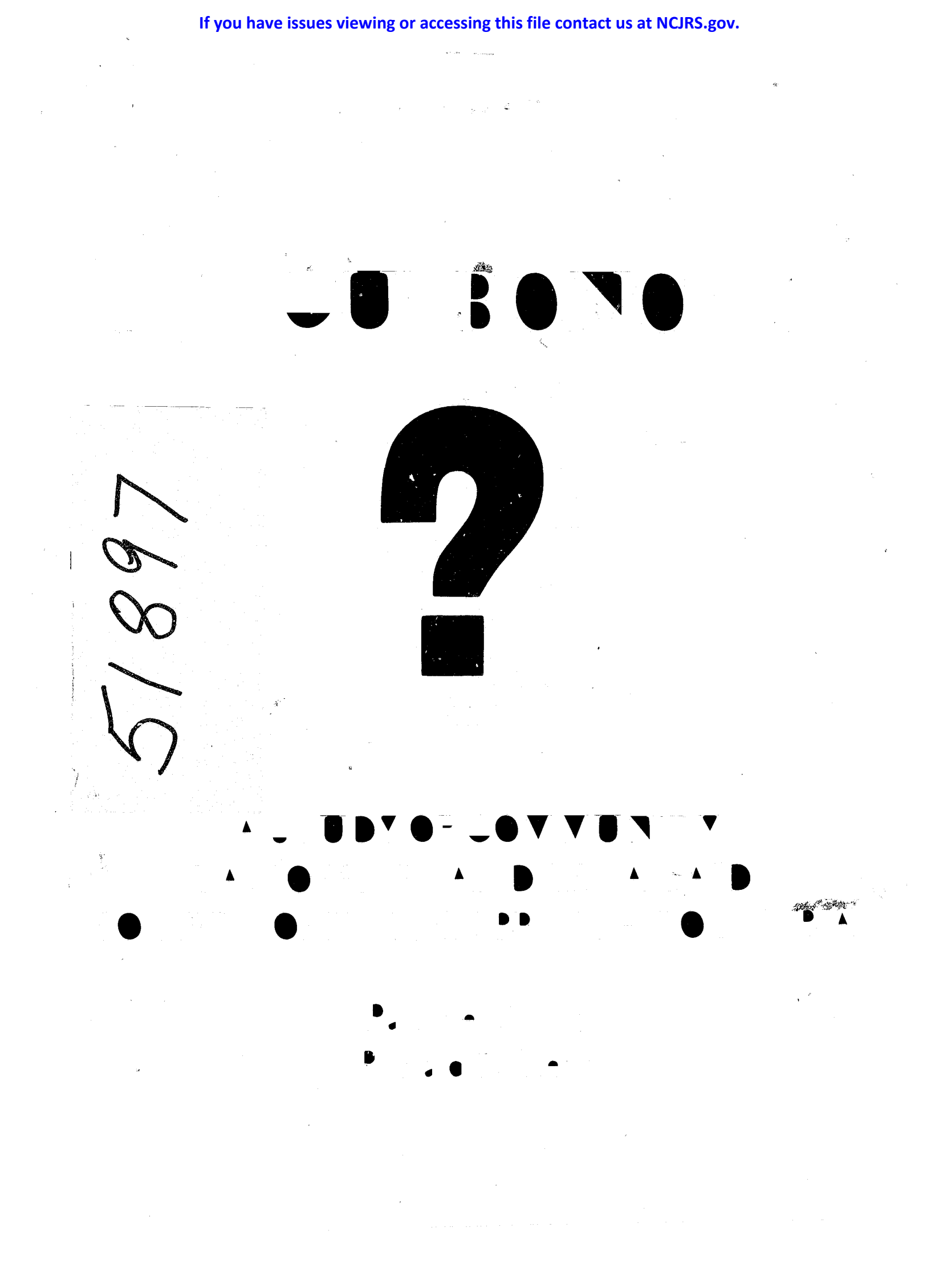

CUI BONO

A STUDY OF COMMUNITY LAW OFFICES AND LEGAL AID SOCIETY OFFICES IN BRITISH COLUMBIA

Pauline Morris

Ronald N. Stern

revised edition

Ministry of the Attorney-General
1551 - 409 Granville Street
Vancouver, B.C.

The views expressed in this paper are those of the authors and do not necessarily represent the views of the Department or any of its employees.

october 1976

vancouver b.c.

CUI BONO?:
A STUDY OF COMMUNITY LAW OFFICES AND LEGAL AID SOCIETY OFFICES IN BRITISH COLUMBIA

CUI BONO?: A STUDY OF COMMUNITY LAW OFFICES AND LEGAL AID SOCIETY OFFICES IN BRITISH COLUMBIA[1]

Pauline Morris and Ronald Stern

INTRODUCTION

In early April 1976, the Research Centre of the Attorney General's Department was approached by the Legal Services Commission with the request that an analysis of "the Community Law Offices and their services, the Legal Aid Society Offices, and the Legal Aid Scheme" be carried out. In addition, recommendations as to how the large metropolitan areas of Vancouver and Victoria should be serviced were requested, and it was stipulated that any such study must be completed by August, 1976.

Because of the time limitations imposed by the Legal Services Commission, and to a lesser extent, financial considerations, the Centre was most reluctant to undertake the work, since it was felt that only a very impressionistic and somewhat superficial study could be carried out with these restraints. However, following discussions with the Chairman of the Legal

---

1. For ease of presentation, the term "Community Law Offices" (CLOs) will be used to refer to both Community Law Offices and Community Legal Information Centres, except where the distinction is pertinent. Legal Aid Society offices will be referred to as Legal Aid offices (LAOs).

Services Commission, the time limit was extended to September 1976, and it was agreed to proceed with the following goals:

1. to determine the goals and objectives the Community Law Offices set for themselves and to see if they are achieving these;
2. to determine the goals and objectives of the Legal Aid Society and its offices, and to see whether they are achieving these;
3. to compare the purposes and goals of the Community Law Offices and Legal Aid Offices;
4. to obtain information about the communities that are being served by Legal Aid and the Community Law Offices, including a demographic profile of these areas.

The delay in presenting this report is a consequence of time lost whilst the Commissioners reconsidered the scope of the study. Two items which had been included in the original request from the Legal Services Commission were not pursued, namely advice as to how the metropolitan areas of Vancouver and Victoria should be served (deleted at the request of the Research Centre), and a study of the operation and adequacy of the criminal and family law tariffs (deleted at the request of the Legal Services Commission). Finally it should be noted that only a most superficial picture of the demographic background could be obtained in the time available, and hence the study in no way attempts to place the findings concerning the provision of services by these two organizations within the context of the potential needs of the communities they serve.

The fieldwork was carried out by the authors of this study on a part-time basis; Steven Sails was responsible for the

design of the questionnaire to Community Law Offices and, with the co-operation of Justice Information Systems, for the collection of statistical data from the Legal Aid Society. Together with Gary Martin, he was also responsible for transcribing the tape recordings of interviews, and for the preparation of the data in such a way as to facilitate the writing of this report. In this latter task, they were assisted by Dellis Rand, who did most of the editing. The statistical material which appears in the report was largely prepared by Gary Martin, and is derived from information provided by the Commission, the Legal Aid Society, and the various offices visited.

Despite some initial problems, we should like to make clear that in carrying out our work we met with nothing but kindness and co-operation from those working in both Community Law Offices and Legal Aid offices and we are most grateful to all of those who helped to make this study possible. Everyone made us welcome at very short notice and under what must have been, in many cases, very trying circumstances. We are particularly grateful to those members of staff who returned from their holidays especially to meet with us so that the work could be finished on time.

PART 1

BACKGROUND TO THE STUDY

A. THE METHODOLOGY AND ITS LIMITATIONS

The method used to carry out this research was severely circumscribed by the time limitations imposed, and as a result this report can by no means be regarded as a comprehensive study of government funded legal services in the Province.

Initially, letters were sent to the Community Law Offices by the Legal Services Commission, and to the Legal Aid offices by the Legal Aid Society, requesting their cooperation with the research. The authors - a lawyer in private practice (R.S.) and a sociologist, the Director of the Attorney-General's Research Centre, (P.M.) - then spent one day in each of twelve Community Law Offices (CLOs)[1] in the Province and one day (or part thereof) in each of the fourteen Legal Aid offices (LAOs).[2]

All available legal and paralegal staff were interviewed

---

1. At the time of writing there are fourteen offices (including VCLAS). The Queen Charlottes and Merritt offices form part of the Legal Services Commission's Native Program and are not included in this study. The Interior Public Legal Awareness Society is part of the Legal Services Commission's Public Legal Education Program and thus, although visited by us, details are not included.

2. Prince Rupert was not actually visited because on the day planned for the visit the aircraft was unable to take off. Soon after this, the only lawyer employed was on holiday in Vancouver and he came to the Research Centre for the interview. The secretary at that office performs only secretarial duties and it therefore did not make sense to again attempt to travel such a great distance.

in CLOs and LAOs and in the case of the former, we also met with as many Board members as could make themselves available at the time. Secretaries were interviewed wherever they were said to be doing work other than that of a purely secretarial nature. Apart from the more formal interviews, considerable time was spent in informal discussion at most of the places visited, and where a lawyer or paralegal was attending court, the research lawyer usually accompanied him/her and observed the work being undertaken.[1] Interviews were conducted on the basis of a 'check list' of items to be covered; it was hoped that this would encourage respondents to interpret the questions in a way which was meaningful to them, and to reply accordingly. All interviews were tape-recorded, exclusively for use in writing this report and with the permission of the respondents.

In addition to this work, interviews were held with three of the five Legal Services Commissioners[2] (including the Chairman and the only other full-time Commissioner), with the Executive Director and Head Office staff of the Legal Aid Society, the secretary and some members of the staff of the Legal Services Commission in Quebec, the Chairman and some of the Legal Aid Society in Manitoba, the Chairman of the Legal Aid Society in Ontario, and the Director of the University of Toronto Legal Aid Clinic in order to provide some current background regarding other jurisdictions.[3]

---

1. The term paralegal and legal information counsellor are used interchangeably in this report.

2. One part-time Commissioner declined, and the other was not available.

3. We are grateful to Dr. Vincent Keddie, a member of the staff of the Justice Research Centre, who undertook these last two interviews on our behalf.

Prior to carrying out the field-work, the records in the offices of the Legal Services Commission relating to individual CLOs were examined. It was hoped that sufficient information could be extracted from this source to provide adequate background information for the visits, particularly regarding the nature and extent of the work undertaken. Unfortunately the reports covering the different offices varied considerably in content and comprehensiveness (some were missing altogether), and in most instances the information was inadequate for our purposes. For example, where records of client services were kept, the form in which this was done was not consistent; offices either recorded different types of information, or recorded the same information in differing ways. Furthermore, varying definitions of such terms as 'cases' and 'clients' were used. In view of this serious deficiency, a questionnaire was quickly designed by the Research Centre and sent to each office by the Legal Services Commission with a request that it be completed prior to our arrival. This included a request for information regarding their activities over the three-month period from January 1 to March 31, 1976[1].

In practice very few of the offices were able to complete the questionnaire before our arrival; some said they did not normally collect detailed information concerning clients and would have to do so especially for us; we therefore had to accept this situation and to agree to use whatever time period suited

---

1. A copy of this questionnaire is included in Appendix A to this report. In view of the rapidity with which it had to be prepared, and bearing in mind the absence of sufficient background data concerning the various offices, this questionnaire leaves much to be desired.

them best. Others said they did not believe it right to collect such information from clients; they regarded the informal nature of their work as crucial, and felt that people should not be subjected to questioning except on matters directly relevant to their particular problem. It was stressed by staff that clients wanted "fewer questions and more service" and in such cases we had to be content with whatever they were prepared to give us in the way of information. Yet other offices said the information required was not relevant to their particular office; we explained that one form had been designed to cover all types of offices and asked them to complete it as best they could and to submit a written commentary which would help in the preparation of a record-keeping instrument for future use[1].

Most offices realized that some record-keeping was inevitable; indeed, their 1976/77 contract with the Legal Services Commission lists the type of information that is wanted. However, staff and Board members repeatedly said that they had received little guidance from the Legal Services Commission regarding record-keeping techniques and the type of information required; perhaps more importantly, they complained of not receiving any feedback from the Legal Services Commission regarding the reports that had been submitted. As a result they tended to see such forms as yet another time-consuming task with no real benefit to themselves.

---

1. We feel that this is a matter of considerable importance and that any forms designed should prove adequate for administrative purposes and at the same time be useful for future evaluative purposes, whether by the Legal Services Commission, the CLO itself, or any outside body.

So far as the Legal Aid offices were concerned, the statistical data were obtained both from the Legal Aid Head Office and from the computer print-outs prepared by Justice Information Systems (J.I.S.). However, these data, although important, are not entirely satisfactory, largely because the records are kept primarily for administrative and management purposes, and are mainly concerned with issues such as cost and efficiency, and the apportionment of funds[1].

Although the Legal Aid application forms from which J.I.S. derives its information are designed to include details of the financial status of those receiving or denied legal aid, at the time the research was undertaken this was not completed on a large number, or even a majority, of the forms. Again, the computer programs prepared by J.I.S. were designed to serve the puposes of the Legal Aid Society, and although we were able to obtain a few additional programs, we were told that due to budgetary restraints and the extra working time which would be involved, J.I.S. would not be able to set up any further programs for us. Furthermore, information for the first quarter of the year had not been fully fed into the system, and we therefore had to rely upon varying three-month periods between January and June, 1976.

It should also be borne in mind that it is the Legal

---

1. In a memorandum dated August 1975 the Acting Director of the Legal Aid Society requested that all regional offices keep a record of their time on a percentage basis (criminal, family, civil and administrative). When interviewed very few staff lawyers were able to answer this question.

Aid Society which is the client of J.I.S.; as a consequence a request for statistical information from the Legal Services Commission (as the provincial funding body) was no guarantee that the desired information could be released to the research staff.

In addition to statistics with respect to Legal Aid, we also attempted to obtain information from J.I.S. on all court cases in B. C. (whether legally aided or not) in order to see whether this provided additional information concerning legal representation. Such a computer system is currently being implemented, but is presently restricted to Provincial Court, and only includes about one-third of all cases. However, even this information is said not to be collated in a consistent way, and includes only some cases of some Provincial Courts; it has therefore not proved useful to us for comparative purposes.

In view of the foregoing it is important that readers interpret such statistical material as is presented in this report with considerable caution.

It must also be borne in mind that there are also considerable limitations to the non-statistical data presented here. Foremost amongst these is the fact that legal services have necessarily been viewed exclusively from the point of view of the providers of the service. The main purpose of our visits to individual offices was to try and gain a quick appreciation from those working in them of exactly what they are doing, how the work is allocated, who does what, what courts are being served, and what their relationships are with other agencies and institutions in the area, with the Head Office of the Legal Aid Society in Vancouver and with the Legal Services Commission. Fi-

nally we asked the staffs for their thoughts, based on personal experience, as to how the delivery of legal services might be improved both in their particular geographical area and throughout the Province.

We had no opportunity to interview clients, nor to consider their views as to ease of access, quality of service, or relevance to their needs. This is particularly unfortunate since, as we hope to show, it seems likely that both structural and perceptual factors may well result in a considerable number of people not receiving the help they need[1].

Studies carried out elsewhere have for some time recognized that there can be no absolute standard of legal need[2] and any adequate study of the subject would have to take account of such major questions as the role, or potential role, of the legal system in society, the factors which determine the availability or otherwise of certain types of services, the interconnections between various services and their relationship with other institutions, and the potential ability of those with

---

1. Examples of structural factors which impede access might be the positioning of offices, an insufficiency of lawyers, and financial stringencies. Perceptual factors might include a lack of education, a lack of awareness that problems are susceptible to a legal solution, intimidation, or the fact that definitions of social and legal need tend to depend upon the training of those who are first approached by the client.

2. See for example, Morris P. et al, Social Needs and Legal Action, Martin Robertson: 1973. Also Bridges et al, Legal Services in Birmingham, University of Birmingham: 1975. and Messier, C. In The Hands of the Law, Montreal: 1975.

problems to command the use of such services[1].

Another inherent, and important limitation of this study lies in our inability to evaluate the quality of service offered[2] although, as was mentioned earlier, where the opportunity occurred to attend court with lawyers or paralegals, or to sit in at interviews with clients, this was done. However, time limitations prevented such activities being undertaken on a systematic basis. Furthermore, as was made clear to those concerned, we made no attempt to evaluate individual offices. What has been attempted here is, in the main, a descriptive overview of the services provided, one which it is hoped will permit the Legal Services Commission and those responsible for formulating policy to make better informed decisions regarding future developments. The data thus collected have then been subjected to critical analysis by the authors, who have linked their discussion to the views and suggestions put forward by those currently operating the service.

Finally, in preparing the report we should make clear from the outset that this analysis and discussion have been carried out in a very broad context, one which does not necessarily take for granted the current structure of the law or legal services. Had we done so, any failings within the system would have been seen as arising from the poor co-ordination or delivery of existing services, or from a lack of awareness on the part of

---

1. Given adequate time and a mandate so to do, it would have been desirable to include a more formal series of interviews with members of the Judiciary, the Bar and other social agencies.
2. Quality control is an issue which was discussed with the offices concerned and will be commented upon later in the report.

those with problems as to what the law and legal services can provide. Such an approach would, in our view, be lacking in innovation, and would necessarily lead to a view of the situation from a static perspective requiring only 'more of the same' rather than questioning the very basis upon which legal services are provided. In the light of current economic and social trends, we believe this wider approach may lead policy-makers to seek solutions which will result in a more rational use of scarce resources, to the greater benefit of the group to which government funded legal services are stated as being directed.

B. THE DEVELOPMENT OF GOVERNMENT FUNDED LEGAL SERVICES IN BRITISH COLUMBIA

a) History[1]

Until 1952, no organized system of legal aid existed in British Columbia, although voluntary services were provided by some members of the Bar. For example, in 1949 a free legal aid clinic was opened in Victoria by the Victoria Bar Association and in 1950 the Vancouver Bar Association opened a similar clinic. At these clinics, advice was given to an eligible person if that was all that was required. If further measures were needed, an application might be made to the Secretary of the local Legal Aid Committee for referral to a lawyer willing to act without fee.

In 1952 a province-wide legal aid plan was introduced and operated by the Law Society in co-operation with local Bar Associations. Procedures for holding clinics and referring cases were established, and lawyers were recruited to man such clinics and to handle such cases. All legal services were provided on a voluntary basis, free of charge to the applicant. Coverage of the plan included both criminal and civil matters, although there were a number of specified exclusions and restrictions in civil cases. Financial eligibility was not fixed, but

---

1. Much of this section relating to legal aid is a summary of The Delivery of Legal Services in Canada prepared by Ian Cowie, the Federal Department of Justice, Part I Provincial-Territorial Legal Aid Programmes, Ottawa: 1974. See also Legal Services Commission. First Report, March, 1976, Chapter 1.

each case was decided on its merits.

In February, 1970 the Legal Aid Society of British Columbia was incorporated under the Societies Act with the objective of administering a program of legal aid in both civil and criminal matters throughout the Province to all persons unable to afford legal services, although there still remained a number of exclusions and restrictions. The Society has a Board of Directors comprised of twenty-two persons, most of whom are appointed by the treasurer of the Law Society: currently there are sixteen lawyers and six lay people serving on the Board.[1]

In 1972 the Province and the Federal Government entered into a cost-sharing agreement for the provision of legal aid in criminal matters and in 1973 a tariff was determined for civil matters, but this covers exclusively family law; for all other civil cases only disbursements are paid, with costs being recoverable and payable to the Legal Aid Society.[2]

---

1. There is no formal executive committee, but on occasion the Chairman, Vice-Chairman and Treasurer act informally in that capacity.

2. It may be relevant to point out that in British Columbia the provisions for criminal and civil schemes are administered in a similar way; furthermore, the legal aid scheme makes no distinction between aid and assistance. Both these points are important factors in the adminstrative arrangements pertaining to legal aid and assistance in England and Wales where they are handled differently and they are matters which may be thought to warrant consideration in this Province.

