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1. Introduction

Legal Aid Ontario (LAO) provides access to justice for refugees and immigrants through a wide range of high quality service providers and coverage in most refugee and immigration proceedings.

LAO began its ongoing transformation of the delivery of its refugee and immigration program in 2012. Its transformation journey will ensure compliance with LAO's mandate under the *Legal Aid Services Act*—to provide high quality, cost-effective and efficient services. It will also enable LAO to be responsive to ongoing legislative, political and environmental changes in the refugee and immigration world.

The key objectives of LAO's refugee and immigration services strategy are to:

- ensure the delivery of high quality, cost-effective and efficient services to clients
 - be responsive to legislative, political and environmental changes
 - modernize the delivery of refugee and immigration law services based on the continuum of service
 - manage LAO's refugee and immigration program within budget.
-

2. Acronym legend

These acronyms will appear throughout this report.

- LAO = Legal Aid Ontario
- RLA = Refugee Lawyers Association
- IRB = Immigration & Refugee Board
- CBSA = Canada Border Services Agency
- CCR = Canadian Council for Refugees
- CARL = Canadian Association of Refugee Lawyers
- GTA= Greater Toronto Area
- RLO = Refugee Law Office, Legal Aid Ontario
- ILSO = Integrated Legal Services Office
- RPD = Refugee Protection Division
- RAD = Refugee Appeal Division
- JR = Judicial review
- PRRA = Pre-Removal Risk Assessment
- AFA = Alternative Fee Arrangements
- IAD - Immigration Appeal Division
- H&C = Humanitarian and Compassionate
- DOJ = Department of Justice
- BOC = Basis of Claim form
- CIC = Citizenship and Immigration Canada

3. Refugee and immigration services business planning

LAO conducts a detailed refugee and immigration services business planning process every year. This process includes scanning the environment and gathering stakeholder input.

For FY 2015/16, LAO's refugee and immigration services business plan identified a number of key strategic priorities.

Chart 1 below shows the achievements under each priority.

Chart 1: Achievements under each strategic priority for FY 2015/16

Strategic priority for FY 2015/16	Initiatives
Expand services	- Continued developing the Refugee Law Office Centre of Excellence - Integrated GTA refugee and immigration legal services with panel management services - Implemented LAO's refugee reform/test case strategy - Ensured successful implementation of new expanded financial and legal eligibility coverage
Improve LAO's legal skills and organizational capacity	Continued LAO's refugee and immigration law training strategy for all service providers
Simplify LAO decision-making	- Expanded alternative fee arrangements and improved billing and payments for refugee and immigration service providers - Developed refugee panel management systems and processes for the refugee panel
Improve accountability	- Implemented refugee and immigration quality standards - Perfected and consolidated refugee legal and panel services performance measures, operational and statistical reports
Advance client-centered technology	Implemented access to justice (A2J) software for BOC preparation, deployed mobile technology for refugee services
Stakeholder engagement	Continued efforts at stakeholder engagement (RLA, IRB, CCR, CARL, CBSA, and refugee-serving agencies)
Stay within budget	Focused on program sustainability and a balanced budget

Chart 2 below identifies the key strategic priorities for LAO's refugee and immigration services business plan for FY 2016/17.

Chart 2: Key strategic priorities and goals for FY 2016/17

Strategic priority for 2016/17	Initiatives
Increase access to justice	• Continue development of RLO Centre of Excellence • Continue development of GTA Refugee and Immigration Panel Services department • Implement LAO's refugee reform/test case strategy • Enhance collaboration and alignment of refugee staff services across the province • Develop province-wide summary advice service
Develop and implement stakeholder and client consultation and engagement strategy	• Continue efforts at stakeholder engagement (RLA, IRB, refugee serving agencies, etc.) • Focus on the client voice
Develop and implement strategies to support vulnerable client groups	• Support mental health and domestic violence strategies • Pursue initiatives to address long term detentions of refugees and immigrants in correctional facilities
Continue to implement refugee and immigration quality standards	• Sustain panel member oversight and monitoring • Continue to develop mentorship program and panel member orientation • Complete evaluation (RFQ) of panel standards implementation
Increase organizational capacity to deliver on LAO's mandate and priorities	• Improve certificate management policies and processes • Improve billings and payments

Strategic priority for 2016/17	Initiatives
Integrate technology into strategic planning and increase the use of technology to support client services	• Deploy mobile technology to measure client satisfaction with refugee private bar and staff services • Brainstorm with clients and private bar to drive technological innovations

4. Refugee and immigration—GTA division

Chart 3: Refugee and immigration—GTA staffing and budget

Positions	Budget
Five full-time positions: • executive lead • business manager • office manager • senior counsel • project coordinator.	\$412,000

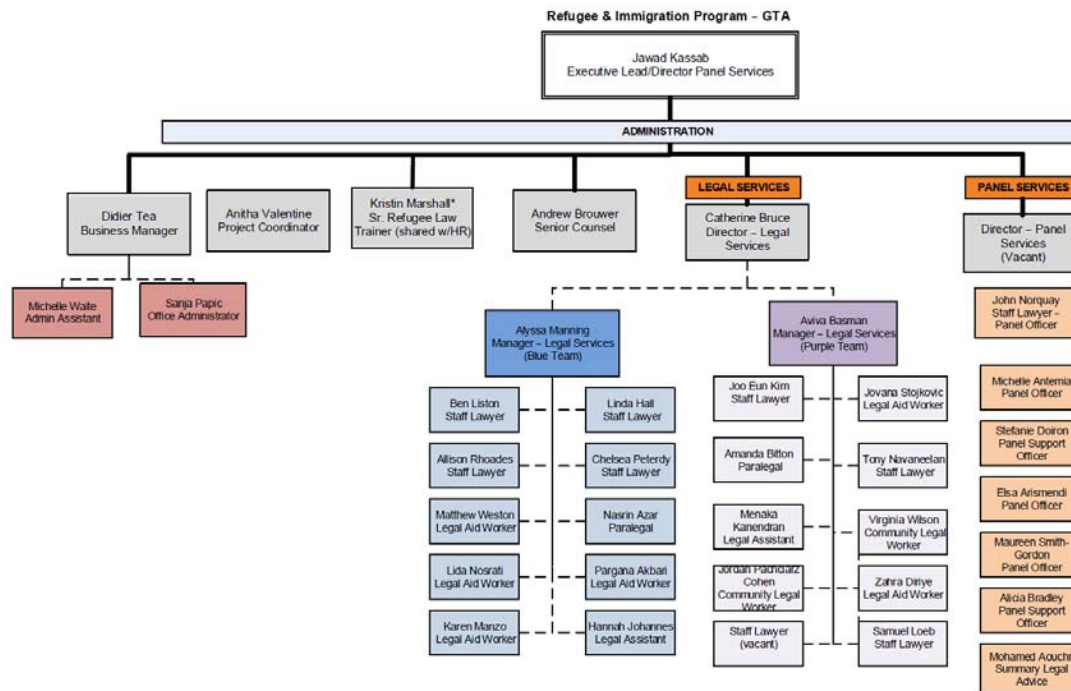
In fiscal 2015/16, LAO created a Refugee and Immigration—GTA Division. There are two departments within this division—a Panel Services Department and Legal Services Department.

The division is responsible for:

- the GTA certificate budget
- the GTA panel
- the Refugee Law Office—Toronto
- leading refugee and immigration policy and procedural changes
- supporting administration of the Southwest and North Central East Regions' refugee services.

Chart 4 is a staff organization chart for the division.

Chart 4: Organization chart for the Refugee and Immigration Program—GTA



Click the image for a bigger version

Text version of org chart

This is a text version of an organization chart for the Refugee and Immigration Program—GTA. The chart shows the following hierarchical structure with the top level assigned to Jawad Kassab, executive lead/director panel services.

Reporting to Jawad Kassab:

- Didier Tea, business manager
- Anitha Valentine, project coordinator
- Kristin Marshall, sr. refugee law & trainer (shared w/HR)
- Andrew Brouwer, senior counsel

- Catherine Bruce, director of legal services
- Director of panel services (vacant)

Reporting to Didier Tea:

- Michelle Waite, admin assistant
- Sanja Papic, office administrator

Reporting to Catherine Bruce (legal services)

- Alyssa Manning, manager – legal services (Blue Team)
- Aviva Basman, manager – legal services (Purple Team)

Reporting to Alyssa Manning (Blue team)

- Ben Liston, staff lawyer
- Linda Hall, staff lawyer
- Allison Rhoades, staff lawyer
- Chelsea Peterdy, staff lawyer
- Matthew Weston, legal aid worker
- Nasrin Azar, paralegal
- Pargana Akbari, legal aid worker
- Lida Nosrati, legal aid worker
- Karen Manzo, legal aid worker
- Hannah Johannes, legal assistant

Reporting to Aviva Basman (Purple team)

- Joo Eun Kim, staff lawyer
- Jovana Stojkovic, legal aid worker
- Amanda Bitton, paralegal
- Tony Navaneelan, staff lawyer
- Menaka Kanendran, legal assistant
- Virginia Wilson, community legal worker
- Jordan Pachciarz Cohen, community legal worker

- Zahra Diriye, legal aid worker
- Samuel Loeb, staff lawyer
- Staff lawyer (vacant)

Reporting to the Director of panel services

- John Norquay, Staff Lawyer – panel officer
- Michelle Antemia, panel officer
- Stefanie Doiron, panel support officer
- Elsa Arismendi, panel officer
- Maureen Smith-Gordon, panel officer
- Alicia Bradley, panel support officer
- Mohamed Aouchri, summary legal advice

5. Refugee and immigration services program budget

LAO receives approximately \$7 million in funding from the federal government to deliver its immigration and refugee services program. The province supplements this federal funding.

