

Legal Aid Ontario

We provide legal assistance for low-income people living in Ontario

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LAO update: fall 2018 edition

A quarterly update on Legal Aid Ontario's latest access to justice initiatives

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Message from the CEO

Q2 proved to be another busy quarter! LAO was invited by the [Standing Committee on Justice and Human Rights](#) to make submissions on Bill C-75 which proposes amending several acts including the *Criminal Code*; the Auditor General of Ontario delivered a draft value for money audit report for LAO's review of the recommendations, with the report to be finalized and published in December; work continued on the development of LAO's five-year strategic plan; and in October, just a few weeks after the end of Q2, the restructuring of LAO was announced to staff.

The new structure, which will be effective January 2019, defines accountabilities more clearly with fewer overlapping responsibilities, allowing more effective decision making, more consistency and an ability to better measure performance. This translates into more effective service for our clients.

The new executive accountabilities will be:

- **Randall Ellsworth**, VP, Regional Services, will assume responsibility for all districts. In this role, Randall will provide critical oversight and leadership of the duty counsel program and the delivery of staff legal services, while continuing to build relationships with our justice partners.
- **Janet Budgell**, VP, General Counsel and Compliance, will retain oversight of the General Counsel Office and assume responsibility for LAO's audit and compliance functions.
- **Rod Strain**, VP, Central Operations, will assume responsibility for central programming and be accountable for developing a more consistent client experience by providing oversight of certificate decisions and panel management.
- **Jayne Mallin**, VP, Clinic Law Services, will assume responsibility for developing centralized clinic operations with a single point of accountability for policy, planning, programming, and research for clinics and student legal aid services societies.
- **David McKillop**, VP, Strategy and Public Affairs, will be responsible for operationalizing the strategic plan: providing single-point accountability for the coordination, implementation, and monitoring of initiatives outlined in the plan, with input from across the province.
- **Louis Dimitracopoulos**, VP & and Chief Administrative Officer, Corporate Services will assume responsibility for the Big Case Management Office in addition to his existing oversight of financial planning, human resources, diversity and inclusion, IT, and procurement and facilities.

Vicki Moretti, VP, GTA, announced her retirement after serving 27 years with LAO. Although she will be missed by her friends and colleagues, we look forward to hearing about her new adventures in retirement.

I hope you find LAO's quarterly updates useful. If you have any suggestions for how we can improve these reports, or questions about the information provided, please send them to gencom@lao.on.ca.

Sincerely,
David Field
President & CEO
Legal Aid Ontario

Spotlight: Vulnerable client strategies update

Aboriginal Justice Strategy review

The Aboriginal Justice Strategy (AJS), the first of LAO's vulnerable client strategies was launched 10 years ago. While systemic and justice issues remain at a crisis level for First Nation, Métis and Inuit in Ontario, our society has entered a new phase guided by the principles of truth, relationship, respect, and reconciliation. Over the next few months, LAO will be meeting with members of Indigenous communities and other stakeholders to discuss how to enhance and expand the AJS and find ways to make relevant changes to the way LAO delivers services to these communities.

[Visit the Aboriginal Justice Strategy page to learn more about our ongoing efforts.](#)

Racialized Communities Strategy consultations

Between January and April 2018, LAO met with clients, activists, LAO staff, and representatives of community legal clinics, lawyers' associations, community health centres, faith-based groups, professional associations, and social services agencies to talk about issues faced by racialized communities when trying to access legal services. More than 400 people shared their input in-person, and nine stakeholder organizations and community-based groups provided written submissions.

Input from stakeholders has been vital to the development of LAO's Racialized Communities Strategy (RCS) which outlines ways to address the problems faced by racialized communities in the justice system. This fall, the RCS will be seeking board approval for further consultations and discussions about the proposed strategy ahead of its anticipated release in 2019.

[Visit the Racialized Communities Strategy page to read the summary of what we learned during the consultation process.](#)

Prison Law Strategy development

Consultations to support the development of the Prison Law Strategy (PLS) which commenced in fall 2017 concluded this summer. A number of prison law experts and stakeholders were consulted, including academics,

researchers, staff of community legal clinics and agencies serving inmates, justice system partners (the provincial Human Services and Justice Coordinating Committee), and legal aid staff. The Prison Law Strategy team will present a comprehensive strategy to LAO's Board of Directors that serves as a blueprint for how LAO can better address the problems of incarcerated persons in Ontario. With board approval, the team hopes to begin implementation of the strategy in 2019.