In 1973 the Legal Services Division of the Attorney-General's Department began receiving applications for funding from a number of community groups which were providing socio-legal services on an ad hoc basis, some of which were utilizing para-professionals.[1]

In December 1974 the Justice Development Commission's Delivery of Legal Services Project presented its report (the Leask Report), calling for the creation of a Legal Services Commission. In his report, Leask claimed that "a reasonable estimate would be that three-quarters of their [economically disadvantaged people] problems are not covered by a legal aid tariff". He referred to the social diversities, economic disparities and geographical differences which he believed characterized the different communities in B.C., and recommended that a single method of delivering legal services throughout the Province would be inappropriate. He opted for a decentralized system which would allow each community to choose the type of legal services it needed.

A central agency would, he argued, be needed to formulate policy, to help local groups define their problems, to assist in their organization, and to act as a funding body. Leask recommended the creation of a nine-member Commission, staffed with lawyers, community development workers, educators and researchers. The Legal Services Commission Act[2] was passed by the

---

1. Those applying included the local offices of the B.C. Civil Liberties Association, the Vancouver People's Law School, the Matsqui, Sumas and Abbotsford Community Services Society, Nanaimo AID, and VCLAS.

2. S.B.C. 1975, c. 36.

Legislature and came into force on August 1, 1975 with the Commission formally coming into existence on August 14 of that year and starting work on September 1. One of the main differences between the Act and Leask's recommendations concerns the number of Commissioners; under an Order in Council, five Commissioners were to be appointed, two by the Lieutenant Governor in Council, two by the Benchers on the Law Society of British Columbia, and a fifth by the Attorney-General of the Province after consultation with the Minister of Justice for Canada. The Commission is a Crown Corporation, not covered by the Public Service Act, and Commissioners are appointed for a period of two years; this can be renewed up to a maximum of six consecutive years. Two of them are full-time (one of these, the current Chairman, being a lawyer and the other a social worker) and the remaining three are part-time (two of them being lawyers). The object and purpose of the Legal Services Commission is ". . . to see that services are effectively provided to, and readily obtainable by, the people of British Columbia, with emphasis on those people to whom those services are not presently available for financial or other reasons".[1] The functions of the Commission include planning the development of legal services in the Province and aiding in the establishment and funding of organizations wishing to deliver these.

The creation of a Legal Services Commission presented organizational problems, many of which remain unresolved today; these will be discussed at some length in later sections of this report. As indicated above, responsibility for the provision of legal services is vested in the Legal Services Commission which

---

1. op. cit. Sec. 3.

funds, either partially or totally, the groups or societies operating the individual CLOs and the Legal Aid Society which operates the LAOs. However, whilst policy-making and the day-to-day working of these latter offices remain largely within the purview of the Legal Aid Society with its centralized Board of Directors, over-all policy relating to the nature of the work to be undertaken by CLOs is set out in the contracts between them and the Legal Services Commission, although their day-to-day running is in the hands of local Boards of Directors.

In addition to the establishment of CLOs, the Legal Services Commission has a responsibility for public legal education, including education in the schools, the training and education of para-professionals, legal information services, and a Native Program which includes the funding of the Court-workers Association. No detailed study of these services is included in this report, but reference will be made to them as they affect the work of the LAOs and CLOs.[1]

b) Current Provisions

The Legal Aid Society operates fourteen full-time regional offices which employ thirty staff lawyers who handle all applications for civil and criminal legal aid in their geographical area.[2] As well as the salaried lawyers, cases are referred to lawyers in private practice,[3] and in addition, the

---

1. Section 7 of the Legal Services Commission Act sets out further responsibilities not all of which are reflected in current services or studies but which involve planning and consultative time.
2. Plans are in hand to open two further offices when funds are available.
3. The variations as between policy and practice in the actual operation of this division of labour will be discussed later in the report.

Society retains private lawyers in twenty other locations to act as part-time Area Directors. These lawyers receive applications, determine eligibility, and make referrals to lawyers (including themselves) in their own area.

Four Community Law Offices each employ a full-time salaried lawyer in addition to their paralegal staff; in seven offices, only the paralegals are full-time salaried employees (other than secretaries) and lawyers are retained on a part-time basis. Three of these CLOs form one arm of a wider network of voluntary social services (i.e. 'Victoria Community Action Group', 'Nanaimo Association for Intervention and Development', 'Matsqui-Sumas-Abbotsford Community Services Council'), all of them employ full-time salaried lawyers.

There is, in addition, a more specialized office operating in Vancouver, its principal concern being class actions and test cases. It also offers advice Province-wide to CLOs and LAOs (as well as to other groups and agencies) in areas of law which are relatively new to those working in them (mainly welfare law). This office (Vancouver Community Legal Assistance Society - VCLAS) employs five full-time lawyers, and most individual applicants who are not given summary advice over the telephone are referred to other agencies, in particular the UBC law school student clinics which VCLAS supervises[1].

Secretaries are employed in both the LAOs and CLOs; in some they perform other functions in addition to their

---

1. It must be remembered that throughout this report we have excluded the offices in the Queen Charlottes and Merritt (see f.n. 1, page 4).

secretarial duties; for example, the interviewing and screening of clients, as well as making referrals to other agencies or lawyers in private practice. In a few instances they operate (largely unsupervised) the Canadian Bar Associations' lawyer referral system.[1]

c) Finance

One of the most controversial areas of debate concerning the delivery of legal service relates to finance. Although we do not intend to deal at length with this issue, this section will provide some idea of the amount involved and its distribution among various service areas.[2]

In the 1975/76 fiscal year, approximately $7,543,166 was allocated to the delivery of subsidized legal services in British Columbia. Of this amount, $1,604,500 was contributed by the Federal Department of Justice, $5,244,176 by the Province, $674,990 by the Law Foundation of British Columbia, and $19,500 by the City of Vancouver.

From this total of $7,543,166[3], $5,914,684 was expended by the Legal Aid Society, including $3,668,175 for referrals under the criminal tariff, $907,893 for referrals under the civil

---

1. This is a system whereby those not eligible for legal aid may be referred to a local lawyer who will provide advice for half an hour at a flat fee to the applicant which varies between $5 and $10 in most cases.
2. It must be emphasized that the following figures are only approximations as the information provided by the Legal Aid Society and the Legal Services Commission was not always comparable since the Commission only commenced operation in September 1975 and money spent prior to that had to be estimated.
3. Legal Services Commission. First Report, March, 1976. p. 42.

tariff, and $1,338,616 for administrative and other costs including the salaries of staff lawyers;[1] thus 77% of all Legal Aid Society expenditures were directed to the private Bar. Approximately $694,630 was allocated to various CLOs throughout the Province for salaries, administration and service delivery.[2] Given the scope of the Legal Services Commission operations, however, it is impossible to estimate the support and head-office administrative costs incurred by the Commission on behalf of the various offices.

For the financial year 1976/77, the number of both LAOs and CLOs were projected to increase substantially, and bearing this in mind, as well as inflationary costs, according to the First Report of the Legal Services Commission, the expansion budget as submitted for that year rose to a total of $15,402,300 with $13,749,050 as the expected provincial contribution, $2,153,250 as the expected federal contribution, and $500,000 as the expected contribution from the Law Foundation of B.C.[3]

In practice, the budget for the year was substantially cut, the total figure being $9,278,847 of which $6,055,000 went to the Legal Aid Society[4] and approximately $815,000 to the

---

1. Legal Aid Society of British Columbia. Annual Report, 1976. pp. 6, 8.
2. Legal Services Commission. First Report, March 1976. pp. 59-62.
3. No one appears to have remarked upon the fact that the total of these expected expenditures amounts to $16,402,300; one million dollars more than the estimated expansion budget. Legal Services Commission. First Report, March 1976. pp. 47.
4. Confirmed in written communication from the Legal Services Commission, December 16, 1976.

Legal Services Commission for expenditure on CLOs.[1] Thus, in the 1976/77 fiscal year, approximately 65% of the total budget was allocated to the Legal Aid Society and about 9% directly to CLOs. The remaining monies were allocated to the adminstration of the Commission and the funding of and support for its other programs and services, including Public Legal Education, Native Programs and Courtworker Services, and Legal Information.

d) Eligibility for Legal Services

(i) Legal Aid Offices[2]

The economic guidelines for eligibility are couched in very general terms, and each case is dealt with on its own merits.[3] The decision as to whether or not an applicant is financially eligible to receive Legal Aid is theoretically made by the lawyers working in the individual offices, though in practice the decision is often delegated to the secretaries who, in most offices, are responsible for the 'screening' of applicants. Applicants are requested to complete a form which includes details of

---

1. Estimated from 1976/77 proposed contracts between the Legal Services Commission and CLOs.
2. This section deals with the policies as laid down by the Legal Aid Society. The actual operation of the criteria will be discussed in that section of the report dealing with visits to the offices.
3. "A person qualifies for legal aid when requiring him to pay legal fees would impair his ability to furnish himself or his family with the essentials necessary to keep them decently fed, clothed, sheltered and living together as a family." Undated paper circulated by the Legal Aid Society and sent to the writers of this report July 21, 1976.

their financial position. No other body is responsible for checking the accuracy of the information thus obtained, nor are the individual offices required to check with other sources on the information given by the applicant.

Prior to September, 1974, pursuant to the Federal-Provincial cost sharing agreement, criminal offences which qualified for Legal Aid were as follows:

1. all indictable offences;

2. all summary conviction offences under federal legislation in which there is a substantial likelihood that, if convicted, the accused will lose his means of earning a livelihood, or will go to jail;

3. offences under the Fugitive Offenders Act and the Extradition Act;

4. other criminal cases evidencing special circumstances;

5. Crown appeals for any of the above offences;

6. appeals by an accused for any of the above offences, where it appears that a substantial miscarriage of justice is involved.

In September, 1974, the provincial government agreed to extend coverage to include all summary conviction offences under the Criminal Code, the Food and Drug Act, and the Narcotic Control Act. In April, 1976, however, the extended coverage was cancelled due to budgetary considerations.[1]

---

1. Some of the implications of this cut-back will be discussed in a later section of this report. See p. 109 ff.

(ii) Community Law Offices

The funding contract between the Commission and the CLOs requires that the latter apply the legal aid financial eligibility test. Whilst some offices indicated that they followed these guidelines, most appear to give information and advice to anyone who comes through the door.[1]

---

1. In a written communication the Chairman of the Commission writes: ". . . they should restrict their handling of cases [our emphasis] to those who are financially eligible under the Legal Aid Society's criteria". In a subsequent section of the report we shall refer to the vagueness of even these criteria see p. 97 ff.

PART 11

THE STUDY OF COMMUNITY LAW OFFICES AND LEGAL AID OFFICES

A. COMMUNITY LAW OFFICES

According to the First Report of the Legal Services Commission

> "...the philosophy [of the offices] being that just as a wealthy person can hire a lawyer to perform services that he requires, the Legal Aid client should be able to have some say in the type of services available to him. Therefore, rather than just having legal aid available to defend clients on criminal charges or to aid in Family Court, these community societies set up offices which will help their local citizens with Welfare appeals, Workers' Compensation, Landlord and Tenant problems, Unemployment Insurance, Small Claim cases, discrimination, civil rights, pensions and other miscellaneous battles that individuals often have with government bureaucracies. The offices also help organize disadvantaged citizens into citizens groups or tenants organizations to assist them in making representations to civic and provincial governments about matters affecting them. These are all services that traditionally have not been handled by the private Bar or by the Legal Aid Society."[1]

In this section of the study we shall hope to give what of necessity can be no more than an impressionistic and over-simplied account of how the offices worked, how they varied, how accessible they were, the problems they experienced and

---

1. Legal Services Commission, First Report, March, 1976. p. 12.

the nature of their relationships with other organizations and with the funding body. Intentionally, a checklist of items to be covered was used, rather than a structured interview schedule so that it was left to the researchers to follow up what appeared to be particularly relevant questions and issues, depending upon the particular office and its activities. The views expressed here do not necessarily include or exclude all the offices visited; we have used the material thus obtained in order to illustrate and highlight the general nature of the work undertaken and the problems experienced.[1]

a) Location of Offices and Hours of Opening

It must be borne in mind that CLOs are relatively new in British Columbia. Some organizations have provided service for a considerable time, but the year in which they can be said to have begun offering identifiable legal services is as follows: two started in 1971, three in 1972, one in 1973, four in 1974, and two in 1975.[2]

'Find the office' soon became a standing joke with the researchers. At the time the field work was carried out (mainly in June and July, 1976) almost all the CLOs visited had either moved within the preceding few weeks or were about to do so: one was even moving on the day of our visit and the morning

---

1. We apologize if there are those who feel we have not given them sufficient credit for the work they undertake - in some cases this may have arisen as a result of our desire to assure anonymity.

2. This covers only those offices included in the study.

interview took place elsewhere. Unfortunately, even when the removal had taken place some few months previously, the files in the Commission's Office did not necessarily record such information accurately, nor was information up-to-date concerning the names and number of staff employed, a situation resulting in some embarrassment to the researchers.

Once found, offices were most frequently on the second floor above shops or other offices, a situation which was usually explained by the relative cheapness of such accommodation as compared with anything available at street level.

Perhaps less easy to understand was the fact that relatively few offices gave any clear indication of their existence at ground level, so that unless potential clients were very determined, they were unlikely to be aware of the existence of the CLO, and even less likely to know the nature of the service offered. On the other hand, offices situated on the ground floor were likely to have displays of leaflets and posters which might attract the attention of passers-by. With one exception, the siting of the office was not said by the staff to present a problem; however, in subsequent discussion many of them mentioned comments made by clients to the effect that they wished they had known earlier of the existence of the CLO, or that friends and relatives might have benefitted from the service had they known of it. From our own observation, there was clearly a different atmosphere in those offices at street level, though we have, of course, no evidence that the number or type of clients receiving service, or the nature of the service provided, differed in any way as between offices at ground level and those upstairs. Undoubtedly it must have made it difficult for elderly or disabled

people, or those with young children, to reach the office, but the fact that this seemed to go unremarked may be associated with the fact that few, if any, offices did anything much to advertise their services. They claimed that this was due to considerations of cost and to the fact that they were fully occupied with those clients who did manage to find their way through the door.

All offices were open Monday to Friday, from 9:00 a.m. to 5:00 p.m. or 8:30 a.m. to 4:30 p.m.: one office made special arrangements with its parent body for after-hours crises, one would see clients after hours by appointment, one stayed open until 9:00 P.M. once a week, and one ran occasional evening workshops. One particular office, situated up two flights of stairs, insisted that all visits should be by appointment only, on the grounds that too many people drop in otherwise (sic). Another office tried an evening clinic for a few months but stopped this as it was said not to be sufficiently well-attended.

It is, of course, difficult to say to what extent the fact that most offices do not make much effort to publicize their availability in turn accounts for the perceived absence of demand for occasional evening or Saturday morning openings. The staff claim that since a high proportion of their clients are unemployed, they would be in a position to call during normal working hours. We were, however, left wondering whether the idea of placing a card in a window or door on the ground floor, giving a number that callers could ring if they found the office closed, might be at least worth trying. The phone could be manned on a rota system to include Board members. This seems particularly important in view of the fact that local government departments are closed at such times and problems are no respecters of office hours.

In one office, not at all centrally located, the paralegal did not see the location as problematic, but the courtworker commented that there were about twenty people whom he saw regularly, but informally, in bars or on the streets, and who received help from him, yet who never came to the office.

There is, too, a very considerable problem in relation to the rural and remote areas; a few offices made attempts to visit and to run clinics in these areas once a week, but with one exception it was not done on a systematic basis, and in winter travelling conditions often made such ventures almost impossible. In the one exceptional case, the office was also making a real attempt to establish relationships with the Native Indians by visiting the reserves. Where, as in some places, there was a close working relationship between the CLO and the native courtworker this was clearly advantageous, but it appeared that courtworkers were for the most part already fully occupied either in Court or on the reserves, and the contact with CLOs whilst good, was often limited.

Certainly, without carrying out a study of the need for legal services, and making contact with those who have not used the offices, yet who experience problems and so might benefit from the help given by a CLO, there is no way in which the Commission can be assured that the offices are meeting the needs of the community even in <u>quantitative</u> terms, let alone in relation to the nature and quality of the work being undertaken.[1]

---

1. We should make clear that we do not think that any study of needs is required: in the first place there is no satisfactory way of defining legal need, and in the second place the need for additional services of a purely legal, as well as socio-legal, nature is so great and so obvious that to quantify it would be otiose and would involve the use of funds which could be used to better advantage for the benefit of clients.

It was frequently said by staff and Board members that CLOs are informal places in which clients feel comfortable and able to discuss their problems easily and freely. The impressions of the researchers are obviously subjective in this respect, but it would probably be fair to say that most centres offered (or were in the process of doing so) reasonable facilities for interviews to take place in privacy, and an atmosphere of informality prevailed. Indeed, under certain conditions it might be argued that some clients would have preferred a more structured or formal setting, one which gave a more 'professional' appearance without at the same time insisting on a host of bureaucratic procedures. Unfortunately, in the absence of any survey of clients, this matter cannot be taken further.

b) The Management of CLOs

A fundamental aspect in the policy of decentralization, according to Leask, was "the involvement of local people in the perception of, and solution of, local problems". The Legal Services Commission acts as a funding agent and facilitator in the provision of legal services, but the responsibility for actually providing such services rests with the individual CLOs which are incorporated societies (or in the process of becoming such) with a Board of Directors ranging in number from seven to fifteen, and a general membership varying between twenty-six and one hundred seventy-nine. These societies mainly date back to 1974 or 1975 although in many instances they previously operated under the umbrella of other organizations; these included a local Civil Liberties Association, the Matsqui-Sumas-Abbotsford Community Service Council, the John Howard Society, the Victoria Community

Action Group, and the Nanaimo Association for Intervention and Development. Since their contracts for the delivery of legal services are now with the Legal Services Commission their role has, theoretically, changed with an increased emphasis on legal as opposed to more generalized social services.

The Boards of Directors are responsible for the day to day running of the offices, for the appointment and dismissal of staff, for the handling of monies, and theoretically, for the decision-making as to the type of work undertaken by staff, though as we hope to show, in practice this varies considerably as between offices. Furthermore, all formal contact between the Legal Services Commission and the individual offices is supposed to take place through the Chairman of the CLO Board, although again in some places, this means little more than the signing of letters which have been drafted by staff members.

The Commission lays very considerable stress on the importance of these Boards and regards them as crucial in ensuring that the best interests of each community are served. In our discussion with the Commissioners we enquired about the personal qualities and type of skills they hoped Board members would possess; in reply, emphasis was always placed upon their 'representative' nature and their knowledge of local problems. In practice, considerable difficulties are present in both these respects and there are, in addition, other problems. In the first, place a very high percentage of Board members work in the professions or managerial occupations - lawyers (in small numbers), social workers, teachers, and government employees; most of the remaining members are middle class housewives or described, more coyly, as 'home-makers'. Only in one centre did we find a representative of the police. Businessmen, union representatives and clients or potential clients were only rarely represented.

This over-weighting of professionals and the restricted type of background from which members are drawn inevitably brings into question the degree to which Boards are representative of either the community as a whole or the community to be served. Indeed such a composition reflects a denial of the conflicts of interest endemic in any society; with certain exceptions Boards can be described as 'middle class and middle of the road', performing a largely administrative function and, as we shall hope to show when discussing the service offered, anxious to avoid any political involvement of a controversial nature within their communities.

Since most Board members had full time jobs, as well as family commitments and busy social lives, the extent to which they were able to participate actively in the running of the centre varied considerably, but was for the most part very circumscribed. Most Board members said they would expect to be 'consulted' first if the staff wished to take up any controversial issues, and so long as this procedure was adhered to, with the exception of the Chairman and some of the lawyers, their involvement was not very great and they relied on staff members to keep them informed.

In its First Report for 1975/76 (p. 12) the Legal Services Commission posits that "the legal aid client should be able to have some say in the type of services available to him . . . " If this comment is to be interpreted in any meaningful way, it would seem to us that the present composition of the Boards and the method of their election (often no more than selection by staff and existing Board members) allows for little or no input

by clients regarding the nature of services available, and makes a mockery of the concept of community participation.