LAO spent close to \$22 million in FY 2015/16 to cover the costs of its certificate, staff, and special project clinic refugee services program. This is approximately 10 per cent more than the FY 2014/15 budget of \$20 million. Chart 5 below sets out how these funds were allocated.

Chart 5: Fund allocation for refugee and immigration services

Service	Estimated costs for FY 2015/16
Certificates	\$17.6 million
Area committee	\$200,000
Staff:	\$4 million

Service	Estimated costs for FY 2015/16
• GTA Panel Services • Refugee Law Office (RLO) – Toronto • RLO – Hamilton • Integrated Legal Services Office (ILSO) – Ottawa • Summary Legal Advice Immigration – GTA	
Clinic pilots (Rexdale)	\$40,000
All services	\$21.8 million

In 2015/16, LAO funded refugee and immigration services as follows:

- 9,268 private bar certificates (an increase of 2,823 certificates over fiscal 2014/15)
- 777 client staff services (RLO – Toronto, RLO – Hamilton, ILS & Ottawa)
- 68 clinic special project services (Rexdale Community Legal Clinic).

6. Certificate program

6.1 Certificate coverage

LAO currently covers an array of refugee and immigration services through its certificate program. Certificates enable clients to obtain services from private practitioners at a fixed tariff.

If a legal aid applicant is financially eligible and his/her refugee matter has merit, LAO pays a private bar lawyer, via a certificate, for the following services:

- Preparation of a basis of claim and related forms for Citizenship and Immigration Canada (CIC)
- Representation at a hearing with the Refugee Protection Division (RPD)
- Preparation of an appeal to the Refugee Appeal Division (RAD)
- Preparation of a Judicial Review (JR) application in the federal court

- Representation at deferral of removal
- Preparation of a motion for a stay of removal in the federal court
- Representation at the RPD for a cessation or vacation hearing
- Preparation of a pre-removal risk assessment (PRRA) application
- Preparation of a danger opinion.

If a legal aid applicant is financially eligible and his/her immigration matter has merit, LAO also pays a private bar lawyer, via a certificate, for:

- representation at a detention review
- representation at immigration appeals
- preparation of a humanitarian and compassionate application
- preparation of *habeas corpus* application.

6.2 Certificate costs

The costs of the certificate program are increasing after a slowdown of refugees seeking protection in Canada that began in December 2012/13.

Chart 6: Certificate program costs over the last five fiscal years

(\$000s)	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Total Expenditures (\$000's)	21,724	19,296	16,132	16,398	17,638

Chart 7: Certificates by proceeding type issued over the last five fiscal years

Category	2011/12	2012/13	2013/14	2014/15	2015/16
RPD hearing	10035	6300	4062	5068	6617
Federal court judicial review	2716	1599	519	516	726
Other immigration	690	372	493	495	1179
Federal court appeal division	211	157	86	103	107
Refugee Appeal Division	0	0	149	263	639
Total	13652	8428	5309	6445	9268

6.3 Improvements to the certificate program

As part of LAO's commitment to improving the way private bar lawyers bill and LAO pays certificate accounts, LAO is piloting Alternative Fee Arrangements (AFAs) with selected refugee and immigration lawyers. AFAs pay lawyers a fixed annual fee, pro-rated on a monthly basis, for the delivery of specified services. They reduce the administrative billing burden for lawyers working for clients on certificates by eliminating the need, for instance, to request certain authorizations, disbursements and discretion.

LAO has also expanded legal aid coverage in refugee and immigration law in the areas of:

- [Humanitarian and Compassionate \(H&C\) applications](#)—H & C application certificates are now more widely available
- [Stay motions](#)—stay motion coverage was increased from 6 hours to 15
- [Deferral requests](#)—deferrals are now covered by 10 hours.
- Habeas corpus—coverage for a *habeas corpus* application certificate is now possible for up to 16 hours, plus hearing time.

7. Refugee and immigration panel services

Chart 8: Refugee and immigration panel services staff and budget

Positions	Annual budget
Staff positions: • executive lead • three panel officers • one panel removal officer • one panels support officer/receptionist	\$540,000

The panel services department is responsible for implementing refugee panel standards and increasing the support and oversight of lawyers on LAO's refugee and immigration panel. Its primary responsibility is the GTA panel.

Panel officers facilitate panel standards applications, oversee and monitor a roster of 80-100 panel members each, review certificate volumes, address issues, recommend removals, and promote and support Alternative Fee Arrangements.

Chart 9 below outlines the strategic objectives of the panel services department.

Chart 9: Strategic objectives of the panel services department

Strategic priority	Strategic objectives
High-quality services for clients	• To implement refugee and immigration panel standards • To promote ongoing adherence of service providers to quality standards • To undertake panel management and removals in a fair and transparent manner
Promoting and supporting effective certificate management and Alternative Funding Arrangements	• To promote and manage Alternative Funding Arrangements with panel members • To support all refugee and immigration service providers in delivering services through effective certificate management
Teamwork, learning and accountability	• To improve panel management knowledge and skills, and promote team-building • To document department policies and processes and develop robust reporting

8. Refugee and immigration panel standards

8.1 Refugee panel standards

Lawyers who represent legal aid clients must belong to the panel(s) for the type(s) of law they practice. The standards for each panel provide the minimum experience and professional development requirements that lawyers must meet. Panel standards help ensure that legal aid clients receive high-quality services.

Recently, LAO consulted extensively, for close to a year, to update its refugee panel standards, and engaged the Refugee Lawyers Association (RLA) in a review of the final draft. LAO's Board approved the revised standards in October 2014. The [approved standards](#) are posted on LAO's website. They include two separate standards—one for first instance tribunal work and another for appellate work before the Courts and before the Refugee Appeal Division.

The Refugee and Immigration GTA panel services department implemented the standards across the province, using a panel management framework it developed to ensure adequate support and oversight of panel lawyers.

This framework provided a process to assess LAO-funded refugee and immigration service providers for compliance with the quality standards, as follows:

- In order to join or remain on the panel, all refugee and immigration service providers, including existing panel members, LAO and some clinic staff who wished to provide LAO funded services were required to submit a quality standards application form by July 17, 2015. They had to apply separately to the general and/or the appellate panel.
- Applicants had to demonstrate that they met the standards for membership on the panel or panels for which they applied by demonstrating compliance with criteria set out in the [Quality Service Expectations](#) and the [Best Practices Guide](#) of the general and appellate standards.

The [Refugee & Immigration Standards Implementation Guidelines](#) set out the following principles governing the panel standards implementation process:

1. **Transparency:** LAO will make every effort to ensure transparency of policy and process, including detailed and ongoing communication and information sharing regarding standards implementation.
2. **Fairness:** LAO will give service providers adequate time and support to complete and submit the Standards Form. Applicants will be assessed by LAO staff and a Peer Review Committee comprised of private bar practitioners. LAO will anonymize applications to avoid the perception of bias arising from committees composed of lawyers evaluating the work of colleagues.
3. **Timeliness:** Service standards will be established to facilitate timely application decision-making.
4. **Support:** When appropriate and feasible, LAO will offer support to service providers (via training and/or mentors) who do not meet the standards. Persons who do not meet the standards will be asked to agree to conditions to ensure high quality service to clients.

The primary outcome LAO is hoping to achieve through implementation of refugee and immigration panel standards is **delivery of high quality, cost-effective and efficient refugee and immigration services to highly vulnerable clients by all legal aid service providers** (staff, private bar, clinics).

The ultimate outcomes would include:

- better client outcomes
- reduced organizational risk
- greater service provider panel knowledge
- greater service provider panel support – mentorship, orientation, training
- reduced costs—a 50 per cent reduction in change of solicitor applications, complaints, audit breaches, investigations and panel removals; and a 20% reduction in appeals and judicial reviews
- Greater stakeholder/public confidence

Chart 10 provides the statistics on applicants who applied and were approved.

Chart 10: Refugee panel standards application status for FY 2015/16, as of April 1, 2016

Region	Total number of applicants	Total number of applicants approved
GTA	331	226
Southwest	31	26
Central/Eastern	47	31
Northern	2	0
Total	411	283

8.2 Refugee panel removal

LAO continues its efforts to remove service providers from its panel on the grounds of:

- delivering poor quality service
- suspension by the Law Society
- failure to comply with LAO's terms and conditions and/or the *Legal Aid Services Act*.

Ten refugee lawyers across the province are currently under temporary or permanent removal orders or have been issued notices of removal.

9. Staff services

Refugee claimants who apply to legal aid for services in support of their RPD, RAD or federal court proceedings can request services from an LAO employee.

Claimants who do not have counsel at the time of application can make their own choice of service provider—LAO staff, clinic staff or a private bar lawyer.

LAO has three refugee law staff offices—one in Toronto, one in Hamilton, and one in Ottawa.

9.1 Strategic objectives of staff offices

The three offices share these strategic objectives:

- **Objective 1:** Achieving leadership in refugee law
- **Objective 2:** Delivering high quality, compassionate sustainable services
- **Objective 3:** Ensuring effective governance and accountability

9.2 Refugee Law Office (RLO) in Toronto

Chart 11: Refugee Law Office staff and budget

Positions	Annual budget
Staff of 22 comprised of: • One director • Two team managers • Seven lawyers • Three licensed paralegals • Seven legal aid workers • Two legal support staff	\$2.4 million

The [RLO – Toronto](#) office celebrated its 20th anniversary in 2014. It assists clients with their basis of claim forms, hearing representation before the RPD of the IRB, applications to the RAD, PRRA applications, H&C applications, detention reviews, appeals of deportation orders and federal court hearings, including stays of removal. Staff members provide services in several languages, including French, Dari, Spanish, Somali, and Swahili.

[Go to Appendix A](#) for important details on the accomplishments of this office and how it meets its objectives.