Merit consideration guide for Consent and Capacity Board appeals

As part of our Mental Health Strategy work, LAO has developed a guide to support area committees and panel lawyers in their assessment of merit for Consent and Capacity Board (CCB) appeals. Prepared in consultation with the Law and Mental Disorder Association, the Mental Health Legal Committee, and LAO LAW, the guide provides an overview of the common types of CCB applications, legal grounds for appeal, appeal timelines, and the new two-stage modified merit test.

The CCB Appeal Merit Consideration Guide can be found on the [LAO LAW website](#) (requires login) in both English and French (under Mental Health Law → Secondary Materials).

[Visit the Mental Health Strategy page to learn more about this strategy.](#)

Announcements and highlights

Advocating for Ontarians: opposing arguments to Bill C-75

In September, LAO presented concerns about Bill C-75 before the [Standing Committee on Justice and Human Rights](#). Bill C-75 aims to modify the *Criminal Code*, the *Youth Criminal Justice Act*, and several other laws that impact our clients' rights and access to justice. LAO raised concerns about four of the proposed amendments:

1. Restricting preliminary inquiries only to the most serious charges

There is no evidence that preliminary inquiries (when a judge screens the proposed criminal charge against available evidence) creates delays. Instead, evidence, including LAO data, suggests that they can reduce delays by screening out or resolving charges without the necessity of a trial. LAO's position is shared by, and supports that of the Criminal Lawyers' Association.

2. Preventing non-lawyers from acting in summary conviction matters

Removing non-lawyers, including students and paralegals, from this work will further slow our already clogged courts. As low-income accused persons are left to fend for themselves in criminal courts, the gap in access to justice will further widen for these members of already disadvantaged communities. Similar submissions were made by student legal aid services societies.

3. Giving police the power to impose additional conditions when releasing people after arrest.

Although LAO supports giving police the authority to release after arrest, instead of keeping an accused person in custody until their bail hearing, the new powers that would be granted by Bill C-75 exceed what police need to meet their legitimate objectives. These additional powers would permit police to impose overly restrictive terms of release, setting accused people up for failure and undermining the government's other efforts to reform the bail process.

4. Allowing police to provide affidavit evidence, instead of testimony, in routine matters.

LAO supports the submissions made by LAO senior counsel, Stephanie Heyens, who was invited to appear before the Standing Committee to address this proposed amendment. In her submissions, Ms. Heyens outlined how this amendment would erode the fundamental right of accused persons to challenge prosecutorial evidence by way of cross-examination of police, and argued that this change would unfairly shift the burden of proof from the state to the accused. She also noted that any court time this amendment could save would be offset by pre-trial litigation by defense counsel seeking to protect the rights of their clients.

After coming under heavy criticism, this provision has been removed from the government's 300-page bill intended to reduce court delays.

Bill C-75 will soon enter its third reading in the House of Commons, after which it will progress to the Senate for debate and possible further amendments.

New application process for in-custody legal aid certificates

LAO staff who are authorized to issue legal aid certificates are now in place at most criminal courts in Ontario; making it possible for lawyers to make and get same-day decisions on certificate applications for clients who are in custody. To apply, an accused person must be represented by an empanelled private bar lawyer and both must be in court and ready to move ahead with a meaningful appearance, like a bail hearing or resolution. Clients can still apply for legal aid while on remand, if they prefer.

[Visit our FAQ page for more information.](#)

Pilot project: guaranteed bail review authorization

LAO is piloting guaranteed authorization of bail review applications by the private bar where counsel believe there is a likelihood of success, or it is in the public interest to proceed. Counsel will now be able to immediately start work on bail review applications. The process which is being piloted, for an initial term of three months, streamlines access to bail reviews and dramatically reduces the wait time between a bail determination and bail review.

Updated process for restraining order certificates

Clients no longer need to have an existing contested issue, such as child custody, access, protection, child and/or spousal support, or property, in order to receive a legal aid certificate for a restraining order. LAO will now issue

six-hour stand-alone restraining order certificates in appropriate cases.

Improving billing and administrative processes

To address issues that we learned about through LAO's annual lawyer satisfaction survey, LAO is leading an initiative to identify, resolve (where feasible), and report on issues related to account administration and billing. Updates about this initiative will be provided in future reports.