Two important and inter-related points have to be borne in mind: in the first place, despite the emphasis placed by the Commission upon offering service to disadvantaged people, most Board members (and staff) felt that as a community law office they had a responsibility to help anyone who asked for assistance.[1] Indeed the terms of their contract with the Legal Services Commission explicitly states that "Information and Referral Services shall be available to anyone" (Schedule A, Section A(1)). The nearest the offices came to making any distinction amongst their clients was to differentiate between 'advice' and 'assistance' - anyone being automatically entitled to the former, but assistance in the form of taking some action on behalf of a client being more likely to be reserved for those without means. This widely held view regarding everyone's right to advice must be viewed in the light of the background of Board members; they, and the staff, are often dependent for their livelihood, and frequently their social contacts too, on those very people who may be perceived by disadvantaged clients as a cause of their problems, for example the personnel in government departments, lawyers, landlords and the police. There is, as a consequence, a very strong desire on the part of most Boards not to 'rock the boat' by involving themselves in issues which may bring them into conflict with those associates whose activities impinge on other aspects of their daily lives.[2]

---

1. This will be discussed further in the section on delivery of service.

2. It was subsequently pointed out to us by a lawyer that another type of Board member could be described as the "professional troublemaker" . . . "whose main object is to grind a personal axe . . . [and] to ignore the worthwhile purposes and aims of the organizations."

It might be argued that the policies and objectives put forward by the Legal Services Commission for CLOs could be viewed as being to some extent contradictory, a situation which is in turn reflected in the composition of the Boards. On the one hand the offices are "to provide legal services for the lower income and disadvantaged sections of their community . . . to help local citizens . . . [in respect of] miscellaneous battles that individuals often have with government bureaucracies" - in other words to provide an individualized casework service in a similar manner to that provided by the lawyer in private practice for more wealthy clients. On the other hand the offices are "to help organize disadvantaged citizens' groups or . . . tenants' organizations . . . to assist them in making representations to civic and provincial governments", in other words to act as an instrument of change, and as a resource, to the residents of deprived areas in order to further their collective interests. If indeed CLOs are to perform this latter function, as far as possible policy decisions will need to be made by representatives of the deprived areas and by disadvantaged citizens themselves, rather than by members of professional bodies, government employees, or welfare workers, whose jobs are to provide <u>individuals</u> with assistance.

To imagine that any Board can be truly representative of a community is naive in the extreme, but if the disadvantaged or the deprived citizens are to have their interests represented, then members of tenants' organizations, local organizations of workers, pensioners, physically and mentally disabled persons (or their relatives) should control the policies of CLOS. These are the groups best able to express their collective needs in relation to housing, development schemes, employment

policies, etc., and the staff of the CLOs should be available to help them achieve their ends. These will not be achieved so long as the policy of the CLO is controlled by people who have much to lose by any genuine transfer of power. Unless the 'political' (with a small p) implications of CLOs are recognized, the services they offer will consist of an endless supply of band-aids and bandages.

This is not to say, of course, that no resources should be devoted to individual clients. Clearly their interests must be represented; it is a question of balance and priorities, one which to date has not been adequately addressed.

c) Staff

In their First Report[1] the Legal Services Commission distinguished between CLOs - offices with a full-time lawyer on staff, and Community Legal Information Centres - offices staffed by paralegals but having access to lawyers either as consultants, advisors, supervisors or for referral purposes. As we shall hope to show, the distinction is largely one of semantics and, with one possible exception, has little relevance for the work undertaken.[2,3]

---

1. op cit 12.

2. See later, p. 57.

3. In a subsequent communication the Chairman of the Legal Services Commission states: "We have always tried to avoid referring to the paraprofessional staff in the community offices as 'paralegals', because the word is so differently interpreted by everyone. It tends to connote a certain status, whereby we think the proper use of the word is as an adjective to describe a type of work undertaken. This is why we have used the term 'legal information counsellor'. We understand Saskatchewan uses the term 'legal information worker'."

At the time the study was carried out, only four offices had staff lawyers.[1] The consulting or supervising lawyers used by other offices were most often paid on a retainer basis, usually $500 per month; less often it was on an ad hoc fee-for-service basis, usually $50 per hour. Where CLOs were located in the same town as Legal Aid offices, the legal staff of the latter often served as unofficial legal consultants to the CLO.

Almost all the offices employed two paralegals,[2] most of whom had some background in social or welfare work,[3] a few had three and one had five such staff. So far as is known by the researchers, in only one office had the paralegals themselves been welfare recipients. All offices had one secretary and with rare exceptions (and then mainly in a secretarial/receptionist capacity), little or no use was made of volunteers. In discussion with staff and Board members the general feeling appeared to be that it would be difficult to assimilate volunteers since they require much direction and are thought to lack job continuity. In one office the lawyer also commented that "the Bar would take exception to volunteers giving legal advice".

It is perhaps worth noting that when questioned about the use of volunteers, no one thought that we might also be referring to the use of practicing lawyers acting in that capacity.

---

1. This does not include VCLAS which is staffed exclusively by lawyers and secretaries.

2. Throughout this report this term is used interchangeably with legal information counsellors.

3. This is not an appropriate arena for any discussion of the distinction between social work and welfare work, but if the former is conceived of as being primarily concerned with case-work posited upon neo-Freudian theory, then what is offered in CLOs could better be described as 'welfare'.

When it was put to them, the idea was usually met with firm assurances that no such expectation should be considered; as one consulting lawyer put it (also a Board member) "lawyers are in business to make money". This situation is particularly interesting in view of the fact that volunteer lawyers constitute a major source of help in many similar types of offices both in the UK and the USA, and previously did so in British Columbia prior to the present legal aid scheme. The staff of one CLO thought that many lawyers would be willing to do free work and to contribute their time to giving advice, but they went on to suggest that the justice system is currently so disorganized that there is no way of tapping this resources.[1]

According to the paralegal staff, lawyers - whether full time or in a supervisory capacity - tended to dominate the office by the very nature of their status as professionals. One staff lawyer described the paralegals in his office as "dedicated, conscientious and competent", and whilst other lawyers used slightly different terms, with two exceptions the general impression given reflected similar views, and heavy stress was laid upon their social work abilities: if they were women, this was particularly the case with regard to family matters.

In two of the four offices employing staff lawyers the latter were particularly fearful lest the paralegals should be seen to be practising law. In the other two offices such fears seemed minimal and the atmosphere was generally one of co-operation rather than competition or conflict. Indeed we learned of only two examples of problems having arisen either

---

1. In a subsequent communication, one legal aid lawyer expressed the view that "Legal Aid fees should remain quite low so that they will not appear too attractive to the greedy and the unscrupulous of our profession". He added: "When there is no remuneration you probably get the better lawyers participating as experience has shown me that there is a strong tie between legal ethics and competence". (Private communication November 17, 1976)

with respect to the competence of paralegals or their practice of law; we had no means of checking on the veracity of the complaints in these two cases.

Reference was made earlier to the fact that different facets of the aims of CLOs, as set out by the Legal Services Commission, might lend themselves to different Board compositions. This is even more evident in relation to staffing. The fears that currently exist about the practice of law by paralegals continue to exist essentially because of the emphasis placed on individual client services as distinct from community development work (Sections A & C respectively of Schedule A in the Legal Services Commission contract with CLOs).

If CLOs are to undertake this latter type of work (and this is by no means the case at present as we shall hope to show) then they will need to employ staff with a wider range of skills than at present, in particular community workers, research and development workers, and at least on a consultancy basis, accountants, planners, economists and so forth. Furthermore, such staff will need to learn to work as a team, as will the lawyers, and to work with individuals and groups from all sections of the community which they are employed to serve, a situation which may bring them into conflict with their employing Boards as at present constituted.[1]

The expansion of community development work would, in certain circumstances, result in a more economical use of scarce resources, insofar as the effective solution to the problems faced by low income groups may require the lawyer to direct

---

1. It has subsequently been suggested to us that "Board members tend to be either quite far right or quite far left in their political philosophy". If this is true, concensus must necessarily be difficult to achieve and this may be a contributory factor in the cautious approach adopted by many boards.

his attention away from the individual client and towards a class or group of clients, in order to challenge more directly and with greater impact, certain structural sources of injustice.[1] But equally important from the point of view of the present discussion, namely staffing, it would lessen existing fears expressed by members of the legal professional that paralegals may be usurping the work of lawyers.

It was suggested to us by some CLO lawyers that they viewed their job in connection with CLOs as being partially that of a social worker. It is certainly questionable whether there should be such a blurring of roles; it could be argued that innovative methods of working could best be achieved by re-defining and extending the legal role of the lawyer. A lawyer working in a CLO where community development received high priority might be expected to use his legal expertise and his training in client-centered advocacy to assert the rights of the underprivileged, and to ensure that those currently exerting power within the community were not able to abuse it by some technicality or infringement of regulations. As one eminent lawyer has written "the poor have rights that the majority must recognize even if it is not feeling generous, and even if its larger economic goals are not served thereby"[2] (present writers' emphasis). In addition to representing individual clients and groups in these ways, lawyers operating within such a framework might need to devote a considerable amount

---

1. On this see Carlin J., Howard J., and Messinger S., Civil Justice and the Poor, N.Y.: Russell Sage Foundation, 1966.

2. From a review by Ronald Dworkin of Martin Mayer's book, The Lawyers reprinted in Schwartz R; and Skolnick J. (eds) Society and the Legal Order, N.Y.: Basic Books, 1970.

of time to studying the adequacy of existing law and legal institutions, otherwise the solutions offered would remain circumscribed by today's legislation, as well as by current procedures. A further advantage to this emphasis on new and largely underdeveloped areas of legal expertise lies in the fact that it would leave lawyers much less time to worry about the work being done by those colleagues in the office with different sets of skills and expertise. Furthermore, it should obviate the fear sometimes expressed by lawyers that the nature of the legal work available in CLOs may become boring.

d) Relations Between Boards and Staff

As was mentioned earlier, a few CLOs formed part of an umbrella organization and worked under the auspices of a Board which covered the entire operation. With one exception, and even here there were reservations, this was not viewed by the staff as entirely satisfactory, since the Boards are necessarily preoccupied with the wider services provided by the entire organization and appear to be less interested than might be expected (bearing in mind their terms of reference under the contract with the Legal Services Commission) in the specific work of the CLO. Certainly they were not felt by staff members to be sufficiently aware of what was happening in the CLO, nor to devote enough time to its activities. In one such situation the researchers felt that the high proprtion of professionals on the Board led to a concern with 'keeping their own thing going', e.g. child welfare, mental health, drug and alcohol counselling, marital counselling, etc.[1]

---

1. There could also be situations in which a conflict of interest arose as between the different elements in the organization.

To meet this problem, plans were in hand to set up a specific advisory committee for the CLO, and meanwhile the staff were "trying to educate them [members] in order to get more involvement". This particular Board did not see clients as suitable for Board membership, although there are in fact two ex-welfare recipients on it.

A second office which has the same structural arrangement, already had a separate advisory committee which served as liason between staff and Board. This seemed to work reasonably well, but this was probably due to the fact that the office was exceptional insofar as it adopted a 'consumer approach' to problems, i.e. service to the client was the main concern, and staff took problems to the Board and expected its members to use their resources as and when necessary. There was less preoccupation with administrative hang-ups and bureaucratic decision-making than in many other offices visited.

In a third office with an 'umbrella' type Board structure, but with no separate advisory committee, relationships were said to be good, and the Board appeared to be a fairly strong one. It nevertheless seemed to the researchers that it was the staff who were most influential in decision-making, and for the most part the Board (with the important exception of the lawyer and one other Board member) was not particularly active, playing little direct part in the work of the CLO. Board members in this office claimed to set policy and left it up to the staff to use their services if they wished, but they did not interfere with day-to-day operations on the grounds that such decisions should be made as close to the source as possible. The staff expressed a hope that a wider range of Board members would become more active in the future.

Two other organizations had recently formed interim Boards to deal exclusively with the law office aspect of their work. However, there were marked differences between these two offices in the attitudes and activities of both Boards and staff. In one, both groups were oriented towards advice-giving, and staff activities were largely limited to referring cases elsewhere. The lawyer on the Board appeared to be very influential in deciding what work should be done, and in the researchers' view had a somewhat narrow interpretation of the role of a CLO, one which in essence conflicted with the terms of the contract with the Legal Services Commission. One staff member expressed the hope that once a permanent Board had been set up, they would give more input and direction and would become less traditional in their outlook - the current attitude to legal services was said to be "oriented towards legal self-help".

The other interim Board was described by staff as "aware of, and sensitive to, what the staff are trying to do and how they're trying to do it." This may have been because the staff themselves chose the people to be on the Board and chose those whom they felt had insight into clients' problems, were sympathetic to the attitudes of the staff and willing to help. One staff member commented "If we don't like their decisions we can certainly tell them and try to change their minds, but they are our Board now and they are in a position to set policy". The staff hoped the Board would be a source of fresh ideas, and since they [staff members] are caught up in the day-to-day work of the office, the hope was expressed that the Board would "offer objective criticism and make suggestions regarding new areas of legal service."

In the remaining offices, the Boards were solely concerned (qua boards) with the activities of the CLO. However in many instances some Board members had long-standing connections with the Civil Liberties Association, and in one office we were told that prior to

becoming a CLO the Civil Liberties group was regarded as "somewhat belligerent" and on this account current Board members claimed to have had to overcome negative attitudes toward them. In some places a conflict was seen between the aims of the Civil Liberties Association and those of CLOs, but both staff and Board members were divided on this issue, even within the same office. The conflict was seen to centre around a concern with broader civil freedoms on the one hand, and a desire to help individuals with what are perceived as narrowly-defined legal problems on the other.

With certain exceptions, the Boards' perception of their own activities and role differed somewhat from those of the staff. Most Boards were described by the staff in words such as "interested" and "interesting" but not very "radical" or "energetic", and with little involvement other than of a financial and administrative nature. Board members, on the other hand, tended to see themselves as policy-makers and in many cases, activists, although most of them agreed that they had insufficient time to devote to the CLO.

Board members were said by staff to represent a wide spectrum of political views, and as a result policy decisions tended to be based upon implicit compromise. This was particularly noticeable when what were regarded as "politically hot potatoes" were raised; there was a strong tendency for Boards to avoid these and to maintain a neutral position. As a result, the balance was always weighted towards direct service to clients, and Board members sometimes claimed that that was the proper role for staff, but that they, the Board regarded their role as "to attack issues".

Overall, the researchers were left with the impression that with important exceptions, Boards are conservative in their approach, do not promote the necessary leadership, are concerned primarily with administration, and depend heavily on their social-work oriented staff for ideas. It was suggested that in talking to

us, some staff members may have underplayed the role they perform in the community because they felt Board members would not approve of some of their activities. Certainly, if one can judge from their occupations, most Board members did not appear to be particularly powerful members of their respective communities, nor did they usually seem to have any particular constituency apart from their own occupational group.

One important exception to the foregoing concerns VCLAS, where the majority of Board members were lawyers or law students. They were said to become heavily involved in decision-making on overall policy issues and to be dedicated to the idea of the office concerning itself with cases having a wider societal impact, and to providing legal back-up services to community groups. Nevertheless, most Board members appeared to have a fairly traditional lawyers' view as to what the limits of the role of VCLAS should be in terms of community organizing. They were clearly strong and influential, but the fact that they had full-time occupations in addition to their Board membership meant that the staff were probably able to exert at least as much influence on policy as did the Board.

e) Relations Between CLOs and Other Bodies

(i) The Legal Services Commission

In one office visited, the Commission was described as "an expensive adjunct to the Attorney-General's department

in setting up more hurdles than solutions". Although the majority of offices were not quite so outspoken, a similar view prevailed overall. Almost all the staff and many Board members referred to the Commission as having a purely 'funding' role and complained about the lack of support and direction, exemplified by shifting responsibility for the running of the offices on to local Boards. There were also frequent complaints about lack of communication, the absence of any feedback, and failure on the part of the Commission to understand the special problems relating to distant parts of the Province. Many staff members also expressed resentment about the Commission's insistence on dealing directly with Boards, thereby ignoring the staff members; in this they were sometimes supported by Board members themselves.

A major cause of complaint against the Legal Services Commission concerned the cut-back in field and training staff, leading to a feeling that such support and direction as they had had in the past was no longer forthcoming. The training courses initially run by the Legal Services Commission were viewed as successful, and staff in selected offices had also found the British Columbia Civil Liberties Association to be a most important source of information and resource material (better indeed than the Legal Services Commission). Undoubtedly, the staff cut-back in both organizations represented a severe blow to the CLOs in terms of their feeling of involvement, and their ability to operate efficiently.

There was one exception to this situation: here, the erstwhile field staff were thought to have "interfered", and the office now had "good relations" with the Commission

who they saw as acting as a buffer against political interference. In this particular office, too, the staff said they had experienced little trouble in dealing directly with the Commission, despite protocol.

The concept of a Commission independent of government was regarded with varying degrees of cynicism, the tendency being to believe that policy came from government and that the Legal Services Commission failed to act as an advocate for CLOs.[1] Some further suggested that the Commissioners were too fearful of offending the Bar, and this was said to have a detrimental effect on their ability to support CLOs.

Undoubtedly the perceived failure of the Legal Services Commission to provide adequate support services, and the absence of meaningful two-way communication, were important factors leading to the setting up of the Association of British Columbia CLOs. Some offices had reservations about the role of such an organization, and there were clearly differences of opinion as to its function, with fears expressed by some that it would act as a union, performing a pressure group function with regard to salaries and conditions of employment. The majority of offices seemed to prefer an association which would be mainly a coordinating body, offering training courses to replace those previously arranged by the Legal Services Commission, and opening up lines of communication and information exchange between CLOs.

At the time of writing, the future direction of the British Columbia CLO Association is somewhat hazy, as is the

---

1. See also p. 90 below.

extent of their support from the various offices. The Commissioners were asked their views and it seems they generally approve of the idea so long as it remains an association as distinct from a union. At least one of the Commissioners thought it could play an important role vis a vis training, information sharing and coordination, all roles which, it might be argued, are the responsibility of the Commission itself.

(ii) The Local Legal Aid Offices

With two exceptions, the staff and Boards of CLOs claimed to have a good, or very good, working relationship with the nearest Legal Aid office, or the local Area Director. However, further probing suggested that this was mainly in respect of help with individual casework supervision and the sharing of resources. When pressed on the subject of integrating the two services, a considerable number of reservations emerged. Fears were often expressed that the Legal Aid lawyers would dominate the office and since they were accountable to a central body and to a professional body (the Legal Aid Society Head Office and the Law Society respectively), it was thought that the advantages of locally-based community Boards would be lost. In some cases it was said that there were significant philosophical differences between the two organizations, insofar as CLOs were opposed to any means test, in favour of community involvement, and permitted to take a stand on public issues, all matters which were thought to conflict with the policy of the Legal Aid Society.

It is perhaps significant that the question of

community involvement was mentioned by a high proportion of CLOs as being an important factor in opposing integration. Yet both at the Board and the staff level and, as we shall hope to show, at the service delivery level, little more than lip service appeared to be paid to community involvement or to community development. One CLO which related well to the local Legal Aid office rejected integration on the grounds that the latter defined problems in too narrow and legalistic a fashion and did little to alleviate, or deal with the issues underlying the strictly legal problems.

In one of the two offices where relationships were at best "strained", we were told that the Area Director for Legal Aid was "dead against" the CLO and concerned about "encroachment upon the profession". In the other, it was said that the Legal Aid offices were tied to a "professional approach" and were answerable to their Head Office and hence had little understanding of the approach used by the CLO.

(iii) The Local Bar

For the most part relationships between the various CLOs and the local Bar could be described as tenuous. Many members of the Bar were said to regard the offices with considerable scepticism, and were fearful lest the paralegals engage in the practice of law, a view which we ourselves heard expressed by most of the (admittedly small) number of members of the Bar to whom we spoke. The question of liability in respect of work performed by paralegals is certainly a matter of concern, not only for the profession but equally for

clients. As a general principle, clients should have full recourse for any negligent legal services delivered by a paralegal, and there should be proper insurance against such claims. However it seems unlikely that the matter will be satisfactorily resolved (at least from the lawyers' viewpoint) by the current proposals being put forward by the Legal Services Commission. This is because of differences in the nature of supervision by a lawyer in LAOs, and more particularly in CLOs, as compared with a private law office.

