



- Create a register of individuals and organizations providing interpreter services that meet required standards.

## 2. Quality assurance

- Develop consensus on the training necessary to become a qualified interpreter on legal issues in community and legal settings, and apply the findings to standards, classifications, and accreditation
- Pilot training programs leading to certification as a qualified interpreter for specific legal settings
- Develop policies and protocols for the delivery of interpreter services and the use of legal interpreters by community organizations
- Compile standard glossaries and other materials to assist interpreters working in legal settings
- Establish measures to ensure ongoing monitoring and evaluation.

## 3. The interpreter community

- Determine the type of networks required to establish and disseminate industry standards and foster a community of practice and supports for legal interpreters
- Determine how an Ontario Legal Interpretation Network would link to the broader interpreter community.

# Implementation

## 1. Organize a legal interpretation conference

The Law Foundation's implementation coordinator would hold preliminary discussions with organizations interested in organizing a conference or series of meetings to discuss the issues involved in legal interpretation in Ontario and the need for an Ontario Legal Interpretation Network.

One organization would volunteer to lead this initiative and apply to the Law Foundation for funding to plan and hold the conference, develop an implementation plan based on the conference results, and monitor and evaluate the initiative. An advisory committee of key organizations interested in working on the network would support the lead organization. The Foundation would cover reasonable costs for member organizations and they would receive a modest stipend for attending meetings.

The conference or meetings would have several goals:

- Share information about the Ontario experience in domestic violence, court, and health sector interpretation and about practices in other jurisdictions
- Identify priority goals for improving access to language and sign language interpretation in legal settings, and develop strategies for meeting them

- Discuss how to create an Ontario Legal Interpretation Network, including mandate and roles for government and for education, community, and legal organizations
- Identify next steps for developing and implementing a plan to follow up on priorities and strategies discussed at the conference.

## **2. Develop a plan and funding proposal**

The lead organization, with the advice and support of the advisory committee, would develop a plan to implement the priorities identified at the conference or meetings and submit a funding proposal to the Law Foundation and other potential funders. The plan would include strategies for sustaining the momentum of the Ontario Legal Interpretation Network over time, including identification of lead partners and a shared funding model. The funding proposal would include a monitoring and evaluation framework for the initiative.

## **3. Implement the approved plan**

Subject to funding approval, the lead organization (and ultimately the Ontario Legal Interpretation Network) would oversee the projects and then meet the Law Foundation's reporting requirements.

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# **Recommendation 4: Videoconferencing Pilot Projects**

## **Purpose**

This initiative would test the use of videoconferencing to increase linguistic and rural access to legal information and services for low-income and vulnerable people.

## **Rationale**

Videoconferencing is becoming increasingly important in the health, legal, and other sectors as a way to connect people and to facilitate information-sharing, training, and collaboration. As the technology continues to evolve, it is likely to become more accessible and to become a valuable tool in improving access to justice. For example, videoconferencing could improve rural access to training for community workers when distance, weather, or a lack of transportation make meeting in person difficult or expensive, and it could make it possible for clients to meet with legal professionals. It could also link clients, community organizations, and legal professionals with language and sign language interpreters.

We recommend exploring videoconferencing solutions through pilot projects to support three of our other recommendations:

- Test videoconferencing, as part of Building Community Capacity, for training non-legal community organizations in providing basic legal information and referral to their clients
- Implement a videoconferencing pilot project, as part of the Regional Planning Model, to support local priorities such as improving rural access by connecting legal service providers to specialists, community organizations, clients, or one another
- Explore videoconferencing as a tool to provide access to language and sign language interpreters in legal contexts to support the goals of the Ontario Legal Interpretation Network.

The pilot projects would seek to build on existing networks, such as the government of Ontario's Justice Video Network and The Canadian Hearing Society's network of videoconference facilities. Some equipment would also need to be installed in community locations.