9.3 Integrated Legal Services Office – Ottawa refugee services

Chart 12: Integrated legal services staff and budget

Positions	Annual budget
Three staff: • Two lawyers • One legal aid worker	ILSO's refugee services budget: \$250,000

Staff lawyers and a legal aid worker at the [Integrated Legal Services Office](#) (also known as RLO – Ottawa) provide assistance to clients with refugee and immigration law matters, including but not limited to the preparation of Basis of Claim forms, representation at hearings before the RPD, representation at detention hearings, and in some cases, assistance with RAD matters and federal court judicial reviews.

[Go to Appendix B](#) for important details on the accomplishments of this office and how it meets its objectives.

9.4 Hamilton district office – Southwestern Ontario refugee services

Chart 13: Hamilton District Office staff and budget

Positions	Annual budget
Three caseworkers: • Two lawyers • One licensed paralegal	\$250,000

[Hamilton District office](#) (also known as RLO – Hamilton) staff support refugee claimants in Southwestern Ontario, including London and Windsor. Staff members work closely with the Fort Erie Multicultural Centre to fill gaps in access to refugee services in Fort Erie. Services include preparation of basis of claim forms, hearing representation at the RPD, detention reviews and judicial reviews.

[Go to Appendix C](#) for important details on the accomplishments of this office and how it meets its objectives.

9.5 Key performance measures

All three staff offices (Toronto, Ottawa and Hamilton) have five performance measures that build on the foundations of LAO's performance measures for legal aid clinics:

- Clients served and services provided
- Cost effectiveness
- Resource allocation
- Outcomes
- Client satisfaction

Sections 9.5.1 through 9.5.5 describe how the three staff offices did on these performance measures over 2015/16.

As this is the first year of systematically tracking performance measures, some are better developed and more accurate than others. Next year's annual report will contain a more comprehensive presentation of measures and results.

9.5.1 Clients served and services provided

We make ongoing efforts to ensure that data for these performance measures are accurately recorded. Preliminary data indicates that:

- RLO – Toronto handles an average of 52 cases a month
- RLO – Hamilton handles an average of 12 cases a month and
- RLO – Ottawa (ISLO) handles an average of six cases a month.

Charts 14-16 provide statistics on annual cases by proceeding type for each office.

Chart 14: Cases referred to Refugee Law Office - TORONTO FY 2015/16 (as of March 31, 2016)

Refugee Appeal
Division (RAD):
24 cases (4%)

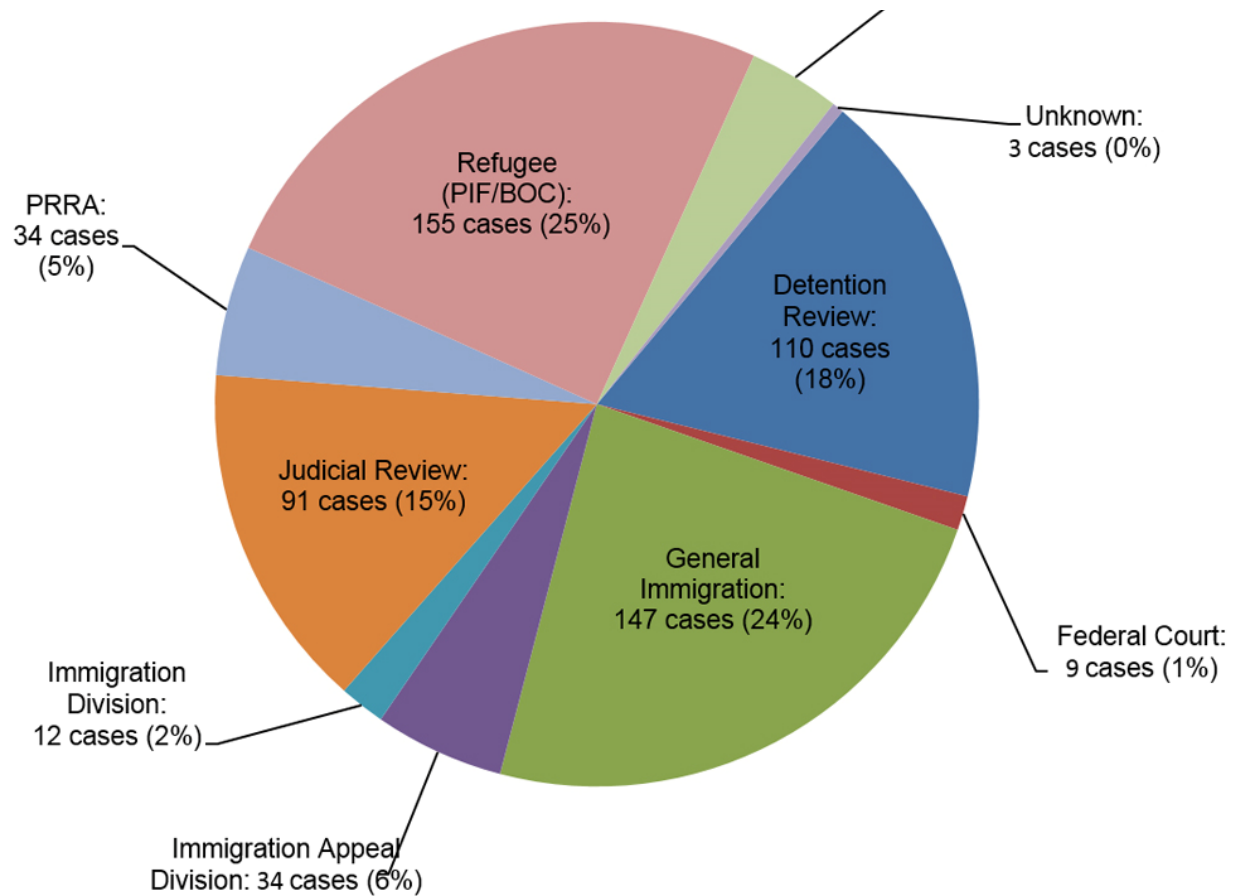


Chart 15: Cases referred to ISLO, OTTAWA FY 2015/16 (as of March 31, 2016)

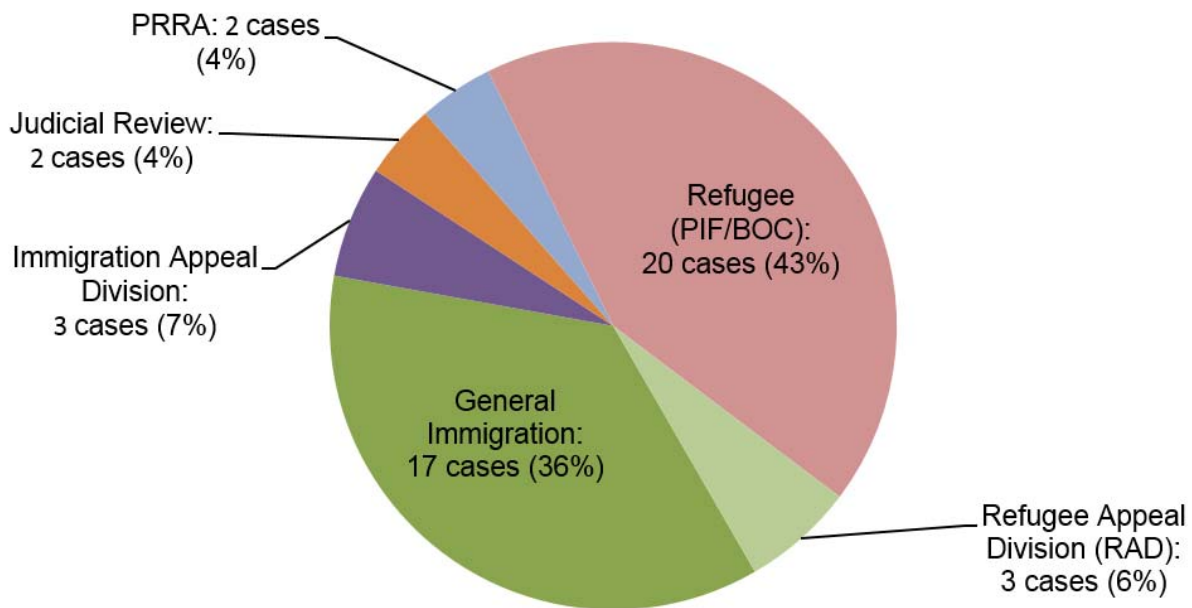
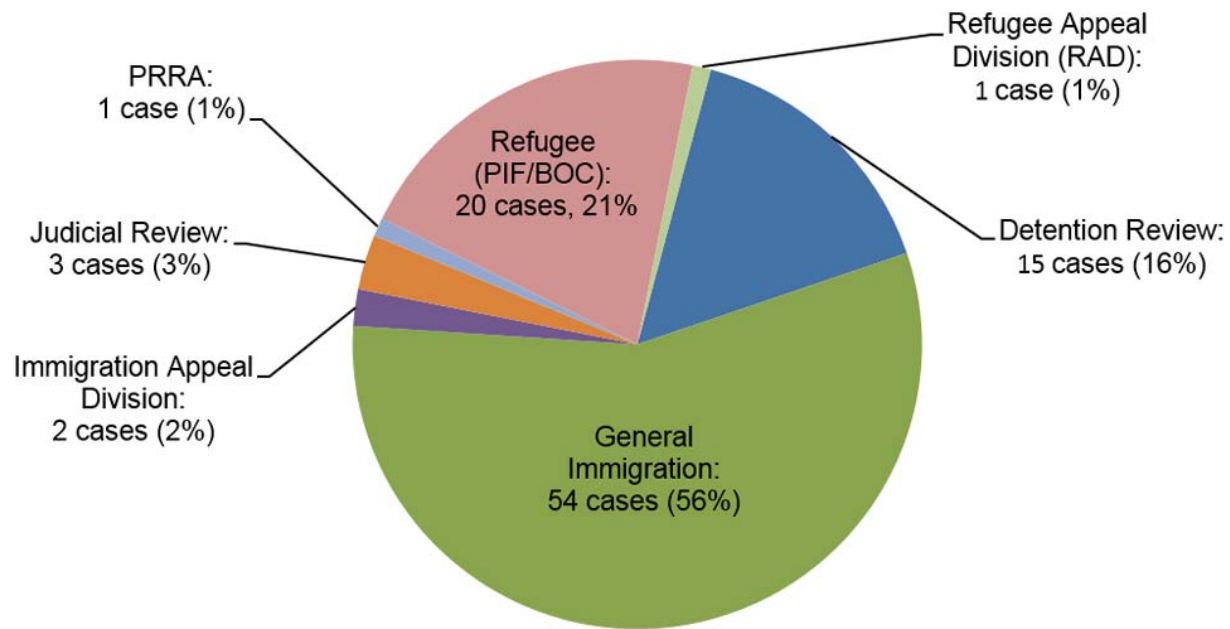