Many of the fears expressed by lawyers concerning the work of CLOs were said by CLO staff to be due to ignorance and/or lack of interest on the part of the Bar, but they claimed that in some areas it had proved well-nigh impossible to deal with the issue, since attempts to inform the Bar and to appraise them of the nature of the work being undertaken were often abortive. In four places the Bar was said to be about evenly divided, with half the members supporting the CLO and half feeling that the work of staff lawyers might conflict with the interests of the private Bar. In one place the local Bar was said to be totally opposed to the CLO, which they considered did not perform a useful function and was "redundant".

A second major area of concern by the Bar, and as a consequence by certain paralegals, focusses on the question as to whether or not paralegals in CLOs and LAOs are improperly carrying on the practice of law as prohibited under the Legal Professions Act, R.S.B.C. 1960, c. 214. The Justice Development Commission recognized the problem and prepared a specific report on the subject.[1]

---

1. Justice Development Commission. Legal Services Division, A Report on Paraprofessionals, May, 1975.

It is arguable that, in light of Section 8 of the Legal Services Commission Act which states that that Act does not affect any prohibitions in the Legal Professions Act, in certain of the CLOs there is not a sufficient degree of lawyer supervision to convert any activities of paralegals into those of the consulting lawyer (i.e. as agent for the lawyer). Furthermore, because of the salary which paralegals receive, they probably do not fall within the exception to the definition of practicing law set forth in Section III of the Legal Professions Act which provides:

> "but it does not include any such act not done for or in expectation of any fee, gain, or reward, direct or indirect, from any other person".

In construing these words, it could be strongly argued that paralegals do not fall under the exception because they are carrying out their work in expectation of direct or indirect fee, gain or reward, namely the salary which they receive from their employer.

This problem should be clarified by the Commission in consultation with the Law Society either through the passage of necessary amendments to the Legal Services Commission Act,[1] or perhaps through ensuring that the lawyer connected with each CLO (preferably full-time) has the necessary supervision and involvement in those matters which fall within the

---

1. Section 29 of the Community Legal Services (Sask.) Act, S.S. 1973-4, Ch. 11 provides that "nothing done by the commission, a board or by any person pursuant to the provisions of Sections 11, 15 or 30 of this Act shall be deemed to be a contravention of the Legal Professions Act."

definition of 'practice of law'. However, it must be borne in mind that much of the advice given by paralegals in CLOs is really more similar to that kind of assistance which has long been provided by social workers, court clerks, etc. rather than to that given by a lawyer in private practice.

A third matter of concern to the Bar and something which requires resolution either by legislative amendment or by clarification of the relationship between paralegals and the lawyer with whom they are working, is the question of privilege. A client's communication should, for many of the same reasons which apply to lawyers, also be protected when it is made to a paralegal - just as it is now protected when it is made to the secretary of a lawyer in private practice.

(iv) Voluntary Agencies and Native Courtworkers

Most offices appeared to have only very limited contact, if any, with agencies such as the Elizabeth Fry and John Howard Societies. Where they exist, relationships with native courtworkers were said to be good, with a fair amount of cooperation and cross-referral.

(v) Department of Human Resources

The staff in many CLOs saw themselves as performing many of the tasks that they considered DHR social workers should be doing. The latter was described generally in fairly negative terms, mainly because they were said to do little more than assess eligibility for social assistance and were seen primarily as protectors of the public purse. They were also said to spend so much time checking up on clients in order

to ensure that the department was not "ripped off", that no time was left for casework.

Almost all the CLOs received a significant number of referrals from the DHR, mainly debt counselling and family court matters. One office claimed to check that all their clients on welfare were receiving all the benefits to which they were entitled, but the staff complained of feeling that they lacked sufficient "status" or credibility to "do battle" with the DHR. This was, of course, not the case where staff lawyers (or even supervising lawyers) undertook to deal with such cases, the situation rarely requiring more than a phone call. Only very rarely were welfare cases taken to appeal. Most were said to be satisfactorily resolved by mediation, it being generally agreed that supervisors will, if pressed, override the decisions of their workers, particularly in the face of threats of an appeal. Not having been able to interview clients, we have no way of knowing how they viewed the intervention or mediation of CLOs on their behalf.

(vi) Others

Those interviewed were asked about their working relationships with a number of other bodies, such as Consumer Services, the Office of the Rentalsman, Manpower, Workers' Compensation Board, police and the judiciary. For the most part, friendly contact was said to exist with all these organizations, but we were of the impression that it was largely a question of personalities rather than the particular institution

they represented. Thus, some judges, and some policemen were described as helpful and cooperative, others much less so. Similarly, the extent and nature of the CLOs' contact with the government bureaucracies seemed to vary according to the individuals involved.

f) The Services Delivered

As was explained earlier (see Part I, pages 6 and 7) very few offices indeed kept comprehensive records of their activities, despite the fact that the terms of their contract with the Legal Services Commission includes the requirement (page 3) that they should provide the Commission with a quarterly statistical summary. Information contained in this section of our report is, therefore, largely based upon two sources: firstly, replies to the questionnaires which were sent out at our request prior to our visits and which are of very limited value since they cover different time periods, use disparate definitions of such terms as 'case', 'community development', etc., and furthermore were not completed in time for us to take account of the information in our discussions with staff. Secondly, it is based upon interviews with staff and Board members at the time of the visit, and there will inevitably be a tendency to recall most recent trends and most recent cases, rather than to provide any overall picture of activities in the preceding months. In view of these points, we cannot stress too strongly that the information included in this section must be interpreted with the greatest caution.

The feelings of those staff members who are resistant to quantitative record keeping are readily understandable since, as Disraeli pointed out many years ago, there are

"lies, damn lies and statistics". To know the number of problems handled over a given period is an extremely crude measurement of work done; inevitably some problems take much longer than others, and are more complex to solve. Furthermore, the choice of one particular method of helping may well result in a quite different amount of time being spent on a case than would have been true had it been handled differently. Furthermore, the distinction between the giving of basic factual information and that involving more complex problems of family or welfare law is virtually impossible to maintain. Perhaps more importantly, from the client's point of view, the volume of work done is not necessarily a good indicator of its importance to the individual. Nevertheless, the service is a publicly funded one, and it is clearly important that offices be accountable for the monies they spend.

The Legal Services Commission in its contract with the offices requires that four types of service be provided: casework with the individual client, courtwork, community development, and public legal education. We will deal with each of these in turn:

(i) Casework and the Individual Client

Schedule "A" (1) to the contract with the Legal Services Commission requires that "information and referral services shall be available to anyone" and in all the offices visited, information, advice, and referrals were said to be freely given to all, regardless of income. The completed questionnaires showed that, virtually all clients were in receipt of annual household incomes of less than $8,000, and most offices said

that for half or more of their clients, the figure dropped to under $4,000; alternatively they simply said their clients were "on welfare". Four offices gave no information on the questionnaires and were vague about the matter in discussion and in one office the modal figure was said to be $12,000.

If further assistance was required, a means test "similar to that used by Legal Aid" was most frequently stated as being used. At one office (using a lawyer on a retainer basis) we were told that initially clients calling at the office were young and poor, but this had now changed and a wider cross-section of the community is currently being served. The staff felt that their better-off middle class clients sometimes have the type of problem that lawyers tend to shy away from, and they thought it was their responsibility to serve the whole community.

Persons whom it is thought could afford a private lawyer were helped to find one who would act for them at reasonable cost,[1] or use was made of the lawyer referral system if one were operating in the area. In one office employing a full-time lawyer he told us: "We should be servicing the low income groups the most. They're the ones who are most disadvantaged, they don't receive legal services at all. ... My priorities would be low income groups". However, the most recent statistics provided by that particular office showed the opposite trend, with twice as many clients above the $8,000 annual income level receiving help compared with those in the $4,000 group. Where a full-time

---

1. Considerable concern was often expressed about the propriety of recommending specific lawyers.

staff lawyer was employed, he or she would often take legal aid applications and/or act on behalf of clients if this seemed to be appropriate. The decision, it would appear, rested primarily with the lawyer concerned.

Although the emphasis in the Legal Services Commission Act (Chapter 36, Section 1) is on the provision of legal services, there is little doubt in the minds of the present writers that a very high proportion of the work undertaken in CLOs can most legitimately be described as individualized welfare or social work.[1] The staff in many of the offices themselves described their work in these terms; thus in one office they claimed to be trying to ease the emotional and mental distresses experienced by their clients, as well as offering immediate relief from the problem causing distress. In another office we were told: "we do a lot of calls which strictly speaking are social work, they don't involve legal issues, they involve questions of bureaucratic mistakes, failure to communicate or explain delays, failure to appreciate difficulties which some clients have in understanding information". Almost all welfare work i.e. social assistance, UIC, child care, pensions and so forth is based upon legislation, so that to say that bureaucratic mistakes and failures of welfare work generally do not involve legal issues is quite mistaken. It would be correct, however, to say that they also have social connotations and can best be described as socio-legal problems. A third office claimed to deal with the "total individual" rather than restrict themselves to "single legal problems". However, in one

---

1. See f.n.3, p.35.

office the staff insisted that the emphasis should lie in giving legal advice and information - people requiring social work or personal counselling being referred to other agencies such as the Drug and Alcohol Counsellor, or Mental Health Services. Staff in almost all offices said they spent a very considerable proportion of their time on family and marital counselling; usually this involved women seeking advice on marital rights, many with a view to leaving their husbands. However, welfare benefits and debt counselling were other major areas of individual help offered, together with small claims and landlord/tenant problems.

With few exceptions we were told that no attempt was made to follow-up clients on any systematic basis - it was somewhat naively assumed that if clients were dissatisfied, or if the problem remained unresolved they would return to the office, or the staff would hear about it in some way. Equally naively, it was assumed that if a referral were made to another agency the client would reach the appropriate office. Two explanations for the failure to follow-up cases were given: firstly, most offices were anxious to encourage self-help amongst clients, and to make enquiries was thought to be reminiscent of 'hand-holding' and to encourage dependency. Secondly, it was said to be a question of time, though we were of the impression that this was regarded by the staff themselves as a far less significant reason.

It was also generally accepted that the staff in most offices would respond to clients who telephoned or called, but would not make any attempt to play an activist role. This point was succinctly put by one Board member: "It's available

and it's publicized and we do everything we can to get the message to them, but other than that we can't go into their houses and say 'Look, come with me and I'll help you'. It has to come from them. Either they feel strongly enough that they will try to find somebody [to help] or they are going to stew in their own juice. We're not here to fight the battles for them (author's emphasis). We're here to help them fight their own. It is, I think, very important that we're not. This is what we get accused of, taking over people who are inadequate". However, when the Director of this same office was asked about publicizing the services offered she replied, "We're scared, [of being overwhelmed with work] we really are" and referred to the already heavy caseload. Similarly, preventive work was generally frowned upon and except in those few offices where the 'whole person' was the subject of concern, it was considered important to concentrate only on the problem about which the client consulted the office: to do more might have been regarded as an imposition on the client.

A question which is undoubtedly of significance when considering future staffing needs is the extent to which, if at all, the nature of the caseload differs in those offices employing salaried lawyers from those using consultants. On balance there would appear to be little difference, at least in terms of individual casework. Half the offices replying to the questionnaire were unable to estimate the type of case upon which they spent most of their time, but all gave information concerning the type of case dealt with

most frequently.[1] Four cited family, juvenile and matrimonial (subsumed under one heading), two cited consumer and debt, and two landlord/tenant. Three gave, as the main input to their work legal aid applications, but in only one of these offices was a staff lawyer employed. No legal aid office existed in the two other areas where this matter occupied so much of the CLOs time.

If one combines the two most frequent types of case dealt with, even these minor differences as between offices disappear, though two interesting points emerge. Firstly, two offices with no staff lawyer mention criminal work (in one of these areas there is a legal aid office), but it is not mentioned by any offices with staff lawyers.[2] Secondly, two of the offices with staff lawyers mention welfare appeals (DHR), whereas this is not mentioned as a major activity by any CLOs not employing staff lawyers.

So far as offices employing a lawyer are concerned, in one, the lawyer was said not to conceive of his goal in conventional terms but regarded himself as more of a "negotiator", settling problems out of court where possible.[3]

---

1. Because of the special nature of the work undertaken, VCLAS has been excluded from this discussion.

2. This information excludes the fact that the staff lawyer in one office spends approximately one-third of his time on prison inmate problems.

3. It is interesting that most of the lawyers interviewed with respect to CLOs appeared to conceive of true 'lawyering' as involving litigation, whether criminal or civil.

In another, the lawyer felt that he did as much "counselling" as law, and hence saw his job as being as much one of a social worker as a lawyer. In a third, the Board had stipulated that he should divide his time equally between court work, casework, and legal education, but within a few months of his appointment he was already spending a disproportionate amount of time on casework. The lawyer in a fourth office expressed himself as being bored with the job since it did not include enough legal work, and he thought his services were under-utilized. He admitted that he had not gone out of his way to seek more strictly legal work, but explained this in terms of not wishing to "rock the boat" vis-a-vis the local Bar.

In reviewing the nature and extent of the individual casework service offered by CLOs, one cannot help but be struck by the limited number of cases dealt with by most of the offices. According to the statistics provided by them on our questionnaires, average cases per month (including both telephone calls and visits to the office) varied between 41 and 230, the full distribution being as follows:[1]

Average No. of Calls Per Month	No. of Offices
40 - 100	3
101 - 150	2
151 - 200	5
201 & over	1
Total	11

1. These figures exclude VCLAS. The cautionary comments regarding the probable unreliability of many statistics provided is reiterated here.

Even if we ignore the fact that four offices employ full-time lawyers, and work on the assumption that the cases are distributed between the paralegals, this represents a fairly low daily work-load. The following points attempt to account for this in terms of the explanations given to us in our visits.

Regarding the first group, this represents an average rate of 1 to 4 calls per day (based on a twenty day month). In one office, one paralegal spent a lot of time in court, and the staff explained that after a year's experience "getting going" they expect to be able to undertake more casework in future. In a second office no courtwork was undertaken and no explanation can be found for the apparently low level of activity. In the third office the staff explained a considerable drop in the caseload as being the result of reports in the media about policy changes and financial cutbacks relating to legal and social services. They had also quite recently moved office.

So far as the second group is concerned, this represents an average rate of between 5 to 7 calls per day. In one office only one paralegal was employed and the nature of the work undertaken was severely restricted by the lawyer who feared that this might include the 'practice of law'. In the second office, 50 percent of the 'cases' were telephone calls, one paralegal attends court every day, and there is no publicity given to the office since they considered they were already fully occupied.

The third group averages out at between 8 to 10 cases per day. In four such offices the percentage of phone calls was very high (78 percent, 84 percent, 62 percent and 65 percent respectively), and in one of these the staffing ratio was higher than elsewhere; in the fifth, no breakdown between phone calls and office visits was given, nor could we find any explanation of the relatively low workload,

Finally, in the fourth group, where the office claimed to deal with an average of twelve or more cases per day, 84 percent of these were said to be phone calls.

Whilst it would clearly be dangerous to assume that telephone calls necessarily take up less time (or are of less importance to the client) than personal calls, the question arises as to whether the existing services provide the most efficacious means of dealing with clients. If, as may be the case, the type of telephone calls received deal with trifling matters such as "where can I get?" or "who do I contact?" etc., then undoubtedly such a service may be justified, but it can hardly then be described as a 'case' - it is reminiscent of some of the work undertaken by the Citizens Advice Bureaux in England.[1] On the other hand, if the issues raised are more major, then one might expect that a personal appointment would be arranged with the caller.[2]

In reviewing the nature and extent of the individual casework service offered by CLOs, one cannot help but be struck by the three major problems:

---

1. In many respects the services provided by some of the CLOs is much more similar in nature to that provided by CABs than it is to the concept of Neighbourhood Law Offices as evidenced in the U.S. and in the U.K.

2. It was suggested to us that there is a danger of CLOs turning into an answering service similar to the Crisis Centre.

(a) The generally haphazard and unsystematic way in which services are made known undoubtedly results in a situation where the provisions made are unlikely to reflect the true needs of the community even on a one-to-one basis, since whether or not clients reach the office is largely a matter of chance and has little to do with community needs.

(b) Once the office has been contacted, the nature of the decision-making process regarding what action should be taken is highly discretionary and quite arbitrary. The decision as to whether they should see a lawyer, be advised and encouraged to act themselves, be given assistance by a paralegal, or referred to another agency, is based upon no clear cut criteria. Yet in no office was this element of discretion referred to (other than in relation to financial eligibility), though it is undoubtedly a matter of crucial concern in any discussion of distributive justice.

(c) A failure to recognize that a case-by-case approach often represents an uneconomical use of scarce resources which, even if it results in individual adjustments of a short term nature, has virtually no overall redistributive effect. As Carniol writes: "... since at present the legal rights of clients fall dramatically short of their basic human rights, it becomes self-evident that even where advocacy succeeds in winning the full measure of legal rights, clients are still left with rather inadequate benefits. While such advocacy is helpful to individual clients in the short term, this approach is defective because it merely perpetuates the legally inferior position of the disadvantaged ...".[1]

---

1. Carniol, B., "Advocacy: for community power", Canadian Welfare, May/June, 1974. (pp. 12-15).

(ii) Courtwork

With four exceptions, courtwork does not constitute a major form of service delivery in CLOs, although in two offices the amount of such work is said to be increasing. In three further offices some courtwork is done if required, but as with those who do none, it is most often regarded as the responsibility of Legal Aid. The need for courtwork arises when there is no duty counsel available to explain the court procedures to the accused, or to assist him or her to obtain counsel, either privately or through Legal Aid. In certain courts the CLO staff were at a disadvantage because they were unsure of their role and status within the court system - a situation made worse in some places by the fact that judges and/or the police were not prepared to cooperate with them fully. Such makeshift arrangements led to a situation in which the representation of an accused at the appropriate time was often a matter of chance rather than of any systematic handling of the matter.

(iii) Community Development

> "The society is encouraged to make available its resources to groups or organizations of citizens whose aims are to improve their social or economic condition, whose activities are designed to promote civil and human rights, or whose activities lead towards law reform; provided that, in the judgement of the Society, these services would not otherwise be available to that group or organization." (Schedule "A", Section C of contract between LSC and CLOs).

Despite the importance which the Commission attaches to community development in its publicity, the amount of such activity carried out by the various CLOs is, with certain exceptions, virtually negligible.[1] The main reason for this state of affairs appears to be a recognition that work in the field of community development is essentially 'political' and this is regarded as undesirable. Staff are generally reluctant to help organize citizens' groups, in particular they do not want to perform a leadership function, and they tend not to see the need for them to do so. The authors of this report believe that in some instances at least, this view was expressed by staff because it reflected the views of their Board, whom they were anxious not to offend. In one office where a staff member had become involved in a particular community project about which the Board initially had only limited knowledge, further development of this work was discouraged by both the Board and the other paralegal and there was no follow-through. In one office, we were told that they do not see themselves as a political force but see community development "as an extension of individual and personal development". Any work undertaken by that office under the rubric of community development had a strong social work orientation which stressed family and juvenile development at the community level, for example, attending meetings of associations set up to meet specific

---

1. Lotz, J. "Whatever Happened to Community Development", Canadian Welfare, May/June, 1976 refers to the multitude of definitions attached to this term. Even if all are included here, our statement still stands.

family needs as well as inter-agency meetings.[1]

Apart from not wishing to offend Board members, another rationale given for not undertaking community work was the pressing need to attend to individual problems. As we were told in one office: "The individual problems help to define and measure the wider problems", but bearing in mind our earlier comment to the effect that there is no certainty that those who cross the doorstep of a CLO are representative of the needs of the community, such a view is at least questionable.

Even the lawyers working at VCLAS, which claimed to be very active in test cases and class actions, did not think that they should be involved in community development. They did not go out and "stir things up" and did not see themselves as "political". However, they did encourage the formation of groups, but interested people had first to approach them (we were told that often they did so through casework contacts), and they were then helped to incorporate, or given appropriate advice and guidance.