## Implementation

### 1. Identify partners and lead organization

The Law Foundation's implementation coordinator would bring together an advisory group, drawn from organizations involved in the first three initiatives (Building Community Capacity, Regional Planning Model, and Ontario Legal Interpretation Network) and representing organizations that are particularly interested in videoconferencing as a tool to improve linguistic and rural access to justice. The advisory group would also include representatives from key partners, such as the Justice Video Network and The Canadian Hearing Society.

The implementation coordinator could also explore whether a legal or non-legal organization would want to oversee implementation, with some support from the Law Foundation.

### 2. Develop pilot projects

The implementation coordinator and advisory group would develop terms of reference for three or four specific pilot projects. The terms of reference would include project goals and descriptions, roles and responsibilities, and plans for communication and for implementing, monitoring, and evaluating the projects. An organization that is part of the related initiative (i.e., Building Community Capacity, Regional Planning Model, and Ontario Legal Interpretation Network) would lead each pilot project. Memorandums of understanding between the Law Foundation and the videoconferencing partners would specify roles and responsibilities for each pilot project.

### 3. Seek approval and funding

Lead organizations would seek Law Foundation approval and funding to implement and evaluate their pilot project.

#### 4. Implement and evaluate the projects

A critical part of the pilots would be to evaluate them and to make recommendations for the future of the projects (e.g., continue, adjust, expand, discontinue). The implementation coordinator would take the lead on this initially, with input from the advisory committee.

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## Recommendation 5: Articling Fellowships

### Purpose

In this initiative, the Law Foundation would fund 10 articling positions to improve linguistic and rural access to legal information and services for low-income or vulnerable people.

### Rationale

Based on our research and consultation, we believe strongly that people should receive legal information and services in their first language whenever possible. Even for people who have some facility in English or French as a second language, the complexity of the law can make communicating in a second language, or working through an interpreter, extremely challenging, especially in times of stress. Legal service organizations often want to serve specific client populations in their own language, but they have limited capacity to do so.

We also believe that clients in rural and remote areas should have, where possible, direct access to legal practitioners. Although technology is often necessary to bridge the distance, direct contact is still preferable. However, legal service organizations serving rural populations face serious challenges in reaching low-income or vulnerable clients across large geographic areas.

By funding articling students in these two types of organizations, the Law Foundation would be making an immediate, concrete difference to serving the target populations during the articling periods. Ideally, the articling experience would also influence the type of legal practice the students would choose upon becoming lawyers, thus increasing the number of lawyers who could work with vulnerable clients in their first language or with clients in rural or remote communities.

### Description

Under this initiative, the Law Foundation would fund

- Five new articling positions to enhance the capacity of organizations to provide legal services to clients in their first language

- Five new articling positions to enhance the capacity of organizations that provide legal services to clients in rural or remote areas.

Articling students hired for the linguistic positions would speak the desired language fluently in addition to English or French. Specialty legal clinics that focus on particular linguistic or cultural communities, general service clinics that have a significant multilingual client base, and public interest organizations that are not part of the Legal Aid Ontario network would be interested in such placements.

There would be no special qualifications required for the rural positions other than an interest in serving vulnerable clients in rural and remote areas.

Internationally trained lawyers who face barriers to finding articling positions and becoming licensed in Ontario could fill some of the 10 positions. Such lawyers, if they are proficient in languages other than English or French, would be ideal matches for organizations offering, or wishing to offer, multilingual services. An articling student who is proficient in sign language or who has other expertise that would assist organizations in providing legal services to people with disabilities could fill one of the positions.

Some of the articling students may be able to provide service to more than one organization through a formal rotation or other arrangement. For example, an articling student might do a first rotation at a specialty legal clinic and subsequent rotations at general service clinics in order to share expertise on working with specific populations. Similarly, an articling student could have rotations in more than one rural or remote area.

## Implementation

A practical way to implement this initiative would be to use the process already in place for the Public Interest Articling Fellowships funded by the Law Foundation and administered by Pro Bono Students Canada.