Chart 16: Cases referred to Refugee Law Office HAMILTON FY 2015/16 (as of March 31, 2016)

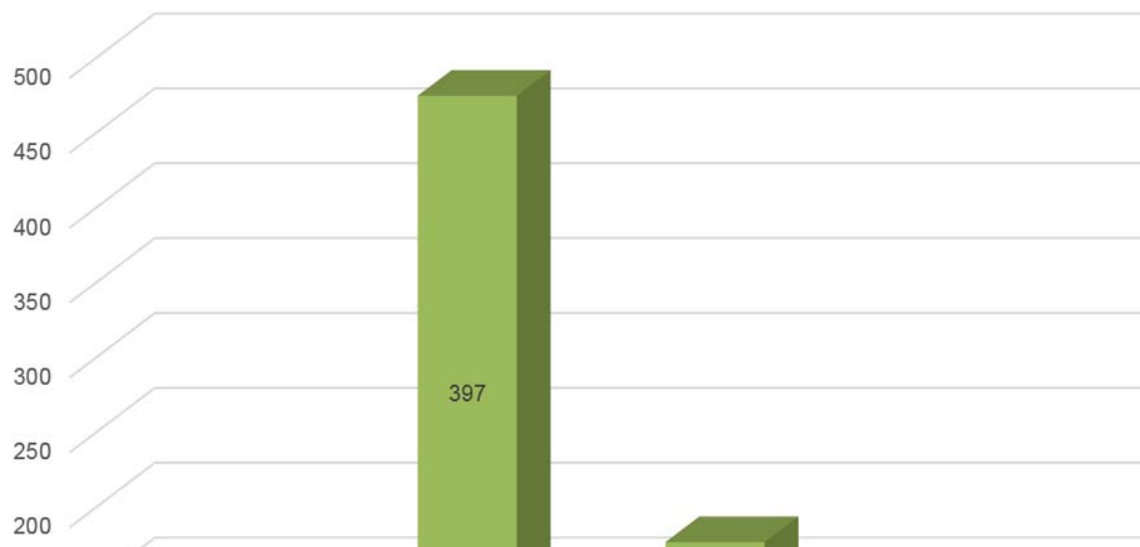


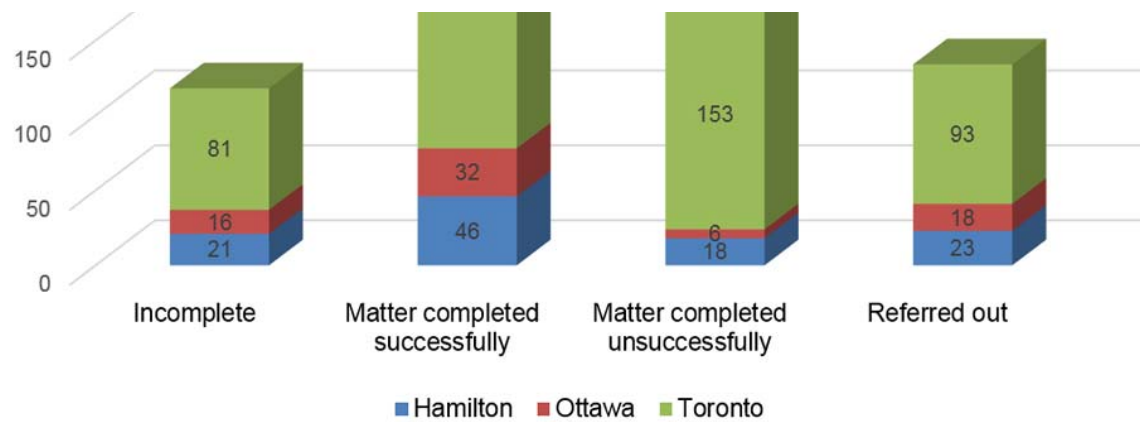
9.5.2 Outcomes

The success rate at the staff offices is commendable, particularly as these offices represent clients with complex needs such as addictions and mental health challenges.

The RLO – Toronto and RLO – Hamilton’s success rate is around 72 per cent, compared with RLO – Ottawa’s success rate of around 84 per cent. The average IRB-RPD success rate is 60 per cent.

Chart 17: Outcomes for staff offices for FY 2015/16

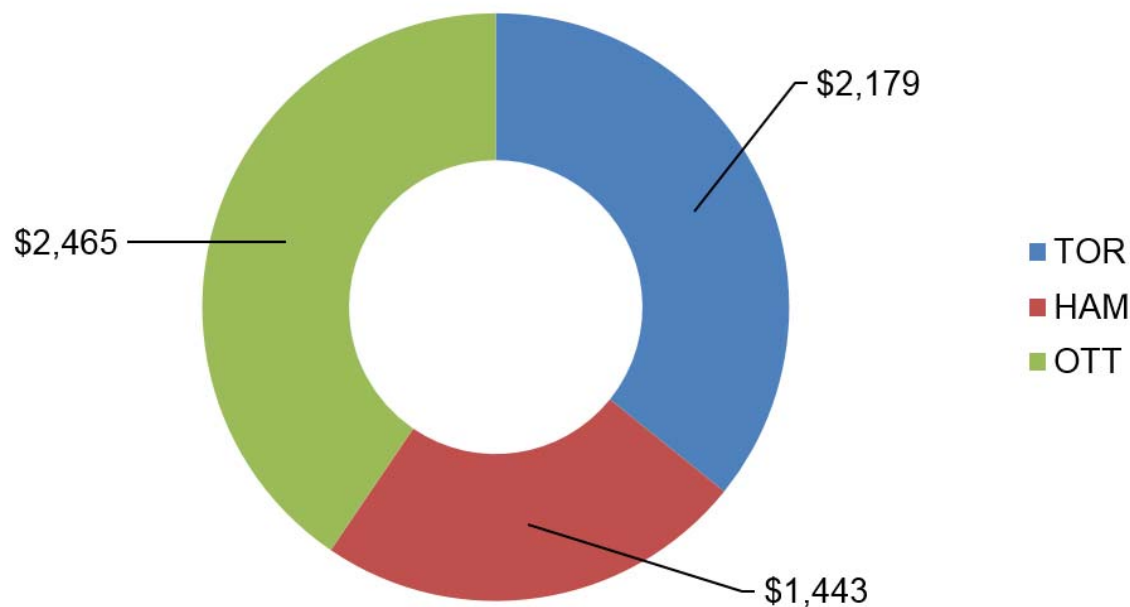




9.5.3 Cost-effectiveness

Chart 18 captures the average case cost of staff services. While LAO continues to work on this performance measure, its reliability is uncertain at this time due to factors such as the pool of closed case files from which the average is derived.

Chart 18: Average case cost for FY 2015/16



*Average costs on closed cases include disbursements

9.5.4 Resource allocation

The statistics on resources allocated indicates that staff offices conduct a wide variety of work. In the Toronto office, for example, RPD cases constituted 40 per cent of the case load in 2015/16, with general immigration at 19 per cent, followed by judicial review applications at 18 per cent. The balance of resources went to detention reviews, PRRA's and IAD matters.

Charts 19-21 detail resource allocations by proceedings for each office.