One office became involved in a community housing problem, playing both a mediatory role between tenants, and an advocacy role on behalf of tenants. However, at the time of our visit, the case was reaching the federal level and we were told that as it was now becoming "quite political" the CLO was withdrawing from the situation. They thought, however, that this experience would enable them to play a preventive

---

1. We think it questionable whether such attendance can be legitimately described as community development, but it is included here since the office concerned regarded it in that light.

role in future, warning tenants against similar housing problems. In that instance, there was some disagreement between the two paralegals as to how involved they should become, a situation that we believe also exists in other offices more often than we were able to ascertain on a short visit.

Although somewhat limited in nature, the office just referred to nevertheless did more community development work than most of those visited. Their Board approved of involvement as long as paralegals did not become activists but interpreted their function as "providing legal information in the background". Both staff and Board felt there was a need for better services in the area, but rather than "spearhead" pressure for change, they believed it best to help other community groups do the work.

In another office, one of the paralegals was anxious to do more community development work: "You can do this direct service forever. You could have ten or twelve paralegals and they all would be busy, but you haven't got to the problem". However, this office did not appear to have found a way of avoiding getting bogged down in individual casework; one attempt was made to set up a welfare rights group, but this was said not to have been successful as the group "wanted to concern themselves with those who are ripping-off DHR", rather than with those who are not getting their proper entitlement."

In yet another office, the staff felt they could help groups to organize in legal disputes if legal opinion was that

a current reading of the regulations justified their intervention. They recognized the 'political' element in such work but expected the Board to support their approach should the need arise, bearing in mind the fact that legal advice had first been sought.

(iv) Test Cases and Class Actions

As with community development, this is not an area in which there is much involvement by CLOs, except in the case of VCLAS which is the most active in such cases.[1] Again this appeared to be closely related to fears, especially by certain Board members, of any political involvement. In one office, both Board and staff members spoke about "the peculiarities of a small town" and "the need to stay in the middle of the road so as not to alienate the power structure" (sic).

There are, as in all areas studied, exceptions to the rule: the paralegals in one office concerned themselves with a case of high interest rates, and the case was subsequently handed over to their supervising lawyer. They had two further test cases in mind at the time of our visit, but meanwhile tended to deal with the issues as far as possible by mediation. This latter role was quite commonly thought of as preferable, although it still only dealt with the issue on a one-to-one basis.

One staff lawyer claimed that he would like to do more test cases (defined by him as any case involving more

---

1. At the time of writing only one case was before the Courts and one was in preparation. Since 1971 it seems (from papers submitted to the researchers) that nine cases have been resolved in the Courts, though many more are apparently resolved by mediation, out-of-court settlement, or through Administrative Board procedures.

than two persons) and he considered this an important aspect of the CLOs' work. However, in view of his fears concerning alienation of the Bar (possibly justified in the area in which he worked), he had done little about it, other than to encourage a group to protest, with the intention of subsequently persuading a lawyer in private practice to take the case if it developed to the stage of litigation.

In another office, where the local Legal Aid lawyer acted as counsel in a test case, the paralegals in the CLO did some of the research, as well as some of the 'leg work' necessary to get the case off the ground. Finally, they were involved in writing letters to the media publicizing the case.

In the few instances where the offices were involved in prison work (and it was thought to be a potentially fruitful area for test cases), it was claimed that cases have apparently been conceded by prison administrators prior to going to court. The lawyer and staff in one office were, at the time of our visit, representing a group of elderly people in what clearly seemed a 'political' issue involving strong differences of opinion within the community. However, since it involved an attempt to give access to the legal system to a group who had previously had little power, the staff and Board considered their involvement "inevitable".

(v) Public Legal Education[1]

Again this is an area which has not, so far, been much developed. Most offices have helped to organize short courses of lectures, usually on matters associated with family law, and staff have actively participated in some instances.

---

1. As was mentioned in the section discussing methodology, the offices of the Interior Public Legal Awareness Society were visited, but do not come within the terms of reference of this report, since they operate quite independently from the CLOs and LAOs.

For the most part these have been viewed by the Board and staff concerned as a form of public relations, drawing the attention of the public to the CLO and hopefully increasing the membership of the Society. Some work has been done in the schools, but only in a modest way.

Three offices have done more than others in this respect; apart from running fairly regular workshops, they have been involved in such activities as hosting T.V. shows, circulating a legal newsletter, making video films available to the community, and keeping an up-to-date legal library. However, even in these offices, the work appeared to be directed more towards making people aware of the law rather than telling them their rights or, more crucially, giving them the knowledge and confidence to enforce them.

g) Costs

Theoretically, it would not be valid to discuss 'cost per case' in the context of CLOs, since their mandate is so wide and they are expected to include community development and public legal education amongst their tasks, and these are not readily quantifiable in financial terms. However, it is apparent from the foregoing that the amount of such work is currently so circumscribed, that we think it permissible to give some approximate figures.[1]

When requesting information from the various offices

---

1. Those figures are derived from the questionnaires completed by the various offices and the cautionary comments on p. 9 (supra) apply. VCLAS has been excluded since this organization does not, as a rule, provide individualized services.

an attempt was made to differentiate between telephone calls and office visits, on the assumption that the former might be dealt with more quickly and hence cost less. However, as three offices did not make this distinction when completing the forms, the two are here combined under the heading 'cost per person'.

The variations are quite considerable, ranging from an average of $26 per person in one office to $108 per person in another. The distribution for the eleven offices included is set out below:

	No. of Offices	Average Cost Per Person
	2	$20.00 - $30.00
	3	$31.00 - $40.00
	3	$41.00 - $50.00
	2	$51.00 - $60.00
	1	$61.00 and over
Total	11	

It may be worth pointing out that all offices with an average 'per person' cost in excess of $43 were those where no full-time salaried lawyer was employed, a fact which might suggest that paying a retainer to a consultant lawyer may be a very expensive way of financing legal advice.

An attempt was made to link these variations to both cost per capita[1] (based on population of the areas which the offices themselves claimed to serve), and to the average

---

1. These are based on 1974 estimates and are taken from B.C. Department of the Attorney-General. Courts Planning. Summary Profiles of Provincial Court Service Areas for Justice Regions 1, 5, 6, 7, 8 and 9, January, 1976.

number of cases per month. In the case of the former, the variations are again very great: they range from an average of $.93 per capita per year to $4.99. As might be expected, there is a relationship between the size of population and the per capita cost, i.e., if the total population is included, it costs more to provide a service in small communities. This figure is probably not very meaningful however, and the relationship does not hold true if the cost per person is related to the average number of cases dealt with per month.

Three other factors were looked at; firstly, we tried to see if there seemed to be any connection between cost per person and the date upon which the office opened, on the grounds that capital expenditure might be greater in newly-opened offices. There appeared to be no such association. Secondly, we tried to see whether CLOs in those geographical areas having a large number of alternative agencies which people might consult, or those with Legal Aid offices, cost less. Although the data concerning the availability of other agencies are particularly weak, it does seem to be the case that CLOs are more expensive (in terms of average cost per person) in those geographical areas where there are few alternative sources of help. The third possibility related to any association between average cost per person and the existence of a Legal Aid office in the same area. With one notable exception (the office with the highest per capita cost and the highest average cost per person) this was clearly so. In the four other areas having Legal Aid offices, the per person figures for CLOs were amongst the lowest.

h) Standards Within CLOs

There is no formal or systematic method of assessing or maintaining standards in CLOs. The Commissioners have recently divided up the Province geographically and are attempting to visit those offices within their own area, but judging from the few reports we were able to see, no minimum standards are laid down and Commissioners do not carry out any systematic study of what is going on.[1] As a result, there are considerable differences in the nature of the assessment made.

In practice, the fact that each Society is theoretically autonomous, and has its own Board of Directors, places the Commissioners in an invidious position regarding supervision and quality control. Even the potential value of an informal network of communications ceased to exist when the field staff employed by the Commission were made redundant. It is, of course, possible for the Commissioners to withdraw funding if they are not satisfied with what is being done, but before doing so, it might legitimately be expected that they lay down certain standards - at least in relation to such matters as the adequacy of the premises, privacy of interviews, hours of opening, adequate publicity, involvement of the Board, organization of the office (including record-keeping), and the balance of the different types of work to be undertaken. In view of our earlier discussion concerning the emphasis placed by CLOs on individual casework, this last point would seem to us extremely important if a meaningful interpretation is to be placed on that section of the contract dealing with service delivery.

---

1. It may be argued that those with other full-time jobs could not be expected to undertake such visits on a regular basis. However, if the task were more adequately systematized, so that all Commissioners were clear as to what was expected of them in the way of information, it might be easier to perform the task.

Regular visits by Commissioners, perhaps accompanied by someone from outside the service and by Commission staff could be helpful if they were structured in such a way as to ensure comparability of standards in all offices, and if recommendations for a change were seen to be carried through.

i) Some General Comments Concerning CLOs

Our foregoing description of the organizational structure and management of these offices, together with the account of the nature of the services provided, undoubtedly leads to the conclusion that despite valiant and sporadic efforts by some devoted and well-intentioned Board and staff members, with one possible exception CLOs are failing to provide the services which they are contracted to provide. More importantly, and we consider this crucial, the stated philosophy underlying the setting-up of CLOs is either not understood by those running them and working in them or, where it is understood, the constraints thought to be imposed by the local community, by the Bar, by certain Board members, and to a lesser extent by budgetary concerns, result in this philosophy being ignored and being replaced by an inefficient, confused and generally very traditional model of service delivery.

Most offices are failing to pioneer new methods in the provision of legal help - indeed, they currently perform a primarily social work rather than a legal function. Unless a much more dynamic and creative approach is adopted, and more time given over to proactive and preventive law, with more recognition of the social-structural factors which underly so many of the individual problems faced by low income

groups, it will not matter how many offices are opened, nor how many staff employed, they will always be inundated with clients (unless, of course, they carefully control the amount of publicity given to their work, or restrict numbers in some way). So long as this is the case, the philosophy first enunciated officially in British Columbia in the Leask Report, and subsequently incorporated into the Legal Services Commission Act, though in modified form, is unlikely to be achieved.

It would, however, be quite mistaken to blame the individual offices for this situation. As was pointed out at the beginning of this section, it is important to remember that the concept of CLOs is a very new one in British Columbia and the unsystematic manner in which they were established, and grew in number - rather like 'Topsy' - undoubtedly jeopardized their success from the start.

In the first place, the legislation under which the Commission was set up was insufficiently well thought out, having been written with a view to political expediency and in such a way as to try and avoid offending the Bar, rather than with any real understanding of the needs of the community it was designed to serve. In particular, the organizational structure of the Commission and its relationship to government, and to the legal profession, as well as to the CLOs, was never properly worked out prior to the passing of the Act, and these matters now require urgent consideration.

Secondly, the Commission has failed to give the necessary leadership, has withdrawn most of the support staff

who were crucial to the successful operation of individual offices, and has concerned itself primarily with form rather than with substance. In its attempt to cut back on costs the Commission appears to have 'thrown the baby out with the bathwater', leaving Boards to flounder in a sea of inexperience, and with no clear guidelines on even such basic matters as administration and office organization. The client suffers.

These are harsh words indeed, and it is important to recognize that we have referred to the operation of the Commission, not the concept of a Commission. Furthermore, it has to be remembered that the Commission did not start off totally 'brand new'. As the Chairman of the Legal Services Commission points out in an article in The Advocate:[1] "The Commission took over operations which had previously been handled by the Legal Services Division of the Attorney-General's Department". In so doing, it must be stressed that they inherited a great many problems, not least suspicion, and even hostility, by a substantial section of the legal profession. They also inherited considerable financial problems, and these have plagued them ever since.

Furthermore, the Commission was set up by a government (the NDP) whose ideology encouraged decentralization and "community participation" without sufficient thought being given to the implications, in practice, of either of these policies.[2] In particular, no clear statement was ever made by either the government or the Commission as to which aspects of planning and action were to be decentralized, a situation that was to prove crucial in relation to the Legal Aid Society.

---

1. Jabour, D. "Legal Services Commission", The Advocate, Vol. 34, Part 3, April - May, 1976.

2. On this matter see Morris P. "Decentralization: Some Issues Arising". Unpublished paper available from the Research Centre on request.

The concept of decentralization is posited upon the belief that the human service needs of consumers vary from community to community, as was laid out in the Leask Report.[1] A common procedure for facilitating the provision of such a service in British Columbia has been the creation of community boards or councils - in the case of CLOs, Boards of Directors - who are expected to represent the varying needs of the community. Whilst the diversified nature of the Province and its inhabitants is undoubted, this is not to say that the basic nature of the service needed should fundamentally differ as between areas, that is, the principles and policies underlying its implementation.[2] This raises the question as to whether it would be more desirable to have a system of regionalization (as is currently operated by the Legal Aid Society), rather than decentralization (as operated by the Legal Services Commission). The former involves the provision of an integrated and co-ordinated service, designed to carry out centrally made decisions, the latter is designed to provide for community based decision-making. They imply totally different organizational structures and, as suggested above, may be an important factor in deciding how the Legal Services Commission can best relate to the Legal Aid Society.

The concept of community participation, as evidenced by the CLO Boards of Directors, is never likely to become a reality because it presupposes that there is real delegation of power to its members - in particular economic power. To be effective as representatives of the community, Boards of

---

1. op cit.

2. This view is consistent with the Quebec scheme where there is a central plan with some allowance made for special conditions prevailing in different areas of the Province.

Directors would need to be in a position to influence the policy decisions of the Legal Services Commission - which they clearly are not - and would also need to be in a position to influence decisions regarding the allocation of the overall financial resources of the Attorney-General's department, which equally clearly they are not. This is particularly true if each Board is competing for scarce resources.

If, despite the substantial efforts of many of those involved, CLOs have generally failed to provide the type of service they were intended to provide, and which is laid down in their contracts, it is to these more basic issues that attention should be addressed.

B. LEGAL AID OFFICES[1]

In this section of the study it should be noted that unless otherwise stated, our comments refer exclusively to the full-time regional Legal Aid offices; time did not permit us to interview the part-time Area Directors (nor were we asked to do so) whose job it is to cover those geographical areas not presently the responsibility of any full-time office. Furthermore, it is of the utmost importance that readers bear in mind that 46 percent of all completed cases in which legal aid is granted are dealt with by the Vancouver office.[2] Thus when people talk about legal aid, frequently they are describing what happens in Vancouver; this is significant because, as we shall later show, that office is atypical insofar as it refers cases out more often than do most other regional offices.

a) Location of Offices and Hours of Opening

Apart from the Vancouver office, which opened in 1970, none of the Legal Aid offices have been in existence for very long; two opened their doors in 1973, four in 1974, five in 1975, and two in 1976. Five of the fourteen offices are situated at street level and the remaining nine are on the second or third floor. With one exception all were centrally situated and plainly signposted at street level to indicate the fact that they were Legal Aid offices. The single office located away from the city centre nevertheless bears a large notice which is readily visible to passers-by announcing its function. All are open only during

---

1. The comments made in the preamble to the section on CLOs apply equally to this section of the study. See p. 24 , para. 2 and p.25 f.n.1.

2. Figures covering the period Jan. - June 1976.

normal office hours and many shut during the lunch hour.[1] When asked, a high proportion of the lawyers expressed the view that they probably worked fewer hours than they would have done in private practice, but they felt this was justified on the grounds that they earned less.[2] Only a minority stated that they normally took work home in the evenings or at weekends.

We made no systematic study of the clients in the waiting rooms, but it may be worth noting that a very high proportion of those we saw calling at the offices were women, many with young children, a situation which may simply reflect the fact that a major part of the civil legal aid work is concerned with women seeking separation or divorce. Nevertheless it raises a question regarding the advisability of staying open after working hours and/or during the lunch hour, at least on some days of the week, to accomodate those who work, and who would lose pay if they took time off during the day. It is also worth bearing in mind that it must often be difficult (and perhaps unwise) for mothers to speak freely about their marital problems in front of their children, and an evening visit might more readily allow such women to make babysitting arrangements.

The problem of service to rural and remote areas is acute;

---

1. The staff of one office subsequently advised us that they do make special arrangements to see clients in the evening if they are unable to call during the day.

2. So far as the younger, less experienced lawyers were concerned, this is highly questionable. The pay scale as of July, 1976 was as follows:

Newly called	$14,300 - $14,700
6 months experience	$15,429 - $15,729
1 years experience	$15,971 - $16,371
2 years experience	$17,255 - $17,655
3 years experience	$19,609 - $20,009
4 years experience	$22,605 - $23,005
5 years experience and over	$25,280 - $27,820

This scale is evidently equivalent to that of the Departmental Solicitors in the Attorney-General's Department.

in most offices outside the Lower Mainland the legally qualified staff spend some time each week attending Courts in outlying districts. Even when combined with referrals to lawyers in private practice, and the work of the twenty part-time Area Directors, it is inevitable that in criminal cases some clients who are eligible for legal aid go unrepresented, or if represented (where they are pleading guilty) it is often by duty counsel whom they meet for the first time a few moments before appearing in Court.[1]

In civil cases the matter may be equally serious though not so acute. Divorce, custody disputes, maintenance actions, and so forth, are matters likely to result in protracted negotiations though they rarely involve loss of freedom (delays involving loss of income may, of course, result in very acute problems of debt). However, for those who persist, such cases are at least likely to be dealt with in due course, a situation less likely to apply to those civil cases for which there is no tariff, yet which may be of no less importance to the client.

In rural, and more especially remote areas, facilities to help such clients are often minimal; furthermore, reference to the preceding section of this report will make it apparent that only rarely do the services of the CLOs extend to these distant parts, a situation that is likely to bear hardest on the Native Indian population.

b) The Management and Quality Control of Legal Aid Offices

As was mentioned earlier, the Legal Aid Society is currently controlled by a Board of Directors of whom sixteen are lawyers and six are lay persons. The Vancouver office also acts

---

1. This situation is not necessarily limited to rural and remote areas but is more acute there.

as the Head Office of the Society and the Executive Director is also responsible for the supervision and administration of the fourteen regional offices and the twenty part-time Area Directors. The office receives monthly reports from all regions, undertakes the limited training of personnel, approves all the accounts submitted by lawyers in private practice (they are paid through Victoria), evaluates requests for appeals, attends to inter-Provincial matters, handles accounting matters for the whole Province, conducts research, and with the Legal Services Commission, negotiates for funding.[1]

Three of the regional offices have advisory committees, though only one of these is said to be really active. Amongst other things, these committees decide whether or not, in summary cases, leave to appeal should be granted to take the case from the trial court (in the case of indictable offences these are all referred to Head Office) and they are expected to keep a watchful eye on the operation of the office generally. A few other offices have informal groups that perform much the same function but do so on an ad hoc basis. Yet others have no such arrangement and a member of the local Bar deals with the question of appeals, or refers it to Head Office. Where no committee exists, lawyers in many offices indicated that they received generous assistance from private practitioners whenever it was requested.

There is evidently some divergence of views as between the Executive Director and certain members of the Board about the policy relating to advisory committees. The Executive Director feels that they should be more formally structured and entrenched

---

1. We shall return to this matter later in this section.

within the system, whereas some Board members feel that the matter should be left to the discretion of the individual offices - where a more formal system is wanted, the committee should be strengthened but not otherwise. As will be noted later, Head Office relies fairly heavily on members of the local Bar to keep them informed about the quality of the work being carried out by each local Legal Aid office, and a more formal structure might further serve such an important purpose.[1]

Where advisory committees exist, it is official policy of the Board that they should be made up of people from the community and that they should not exclusively be the concern of lawyers. This appears to be rarely the case in practice; one such 'mixed' committee met regularly for a while and is said to have functioned in an admirable way, but it petered out "partly because they couldn't find enought to talk about". It was replaced by informal contact with local lawyers.

Reference was made above to quality control; this is a thorny problem. At Head Office there is said to be some such control, but the staff themselves regarded it as insuffient and too indirect. They try to visit all the regional offices on a systematic basis, but in the year preceding the research this was said to have lapsed somewhat. Ideally the Executive Director would like to see each member of their legal staff making regular visits to every office, but time considerations, not to mention expense and in winter, travelling conditions, make this difficult. As a result, undue reliance is placed upon advisory committees, judges, and others working and

---

1. In May, 1976 a Head Office staff lawyer circulated a memorandum to all staff lawyers asking for their views on the subject of Local Advisory Committees.

living in the various communities, all of whom are expected to keep Head Office advised of any deficiencies on the part of Legal Aid offices and their staff.