As with the existing program, eligible organizations would apply for one of the articling fellowships. After the Law Society approves the positions, the Law Foundation would convene a selection committee to review the applications and make recommendations to the Foundation's trustees. Communication with career service centres at law schools across the country would ensure that students were aware of the positions. The interviews for these positions would take place when law firms are conducting articling interviews. The students and the principals would complete mid-term and end-of-term evaluation forms.

We recommend that

- The Law Foundation ask Pro Bono Students Canada to administer the linguistic and rural articling fellowships in conjunction with the existing Public Interest Articling Fellowships
- Organizations selected for the 10 new positions be approved for a three-year cycle to allow them to plan their workload and to adjust their articling programs after the initial year's experience

- Organizations working on issues related to internationally trained lawyers be consulted on strategies to reach potential articling students from that pool, especially students with proficiency in non-official languages (organizations would include the Law Society, National Committee on Accreditation, and the Director of Professional Diversity and Legal Opportunities funded by the Law Foundation at the University of Toronto Faculty of Law).

With the existing fellowships, the process typically begins in November or December with a call for applications from organizations. Interviews take place in May or June after second year law school, and the articling positions begin after third year and bar exams. If the process for the 10 new positions were to begin in November 2009, organizations would not receive articling students until the summer of 2011. Therefore, we recommend an expedited process, with a focus on recruiting students seeking articles and internationally trained lawyers who have not yet found positions for 2009/2010.

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### **Recommendation 6: Learning from the Experience**

#### **Purpose**

This initiative is intended to ensure that knowledge generated from this project and related initiatives is broadly accessible and contributes to our collective understanding of how to address the barriers to linguistic and rural access to justice.

#### **Rationale**

Experience from the measures recommended in this report (if adopted), and from many other initiatives under way here and elsewhere, will expand our knowledge of what must be in place to ensure that linguistic minorities and persons living in rural and remote communities have access to justice. Formal evaluation of new programs is rare, however, and those working in this area can be unaware of promising practices or unsuccessful experiments in Ontario and in other provinces and countries. We believe that the Law Foundation can help to remedy this.

#### **Description**

Learning from the work supported by the Foundation and from other, related initiatives, would involve the following components:

### **Evaluate each initiative**

For each initiative it approves, a condition of Law Foundation funding would be a plan to evaluate its effectiveness. The evaluation method would ensure that the work generates useful and valuable information that will assist those who seek to build on the experience.

### **Evaluate the whole project**

The impact of the Linguistic and Rural Access to Justice Project as a whole would be evaluated after five years.

### **Develop an access to justice evaluation framework**

We suggest that the Law Foundation approach the Law Commission of Ontario to explore how the two organizations could work together to develop a framework for defining “access to justice” and assessing the extent to which policies, programs, or projects are making meaningful contributions to access to justice objectives.

### **Establish a clearinghouse**

The Foundation would seek a partner organization to establish a clearinghouse to provide online access to research studies, reports, evaluations, and other materials collected as part of this project or generated by the new programs the Foundation supports. Over time, the clearinghouse could become a valuable repository of information about efforts, in many jurisdictions, to provide legal information and services to people facing the barriers outlined in this report and about other access to justice issues.

## **Implementation**

- The Law Foundation’s implementation coordinator would help the leaders of each of the five other initiatives recommended in this report to obtain expert assistance in planning and conducting evaluations in a way that will generate valuable information with the resources available. The Foundation would also engage an evaluator to evaluate the entire project after five years.
- The Foundation would begin discussions with the Law Commission of Ontario to determine whether it is feasible to undertake a joint project to broaden our understanding of access to justice and to develop improved ways of measuring the impact of related projects.
- The Foundation would consult with those who might be interested in building and maintaining the clearinghouse.

## Additional proposals

In each of our six recommendations, the Law Foundation would play a catalyst role by providing strategic funding to bring partners together. The full impact of initiatives requiring large-scale collaboration and planning, such as Building Community Capacity, the Regional Planning Model, and the Ontario Legal Interpretation Network, would only become evident over time.