Chart 19: Resource allocation by proceeding for TORONTO for FY 2015/16

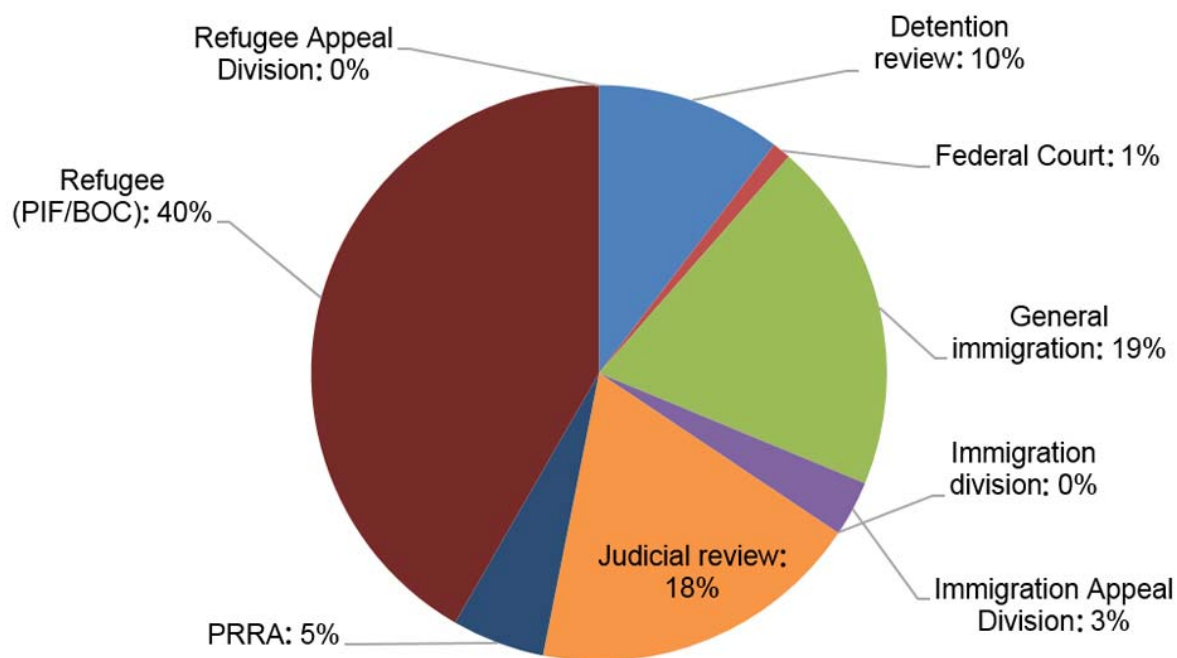


Chart 20: Resource allocation by proceeding for HAMILTON for FY 2015/16

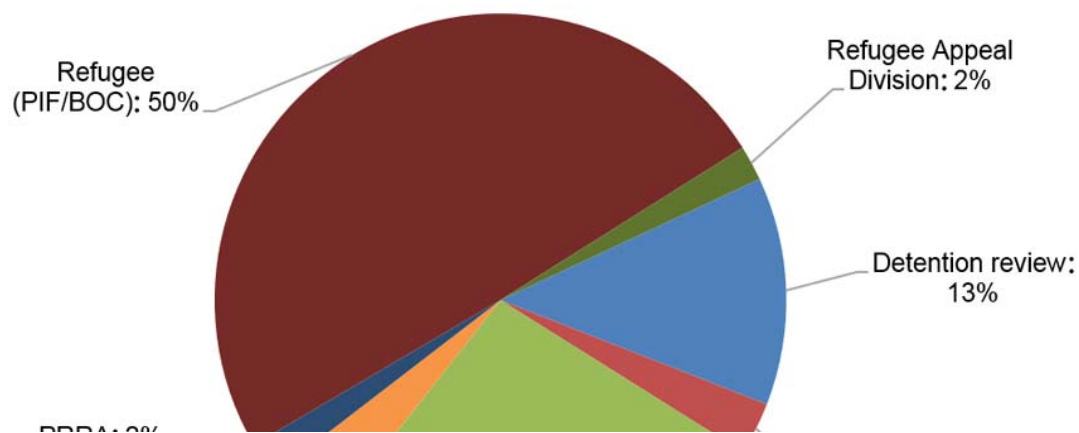
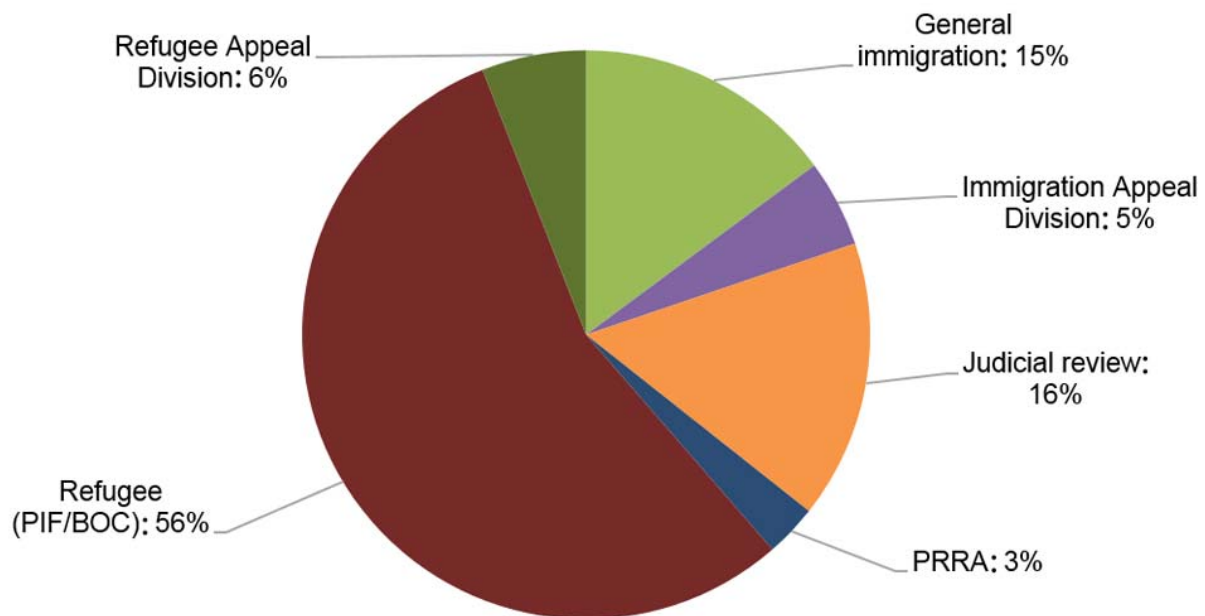




Chart 21: Resource allocation by proceeding for OTTAWA for FY 2015/16



9.5.5 Client satisfaction

The refugee staff offices have developed and begun to administer client satisfaction surveys, but, as is evident, insufficient responses were obtained to draw valid data from these surveys for 2015/16.

Chart 22: Survey results

Results	Toronto	Hamilton	Ottawa
Surveys complete	3	7	15
I was satisfied with the overall quality of service from the lawyer	100%	100%	100%
In the end, I got what I needed	100%	100%	100%
The lawyer made sure I understood my legal situation and what I need to do	100%	100%	100%
The lawyer was courteous	100%	100%	100%

Results	Toronto	Hamilton	Ottawa
It was easy to access the service	100%	100%	100%
I was satisfied with the amount of time it took to get the service from the lawyer	100%	100%	100%

Anecdotal evidence in the form of letters of appreciation from clients indicate that levels of satisfaction are high.

From Toronto:

Dear Ms. Bruce, Ms. Wilson and Mr. Kim

I wanted write this letter right after I got out of Vanier, but somehow I'm writing it now.

Thank you so much for your help. It's been more then help and I know how much you all worked hard to make this happen. You made impossible things possible

Dear Aviva,

Thank you so much for your amazing work!

It is God's miraculous work. I trust God has been using you.

He will continuously provide you with His wisdom and power.

I am looking forward to seeing you soon

Dear Mrs. Stojkovic,

By this short note, I would like to express my gratitude to you for the way you treated me earlier this morning.

During to our interview, you made me feel comfortable, although I had to talk about issues that are delicate, personal and forbidden to my culture.

You are a very gentle, kind and polite person and you treated me as a human being.

Not only the way you asked me questions but also your reaction to my answers made me feel not judged and not discriminated at all.

From Hamilton:

I would like to thank you very much for your help in stopping my removal to Central African Republic. You really save my life. I am extremely grateful. I hope you will still help me in the next steps. Best regards, ... “

Thanks so much for coming to Kitchener-Waterloo to present on Refugee Law to us and our community partners. We look forward to working with you in the future.”

We want to say a big “thank you” for all your help and support for our Micah House guests. We are so glad you are in Hamilton! Your expertise, availability, & flexibility is greatly appreciated (from everyone at Micah House)”

“Words can never do justice expressing how much we appreciate you as a person and as ...’s defense. Blessings to you and thank you.”

*“In gratitude for your efforts to help: For each new morning with its light,
For rest and shelter of the night, For health and food, For love and friends,
For everything Thy goodness sends” – poet Ralph Waldo Emerson*

From Ottawa:

*“L’avocat Nicolas Ranger est très compréhensif, accueillant, convaincant.
Il est très compétent. On est très fier de lui. Bonne carrière devant lui!!!”*

*“Ce que j’ai apprécié le plus c’est l’accueille et les renseignements clairs
au sujet de mon dossier.”*

*“J’ai apprécié la façon dont vous traitez les clients avec respect et surtout
de la dignité. Vous avez été patient envers moi et précis concernant les
informations nécessaires.”*

*“I get the most help despite my barriers in terms of language and even the
literacy. I thank you for all your help.”*

*“Les choses étaient bien compliqué auparavant, mais avec l’aide que nous
avons reçus, tout est devenu simple.”*

10. Community legal clinics refugee services

Approximately 17 community legal clinics throughout the province—most in Toronto—deliver refugee and immigration services through 20 refugee and immigration service providers. These clinics opened 762 cases in FY 2015/16. The estimated cost of these clinic refugee & immigration services based solely on staff salaries is about \$800,000.

The services provided to refugee claimants in these 17 clinics include humanitarian and compassionate applications and sponsorship applications and appeals. Certificates have not traditionally covered such services. Some clinics also do RPD and Federal Court matters.

Chart 23: Community clinics that deliver immigration and refugee services

Location	Clinic(s)
Toronto	1. Centre for Spanish Speaking Peoples 2. East Toronto Community Legal services 3. Flemingdon Community Legal services 4. Kensington-Bellwoods Community Legal services 5. Metro Toronto Chinese and South East Asian Legal Clinic 6. Centre Francophone de Toronto 7. Mississauga Community Legal services 8. Rexdale Community Legal Clinic 9. Neighbourhood Legal Services 10. Parkdale Community Legal Services 11. South Asian Legal Clinic of Ontario 12. HIV-AIDS Legal Clinic
Ottawa	13. Community Legal Services Ottawa Centre 14. South Ottawa Community Legal Services 15. West End Legal Services Ottawa
Windsor	16. Legal Assistance Windsor 17. Windsor-Essec Bilingual Legal Clinic

11. Test cases

The RLO – Toronto worked closely with LAO’s Group Applications and Test Case Committee (GATCC) to create LAO’s refugee law test case strategy. Led by LAO’s refugee law senior counsel and posted on the LAO website, this strategy focuses on:

- equal access to, and effective protection of, Charter rights (in particular s. 2, 7 and 15)
- protection of mentally ill non-citizens
- protection and promotion of the rights of the child
- domestic application/implementation/enforcement of international human rights law
- protection of citizenship for naturalized Canadians.