The lawyers interviewed were asked how they felt about the amount of quality control; most were of the opinion that it was insufficient and that they could, if they wished, do very little work indeed without it becoming too apparent. Some lawyers complained about the lack of backup services and said they were left too much on their own, without direction, control, or support. However, no-one produced any clearly thought out proposals as to how this situation might be changed. Furthermore, it seems likely that any suggestions made by the Board would be viewed with ambivalence: whilst on the one hand claiming to want more involvement by Head office, lawyers were equally jealous of their independence and might well resent even a modest requirement concerning, for example, the keeping of time sheets. It is likely that control over consistency or quality of service in areas of the province covered by part-time directors would be even more problematic. However, clearly some more adequate form of quality control will need to be considered if these offices are to justify their claim to such a large proportion of those government funds allocated to legal services.

c) Staff

At the time the study was carried out, ten of the fourteen offices employed two or more full-time lawyers, while the remaining offices had only one, due to the fact that vacancies were hard to fill. It is the policy of the Legal Aid Society to employ lawyers on a two-year contract basis; the rationale behind this arrangement is said to relate to experience in the U.S., where it was found that the 'life-span' for a lawyer involved in the delivery of legal services to low-income clients was from two to three years. It is felt that if such a

situation were to obtain in British Columbia, it would most likely be the more able lawyers who would move on, leaving a residue of less able people. By making it the norm for all having to leave at the end of two years, it is hoped that such a situation can be avoided. It is also thought by the Board that lawyers in Legal Aid offices may become 'worn' (i.e. tired of doing the same, often very limited, kind of work every day). However, not all the lawyers interviewed agreed with this view; speaking of a senior member of the Legal Aid Society one commented "[His] view has been that lawyers shouldn't stay on after two years . . . that you're doing charity work and that you can only stand poor people for two years and then you go out into the real practice of law . . . which is obvious garbage. There's an expertise to be developed, and [this] just never has been in the Province, in poor peoples' problems and the way of dealing with them".

A further reason for the policy was said to relate to the experimental nature of existing Legal Aid offices; the Board did not want to create too large a permanent staff until they were sure about the future structure of the service. Finally, there was the simple fact that the money available for salaries, and the nature of the work which one staff lawyer described as "mickey mouse", meant that the Society was in any case thought likely to attract primarily young lawyers.

In practice the policy is not entirely reflected in the current staffing situation. At the time of our visits the position was as follows:[1]

---

1. Information provided by the Legal Aid Society in a telephone conversation, October 15, 1976.

No. of Lawyers	No. of Years Experience at the Bar
3	Under 1 year
10	1 - 2 years
7	2 - 3 years
4	3 - 4 years
1	4 - 5 years
5	5 years or more
Total 30	

If, as we must assume, future appointments follow the new policy, it is important to point out that there are both advantages and disadvantages to this. One disadvantage is that if a particularly good lawyer is taken on, the Society may wish to retain his or her services for more than two years: indeed this problem is recognized for in a few instances contracts have been renewed. A further disadvantage may be that if a lawyer knows that he or she is going to have to leave after two years a watchful eye may be kept open for a good offer after only one year, and indeed some lawyers indicated that they were leaving earlier than necessary for this very reason. One commented, "The most I'm going to do here is two years, anybody with any intelligence and ability wants to move on ... so why not start feathering my nest before that so that when my two years are up I'm going to have somewhere to go".

On the other hand the policy probably does make it easier to get rid of lawyers who are less than satisfactory - though this is, of course, linked to our earlier comments about quality control and assumes that Head Office is aware of their shortcomings. It seems crucial that Legal Aid lawyers should not feel themselves to be 'different' from other lawyers in terms of quality and that they should not be seen in that light by

colleagues in private practice. This can most easily be avoided by educating them about their area of practice, giving them greater support and leadership, and through conferences, visits, study groups, workshops, etc. Unfortunately these are facilities which have been severely curtailed by budgetary cuts.[1]

Reference was made earlier to the fact that in view of the policy laid down, more staff lawyers than might be thought likely had been qualified for longer than two years. From talking to this group we formed the impression that although many of them were called to the Bar some time ago, by no means all of them had practiced in an area of law which would necessarily qualify them for their present position as Legal Aid lawyers, and to this extent they could be said to lack experience. Without implying any individual criticism, one such example concerned a lawyer who had practiced for over six years as a corporate solicitor and house counsel for a finance company.

There appeared little doubt that amongst the more recently qualified lawyers there was often only very limited commitment to legal aid work. One lawyer said he was not at all interested in civil work, nor, indeed, in the practice of law. In this particular office there was, at the time of our visit, a vacancy

---

1. In a memorandum from the Research Director of the Legal Aid Society dated April 29, 1976 he informed all regional offices that:

    1. the continuing legal education fund has been completely removed;
    2. the library fund has been reduced by 40 percent;
    3. the miscellaneous fund has been completely removed;
    4. the summer law student program has been removed completely.

for which there had been about six applications. The most experienced applicant was not acceptable to the present lawyer because he wanted someone with no more than the equivalent of his own experience (one year), and someone who would concentrate on civil matters. Another lawyer, in favour of the appointment of newly qualified practitioners, explained this by saying: "It fills an awkward period in a lot of lawyers' careers". Another said: "I'm here for the experience mainly"; and yet another described the Legal Aid office as: "A place where a young lawyer can get experience and build contacts without having to worry about overheads". One said that: "People go through law school and they want to be lawyers and to be rich. By going into Legal Aid they know it isn't going to happen. It's a typical class position of lawyers - they don't want to be involved with poor people". A number told us quite openly that they applied for jobs in a particular area in which they hoped to practice subsequently, and this was "the best way to get to know the town and the people". Sometimes the two reasons were combined: "I wanted to get practical court experience and to meet Bar members [with a view to a subsequent job]".

Amongst the more experienced lawyers, we met a larger proportion who were truly dedicated to their work and who, by comparison with some of the younger members of the profession, brought to the job a far greater understanding of the problems experienced by their clients and the social context within which such clients lived and were judged. One, in particular, was adamant that there should be at least a hard-core of lawyers with five years or more experience: "Youngsters tend to say 'this is an interesting point here' - the one in a thousand shot - they want to try it. But I don't think they should be using these poor indigent people. If it is a client who is paying a few

thousand bucks for the trial, that's fine. If he wants to take that long shot and the client understands, it's okay ..... Everything you do with legal aid should be designed to get the best benefit for the accused and too often I think its designed to get the best benefit for the lawyer": and referring to the attitude of the Legal Aid Society towards poor practice: "Legal Aid just won't take a stand and accept that some [lawyers] just aren't competent".

It has often been mooted that if Legal Aid is to change and progress, then it is to the younger, more 'radical' lawyers that one must turn; our discussions with those currently working in the system and in other jurisdictions[1] belie this view. One such lawyer explained the fact that newly qualified lawyers are not radicals because their education does not allow for this: he felt there was a need to "... introduce less conservative influences at law school".

A number of offices had law students working there during the summer. Only one office used volunteers who "do whatever is needed around the office". The secretaries divided themselves into two distinct groups: those who performed purely secretarial duties (eight offices) and those where one or both regarded themselves as paralegals (six offices). The role of paralegals consisted essentially of interviewing and screening applicants who called at the office, giving summary advice, and operating a referral system. In many cases this referral was done without consulting the lawyer(s) - in some offices the

---

1. In particular Manitoba and Quebec.

paralegal/secretary was considered to have enough experience to 'match' client and lawyer, in others it was largely a question of phoning around until a lawyer willing to take the case could be found. Whether or not they performed this paralegal function was a matter left entirely to the discretion of the lawyers concerned, and in some instances those performing the job felt themselves to be 'demoted' when a new lawyer, who expected them to restrict their activities to purely secretarial duties came to the office.

d) Relationships Between LAOs and Other Organizations

(i) The Head Office of the Legal Aid Society

Apart from the Victoria office, (and of course Vancouver itself) there appeared to be only minimal contact by regional offices with the Legal Aid Society, except at a purely administrative level. Two other exceptions to this were offices which were currently experiencing serious concerns in connection with the Legal Services Commission's proposal that they be integrated with a local CLO. This had resulted in a close working relationship with the Legal Aid Society in the hope of receiving support and help in dealing with the particular situation.

The question of contact with Head Office is one upon which the offices were very divided: seven offices liked things the way they were and preferred to retain as much independence as possible. As one lawyer put it: "The best thing about working for this agency is that they let you set up your own operation in your own town and we're just treated like a private practice". However this same lawyer thought that staff from Head Office should get out more to ensure quality control. Another lawyer who appeared to be very able but who preferred to be left alone was

not even keen to attend the upcoming Legal Aid conference: "I have a very good hunch that the way I'm carrying on is not the way I'd be told to carry on. I don't have much of a stake in the Legal Aid Society so I don't really care.

Four offices would have preferred better communication and feedback, with more attention paid to their reports.[1] Two offices wanted more advice on such matters as office procedure, and on policy issues such as eligibility and non-tariff work. Some lawyers hoped that Head Office would provide more literature and access to further training conferences, but in the absence of these there was general appreciation of the services provided by the Research Director at Head Office.

(ii) The Legal Services Commission

With the exception of the Vancouver office, most of the lawyers in Legal Aid offices had had no contact with the Legal Services Commission, knew little or nothing of their work, and cared less. Some offices said they had received pamphlets and tape recordings from the Legal Services Commission which they were supposed to use, but we did not hear of any office that had actually used them. Some said they were "misleading" and/or "a waste of time".

It is evident that the Legal Services Commission is often seen as a protagonist for the CLOs, hences a 'threat' to the Legal Aid offices.[2] In the single office where the lawyer was supportive of the concept of CLOs this was undoubtedly due to the fact that he worked closely with the CLO lawyer, a circumstance that was particularly important since there was no second

---

1. Ill-feeling was caused when the staff committee in one office approached the Board of Directors directly. They were not at all well received and it was regarded as "improper" for them not to go through Head Office.

2. On p. 45 supra we pointed out that some CLOs felt the Commissioners were too concerned about the Bar and failed to act as advocates for CLOs. However the feelings expressed in LAOs and noted here were very much stronger and whatever the 'truth' of the matter the fact that both organizations perceived the situation differently is a further indication of the underlying conflict which currently exists between them, in a situation where both are competing for scarce resources.

lawyer in the Legal Aid office. Furthermore, this particular CLO lawyer identified very closely indeed with those members of the legal profession who object to paralegals performing tasks which might be said to constitute the practice of law.[1]

Nor were the lawyers alone in expressing negative views about the Commission. Many of the secretaries in Legal Aid offices, particularly those who regarded themselves as paralegals, expressed themselves in similar terms. One said: "All I know is that they're trying to push their weight around too much". Pressed for evidence she could give none, but said she did not like the idea of the Legal Services Commission telling lawyers or paralegals like herself "what they can and can't do".

The position of Head Office and the Legal Aid Society (as represented by the Board of Directors) vis a vis the Legal Services Commission is, of course, somewhat different from that of the regional offices. They are concerned about the direction of the Commission's policy, particularly in relation to the perceived threat implicit for the Society in any integration of CLOs and LAOs. It is thought that the Commissioners have not given enough serious thought to the future role of the Legal Aid Society in their development plans - they evidently regard the Commissioners as having made overall policy decisions without giving adequate consideration to the detailed steps which would be necessary in order to implement their goals, or to their implications. The fact that the Commission had recently advertised the post of Executive Director was interpreted to mean that the number of CLOs was intended to expand and that these would have

---

1. The work undertaken by the paralegal in this particular CLO was exceptionally restricted as a result.

CONTINUED

1 OF 2

a special relationship with the Legal Services Commission at the expense of LAOs. The alternatives offered by the Commission appeared, to the Legal Aid Society, to be either a dual system that was wasteful and uneconomic, or a virtual takeover of the LAOs by community boards.[1]

Some of the staff of the local Vancouver office, insofar as they were able to distinguish their 'service' role from their 'Head Office' role, were not sure that there was any justification for the continued existence of the Commission at a time of severe economic restraint. The Commission has been forced to allocate most of their budget to the Legal Aid Society because that organization provides the most basic service (mainly family and criminal law), and this has meant that their function in allocating funds on a priority basis has been quite restricted, with worthwhile projects having to be abandoned. Finally, the staff expressed some reservations as to whether the Commission had much government support; but this was thought to be something that the next two or three years would show.

(iii) Community Law Offices

The views of LAOs regarding CLOs are necessarily linked to their more general attitudes to the Legal Services Commission discussed above, and are also coloured by their personal experience. It was particularly noticeable that the majority of lawyers were very ignorant about the precise nature of the work undertaken in CLOs and the competence of their staff to perform such duties. They were also ignorant about how CLOs operated administratively, and about the financing of the offices, particularly with regard to salaries, though there were many myths

---

1. In this section of the report we are concerned only with the views of the Legal Aid Society. The question of the future relationship between the two organizations will be dealt with in more detail in the final section of the report.

floating around on the subject. Five of the Legal Aid offices were situated in towns where there was also a CLO; in two cases the relationship between the two offices could be described as 'very bad',[1] in one 'very good' and in the remaining two 'fair to indifferent', with some referrals being made by the CLO to Legal Aid (only very exceptionally did referrals flow in the opposite direction). In some areas, a Legal Aid lawyer acted as a consultant to the CLO paralegals.

In those areas where there was no CLO, the attitudes of the Legal Aid staff towards them was decidedly more negative: "Because we have an adversarial system, paralegals should be doing everything in their power to get people off - they don't. In many cases, through trying to arbitrate, the worker is making a legal decision that can only be made by a judge. CLOs are, as far as I am concerned, a way of providing substandard services to sub-standard (sic) people." In another office the need for an alternative to Legal Aid was recognized, since not all people have a clearly defined legal problem with which the LAO can deal, but they did not see the answer lying in offices staffed with paralegals, who, they thought, worked largely unsupervised. Where a retaining lawyer was employed, supervision was not considered adequate: "$500 [per month] doesn't go very far and if he's a busy lawyer he isn't always available when they need him". Nor were telephone links with supervising lawyers regarded as a satisfactory means of dealing with the situation, and the phone calls paralegals made to Legal Aid lawyers were sometimes resented by the latter.

One possible role seen for paralegals was that of

---

1. One particular aspect that aggravated feelings about CLOs was a belief that salaries in the latter were unjustifiably higher than those for non-lawyers in LAOs.

"running a divorce mill, with the paralegal doing everything but going to court". In another office where the lawyer thought they [paralegals] were a "good idea", he explained this by saying they had areas of competence that he lacked, but when pressed he was unable to specify where these lay.

One interesting point concerns the attitudes of Legal Aid secretaries towards CLOs; one, who regarded herself very much as a paralegal rather than a secretary, was extremely hostile to CLOs, particularly to the idea that the two offices might at some time be integrated. She foresaw a situation whereby paralegals would come into the office with no secretarial duties to perform and with higher status than herself. In one office where the lawyers recognized that the CLO fulfilled a specific need, they nevertheless rarely referred cases to them because, they claimed, not many people came into the office with a social problem. However the secretary in this particular office had very positive views about the CLO (as did the law student) and it seemed probable that where she thought it appropriate, many people calling at the office were in fact referred to the CLO, unbeknown to the lawyers.

Apart from those offices which expressed highly negative views, the general feeling could probably best be summed up in the words of one lawyer who said: "Social and legal work are very distinct roles and should not be blurred". Associated with this opinion seemed to be a very widely held view that in a time of economic restraint, the type of 'hand-holding' activity (the lawyers' perception of much social work) provided by CLOs is a luxury that the Province can ill-afford. Finally, in this respect, it is worth noting that when asked to whom they referred cases that were not specifically 'legal' only two offices mentioned CLOs. Most frequently mentioned were Consumer Services, the Rentalsman, DHR and the Family Court Counsellor.

(iv) The Local Bar and the Judiciary

All LAOs claimed to have a 'good' or 'very good' relationship with their local Bar and identified closely with them, though the staff of one office expressed the view that local Bar members were "extremely right wing", (a situation which they said sometimes brought with it some ideological conflict); in another office the Bar was characterized as "very conservative". In practice the views of the local Bar appear significantly to determine the manner and style of the work undertaken by LAOs, and many offices seemed very conscious of what would, or would not be met with approval by Bar members This situation no doubt accounts for the fact, referred to earlier, that most LAOs were very satisfied with the support and co-operation received from the Bar, but whether it was a good basis for the provision of high quality service for the benefit of clients is by no means certain. However, given the degree of isolation in which each local office worked, it is hardly surprising that Legal Aid lawyers should respond in this way.

Similarly relationships with the judiciary were generally described as 'good'. Where there were exceptions, this related to the courtroom behaviour of individual judges rather than to the judiciary as a whole. Indeed in some places judges were an important source of referral to the LAOs.

In some offices there also existed a close and co-operative relationship with the prosecutors; we heard examples of the Bench and the prosecution turning to the Legal Aid lawyer to enquire into possible injustices, a role that we doubt would have been so fully developed if there had not been staff lawyers in LAOs.

(v) The Police

Relationships with the police varied considerably between offices, and between different localities falling within the jurisdiction of a particular LAO. Thus whilst one office reported good

relationships in the town, in rural areas the situation was described as "somewhat strained because we find the rights of accused persons treated lightly in [these] areas". In another office the police were said not to like the Legal Aid staff much: "The police assume people are guilty and therefore don't like Legal Aid getting them off". In this town the lawyer had experienced real problems in getting access to people who had been charged, and he attributed this to the "rigid, authoritarian manner of some cops".

Many lawyers complained that they had difficulty in getting access to the accused in police cells, a situation that was said to have worsened in recent months due to a tightening up of security. Whereas in the past they were able to go down to the cells and make their presence known to each accused individually, now it was usually a question of the officer-in-charge shouting out that a lawyer was available if anyone wanted to see him. In at least one fairly major town the staff lawyer acting as duty counsel did not go down to the prosecutor's office but rang and spoke to the secretary in order to find out if anyone needed legal aid (sic). He then obtained a list of charges and decided whether or not to go down to the cells.[1]

Some lawyers felt quite strongly that this situation was unsatisfactory and that not all clients understood the advisability of contacting a lawyer prior to appearing in Court. However most of them appeared unwilling to press the matter, fearing that this might worsen their relationship with the police generally. One or two mentioned taking it up with the superintendent-in-charge, but it did not seem to be regarded as a matter of very great significance. In one office where the prisoners were all brought to a holding cell if they wished to see a lawyer, this was described by the lawyers as a "working compromise"

---

1. In view of the fact that those in custody are often informed by Sheriffs, the police and/or by other prisoners, it is probable that they are more likely than others appearing in Court to be aware of the availability of legal aid.

which they did not challenge for fear of putting the whole duty counsel scheme in jeopardy. The matter had been discussed with the Attorney-General's Department, but seemingly to no effect.