Select media mentions

Programs aimed at helping black students facing disciplinary issues can wipe slates clean

Globe and Mail / June 24, 2018

A profile of black students facing expulsion and the work of The PLUG, a program funded through LAO.

'A cage without walls': Once in South Korea, North Koreans have little chance of getting asylum elsewhere

CBC / September 9, 2018

Joo Eun Kim of LAO's Refugee Law Office was interviewed for this article about North Korean asylum seekers who technically have no refugee status in Canada.

Client services

Intake, triage and support services

LAO offers intake, triage and support services to people applying for legal aid, existing legal aid clients and lawyers who provide legal services on behalf of Legal Aid Ontario.

- **Call centre – Tier 1**

Agents in Tier 1 of LAO's call centre can help assess service needs and provide information about qualifying for legal aid. Their responsibilities include, but are not limited to: triage, making referrals, performing status checks and updating client profiles.

- **Call centre – Tier 2**

Tier 2 agents conduct an in-depth analysis of a client's legal needs, financial situation and case details to determine eligibility for legal aid services. Their responsibilities include, but are not limited to: processing

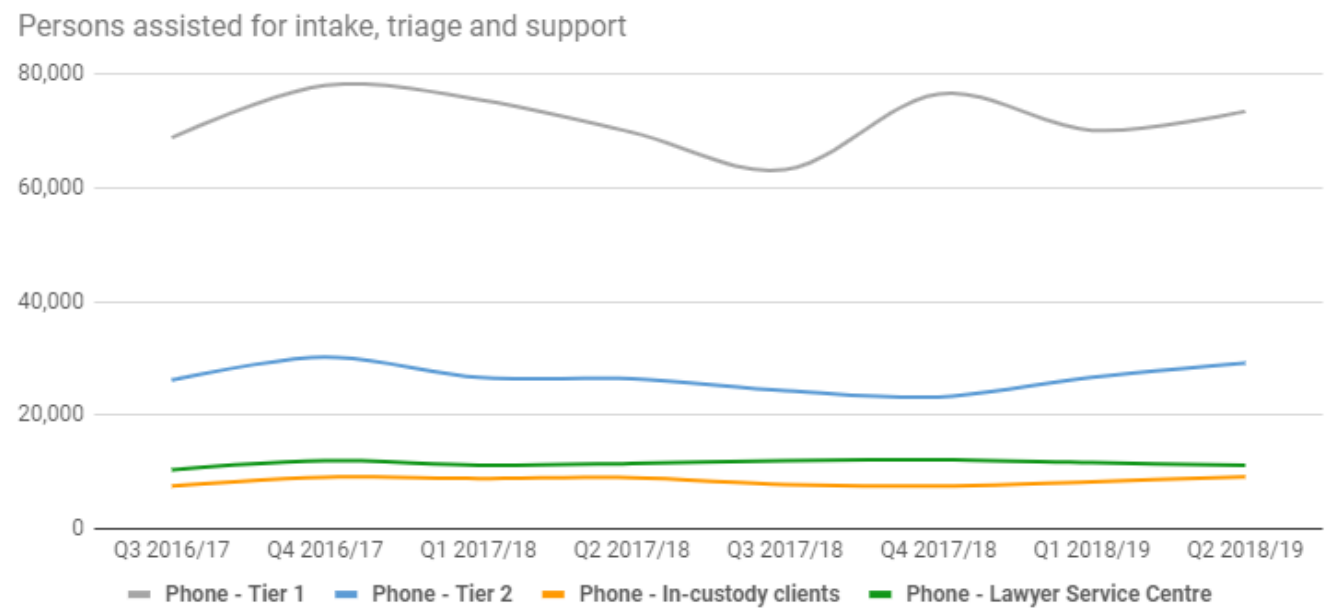
applications, issuing certificates, making referrals, and providing enhanced public legal information.

• **Call centre – In-custody**

LAO also offers a service dedicated to helping people who are incarcerated across the province. Staff take calls directly from inmates to determine legal aid eligibility, process applications and issue certificates as well as conduct status checks on submitted applications.

• **Call centre – Lawyers**

Lawyers who do legal aid work can contact the call centre for information on, including but not limited to: tariff, billing, account status and technical support. This group serves as a first point of contact for most lawyers' enquiries.