In the short term, government and leading legal bodies could undertake additional activities that would make a significant difference to improving linguistic and rural access to justice. We suggest below some activities that would complement the larger-scale initiatives arising from this project.

## Government

The federal government has an important role in legal aid, in funding services for new immigrants, and in promoting public legal education and plain language. Municipalities have a role in providing information and referral to meet local needs and participating in partnerships that promote linguistic and rural access to justice.

The role of the Ontario government in the administration of justice and as the guardian of a system that seeks to reflect fundamental legal values makes it an essential part of the solution. The following Ontario government actions would complement the six initiatives recommended in this report:

- Supporting the legal aid system
- Continuing its efforts to protect the victims of domestic violence and other victims and to make family law information and services readily available
- Working to ensure that the courts and the administrative justice system become part of the shared effort to make information, advice, and services available
- Participating in the effort to share resources (e.g., videoconferencing facilities)
- Participating in building a coherent, high-quality system of interpretation services in legal settings.

## Support for special outreach

Access to essential information in the area of family law and special outreach to people who are isolated and the victims of domestic violence are two urgent needs highlighted during this project. Some excellent programs exist, in these and other areas, to reach out to provide legal information and services to vulnerable people who are isolated by factors in addition to language or distance.

Family Legal Education for Women, launched and funded by the Ontario Women's Directorate, is an example of an innovative program of outreach to women to help them resolve family law issues with the benefit of accurate and relevant legal information. The program is a consortium of six equality-seeking women's agencies, including YWCA Toronto, Metropolitan Toronto Action



Committee on Violence Against Women and Children, Community Legal Education Ontario, Canadian Council of Muslim Women, Springtide Resources, and the National Association of Women and the Law. Family Legal Education for Women has commissioned a thorough evaluation of the process and results of the project. We suggest that the Ontario government and other funders sustain and strengthen such collaborative efforts.

### **Support for interpreters**

The Ontario government is a leader in funding language interpretation services in the domestic violence context and the organizations it supports are leaders in the field. It is also engaged in efforts to improve the quality of court interpretation. We strongly encourage the provincial government to continue with these tangible efforts to improve access to justice for persons who do not speak English or French. We also encourage the federal government to consider interpretation in legal settings a priority for immigrant settlement and integration.

### **Leading legal bodies**

In addition to participating as partners in the initiatives recommended in this report, the following three leading legal bodies could undertake strategic, complementary activities that would have a significant short-term and longer-term impact on linguistic and rural access to legal services and information, especially for low-income or vulnerable persons:

- Legal Aid Ontario
- The Law Society of Upper Canada
- Pro Bono Law Ontario

### **Legal Aid Ontario**

Legal Aid Ontario and the clinic services it funds are an essential part of the effort to improve access to justice for linguistic minorities and residents of rural and remote areas of the province. Legal Aid Ontario and community legal clinics have the potential to be leaders in the effort to build a planned and coordinated service system in the following important ways:

- Using technology in innovative ways to facilitate early and fast assessment of eligibility, to connect individuals to the appropriate legal aid service, to provide information in an easy-to-use, interactive format, and to make basic legal tasks easier (such as completing legal forms)
- Supporting efforts to provide services in the client's first language and to ensure access to legal interpretation and translation services
- Promoting a clinic system that maintains connections to the areas the clinics serve, but that also functions as an effective, overall system that is greater than the sum of its parts
- Leading in the effort to build better connections between legal aid programs and the community services that are often the first point of contact for people whose legal needs are generally part of a larger cluster of problems.

### **Specialty clinics**

Legal Aid Ontario funds several specialty clinics that serve specific ethno-cultural, linguistic, disability and other population groups. It is impractical for these clinics to provide direct service to clients across the province. However, specialty clinics are in the best position to provide training and advice to other clinics to build their capacity to serve clients in the target populations.

We propose that Legal Aid Ontario work together with specialty clinics to review their mandates and ensure sufficient funding to enable them to play a larger role, across the clinic system, as expert resources for other clinics that are called upon to serve people who face linguistic, cultural, and other barriers.