LAO staff have participated in a number of refugee and immigration test case initiatives including:

- appearing before the Supreme Court of Canada in three cases that raised important issues of domestic and international refugee and immigration law
- partnering with the Income Security Advocacy Centre to advocate for equal access to social benefits for indigent non-citizens
- partnering with Aboriginal Legal Services of Toronto in a ground-breaking case that dealt with the intersection of Aboriginal rights, the rights of the child, and immigration law
- arguing the unconstitutionality of the one-year bar on access to a risk review in several test cases before the federal court
- bringing three cases to UN bodies monitoring Canada's compliance with its international treaty obligations.

[Go to Appendix A](#) for more details on RLO – Toronto's test case and law reform activity.

12. Area committee

LAO has an area committee, led by LAO senior management, comprised of paid private bar practitioners who make decisions on merit assessments for judicial review funding. Chart 24 summarizes their activities.

Chart 24: Merit assessments for judicial review funding in FY 2015/16

Applications	Issued	Refused	Withdrawn or pending decision	Total
Applications for judicial review/Federal Court appeals	689	82	64	835

13. General Counsel Office—Merit and non-resident appeals

An appeals officer in LAO's General Counsel Office makes all decisions on judicial review (JR) merit assessments for non-resident applicants. The appeals officer also deals with appeals of denials of refugee certificates. Chart 25 provides statistics related to non-resident merit decisions.

Chart 25: Merit assessments for judicial review funding for non-residents, FY 2015/16

Type of file	Number of files
Non-resident judicial review files	247
Appeals of denials of refugee certificates	41 received, of which 17 were allowed and 24 were refused

14. Refugee Appeal Division (RAD) committee

LAO's RAD staff committee makes decisions on merit assessments for RAD funding. Chart 26 provides the details for 2015/16.

Chart 26: Merit assessments for RAD funding in FY 2015/16

Applications	Issued	Refused	Withdrawn or pending decision	Total
Refugee Appeal Division applications	616	107	75	798

15. Support for refugee services through training and mentorship

Training and mentorship are key to helping LAO meet its commitment to excellence in the delivery of refugee services.

15.1 Refugee law learning and development

In 2015/16:

- Over 300 refugee and immigration law practitioners attended LAO's Refugee Law Office Conference in June 2015, and received accreditation from the Law Society of Upper Canada for their attendance. LAO sponsors this conference annually.
- The RLO and LAO's human resources department initiated a joint project to develop substantive refugee law training modules for staff, private bar and clinics and post them on LAO's LAO LAW website for panel lawyers. These modules cover topics such as how to prepare the application for a refugee to remain in Canada on humanitarian and compassionate grounds, how to prepare for an appeal for refugee status and how to represent clients who are detained at the border.

15.2 Refugee panel LAO orientation

On November 20, 2015, LAO hosted its first refugee panel standards orientation session, a full-day event organized by Kristin Marshall, LAO's senior refugee law trainer for new calls and some lawyers who had conditions attached to their panel membership. The

session was offered again in January and April 2016, and is planned to continue on a quarterly basis.

The purpose of these sessions was and is to provide an overview of LAO's refugee and immigration services and mandate. They also provide a list of resources and services that can support lawyers and introduce panel officers, a newly created role. Each panel officer will help support a portfolio of lawyers. So far, attendee feedback has been positive.

15.3 Refugee panel mentoring

LAO has a robust mentorship program that helps refugee lawyers meet panel standards conditions. The program provides funding for mentors to support refugee practitioners seeking to meet the conditions necessary to join the refugee panel. It also provides senior lawyers in need of support on a complex file to retain a mentee to assist.

Mentors have to meet strict criteria, including high ratings on their panel standards review, experience or knowledge of mentoring, stellar reputation in the community and sound administrative relationship with LAO.

In 2015/16, 22 mentors across the province were supporting 40 mentees.

16. Communications

In 2015/16, LAO's communications to the bar and the public included the following activities:

- Posted a number of refugee-related news items on its website over the last year, informing lawyers and refugee claimants about LAO's increased coverage for humanitarian and compassionate applications and coverage for *habeas corpus* applications.

- Continued to regularly publish the Better Billing Bulletin (B3)—an electronic news bulletin that supports panel lawyers in their billing practices.
- Improved its content on its website to inform visitors dealing with [refugee and immigration matters](#) about LAO's expanded services, such as through clinics and staff, and provided improved refugee and immigration [information for clients](#) to ensure they can access timely and accurate online information.

LAO frequently requests support from the RLA in its communications through use of the RLA list serve and local refugee bar networks, including Ottawa.

17. Stakeholder engagement

In 2015/16, LAO communicated regularly with stakeholders on the implementation of the new refugee and immigration standards. These stakeholders include the private bar, community and settlement agencies, legal aid clinics, IRB, Department of Justice (DOJ), Canada Border SA, Citizenship and Immigration Canada (CIC).

In addition to such formal consultations, LAO holds regular stakeholder meetings with members of the following groups:

- **Refugee Lawyers Association:** Meetings every two months with executive members of the RLA.
 - **Immigration & Refugee Advisory Committee to LAO's Board:** Meetings twice a year.
 - **LAO/IRB/CBSA/CIC/DOJ:** LAO hosts a committee of key partners every quarter to discuss issues of common interest, including changes to policy and process that impact refugee and immigration matters.
-

18. Appendix A: How the RLO – Toronto meets its strategic objectives

18.1. Leadership in refugee law

18.1.1 A voice for refugee law reform

To be a sophisticated voice for refugee law reform in collaboration with the private bar, clinics, community agencies and other non-governmental organizations.

18.1.1.1 Test cases

Bring/intervene in test cases challenging regressive or unjust provisions in the area of refugee law

The RLO – Toronto was involved in many test cases in 2015, informed by LAO's 2014 refugee test case litigation strategy that Andrew Brouwer, LAO's senior counsel refugee law had developed. The Supreme Court of Canada heard three of these cases.

Supreme Court of Canada

Each of the three cases the Supreme Court heard resulted in important substantive advances in refugee and immigration protection that positively impacted thousands of claimants. They also demonstrated the inclusivity of the RLO's test case program: seven of its 12 lawyers, ranging from senior to junior counsel were involved.

Two of the cases involved determination of whether the *Immigration and Refugee Protection Act* (IRPA) human- and people-smuggling provisions apply to those who provide assistance, for humanitarian reasons, in violation of visa requirements. These cases were launched after two boatloads of Tamils fleeing Sri Lanka arrived off the coast of Canada in 2010.

1. **B010 v. Canada (Citizenship and Immigration Canada) [2015] S.C.J. No 58.**

RLO staff acted as part of the team of counsel for the intervener, the Canadian Association of Refugee Lawyers (CARL). The Director of Legal Services RLO – Toronto RLO was a member of the counsel team for the intervener Canadian Council for Refugees (CCR).

The Supreme Court, relying on principles of statutory interpretation as well as international law, ruled that those who aid others in their collective flight to safety, and do not do so for material gain, are not inadmissible under s. 37 (1) of IRPA for engaging, in the context of transnational crime, in people smuggling.

2. Appulonappa v. R [2015] S.C.J. No 59.

Andrew Brouwer and Erin Bobkin were members of the counsel team for the intervener CARL. Catherine Bruce was a member of the counsel team for the intervener the CCR.

The Supreme Court found s. 117 of the IRPA, which criminalized human smugglers who assisted others to enter Canada in violation of visa requirements even where a profit motive was not involved, was overly broad under 7 of the *Charter*. As the law could not be saved under s. 1 of the *Charter*, it was read down to make it inapplicable to persons who give humanitarian, mutual or family assistance to those in flight to safety.

3. Proper interpretation of the equitable relief provisions under s. 25 of the IRPA.

RLO lawyer managers appeared as members of the counsel team for the intervener for the Barbra Schlifer Commemorative Clinic and the Canadian Centre for Victims of Torture. Staff lawyers appeared as members of the counsel team for the intervener the Canadian Centre for Victims of Torture.

s. 25 of the IRPA allows decision makers to grant permanent residence, on humanitarian and compassionate grounds, to others who would not otherwise be eligible. Decision makers had been, however:

- applying the equitable relief provisions in increasingly restrictive terms
- requiring applicants to demonstrate evidence of “undue, undeserved or disproportionate hardship” before equitable relief was granted
- applying this requirement to minor children as well and
- discounting evidence of future harm where this evidence was based upon what had happened to others similarly situated to the applicant.

In addition, a troubling pattern had developed. Immigration decision makers were disregarding psychiatrist diagnoses of mental illness for applicants who had not obtained follow-up treatment for their diagnosed psychiatric conditions, and where the psychiatrist had based the diagnosis, in part, on self-reporting by the applicant as well as on hearsay.

In *Kanthisamy v. Canada* (Citizenship and Immigration) [2015] S.C.J. No 61, the court found that the adjectives “unusual, undeserved or disproportionate” when applied to hardship should be seen as instructive only, and not determinative of whether equitable relief should be granted, as all relevant factors must be considered in determining whether relief is warranted.

The Court further found the notion that applicants need demonstrate undeserved, disproportionate or undue hardship for a humanitarian and compassionate applications to succeed is presumptively inapplicable to children, as children are rarely deserving of hardship. More generally, the court found that applicants need not prove that they will otherwise face “unusual, undeserved or disproportionate” hardship for relief to be granted.