Nor did we find lawyers very willing to act in cases of complaint against the police. We were told that very often the complainant was unwilling to proceed, or that there was insufficient evidence, but some lawyers agreed that to act in such cases would not have been in the best interests of their relationship with the police, and they preferred to 'mediate' through the superintendent.

e) The Services Delivered

(i) Eligibility

As was pointed out earlier, the economic criteria for eligibility are couched in very general terms[1], and it was therefore not surprising to find considerable discrepancies as between offices, both in relation to the actual criteria applied, and with regard to who made the decision. Despite this, only one lawyer said he would prefer more objective and clear-cut criteria to be laid down, and one other thought he 'probably' would. In cash terms, insofar as we were able to obtain information, upper limits in determining eligibility varied from $400 per month for a single male in some offices to $600 - $800 per month in others. In some offices no figure was given, however rough; one lawyer commented: "There is just one test so far as I'm concerned, you put yourself in the person's place and ask yourself is this person reasonably capable of retaining his own lawyer. Anyone on welfare, UIC, or pension qualifies." The

---

1. See f.n. 3, p. 21.

second lawyer in the same office put it more succinctly, he said he relied "strictly on my own gut reaction". In another office where there were differences between lawyers, one commented: "I draw the line at this - if they can go out to a bank and get a loan, all right ... but if they have to go to a finance company ...". His colleague had a different view: "If an individual is unmarried and with a job, there is no situation in which I would grant legal aid". In yet another office it was said "we try to err in favour of the client", and lawyers in two offices said they used the Manitoba guidelines.[1]

As for who determines eligibility, this appears to be done by the lawyers in only a minority of cases: in two offices they claimed to do all such screening, in the remaining offices it was said to be done by the secretaries (or law students when available) with only borderline cases being referred to the lawyer. In one office the two secretaries claimed to be quite strict when trying to determine the financial status of applicants, and said they would like to have access to employment and government agency records in order to check the veracity of the statements made by clients. As one of them put it: "More people are getting legal aid than should, and we are cutting down. A lot of people, if they are really pushed, could afford a lawyer for themselves ... maybe I'm being too hard, but I think a lot of people take advantage of these things and just think how much they can

---

1. In April, 1975 the then Acting Director of the Legal Aid Society circulated a memorandum to all regional offices, enclosing the Manitoba guidelines for determining eligibility. He suggested "that the cost of living in British Columbia is higher and that this might be taken into account when evaluating and comparing the Manitoba guidelines".

get for nothing". It is perhaps significant that during the period January to June, 1976 this particular office rejected more cases than any other (23 percent of those dealt with).[1] In other offices (including those parts of the country with Area Directors) the rejection figure ranges from 4 percent to 20 percent.[2]

It is difficult to see how any system operating on this undoubtedly haphazard basis can be viewed as just by potential clients. Nor is there any formal mechanism for appeal; the lawyer is free to tell the applicant he can appeal to Head Office (and the staff there are said to encourage this) but in practice it is extremely rarely that this is done, and we were told that no more than two or three cases are appealed in any one year.[3]

Any consideration of the discrepancy in the refusal

---

1. In crude numbers this amounts to 88 cases out of a total of 377 dealt with.

2. These figures are derived from the Legal Aid Society's Report No. 2. "Applications by Offence Code" Jan. - June, 1976. It is noteworthy that in these reports, the total number of applications received is greater than the combined number of applications accepted and rejected. According to the Legal Aid Society, this is due to incomplete forms being returned to Head Office. To make the data more useable we have called the total number of applications received plus applications rejected, applications dealt with. For the period Jan. - June, applications dealt with is about 22 percent less than applications received.

3. Many other jurisdictions provide formal right of appeal from a denial of Legal Aid.

rates between offices must lead one to question the fairness of the present system. Two possibilities seem open to the Legal Aid Society. One would be to make the financial criteria more specific by laying down at least minimum standards:[1] in this connection it is worth remarking that in most other jurisdictions in Canada (as well as in the UK) eligibility criteria are prescribed by regulation and reviewed periodically. A second possiblity (and in no way an alternative one) would be to call for a contribution from any applicant whose income exceeds the criteria laid down, but who could not afford the full cost of a lawyer. At present there is no formal provision for such a contribution, although in some instances this may be asked for at the discretion of the lawyer receiving the application. Although lawyers in five offices said they would welcome this practice and did in fact use the procedure, in the year 1975-1976 total contributions amounted only to $28,135; of this amount $6,626 was from criminal cases.[2,3]

(ii) Summary Advice

It is by no means clear to what extent all those coming through the door of the various offices were expected to complete an application form. In most places we were assured by the secretaries that this was so, and intensive probing to see if it were possible for work to be undertaken which would not appear on the statistics forwarded to Head Office

---

1. The danger of such a procedure is that 'minimum' standards soon tend to become the accepted norm.
2. It is arguable that the costs of administering a contributory scheme outweigh the benefits. Even if this were so in financial terms, it may be that such a system would approximate more closely to the ideal of social justice.
3. Geographical factors are important here; the cost of hiring a private lawyer in a rural area will depend upon the distance that the lawyer has to travel and time spent away from his office. These factors need to be borne in mind when considering legal aid applications.

usually elicited a firm "no". This matter was pursued because it is widely believed by Legal Aid personnel that Legal Aid offices in fact perform all the tasks that CLOs undertake; it is argued that this fact is not fully appreciated by the Legal Services Commission and others, because no forms are completed where the matter is not one eligible for legal aid.[1] We were left with the impression that in at least two offices, which together accounted for over half of all referrals, full application forms are filled in by everyone entering the office and no-one is seen before this is done, but in the majority of offices, this did not appear to be an absolute rule.[2]

Equally difficult to establish was the extent to which summary advice is given by both lawyers and secretaries/paralegals. In about half the offices the latter were said to do such work, and indeed in four places this was said to account for at least half their time. One secretary said she and her colleague tried to keep as many people as they could

---

1. This is not the view of the Executive Director, whose view is simply that they have the potential to do so.

2. Until April, 1976, offices kept informal record sheets to cover calls at the office which did not become legal aid applications, but where some help or advice was given. These were officially discontinued when the statistics were computerized, though some offices continue to use them for their own purposes. New civil non-tariff referral forms were brought into operation in July, 1976 for use whenever such a case was referred to a private lawyer or undertaken by a staff lawyer.

from the lawyer [since he was thought to be overworked] by referring them elsewhere and/or giving advice. It is interesting to note that in most LAOs where secretaries perform the function of paralegals this was not seen as in any way objectionable by the lawyers, although these same lawyers were often very opposed to paralegals working in CLOs. Presumably the fact that there was a lawyer on the premises in LAOs was thought to provide adequate protection.

Any attempt to estimate the overall amount of time devoted to the giving of summary advice was unsuccessful - in one office it was estimated at about two percent of their time, in another fifteen percent. In the words of one lawyer: "Everyone who comes in gets at least some summary advice". As in the case of financial eligibility referred to earlier, the researchers were left with the impression that whether or not summary advice of a legal nature was offered was largely a matter of chance; factors which affected the situation included the extent to which the secretaries played a 'gate-keeping' role, the availability of the lawyer (both in terms of his office caseload and his absence from the office either in court or visiting other parts of the Province) and, perhaps most importantly, the degree to which he or she was interested in this type of work and saw it as a part of the job of a legal aid lawyer. There appeared to be some connection here between the amount of such work undertaken by lawyers and their attitudes to CLOs: where lawyers held negative views about the latter they were more likely to give summary advice themselves. However, this is difficult to substantiate and there were certainly exceptions, namely where lawyers felt that legal aid work should concern itself exclusively with criminal matters.

Again, there seemed to be a great variation in the extent to which lawyers saw themselves as involved in 'social work'. In two offices conflicting views were expressed: it appeared to the researchers that they did such work themselves rather than refer it to a CLO in view of their negative feelings about these latter offices, but that they did not really see it as their task to do so. In three offices an unequivocal "yes" was given to the question; in one it was an equally unequivocal "no"; in the remainder the answer was "some".[1]

(iii) Duty Counsel

In most Legal Aid offices acting as duty counsel represents one of the most time-consuming and important functions of staff lawyers. In two offices, considerably less such work is undertaken, and in Vancouver, as we have earlier remarked, all duty counsel work is referred out. It is important to note that not only is this service critical to the accused, but our observations suggested that judges and Crown counsel often proceeded on the assumption that it was being fully discharged.

We saw some staff lawyers performing a valiant job under well-nigh impossible circumstances, with very little time to speak to defendants before their court appearance and with a large number of accused waiting to be seen.[2] Furthermore interviews sometimes took place in a cell where there was no

---

1. It must be borne in mind that the extent of the demand for social work was in some cases a reflection of the availability or otherwise of alternative services in the community.

2. We were often told that we were seeing things on a quiet day.

protection for solicitor/client privilege and in one case staff counsel said that police in that community made it difficult to gain access to the lock-up.[1] The need for experienced counsel was never more apparent than in this context.

The situation in some parts of the Province is such that it is physically impossible for staff lawyers to cover the duty counsel needs of up to seven courts. In two offices, the staff rely on Sheriffs, Elizabeth Fry courtworkers, the Crown counsel's office or Court personnel to inform them if they are required for first appearance on any given day. In at least one other office, the demand is such that the duty counsel must rely on the prosecutorial and Court staff to schedule appearances in such a way that conflicts in geographically widely separated courtrooms are minimized. In two cases, however, even this arrangement is not sufficient, and staff counsel must rely on private lawyers to cover some courts, generally, as one lawyer described it, "on a Good-Joe basis". "It's absolutely impractical to cover seven courts. The government recognizes the problem with Provincial court judges - they have three - and the local Crown counsel has an open-ended license to appoint prosecutors ... at least they seem to recognize the need until one looks at legal aid." He went on to say "We work the system as best we can ... [but] the other half of the answer is that people don't get the service."

---

1. See also pages 95 and 96 (supra).

(iv) Legal Casework

As was mentioned earlier (see page 22 supra) budgetary considerations resulted in a cut-back in services available under the Legal Aid provisions. In a memorandum dated April 6, 1976, the then Executive Director of the Legal Aid Society pointed out that the cut-back would considerably affect the operation of the various offices and that they would have to adjust their priorities to ensure that:

> "1. all applicants for criminal legal aid who are charged with offences, under the Federal-Provincial Agreement are interviewed, advised, and referred when they qualify;
>
> 2. duty counsel services are maintained by staff counsel, unless arrangements have been made previously to retain private practitioners;
>
> 3. qualified applicants who are charged with summary conviction offences under the Federal-Provincial Agreement are defended by staff counsel, both at trial and on appeal;
>
> 4. financially-qualified applicants who are charged with Federal or Provincial offences which are not covered by the Agreement are defended when time permits. It is in the discretion of each staff lawyer to determine the amount of time available to him to act in such cases, where the complexity of the issues or inability of the client to adequately defend himself would result in obvious prejudice to the client;

- 106 -

5. legal advice and representation is given to qualified applicants in family law and other civil matters, as time permits;

6. preventive services, such as public legal education, school and college teaching programs and written legal materials, are encouraged, as time permits."

In a subsequent memorandum, signed by the Research Director of the Legal Aid Society, it was explained that the instruction to refer out to the Bar only indictable offences, and for staff counsel to take all those summary convictions which had to be done pursuant to the Federal-Provincial Agreement, reflected the belief that the criminal law tariff was only large enough to cover indictable offences. The memorandum went on to say: "If you find that you're doing all the mandatory summary conviction defences is getting too repetitious (e.g. impaired driving, assaults, possession of drugs, etc.), you are free to refer out those summary conviction cases IF you pick-up an indictable offence in its place". In three offices we were told that they made use of this 'banking' system, but the practice may in fact be more prevalent than this.

It is undoubtedly the case that, with few exceptions, most serious criminal cases are referred out to lawyers in private practice, although one office claimed to have referred out very few such cases in the three months preceding our visit, and the number was said to be decreasing. One other office also claimed to keep as many criminal cases as possible. One office which referred out most cases included in this all guilty pleas,

whereas another, which referred out about 70 percent of its cases, kept the guilty pleas.

Looked at in terms of cost per case it seems extremely difficult to account for differences between those offices where most cases are referred out and those where more are done by staff counsel. In Vancouver (which in the period Jan. - June, 1976 accounted for 46 percent of all completed cases) almost all are referred out and the resultant cost per case is $171.99[1], a figure which is undoubtedly inflated by the drug conspiracy cases.[2] In the office referred to above which claims to have referred out very few cases in the three months preceding our visit (March - June, 1976), the cost per case is the highest for the Province - $177.12. In another office, which refers out all indictable cases, the cost is the lowest in the Province - $116.09 per case, and in yet another which also claims to do so, the cost is $148.85.

One possible explanation for such wide discrepancies might be the number of cases involved, but in the two last mentioned offices the number of cases was virtually identical (238 and 240 respectively). Similarly, the office with the highest cost per case had dealt with the same number of cases

---

1. All figures given here have been extracted from the Legal Aid Society Accounts for Jan. - June, 1976 and include fees and disbursements approved.

2. These cases incurred severe criticism from many working in the legal aid system. One lawyer commented: "I think some lawyers are using [the cases] as a pension plan. It is not the way we should be handing out Legal Aid."

as had another office where "most" cases are referred out and where the cost per case was $129.19.

Another way of explaining the discrepancies might be in terms of the type of case, but this appears to help us little. If one considers the five main types of offence and looks at the cost per case in each office, for each type the range is very great:[1]

Type of Offence	Variation in average cost per case as between offices
Assault	$83 - $180
Break and Enter	$107 -$171
Theft under	$76 - $144
Drinking	$86 - $142
Poss. cannabis	$88 - $173

We do not consider it within the terms of reference of this study to speculate further on the meaning of these figures - such factors as geographical differences, number of guilty pleas, quality of service, etc., may all be important - but we believe that any future discussions concerning the cost of legal aid in the Province requires that the Legal Services Commission and the Legal Aid Society together consider the figures very carefully before making ex cathedra statements about the comparative costs of referring out to private practice and the use of salaried lawyers.[2]

---

1. Extrapolated from the Legal Aid Society "Proceedings Costs for Selected Offences" Jan. - May, 1976.

2. This is not to suggest that we believe that cost should be the most important determinant in arriving at a policy regarding delivery mechanisms. Indeed one of our concerns is that too much attention is currently being paid to costs in purely financial terms and insufficient consideration to the social costs, to the quality of service being delivered, and to the right of clients to service.

The cut-backs in the budget have undoubtedly resulted in important changes in the organization and nature of the legal aid system. According to their Annual Report for 1976, the Society cut out about 55 percent of its criminal referrals on the assumption that this would reduce criminal tariff costs by about 45 percent. At the same time, the number of full-time salaried lawyers has increased from sixteen in 1975 to thirty at present, and these lawyers must now accept responsibility for providing service to many who, in previous years, would have been referred out.[1] We question whether the significance of these changes has been sufficiently well recognized.

It would seem to us that much more adequate provisions than currently exist need to be made centrally in order to service the regional offices (and Area Directors) efficiently and to ensure that the work that they do is of a uniformly high quality. The present arragement whereby the Vancouver office has to perform the dual role of providing service to clients and acting as Head Office of the Society is viewed by those working there as problematic.[2] There is little doubt that the administrative tasks, which all but one of the lawyers have to perform severely curtail any development of their service function, as well as the opportunity to pursue innovative ideas in relation to the delivery of legal services.

---

1. The rate of increase in staff lawyers in the Vancouver office has been proportionately much smaller, so that a very high proportion of cases and all duty counsel work is handled by the private Bar.

2. It is recognized by them thatthere are certain advantages to being close to the centre of things, but this could be achieved by physical proximity rather than by having to fulfill a dual function.

There is also the further point that, if regional offices are to take on more cases, they would profit by extended backup services, including better library facilities in most places outside Vancouver and Victoria. As mentioned earlier, the present Research Director is highly praised for his help, but clearly the amount of work that one person can cover is limited. This, combined with the fact that budgetary cuts have reduced opportunities for training seminars, workshops, attendance at conferences, etc., has meant that lawyers are now less well provided for in terms of backup services than when they were fewer in number and did fewer cases. The importance of this will again be apparent in the discussion of civil matters which now follows.

(v) Civil Cases

According to the Legal Aid Society[1] "approximately 15,000 people applied for civil legal aid during 1975, and of these 4,500 were family law cases referred to lawyers in private practice under the family law tariff program. The remaining 10,500 were cases resolved [authors' emphasis] by staff lawyers, either by the taking of cases, the provision of summary advice or, where applicable, reference to other resources or agencies".

Any attempt on our part to generalize about the extent and nature of civil work undertaken in the different offices, as distinct from that referred out, would be futile.

---

1. Letter from Executive Director, July 7, 1976.

The great majority of such work concerns family matters - divorce, custody, maintenance, etc., and the variety in the responses given, together with the probable unreliability of the information, are reflected in the fact that six offices claimed to refer out "most" such cases, two referred out "all", one thought "40 percent", two were unable to estimate, and whilst one simply said they referred out all uncontested divorces, another said these were the ones they retained.

The number and types of other civil cases undertaken by staff lawyers varied considerably and included almost everything from conveyancing to welfare appeals, but few offices provided any clear picture of such activities. As with criminal and family matters, acceptance of individual cases varied not only by office, but also by the circumstances of the case and, most importantly, the amount of time available. A survey carried out by the Legal Aid Society Head Office in July, 1976 indicated, that at that time, four offices definitely did not have the capability to "physically handle the urgent family cases" if required. Two other offices reported that they were doubtful whether such cases could be handled and three gave a qualified "yes". When asked further if undertaking family work would leave them any time for other civil cases, seven offices said "no", while two failed to answer the question, merely saying that they did not do any such work now. As is generally recognized, the indication here is that if staff lawyers are obliged to become increasingly involved in tariff items, even less

civil casework will be possible, although the amount now being undertaken is already very small.

As was reported earlier (see p. 19 supra), the Legal Services Commission in their First Report set out a number of tasks for CLOs which, they claimed, "traditionally have not been handled by the Private Bar or by the Legal Aid Society". They listed welfare appeals, Workers' Compensation, UIC, small claims, discrimination, civil rights, pensions and "other miscellaneous battles that individuals often have with government bureaucracies".

From our previous discussion of CLOs it will be apparent that with the exception of VCLAS, few of these organizations can be said to have successfully filled the gap, and it seems likely that Leask's estimate[1] that three-quarters of the problems of economically disadvantaged people are not being dealt with because they a re not covered by the legal aid tariff is as true today as it may have been when it was made. So far as we could tell these matters are not handled to even a minimal extent by the LAOs albeit under the heading of summary advice.

Many of these items are concerned with the relationship between the law and legal services on the one hand and social problems and conditions on the other. This is, in essence, an important shift in emphasis from socially defined needs to legal rights.[2] If it is to be accepted that legal

---

1. B.C. Dept. of the Attorney-General. Justice Development Commission. Delivery of Legal Services Project; Systems of Delivery. Dec. 1974.

2. See p. 119 below.

services are concerned with the extension of rights, and with the exercise and enforcement of such rights, then clearly serious thought must again be given to the nature of the delivery mechanism, since these are wider ends than services based directly or indirectly on the legal profession, and the revamping which has taken place over the past two years has obviously failed to take account of this shift. It is to these matters that we now turn in the final section of the report.

PART III

SOME ISSUES ARISING

In this study attention has been drawn to the dysfunctional nature of a significant proportion of the work which is currently being undertaken within the field of legal services delivery to the low-income population in British Columbia. Noteworthy amongst these are:

a) the element of a 'chance' which largely determines whether or not a person with a socio-legal need[1] reaches an appropriate agency;

b) the arbitrary nature of any decision concerning whether or not a person approaching such an agency will be found eligible and will receive service, as well as the nature of that service;

c) the very considerable variations amongst staff working in CLOs and LAOs with regard to both their attitudes to the work and their apparent level of competence;

and, largely as a function of b) and c) above

d) the differences in the type of service available to clients in different LAOs, and to a lesser degree in different CLOs.

---

1. As previously pointed out, we do not think it helpful to speak of strictly legal needs in the present context.

Whilst it is important to draw attention to these shortcomings, we do not think it either necessary or useful to expand upon them in this final section. In at least one sense the 'negative' findings we have reported were inevitable, given the nature of the task presented to us and the type of information which is obtainable from the various offices. Assuming that it had been more reliable, this type of information would be usable for general monitoring purposes, and it is precisely the kind of data which the Legal Services Commission should be collecting on a systematic basis and which would form an important element in any exercise of quality control. The collection of this information, or more accurately the setting up of a mechanism for its collection, requires no specifically sociological skills, but merely the technical expertise of a social scientist. However, the type of analysis to which such information readily lends itself is bound to draw attention to the 'failings' of the organization or system under observation. This is because the collation and analysis of the material have, as an end, the same goal as that which is said to underly the provision of services by LAOs and CLOs, namely the more effective treatment of the legal or socio-legal needs experienced by low-income clients. Offices are studied as if they were social structures in pursuit of an objectively defined and corporate goal in a highly rational and co-ordinated way.

A sociological analysis in the field of law and legal services cannot automatically accept such an assumption; it must start by questioning the legitimacy of the assumptions on which the system is based. Indeed a closer examination of the situation in agencies concerned with the delivery of legal services indicates that their goal is by no means

exclusively confined to the effective treatment of clients, and even the meaning of that goal is unclear - what is 'effective'? As was evidenced in the interviews, concepts of effectiveness varied as between lawyers, paralegals and administrators, as did the energy with which such a goal was pursued under differing conditions. Furthermore, without carrying out a client survey, we cannot know whether they shared the same views about effectiveness as did the providers of the service, but it is at best questionable.