### **Telephone Interpretation**

Many organizations are using telephone interpreters when staff cannot serve clients in their own languages or when in-person interpretation is unavailable or impractical. The Law Society of Upper Canada, the Ministry of the Attorney General's Justice Ontario inquiry line, and Findhelp Information Services (211) are examples of organizations that offer telephone interpretation services.

Telephone interpretation is not a perfect solution to providing legal information and services to people who do not speak an official language, but it is preferable to no interpretation and to forcing clients to rely on family or friends to interpret for them on legal issues. In providing linguistic access to justice, it is an essential service, urgently needed in the short term.

Some legal clinics have entered into contracts for telephone interpretation, but it is expensive and unsustainable for them, over the long term, to do so individually. If Legal Aid Ontario provided a bulk contract for the entire legal aid network (clinics, certificate lawyers, area offices, staff offices, advice lawyers, and duty counsel), telephone interpretation service would be much more cost-effective. Interpretation firms price their services based on expected use. With a bulk contract, all legal aid providers could use the service as needed, regardless of how frequently they needed interpreters and how many languages were involved. This one action would have an enormous impact on access to justice for low-income people who do not speak English or French.

### **The Law Society of Upper Canada**

In its independent position as the regulator of the legal profession, the Law Society of Upper Canada has an important role in linguistic and rural access to justice efforts:

- Increasing access to lawyers and paralegals in rural and remote areas of the province through articling opportunities, promoting pro bono legal services, and other initiatives
- Finding ways for lawyers and paralegals to serve clients who do not speak English or French, such as by promoting the use of telephone or in-person interpretation, promoting articling opportunities for bilingual lawyers, supporting internationally trained lawyers, and offering cultural sensitivity training for legal professionals

- Ensuring that the lawyer referral system is accessible, multilingual, and coordinated with other legal referral systems
- Ensuring that the regulation of paralegals does not inadvertently stop trusted community organizations from providing basic legal information and referral.

### **Online directory**

The Law Society plays a significant role in legal referral. Members of the public who call its Lawyer Referral Service have access to telephone interpretation and referrals to lawyers, and when possible, to lawyers who speak their language. However, the Law Society could make further efforts to help individuals identify and connect to legal professionals who can serve them in their own language. For example, it would be extremely helpful to have an online directory of Ontario lawyers and paralegals that indicates the languages they speak and their areas of specialization.

### **Articling program**

The Law Society recently made an important decision to continue the articling requirement for candidates seeking admission to the Ontario bar and to enhance the program in the following ways:

- “An online registry to enhance information on articling opportunities;
- Creation of a Law Society outreach position to promote and co-ordinate articling initiatives and additional job placements;
- A voluntary bridging program for internationally trained candidates in the licensing process to support their integration into the Ontario legal profession; and
- Streamlined articling requirements for internationally trained lawyers; and simplified administration of the program.”<sup>69</sup>

These decisions complement Recommendation 5 in this report, through which the Foundation would fund articling fellowships to enhance services in non-official languages and in rural or remote areas. Collaboration in implementing the Law Society’s enhanced articling program and the proposed Law Foundation articling fellowships would help to further the aims of both institutions.

### **Paralegal regulation**

A key goal of our recommendations is to enhance the capacity of non-legal community organizations to provide basic legal information and referral (but not advice) to clients. In our consultations, we heard that some non-legal community organizations have become hesitant to provide legal information to clients, help them to fill out forms, or support them at tribunals since the Paralegal Regulation under the Access to Justice Act came into force on May 1, 2007.

It is in the public interest to regulate paralegals, but this impact on community organizations appears to be an unintended consequence. We have communicated the issue to the Law

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<sup>69</sup> The Law Society of Upper Canada.

Society, and we are encouraged by the willingness to address it. Dealing with this matter seems to us to be a prerequisite for implementing our recommendations to enhance the role of community organizations as key access to justice partners.