The Court also found that applicants seeking permanent residence on humanitarian and compassionate grounds may rely upon evidence of harm to similarly situated persons to demonstrate the likelihood of future hardship and need not show evidence that they themselves were previously impacted.

With regard to the treatment of psychiatric evidence, the Court found that decision makers:

- may not dismiss a psychiatric diagnosis because the applicant has not sought treatment for the diagnosed illness and
- may not question the validity of a psychiatric diagnosis on the basis that the diagnosis is partially premised on self-reporting by the applicant and on hearsay.

Federal Court of Appeal

Staff at the RLO – Toronto co-counselled in interventions in two seminal cases before the Court of Appeal.

1. Mudrak v. Canada (Minister of Citizenship and Immigration) 2015 F.C.J.

No 189 involved issues of state protection. Aviva Basman appeared as a member of the counsel team for the interveners the CCR and CARL.

2. Lewis v. Canada (Minister of Public Safety and Emergency Preparedness

involved the intersection of deportation, Aboriginal rights and the best interests of the child. It will be jointly argued by Andrew Brouwer and Jonathon Rudin of Aboriginal Legal Services.

In addition, in **Y.Z v. Canada (Citizenship and Immigration) 2015 FC 892**), Catherine Bruce, Director of Legal Services — RLO – Toronto acted as an informed witness for the appellants. The Court struck down legislation denying access to the RAD by persons from Designated Countries of Origin, on the ground that such denial violated s. 15 of the Charter. The government has since decided that it will not appeal this decision. As a result, thousands who would once have been denied access to the RAD and to stays of deportation pending appeal can access both.

18.1.1.2 Stakeholder relations

Maintain active participation and strong networks with key partners and stakeholders (clinics, community agencies, CCR, CARL, RLA, AI, UNHCR)

In addition to partnering with stakeholders in test case litigation (see Section A.1.1.1) and in law reform activities (see Section A.1.1.3), staff at the RLO – Toronto organized

and moderated conferences and workshops, presented papers, and undertook leadership positions in partner organizations.

Leadership positions in 2015/16

- Carole Dahane, LAO Senior Counsel, Refugee Law, has taken a two-year leave of absence to lead the development of **UNHCR's** international test case litigation program in Geneva.
- Catherine Bruce and Andrew Brouwer both served as members of the **CCR's** legal affairs committee, while Nasrin Tabibzadeh, a paralegal at the RLO – Toronto, was elected as a co-chair of the CCR's inland protection working group.
- Until August 2015, Aviva Basman and Andrew Brouwer were co-chairs of **CARL's** litigation committee. Aviva moved on to take up a position as CARL's vice president. Anthony Navaneelan, a staff lawyer at the RLO – Toronto, was elected to serve as CARL's secretary.
- Andrew moved on to become a member of the community advisory group for **Lifeline Syria** (<http://lifelinesyria.ca>), a community-based organization which recruits, trains and assists private sponsorship groups seeking to sponsor Syrian refugees.

Moderator/speaker engagements in 2015/16

- **CCR:**
 - At its spring consultation in Winnipeg in April 2015, Ben Liston, staff lawyer at the RLO – Toronto, spoke on trends at the RPD and Canadian Border Services Agency's (CBSA) policies in relation to survivors of domestic violence.
 - At its fall consultation in Hamilton in November 2015, Andrew Brower, Anthony Navaneelan and Catherine Bruce all spoke on legal challenges before the Courts in 2015.

- **Canadian Association of Refugee Lawyers (CARL) conferences:**

- Aviva Basman moderated its April and October 2015 conference.
- At the April 2015 conference, Alyssa Manning, spoke on “Overcoming the Port-of Entry: Busting myths about POE forms, interviews and notes.” Anthony Navaneelan, staff lawyer also spoke.
- At the October 2015 conference, John Norquay, staff lawyer, presented on “25 case must-haves.”

- **UNHCR:**

Andrew Brouwer travelled to a capacity-building conference organized by the UNHCR in Mexico to speak on LAO’s funding of refugee law.

- **Clinics and community organizations**

In October 2015, Alyssa Manning spoke at the **Barbara Schlifer’s** AGM on humanitarian and compassionate cases in the aftermath of Kanthasamy (see Section A.1.1.1).

The RLO – Toronto also actively helped community organizations provide legal advice and seminars to service providers that interact with refugees and immigrants:

- In May 2015, John Norquay and community legal worker Jordan Pachiarz Cohen gave a presentation to social workers at **Humber River Hospital** on interim federal health coverage and understanding the basics of patients’ immigration status.
- In October 2015, John Norquay spoke at the **Black Coalition for AIDS Prevention** on how to prepare for RPD hearings.
- In November 2015, John Norquay spoke at the **Red Cross First Contact Programme** on recent development in refugee determination. That same

month, Jordan Pachiarz spoke at a **Rights of Non Status Network Meeting** on detention issues.

18.1.1.3 Law reform activities

Participation in law reform activities with the private bar, clinics or agencies

The Toronto – RLO law reform activities in 2015 were consistent with the RLO – Toronto’s strategic priorities. The office focussed on immigration detention issues:

- In November 2015, several members of the RLO – Toronto, including community legal workers, paralegals and lawyers helped establish an **alliance between lawyers and psychiatrists** to address issues concerning detainees. These issues include detention of children, long-term detention, detention of those with mental health issues, alternatives to detention and access for detainees to medical services and counsel.
- In Spring 2015, the **International Human Rights Programme** at the University of Toronto published *We have no rights: arbitrary imprisonment and cruel treatment of migrants with mental health issues*, a report on mental health and detention. RLO – Toronto lawyers, paralegals and community workers were interviewed for this report and substantial information they provided was incorporated.
- In December 2015, Andrew Brouwer participated in a **UNHCR’s** first annual meeting, held in Ottawa, of partner organizations involved in the UNHCR’s “Beyond Detention” strategy.

Also consistent with RLO’s strategic priorities, lawyer Catherine Bruce and community legal worker Virginia Wilson played a substantial role in drafting submissions advocating for changes to the role of designated representatives in immigration proceedings. The **Canadian Bar Association** presented these submissions to the minister.

Andrew Brouwer and John Norquay both joined an advisory committee assisting in the publication of a report by the IHRP on the treatment of persons with HIV in Mexico and Syria.

Publish/present papers/PLE materials on issues with wide potential impact

It was challenging for an already overworked and fully engaged staff to find sufficient time to publish papers while also conducting the other work outlined in this report. That said:

- Staff lawyer Anthony Navaneelen presented Justice seen and done, an innovative paper critiquing the Federal Court’s decision to only publish precedential cases on its website, at the annual Law Society’s Continuing Legal Education Conference. The Court subsequently undertook to reconsider this decision.
- The RLO – Toronto met its objective of educating the wider public about issues of importance in refugee law through widespread media interest in clients it represented and work it performed.

RLO – Toronto lawyers were interviewed on a broad range of topics. Articles featuring interviews with RLO – Toronto’s senior counsel and other RLO – Toronto staff, including Erin Bobkin and Alyssa Manning appeared throughout the year in many different publications, including the *Globe and Mail*, the *Toronto Star*, the *Montreal Gazette*, the *Huffington Post*, *The Canadian Press*, the *Law Times*, and *Lawyer’s Weekly*. Lawyers from the RLO – Toronto also spoke on CBC. A few highlights of the resultant coverage:

- **Canada’s treatment of US War Resisters** (*Toronto Star*, February 8, 2015)
- **The Implementation of Panel Standards and the consequences of inadequate representation for Roma refugee claimants** (CBC News, April 24, 2015; the *Toronto Star*, April 20, 2015)
- **Re-opening of the case of a deported Roma refugee family**, whose former lawyer was suspended for professional misconduct (*Toronto Star*, May 25, 2015)
- **Canada’s obligations to refugees** (Op Ed. *Montreal Gazette*, May 1, 2015)
- **Death in immigration detention** (*Canadian Press*, June 6, 2015)
- **The legal community’s response to the Syrian influx** (*Law Times*, December 7, 2015)

- **The people smuggling cases at the Supreme Court** (CTV News, February 18, 2015; *Lawyer's Weekly*, December 11, 2015).

18.1.2 Leadership

To build and maintain an international LAO presence as a leader in refugee law

18.1.2.1 Test cases to international bodies

Bring important test cases before international treatment monitoring bodies, such as the UNHCR Committee Against Torture, UN Human Rights Committee, Inter-American Commission on Human Rights

Over the last two years, staff at the RLO – Toronto brought several cases before committees of the United Nations in a bid to stop deportations of clients at the eleventh hour, when all domestic remedies were exhausted. Many of these cases have been successful.

Here are two examples of such cases, both brought in May 2015:

1. **Mr. X** was an El Salvadorean citizen who in 1992 had been involved in the election campaign of the FMLN—then one of two legal political parties in El Salvador. The FMLN had previously, in the 1980s, attempted the subversion, by force, of the Government of El Salvador. Although Mr. X had only been involved in the FMLN after legalization of the party, he was found inadmissible to Canada because of his involvement in the organization on the grounds of the organization's previous activities. He was ordered removed to El Salvador despite clear evidence that he would be at grave risk there, and a motion to stay the deportation was denied on May 28, 2015. Andrew Brouwer partnered with **Downtown Legal Services** to prepare a petition to the UN Human Rights Committee. That petition was sent to Geneva at 2 a.m. on Friday May 29, 2015. Twelve hours later, the interim measures request was granted and removal for the next day was cancelled.
2. **AHG** was a 52-year-old Jamaican citizen who had been living in Canada since the age of 18. He was diagnosed with paranoid schizophrenia at age 34, and was

subsequently convicted of assault with a weapon—a conviction recognized as linked to his mental illness. Despite evidence of this link, the conviction resulted in AGH being stripped of his permanent residence and ordered deported. When efforts to stay the deportation failed, the RLO – Toronto filed a case before the United National Human Rights Committee arguing that his deportation to Jamaica amounted to cruel and unusual punishment. In its final decision, rendered May 2015, the United Nations Human Rights Committee agreed, finding that:

The deportation of A.H.G., a mentally ill person in need of special protection who lived most of his life in Canada, on account of criminal offences recognized to be related to his mental illness, and which has effectively resulted in the abrupt withdrawal of available medical and family support on which a person in his vulnerable position is necessarily dependent, constituted a violation by the State party of its obligations under article 7 of the Covenant.