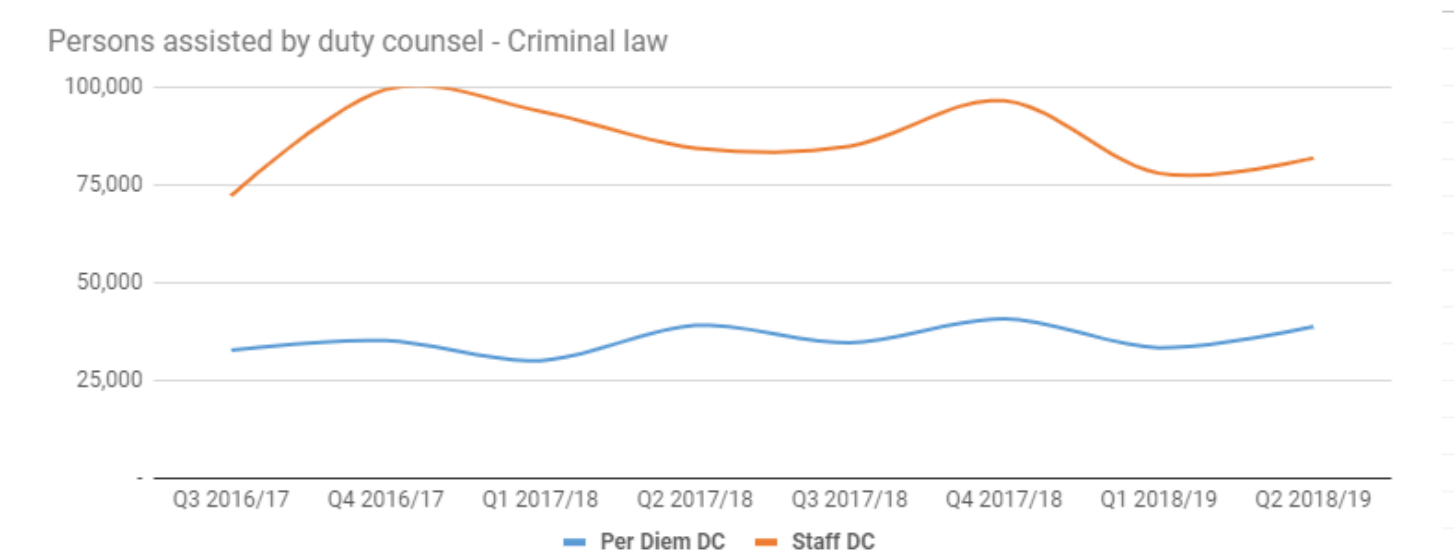


Persons assisted for intake, triage and support	2016/17		2017/18				2018/19	
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Phone: Tier 1	68,891	78,089	75,588	69,813	63,187	76,566	70,156	73,498
Phone: Tier 2	26,108	30,167	26,587	26,336	24,235	23,152	26,614	29,117
Phone: In-custody clients	7,419	8,992	8,773	8,919	7,693	7,437	8,194	9,066
Phone: Lawyer Service Centre	10,306	11,928	11,132	11,403	11,942	12,061	11,571	11,106