### **Pro Bono Law Ontario**

Pro Bono Law Ontario is the first major, organized effort in this province to make available, in planned and innovative ways, the volunteer legal services of the legal community. Building on its progress to-date, Pro Bono Law Ontario (with support from the Law Foundation where required) could engage in activities to improve linguistic and rural access to pro bono legal services:

- Recruiting and facilitating the involvement of lawyers who are able to work in more than one language and matching them to clients who do not speak English or French
- Providing access to telephone interpretation when service in the client's language is not possible
- Strengthening efforts to recruit pro bono lawyers to provide service in rural and remote areas of the province
- Providing specialist expert advice to those providing information and legal advice in rural communities
- Building strong connections between lawyers or law firms and agencies that are highly respected in the geographic and culturally specific communities they serve.

# Appendix 1: Project Participants

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## Acknowledgements

A great many individuals and organizations dedicated to access to justice shared their expertise and experiences with us over the ten months of this project. We are grateful to them for giving us their insights and their valuable time. Our report is much richer for their input.

We would like to acknowledge the Trustees of The Law Foundation of Ontario for their vision in recognizing linguistic and rural access to justice as fundamental issues to be addressed and for commissioning this report. We are also grateful for the many ways in which the Foundation staff enabled our work. We would particularly like to acknowledge Barbara Stewart, whose superb organizational skills and tireless efforts enabled us to connect with so many people.

Finally, we would like to thank the members of our small project team for their talent and dedication to the project:

Sam Kaufman (research)

Dahlia Klinger (policy analysis and writing)

Agnes Vanya (project planning, writing and editing)

## Informal discussions prior to formal consultation period

From February through April 2008, we had informal discussions with over 70 individuals from the following organizations, either in person or by telephone.

### Legal Aid Ontario and community legal clinics

- ARCH Disability Law Centre
- Association of Community Legal Clinics of Ontario
- Community Legal Education Ontario
- Flemingdon Community Legal Services
- Legal Aid Ontario (head office)
- Legal Aid Review 2008
- Metro Toronto Chinese and Southeast Asian Legal Clinic
- Parkdale Community Legal Services

### Other legal organizations

- County and District Law Presidents' Association
- Law Society of Upper Canada
- Ontario Bar Association
- Ontario Justice Education Network
- Ontario Law Deans
- Pro Bono Law Ontario
- Pro Bono Students Canada
- REACH Canada
- University of Toronto Centre of Criminology

### Community organizations

- Atkinson Economic Justice Fellow
- Canadian Hearing Society
- Canadian National Institute for the Blind
- Family Law Education for Women
- Findhelp Toronto 211
- Multilingual Community Interpreter Services
- Punjabi Community Health Centre
- United Way Leeds Grenville

### Foundations

- The Atkinson Charitable Foundation
- The Law Foundation of Ontario
- The Maytree Foundation
- The Ontario Trillium Foundation

### Government

- City of Toronto
- Ontario Ministry of Agriculture, Food and Rural Affairs
- Ontario Ministry of Citizenship and Immigration
- Ontario Ministry of Health and Long-Term Care
- Ontario Ministry of the Attorney General
- Canadian Heritage
- Citizenship and Immigration Canada
- Justice Canada

### Other provinces

- Canadian Forum on Civil Justice (Alberta)
- Law Courts Education Society (BC)
- Legal Services Society (BC)
- People's Law School (BC)

During March and April, we convened three conference calls with the following groups to obtain ideas about challenges in providing linguistic and rural access to legal service for low-income clients.