It is, then, inevitable that an analysis such as has been carried out will point out 'failings' and indeed that is one intent of monitoring. A sociological analysis, on the other hand, seeks to aid in understanding why a particular social situation or event occurs. In order, therefore, to make any significant sociological contribution to the debate, it is necessary to address oneself to the multiplicity of goals inherent in the service, to show how these often conflict, and how they are understood by those professionals and others whose activities constitute 'the organization'.

Ideally such an analysis would require a very different type of research methodology from the one that was available to us.

A research contribution in the field of social policy (and in this context government funded legal services fall under this heading), lies as much in the formulation of theoretical perspectives - that is ways of 'looking at the world' - as in the offering of detailed

findings.[1,2] To undertake that kind of research would have required that we concentrate upon the meaning of agency rules and practices (Legal Aid Society and Legal Services Commission) for those operating the service on the occasion of their actual use. Such a study would rely largely on conversations with lawyers, paralegals and administrators and, more importantly, upon detailed observations of their day-to-day activities, so that an account of the constraints on the actual situations of interaction between client and professional could be given. This we had neither the time nor the mandate to undertake.

Hopefully however, some of the material obtained has provided a background against which further developments can be planned. We refer in particular to the nature and causes of many of the conflicts to be found in the present system and which, unless they are fully understood and resolved, will continue to undermine future plans. We do not see it as our task to point to solutions to, for example, the thorny question of whether LAOs and CLOs should be integrated, subsumed under one service, or whatever. We have read lengthy memoranda on the subject from those concerned, which represent disparate interests and widely divergent views. They have been written by the people working in the system and it is

---

1. In the field of welfare practice see, for example, Blau, P. The Dynamics of Bureaucracy, University of Chicago Press, 2nd ed. (1963).

2. Unfortunately, government policy makers and social administrators seldom recognize this fact and insist on results - preferably quantifiable - which will enable them to provide short-term remedies to pressing social problems. Furthermore, by calling on the skills of the social scientist, intellectual respectability is said to surround the findings. This obscures the fact that all social policy decisions are in essence political decisions.

they who experience and are affected by, change in a very real way. As outsiders, all we can do is make a plea that before further changes are brought about there will be some greater attempt to reach agreement by all those working in the system concerning the basic philosophy which is to underlie future developments. Even more crucial, however, is the need for government to decide what philosophy it wishes to see enacted, since in the long run all social policy decisions are by definition political decisions.

This is because broad policies are determined by the government in the light of competing demands for scarce resources. It may be argued that in this instance the government handed over responsibility for the provision of legal services to an 'independent' Commission - by which is meant that it is theoretically not government controlled and is free to set its own policy. In practice this is a chimera: in the first place the financial constraints placed upon the Commission severely hamper the extent to which they can develop policies and delivery mechanisms, the nature of which might fit their stated philosophy concerning the social-structural and the individual situations underlying legal problems. Secondly, no satisfactory solution has ever been arrived at regarding the nature of the relationship between the Commission and the Legal Aid Society. The latter had been in existence for some years prior to the establishment of the Commission and had a relatively well established organizational structure which was, in some measure, providing basic legal aid services. The Commission lacked the power (and probably the will) to control policy insofar as

it affected the Legal Aid Society.[1] Yet the service provided by the Society constituted (and continues to do so) the largest single part of the work for which the Commission accepted responsibility under the Act.

In an earlier section of this study (see p. 112 supra) it was pointed out that implicit in the expressed philosophy of the Legal Services Commission is the emergence of legislatively (or administratively) defined legal rights. Previously, legal services were delivered on the basis of socially defined needs: that is needs defined (largely on an individualized basis) by both the givers and receivers of service. Concomitant with this shift from needs to rights is an emerging concern with such 'new' areas of law as welfare law, discrimination, and civil rights, all tasks that were set for CLOs by the Legal Services Commission. These issues are concerned with the relationship between the law and legal services on the one hand and social problems and conditions on the other. Any acceptance of this philosophy implies that legal services are to be seen as being concerned with the extension of rights and with the exercise and enforcement of rights. This inevitably requires a different delivery mechanism from one which caters exclusively to meeting the needs of disadvantaged people as they are presently interpreted.[2]

---

1. Power is here defined as "the probability that one actor within the social relationship will be in a position to carry out his own will despite resistance"; Weber, Max: The Theory of Social and Economic Organization, The Free Press, Chicago: 1947.

2. This is particularly relevant in B.C. where legislation regarding Legal Services, where it exists at all, is vague and imprecise. Many jurisdictions provide by Regulation that for certain proceedings legal aid should be provided for an eligible person. In British Columbia no such statutory right to receive legal services with respect to particular proceedings has been created.

Furthermore, any extension of service in this direction requires an expanded budget[1], and in the absence of additional funds it is incumbent upon the government to openly acknowledge that the economic and/or political climate is not ripe for any major change. It would then rest with the Legal Services Commission to consider whether there was any advantage to be gained by 'tinkering' with the present service, or whether the resources available should be devoted to providing an efficient and expanded legal aid service, province-wide, acknowledging that the issues concerned with the extension of rights could not for the present be adequately addressed.

If such a posture were to be adopted, some might regard it as unfortunate since, as was said earlier, it ignores the social-structural basis of many of the strictly legal problems that people face. Although such legal problems do not lend themselves to individualistic remedies, their resolution is nevertheless dependent upon legal intervention, be it through law reform leading to legislative change, through test cases and class actions, or through education resulting in increased legal consciousness, competence, and participation.

However, even though unfortunate, it might not be surprising since the realities of the situation are such that, as one informant put it: "When we speak of preventive law I know of no government which is interested in funding long-term or educational involvement which is not going to produce immediate results"[2]. He argued that politicians

---

1. According to the Legal Services Commission, First Report March, 1976 (pp. 59-61) in the first six months prior to the establishment of the Commission a total of $1,445,451.40 was made available to the Delivery of Legal Services Division. In the first six months of the Commission's operations $1,386,326.65 was expended (excluding the criminal and civil legal aid tariffs).

2. This would appear to ignore a considerable amount of such work in the U.S. and the U.K.

are wary of group pressures exerted by, or on behalf of, disadvantaged sectors of the public, and are, additionally, afraid of open-ended budgets.[1] Furthermore, there is a potential conflict inherent in a situation in which government funds are utilized for this purpose; in purely monetary terms if the threat is perceived as too great, even the individualized services currently available may suffer from cutbacks. Yet more crucial is the fact that increased legal awareness and competence will undoubtedly lead people to assert their rights in courts and administrative boards, using government funds to fight government policies.

The conflict surrounding the philosophical debate referred to above is by no means limited to government circles, it is equally entrenched within the legal profession itself. There is no concensus regarding the function of law in society: most lawyers, but by no means all, appear to believe that any extension of legal services to disadvantaged groups should be limited to the provision of individualized treatment; they are concerned with the freedom of the individual and with safeguarding the existing framework of the law. This is not surprising since the traditional training of lawyers is based upon client-oriented advocacy. Indeed, some lawyers argue that it would be senseless to train a lawyer to do a job that either cannot be done under existing law, or to do work about which he is unlikely to be consulted, even though the matter falls within existing legislation. Such a view fails to take account of the fact that the absence of consultation is for the most part politically determined, access being blocked through lack of means, lack of education, lack of

---

1. In several jurisdictions, i.e. England and Ontario, government funding of legal services has been available as a right to all those falling within certain eligibility criteria both financial and in terms of service area. Government meets the cost of these services on an open-ended basis.

knowledge, or lack of available resources. This suggests that the training of lawyers cannot legitimately be regarded as merely a technical exercise, it is inextricably bound up with political issues.

At the other extreme there are in B.C. some lawyers (rather fewer it would seem) who believe that the function of the law and of legal services lies in asserting the interests of those individuals and groups in society who are disadvantaged and currently lack power. They argue that the law has an important part to play in bringing about social change, and they call for the development of preventive law through the extension and enforcement of legal rights. Such lawyers recognize that conflicts between group interests are inevitable in society as it is presently structured, and believe that it should be a function of legal services to assist the weaker groups in situations of this nature.

However, it would seem that even amongst this group, there is a firm belief that the social change function is of only minor importance in the actual practice of law for low-income clients and, in many instances, that it will somehow arise out of service to individual clients. In other words there does not seem to be any general appreciation, even amongst these lawyers, of the fact that an alternative delivery mechanism is required to achieve a social change function. It is not well recognized that offering individualized service in response to problems defined by the profession as legal, is a <u>re</u>active response rather than a <u>pro</u>active one, and that the role of law as an agent of social change is in fact curtailed thereby. In other words if one deals with problems on a one-to-one basis, one not only delimits the area of concern, but one also fails to raise the level of consciousness

as to the more fundamental basis of such problems, amongst others in a similar situation.

If the foregoing analysis is correct, the legal profession is, on balance, likely to be very supportive of any decision to expand legal aid as it is presently delivered, though many lawyers would agree (particularly some of those working for the Legal Aid Society) that much remains to be done to make it a more efficient service and to increase the level of skill and competence available to clients.

So far as it goes such an approach may be admirable, but in practice it ignores a quite fundamental implication arising out of the present study, namely the discretionary nature of the service offered by both LAOs and CLOs. The 'eligibility' of clients is established through reception routines, and the manner of client treatment rests heavily upon the terms in which eligibility is established. For the receptionist[1] the chief concern is to assemble enough information (and documentary evidence if possible) to determine where 'the case' should subsequently be assigned - to be dealt with summarily by a secretary or paralegal, to be referred to a lawyer in private practice, or taken by the staff lawyer, or possibly sent to another agency; even, on occasion, to be ignored. To achieve this end, clients tend not to be treated in an individualized way, but a limited set of standard routines are brought into effect. Much of this routine is geared, therefore, not to helping a client with a particular problem, but with generating and collating evidence

---

1. The term is used here for ease of presentation; it may be a secretary, a paralegal or, more rarely, a lawyer.

to justify whatever service the client is then said to require. Furthermore, this aspect of discretionary justice (for that is what it is) through routinized procedures is heavily dependent upon stereotyping, since only by such means can decision-makers manage their own working situation. In order to rationalize this position, receptionists 'select' information which fits their value system or their particular professional or social backgrounds.[1] It is at this stage that the 'facts' are 'objectively' established, and the receptionist is thereby enabled to determine the 'real' nature of client need. The non-paying client is a pawn in an administrative game which no paying client would be likely to tolerate. In whatever context, those involved in delivering a service have a vested interest in perpetuating the essential nature of the system, hence the title of the study - Cui Bono?

We have written of the way in which the government, the Legal Services Commission and a large majority of the legal profession are committed to the individualization of problems. It is important to remember, however, that such a view is supported by both the members of the wider public (since it enables them to dissociate themselves from those who are processed through the judicial or administrative system - 'criminals' and 'welfare cases'), and by many of the clients themselves. In the case of the latter they may prefer to have their 'case' dealt with expeditiously and without fuss, or it may be because it appears to them to be the only available means of problem resolution (which of course in practice, it is). Unfortunately such an approach reinforces client dependency on the professionals employed by the system, since ex-clients

---

1. This may, of course, be as much a matter of problem definition as of discretion.

are not encouraged to become involved in taking up issues on behalf of groups in their community who are experiencing problems similar to their own.[1]

This raises an issue of considerable cultural significance: in the U.S. and the U.K. new styles of service delivery were developed mainly in the poor and deprived neighbourhoods of major cities. Except possibly in certain areas of Vancouver, the nature of the communities in British Columbia and the social fabric of the Province generally, are very different from those other two situations. We are, for the most part, talking about a politically unsophisticated population, particularly outside the Lower Mainland. Many of the problems of poverty and deprivation in the Province are typically found amongst Native Indians[2] and they tend to be hidden away in rural and remote places; it is in these kinds of areas where proactive law belongs.

Any plans for future development in legal services will need to bear this firmly in mind. Rather than juggling with existing services through budgetary 'games', what may be required is a recognition of the true nature and causes of social problems and conditions in those areas, where legal and socio-legal problems abound. To meet these it seems likely that it will be necessary to create new structures of rights and to recognize that the individual and the family may no longer constitute the primary loci of need, but rather

---

1. In the present study there appeared to be considerable resistance to the idea of encouraging clients or ex-clients to act as volunteers in the offices, or as Board members.

2. The research did not include any examination of the Native Programs, Schools Program or training, education, and information programs funded by the Commission. All these may have some impact on the problems referred to here.

that this lies in some wider social unit.[1]

---

1. See White, R. "Lawyers and the Enforcement of Rights" in Social Needs and Legal Action, by P. Morris et al. Martin Robertson, 1973. pp. 50-53.

APPENDIX A

EXPLANATION OF THE STUDY

The information requested in the following pages is designed to give some understanding of each individual Community Law Office and the actual communities they serve, as they see them, and also some measure of the extent of services offered and the numbers and kinds of people being reached by these services. We hope to obtain as much of the information as you are able to provide in order to do as thorough a study as possible. Where numbers given are not the total for the period January 1 to March 31 of this year, please indicate the approximate percentage of this time period they do represent. If and where estimates as distinct from actual numbers are used, enclose them in brackets.

TYPE OF PROBLEM: Some of the problem types given can be combined into one if necessary to accommodate your own classification.

TELEPHONE ENQUIRIES: This item is intended to measure the volume of calls handled by your office and in what problem areas they are most highly concentrated.

CASES: The term "case" is used throughout these forms to cover any situation where a file is opened, as distinct from verbal advice.

PERCENTAGE OF TIME INVOLVED: Please try to indicate the percentage of staff working time expended by the different types of staff in respect to different problem areas. Where there are consultant or staff lawyers involved, please distinguish between "lawyer" and "para-legal".

COURTWORK: In those Community Law Offices which offer courtwork services, we would like to know the extent of these services.

DISPOSITION OF CASES AND REFERRALS: The "Disposition of Cases" table should only include cases, not telephone enquiries. The two "Referrals" lists should, if possible, include both cases and telephone enquiries, but these can be combined if necessary.

CLIENT CHARACTERISTICS: For the sake of consistency, please follow as closely as you are able those categories given in each table. if absolutely necessary, however, the categories can be changed to accommodate your own data.

COMMUNITY DEVELOPMENT/EDUCATION AND ORGANIZATIONAL/COMMUNITY INFORMATION: Attach as many pages as necessary giving the information requested in these areas. An organizational chart might be useful to illustrate organizational "structure" graphically.

COMMUNITY LAW OFFICE

January 1 - March 31, 1976

I. TYPE OF PROBLEM BY NUMBER OF TELEPHONE ENQUIRIES, NUMBER OF CASES, AND PERCENTAGE OF TIME INVOLVED.

Type of Problem	Number of Telephone Enquiries	Number of Cases	Percentage of Time Involved	
			Paralegal	Lawyer
Legal Aid (Application/Referral)				
Landlord - Tenant				
Housing (other)				
Consumer				
Debt Counselling				
Family/Juvenile				
Matrimonial				
Small Claims				
W.C.B.				
U.I.C				
Dept. of Human Resources				
Human Rights (Discrimination Immigration)				
By-Law Infringement				
Criminal (Not Legal Aid)				
Other (Specify)				
TOTALS				
			100%	

COMMUNITY LAW OFFICES

January 1 - March 31, 1976

II. COURTWORK

If your office offers courtwork services then, as well as the information in the Table below, please describe in your own words the nature of the service (e.g. attending with client for support, speaking in court for client, duty counsel, etc.).

Court	Number of Contacts	Number of Days Court in Session	Number of Days Courtworkers In Attendance
Small Claims			
Provincial:			
Criminal			
Juvenile			
Family			
County			
B.C. Supreme			
B.C. Court of Appeal			
Federal			
Canada Supreme			

OTHER AGENCIES IN THE AREA OFFERING COURTWORK SERVICES

Agency	Number of Courtworkers
Native Courtworkers Assn.	
Elizabeth Fry Society	
John Howard Society	
Other (Specify)	

COMMUNITY LAW OFFICES

January 1 - March 31, 1976

III. DISPOSITION OF CASES

Disposition of Case	Number of Cases
Advice/Information	
Referrals to Other Agencies or Services (including Legal Aid applications)	
Mediation/Conciliation (between the parties involved)	
Advocacy (on behalf of one of the parties involved)	
Court Action	
Other (Specify)	

IV. REFERRALS - INCOMING AND OUTGOING

Referrals To Your Office From (List agencies with number of referrals from each):

Referrals From Your Office To (List agencies with numbers of referrals to each):

COMMUNITY LAW OFFICES

January 1 - March 31, 1976

V. CLIENT CHARACTERISTICS - CASES ONLY

Age (In Years)	Number of Clients	Sex	Number of Clients
0-19 20-49 50-64 65 And Over		Male Female	
		Number of Dependents None 1-2 3-5 6 Or More	
Marital Status Married Common Law Single Divorced Separated Widowed		Location From Population Centre From Outlying Area	

Financial Status (annual income for total household)	Number of Clients
Income Level I (up to $4,000) Income Level II ($4,001 - $8,000) Income Level III ($8,001 - $12,000) Income Level IV (More than $12,000)	

Employment Status	
Employed Full-time Employed Part-time Unemployed: Welfare U.I.C. W.C.B. Retired (Pension) Other Unemployed Housewife	

Terms of Occupancy	
Own Home (Buying) Rent by Month Rent by Day/Week Other (Specify)	

COMMUNITY LAW OFFICES

January 1 - March 31, 1976

VI COMMUNITY DEVELOPMENT AND EDUCATION

Community Development

1. Please list those self-help groups (e.g., Consumer Action groups, tenant associations, etc.) which your office helped to organize/establish, together with the most up-to-date membership figures for each group.

2. Also, please give the following information for each group:
   - Number of your own staff involved;
   - Amount of time involved, and qualitative description of involvement, by your office, during the period January 1 to March 31, 1976.

3. Finally, could you give some indication of any other forms of community development (e.g., test cases, class actions, legal reform, etc.) which your office initiated, or in which it was involved, during this period.

Community Education

1. Please list any lectures, seminars, workshops, etc., which your office offered to the community during the period January 1 to March 31, 1976, along with the number of persons reached by each (if numbers estimated put them in brackets).

2. Also, list any media presentations (e.g., radio, T.V., newspapers) by your office, during this period, with some qualitative description for each.

3. Finally, please describe any other educational resources your office offered to the community during this period (e.g., legal library, pamphlets and other literature for public circulation, etc.), together with some indication of the extent of their use (i.e., numbers of people reached or numbers of pamphlets circulated).

COMMUNITY LAW OFFICES

January 1 - March 31, 1976

VII ORGANIZATIONAL AND COMMUNITY INFORMATION

ORGANIZATIONAL INFORMATION
(Please Describe/Explain)

1. Structure:
   - Relationship to parent or affiliated organization(s) if any.
   - Total membership of society or parent organization and the extent of their active relationship with the board of directors and/or the staff.
   - Total number on the board of directors and the extent of their active relationship (direct as well as via sub-committee or advisory board) with the staff.
   - Total number of staff (full-time and 1/2 time) together with the positions they hold (i.e., paralegals - office, court-workers, community workers, staff lawyers, consultant lawyers, secretaries, etc.). Please include the numbers and extent of volunteer assistance.
   - Included in the above should be a description of organizational and staff hierarchy (lines of authority and responsibility, financial accountability, and where policy direction comes from).
2. Relationships with the boards of policy making community organizations such as local Justice Councils.
3. Any evaluation of delivery of services for or during the period January 1 to March 31, 1976 (including internal and/or external evaluation with methods and results).
4. Funding (1975/76): Please give any sources, other than the Legal Services Commission, of funds directed into your office together with amounts and for what periods (giving the date the period starts and finishes).

COMMUNITY INFORMATION
(Please Describe/Explain)

1. Extent of area served including size and population.
2. Characteristics of the area served which may shape or effect the type of service offered or the categories of greatest service concentration (e.g., the lack of particular services or the proximity of prisons, large minority or disadvantaged groups, etc.), including the manner in which this effect occurs.
3. Other agencies in the community offering related services (both government offices and private agencies), including the extent of dealings, if any, between themselves and your office.

END