Duty counsel services

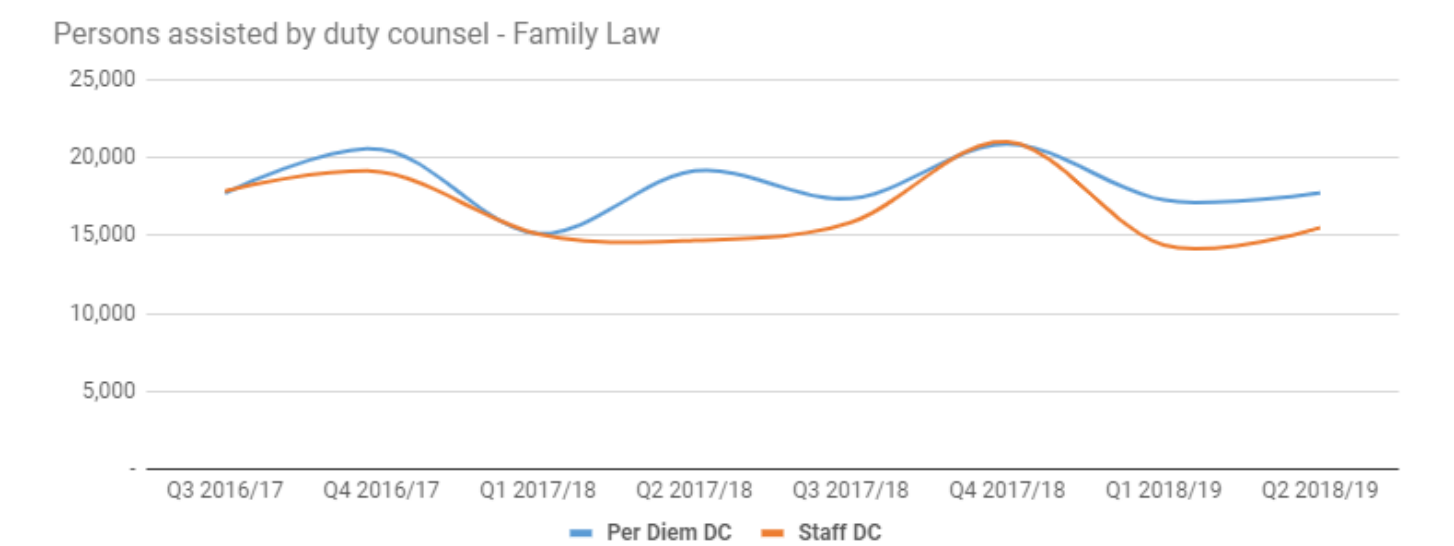
Duty counsel are LAO staff and per diem lawyers in courthouses. They can give immediate legal assistance to low-income people who would otherwise be unrepresented and unassisted.

Criminal law services



Persons assisted by duty counsel - criminal law	2016/17		2017/18				2018/19	
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Per Diem DC	32,748	35,215	30,116	39,126	34,668	40,806	33,440	38,798
Staff DC	72,275	99,422	93,836	84,437	84,900	96,554	77,985	81,874
Total	105,023	134,637	123,952	123,563	119,568	137,360	111,425	120,672

Family law services



Persons assisted by duty counsel - family law	2016/17		2017/18				2018/19	
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Per Diem DC	17,711	20,527	15,118	19,148	17,369	20,866	17,278	17,733
Staff DC	17,858	19,068	15,096	14,684	15,836	21,026	14,400	15,502

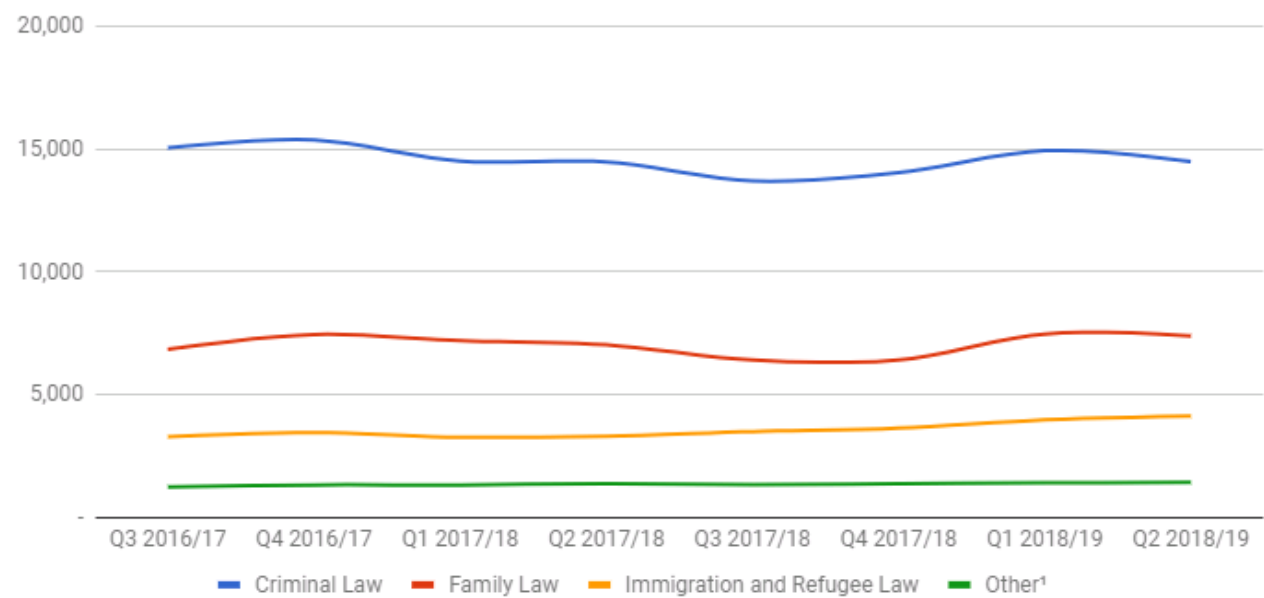
Total	35,569	39,595	30,214	33,832	33,205	41,892	31,678	33,235
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Representation by a private practice lawyer