- 15 community legal clinics (on rural and remote access to justice)
- 8 community legal clinics (on linguistic access to justice)
- Legal Aid Ontario area directors from northern and southwestern Ontario

### Consultation submissions

We received written submissions from the following individuals or representatives of organizations in response to the Consultation Guide we issued in May:

- Access Alliance Multicultural Health & Community Services
- Across Languages Translation & Interpretation Services
- Association of Community Legal Clinics of Ontario
- Barbra Schlifer Commemorative Clinic
- Canadian Hearing Society
- Centre for Spanish Speaking Peoples Legal Clinic
- Community Law School (Sarnia-Lambton) Inc.
- Community Legal Services, Faculty of Law, University of Western Ontario
- Hamilton Mountain Legal & Community Services
- Hispanic Ontario Lawyers Association
- Justice Policy Development, Ministry of the Attorney General
- Lanark, Leeds & Grenville Legal Clinic

- Law Society of Upper Canada Equity Initiatives
- Manitoba Law Foundation
- Metro Toronto Chinese and Southeast Asian Legal Clinic
- Pro Bono Students Canada
- Rebeiro, Olivia, Barrister & Solicitor, County of Bruce
- Settlement Workers in Schools
- Sexual Assault and Partner Abuse Care Centre (Grey Bruce Health Services)
- Valois, Aida

## Formal consultation meetings

In June 2008, we held four consultation meetings convened on our behalf by other organizations:

### Owen Sound regional meeting – June 10

- Barker Hicks & Hicks
- Community Legal Education Ontario
- Grey Bruce Legal Clinic
- Local volunteer/concerned citizen
- United Way of Bruce Grey (Host)
- Victim Services Bruce Grey and Owen Sound

### Six Languages Advisory Committee – June 11

- Access Alliance Multicultural Community Health Centre
- Arab Community Centre
- Centre for Information and Community Services of Ontario
- Community Legal Education Ontario (Host)
- Midaynta Community Services
- New Canadians' Centre of Excellence Inc.
- Ontario Council of Agencies Serving Immigrants
- School Settlement Worker (by email)
- South Asian Legal Clinic of Ontario

### Thunder Bay regional meeting – June 19

- 211 Ontario North / Lakehead Social Planning Council (Host)
- Greenstone VCARS
- John Howard Society
- Kinna Aweya Legal Services
- Lakehead Social Planning Council
- Legal Aid Ontario
- Ontario Elder Abuse Strategy
- Psychiatric Patient Advocacy Office
- Rainy River District Victim Services Program
- Settlement Services - Thunder Bay Multicultural Association
- Thunder Bay Indian Friendship Centre
- Thunder Bay Urban Aboriginal Strategy
- Youth Employment Services

### Kingston regional meeting – June 26

- Canadian Hearing Society
- Canadian Hearing Society, Kingston
- Canadian National Institute for the Blind
- City of Kingston
- CONNECT Mental Health Services
- Frontenac Law Association
- Immigrant Services of Kingston and Area
- John Howard Society, Kingston
- Kingston & District Labour Council
- Legal Aid Ontario
- Quinte United Immigrant Services – Language Interpreter Service
- ServiceOntario
- United Way serving Kingston, Frontenac, Lennox & Addington (Host)
- Volunteer and Information Kingston

### The Ontario Rural Council Roundtable – Guelph, September 16

In September 2008, The Ontario Rural Council hosted a roundtable in Guelph to obtain input on rural access to justice issues raised in our Consultation Guide and to provide feedback on preliminary directions. Some organizations participated by conference call.

- ARCH Disability Law Centre
- Association of Community Health Centres
- Audiologist Society of Ontario
- Chatham – Kent Legal Clinic
- John Howard Society, Peterborough
- MOOVE Communications
- Ontario Healthy Community Coalition
- Ontario Ministry of Agriculture, Food and Rural Affairs
- Ontario Network for Prevention of Elder Abuse
- Ontario Trial Lawyers Association
- Ontario Trillium Foundation, Listowel
- Ontario Works – Thessalon, Thunder Bay and Kenora
- Peel Elder Abuse
- Peel Region Police Services
- Rural Ontario Municipal Association / Mayor Guelph Eramosa
- The Ontario Rural Council

### Participation in other events

From April through October 2008, we took advantage of opportunities to consult or vet preliminary findings at meetings where we knew interested stakeholders would be present.

#### ***Learn, Grow, Connect Conference: Practicing Community Legal Education in a Diverse Ontario***

Hosted by Community Legal Education Ontario and University of Toronto Faculty of Law, October 6 and 7. Attended by over 200 people “who develop and deliver information to help their clients understand their legal rights, and people interested in community legal education.” Participants provided input to

proposed directions of the Linguistic and Rural Access to Justice Project during formal and informal sessions.



## Meetings

- Law Society of Upper Canada Access to Justice Committee (with representatives from the Equity and Aboriginal Issues Committee): committee meeting, April 9
- 2008 Annual Maytree Leadership Conference: workshop, May 6
- OCASI professional development conference: workshop, May 7
- City of Toronto, Community Development Office: group meeting, June 2
- Legal Aid Ontario: Technology in Aid of Client Services Seminar: workshop, June 6
- Legal sector focus group of Citizenship and Immigration Canada settlement interpretation review, October 3
- OCASI Executive Directors Forum: workshop, October 21

## Additional informal meetings

From June through November 2008, we had informal discussions to vet ideas with over 30 individuals from the following organizations, either in person or by telephone.

### Legal Aid Organizations

- Association of Community Legal Clinics of Ontario
- Community Advocacy & Legal Centre, Belleville
- Community Legal Clinic, Simcoe, Haliburton, Kawartha Lakes:
- Community Legal Education Ontario
- Legal Aid Ontario (head office)

### Other legal organizations

- Hispanic Ontario Lawyers Association
- Human Rights Legal Support Centre
- Law Commission of Ontario
- Law Society of Upper Canada
- Ontario Court of Appeal
- Ontario Justice Education Network
- Pro Bono Law Ontario
- Pro Bono Students Canada

### **Community organizations**

- Access Alliance Multicultural Health & Community Services
- Atkinson Economic Justice Fellow
- Canadian Council of Muslim Women
- Canadian Hearing Society
- Community interpretation advocate
- Family Law Education for Women

### **Government**

- Ontario Justice Video Network
- Ontario Ministry of the Attorney General
- Ontario Ministry of Citizenship and Immigration

# Appendix 2: Consultation Guide

## Discussion Questions

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### Project premise and principles

1. Do you have comments on the premise or guiding principles for this project? Are there principles that you would add?

### Linguistic access

2. Are you aware of best practices that help people who do not speak English or French obtain legal information or services? Are you aware of best practices that help people who have a hearing or vision disability?
3. Which of the following approaches (or other ideas you may have) would be most useful to enhance access to legal information or services and why? How can we build on what already exists?
  - multilingual materials and portals
  - multilingual hotlines and referral services
  - interpretation services
  - outreach to specific linguistic and cultural communities
4. In what circumstances is it critical that public legal information materials be translated into other languages and alternative formats?
5. When can telephone language interpreters (or TTY lines) be used and when are in-person interpreters necessary?
6. Should there be a centralized language interpreter service? If so, what would be its role and how could it assist clients who are most vulnerable?
7. What supports are required to assist organizations working with interpreters?

### Rural or remote access

8. Are you aware of best practices that help people living in rural or remote communities obtain legal information or services?
9. Which of the following approaches (or other ideas you may have) would be most useful to enhance access to legal information or services in rural or remote communities and why? How can we build on what already exists?
  - use of community locations and partnerships

- outreach for specific groups on specific topics
- urban-rural partnerships
- legal or general telephone information and referral
- videoconferencing

10. If you think videoconferencing is a good idea, where could it take place? Are there circumstances when in-person contact is essential? What types of travel assistance might be necessary?

11. What supports do non-legal organizations need when they are called upon to provide legal information and referral to their clients?

### **Planning and collaboration**

12. What type of collaboration or structure would best support improved access to legal information and services? For example:

- What organizations should be involved, and how?
- What sources of funding should be available?
- How could The Law Foundation of Ontario act as a catalyst to support the collaboration or structure you recommend?

13. How should new processes or structures be evaluated?

### **Other ideas or comments**

14. Do you have any other comments or recommendations to improve linguistic or rural access to legal information or services?

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