Legal aid applicants who are financially eligible, and who are facing a serious legal matter covered by LAO, may be issued a certificate to cover the cost of a private-practice lawyer.

A certificate is a voucher that a low-income person can take to one of more than 3,600 private-practice lawyers across the province who accept legal aid clients. A certificate guarantees the lawyer payment for a certain number of hours if they accept the case.

Certificates issued by area of law



Certificates issued by area of law	2016/17		2017/18				2018/19	
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Criminal law	15,065	15,386	14,520	14,492	13,714	14,053	14,953	14,506
Family law	6,841	7,452	7,200	7,028	6,409	6,411	7,473	7,398
Immigration and refugee law	3,276	3,451	3,259	3,306	3,493	3,628	3,968	4,123
Other ^[1]	1,235	1,316	1,314	1,365	1,322	1,359	1,400	1,421
Total certificates issued	26,417	27,605	26,293	26,191	24,938	25,451	27,794	27,448

^[1] Other is a category that represents all other legal matters covered by LAO certificates, such as: CCB matters, prison law matters and matters before civil tribunal.

Performance measures

Key Performance Indicator (KPI) name	Measurement frequency	Last measured	Target	Previous year (2017/18)	Current value
% of same day decisions for certificates	Quarterly	Q2 2018/19	80.0%	76.2%	77.4%
% of area office appeals heard within 3 days	Quarterly	Q2 2018/19	80.0%	51.3%	61.3%
Acceptance rate for certificate applications	Quarterly	Q2 2018/19	87.0%	86.8%	84.4%
% of calls answered within 3 minutes (L1)	Quarterly	Q2 2018/19	80.0%	46.0%	82.0%
% of calls answered within 3 minutes (LSC)	Quarterly	Q2 2018/19	80.0%	77.0%	87.0%
% of calls answered within 3 minutes (In-custody)	Quarterly	Q2 2018/19	80.0%	64.0%	52.0%
% of calls answered within 20 minutes (L2)	Quarterly	Q2 2018/19	80.0%	50.0%	58.0%
Overall client satisfaction – % of positive responses (email)	Annual	Q4 2017/18	80.0%	77.0%	77.0%
Number of Ontarians financially eligible for LAO's services	Annual	Q1 2018/19	Maintain	1,540,000	1,690,000
Overall lawyer satisfaction – % of positive responses	Annual	Q3 2017/18	60.0%	53.0%	53.0%

Statement of operations

Revenue	Apr. 1, 2017 - Sept. 30, 2017 (\$M)	Apr. 1, 2018 - Sept. 30, 2018 (\$M)
Government funding	\$207.3M	\$220.0M
Law Foundation	\$21.0M	\$32.3M
Other revenue	\$6.1M	\$6.0M
Total revenue	\$234.4M	\$258.2M
Core business expenses		

Certificate costs	\$115.8M	\$112.1M
Client service offices	\$10.4M	\$9.9M
Clinic program	\$45.1M	\$50.7M
Duty counsel program	\$26.9M	\$28.7M
Service innovation	\$1.1M	\$1.1M
Total core business expenses	\$199.4M	\$202.5M
Operating expenses		
Service provider support	\$3.1M	\$3.4M
Administrative expenses	\$17.8M	\$18.1M
Other expenditures	\$4.6M	\$3.4M
Program support	\$13.1M	\$13.4M
Total operating expenses	\$38.5M	\$38.2M
Total expenditures	\$237.9M	\$240.7M
Surplus / (deficit) before other corporate expenditures / savings	(\$3.5M)	\$17.5M

Due to rounding, the numbers may not add up precisely to the totals provided.

Getting legal help

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Getting help in the courtroom
Community and specialty clinics

For lawyers

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