The Committee stated that AHG should be permitted to return to Canada, and that Canada should offer him compensation.

18.1.2.2 Transnational links and relationships with other jurisdictions

Build or enhance transnational links and working relationships with refugee service providers and/or human rights groups in other jurisdictions

Examples of success in this area:

- RLO – Toronto’s Carole Dahan is currently leading the UNHCR test case intervention strategy in Geneva
- In early 2015, Catherine Bruce, director legal services, RLO – Toronto and Andrew Brouwer, senior counsel, refugee law, engaged in discussions with Legal Aid in New South Wales, Australia on implementation of LAO panel standards in Australia.

- In May 2015 Andrew Brouwer attended a conference in Mexico organized by the UNHCR concerning capacity building of Mexico's asylum system.
- In late 2015 Andrew Brouwer met with a delegation from Hong Kong to talk about best practices for the delivery of legal aid services for refugees.
- Over the course of 2015, Andrew Brouwer has been engaged in discussions with the Centre for Constitutional Rights in New York about national security provisions in the USA and in Canada.
- In 2015, the RLO – Toronto welcomed a summer student through a University of Michigan Fellowship and Professor James Hathaway and will be welcoming another to our 2016 summer student program.

18.2 High-quality, compassionate sustainable services within the RLO – Toronto

18.2.1 Quality staff

Attracting and retaining the most talented and knowledgeable staff

The RLO – Toronto is proud of its paralegals, community workers and legal aid workers, who comprise a highly educated, multilingual and diverse workforce.

Its lawyers are among the stars and rising stars of the refugee bar. As indicated elsewhere in this report:

- several RLO – Toronto employees hold leadership positions in key stakeholder groups and advocacy organizations such as CARL and the CCR
- RLO – Toronto staff are regularly asked to participate in and deliver papers at conferences held by CARL, the CCR and the UNHCR
- work prepared by RLO – Toronto staff and reviewed anonymously as part of the panel standards process receives consistently high evaluations

In addition, RLO – Toronto staff members have pursued career development elsewhere, including:

- Carole Dahan, Senior Counsel Refugee Law, who took a two-year leave of absence to head up the UNHCR’s test case intervention strategy in Geneva.
- Three of the RLO – Toronto’s lawyers, who took leaves of absences from the RLO – Toronto to take up board member positions they were offered at the Refugee Protection Division.

The flexibility to encourage such career development is an important factor in the RLO – Toronto’s ability to continue to attract, and ultimately to retain, the most talented and knowledgeable staff. The experience gained by these lawyers will benefit the RLO – Toronto when, at the completion of their terms of absence, they return to the RLO – Toronto.

18.2.2 Implementing panel standards within the RLO – Toronto

In 2015, LAO implemented panel standards for all private bar and staff lawyers and paralegals providing legal aid services to refugee and immigrants.

Applicants seeking to represent refugees and immigrants before tribunals were required to submit two pieces of work for peer review. Applicants seeking to represent refugees and immigrants before the refugee appeal division of the courts were required to submit two *facta* and supporting documents for peer review. Applicants’ identities and details of their place of work were withheld from peer reviewers to avoid bias, or the perception of it, in the review process.

Shortly after implementation began, the review process was modified to further entrench objectivity of reviews. As a result, applicants were graded from one to five, with a grade of one indicating inadequate work, a grade of 4 indicating acceptable work that meets panel standards, and a grade of 5 indicating work of good or very good quality.

Of the 267 lawyers evaluated to date and found to meet panel standards, 32—amounting to 12 per cent of all empanelled lawyers—received a grade of five on every piece of work submitted.

In addition, all lawyers and paralegals at the RLO – Toronto submitted applications for panel standards evaluation by peer reviewers. The results of these assessments demonstrate that its lawyers and paralegals are of high quality and indeed, are among the best in the refugee and immigration bar.

18.2.3 Maintaining a high success rate

The RLO – Toronto specializes in complex cases involving detained claimants, claimants with mental health issues, claimants with criminality issues, and claimants facing exclusion and inadmissibility proceedings. A small proportion of its case load are straightforward RPD cases.

Despite this challenging case load, in 77 per cent of the cases it completed in Toronto in 2015, the applicants obtained the remedy sought. In a tribute to the quality of its lawyers, paralegals and community workers, the remedies sought included that the claimants were determined to be a refugee, were granted permanent residence on humanitarian and compassionate ground, received a positive PRRA assessment, were released from detention, were granted judicial review, successfully appealed the denial of their refugee claim etc.

This success rate, a tribute to the quality of the RLO – Toronto’s lawyers, paralegals and community workers, is far superior to the global success rates of recent studies, which have found that:

- only 30.5 per cent of all refugee claims ultimately succeed
- only 14.4 per cent of all judicial review applications are granted leave
- only 6.5 per cent of all judicial review applications ultimately succeed
- only 46.2 per cent of humanitarian and compassionate applications ultimately succeed.¹

Korean triage project

The RLO – Toronto was particularly proud of its success rate in assisting North Koreans triaged through the Korean triage project—an initiative LAO set up to deal with the crisis that arose when the Law Society suspended barrister and solicitor Meera Cho. At the time of her suspension, Ms. Cho was the counsel for approximately 80 to 90 refugee claimants of North Korean origin to whom LAO had issued certificates for representation at their refugee hearings. Since Ms. Cho was prohibited from practicing law, these refugee claimants required new Counsel.

To complicate matters, LAO learned that large numbers of North Korean refugee claimants had sojourned in South Korea and therefore had South Korean citizenship a fact they had not disclosed to LAO or the Refugee Board.

Furthermore, staff at LAO had interviewed each client before issuing their certificates. Many had stories of severe trauma in South Korea.

While a few had valid refugee claims against both South and North Korea, most did not have valid refugee claims but did have valid humanitarian and compassionate applications.

The RLO – Toronto advised each client on whether he or she should pursue a refugee claim or withdraw his or her refugee claim and make a humanitarian and compassionate application. Some clients selected the RLO – Toronto as counsel of choice, while others chose to retain members of the private bar.

The RLO – Toronto proceeded with three harrowing North Korean/South Korean cases before the Refugee Board in 2015. Two of these cases succeeded and the third has yet to conclude—a tremendous success rate compared to the fact that the Refugee Board did not accept a single other case by North Korean claimants.

The RLO – Toronto represented six other families on humanitarian and compassionate applications. Of these, three families (seven people in all, including minor children) have received initial approval of their humanitarian and compassionate applications. The remaining three applications have yet to be determined.

18.2.4 Ongoing training for staff

In the last quarter of 2015, the RLO – Toronto began monthly training workshops for all staff at refugee staff offices in Toronto, Ottawa and Hamilton to keep all frontline workers up to date with important developments in the law, showcase RLO – Toronto work, and foster a sense of team work and pride in our accomplishments. They included:

- Three workshops on detention issues covering long term detention, the detention of minors, and the impact of detention on mental health.
- One workshop on humanitarian and compassionate applications in the aftermath of the *Kanthasamy* case
- One workshop on the differences between the US asylum system and the Canadian refugee system.

The workshops have been well attended and well received.

LAO retained a senior refugee law trainer who has provided staff at refugee staff offices with refugee law modules on preparing refugee claims, presenting humanitarian and compassionate applications, conducting legal research, and representing clients on stay motions and on judicial review.

18.2.5 Enhancing client service satisfaction

18.2.5.1 Developing efficient intake policies and procedures

The RLO – Toronto has substantially changed its intake procedure to provide for daily intake through morning and afternoon sessions.

In addition, a once-weekly case assignment court ensures that cases are appropriately assigned, or referred out if necessary. The case assignment court gives all staff a good understanding of the work of the office as a whole and helps them identify the cases that they are most interested in working on. This team-oriented approach also helps the office match the needs of clients with the interests and capabilities of staff.

Urgent matters that cannot wait for the weekly case assignment court are dealt with on an as-required basis.

18.2.5.2 Client satisfaction survey

The RLO – Toronto has developed a client satisfaction survey, but work is ongoing to ensure that clients regularly complete it. Informal feedback, in the form of letters of thanks from clients indicates that satisfaction with the RLO – Toronto’s services is very high.

18.3 High quality, compassionate, sustainable services—external

18.3.1 Support our service providers

Support refugee service providers (private bar, clinic pilots) in delivering refugee legal aid services

In 2015, the RLO – Toronto organized annual conferences, provided mentorship, evaluated immigration and refugee programs in clinics operating under a service agreement with LAO, and helped community groups produce refugee hearing guides for refugees.

Annual conferences

In 2015/16, the RLO – Toronto organized the following conferences:

- **Law Society of Upper Canada’s Annual Refugee Law Conference**

This conference is the largest annual conference provided to immigration and refugee lawyers in the province of Ontario.

For the second year in a row, Catherine Bruce and Alyssa Manning organized and co-chaired, with the Department of Justice. Staff at the RLO – Toronto who spoke at the conference included Andrew Brouwer on group sponsorship and Anthony Navaneelan on judicial comity.

More than 75 per cent of all respondents stated the conference was either very good or excellent; 16 per cent indicated that the conference was good; and nine per cent indicated that it was fair.

- **LAO's RLO conference**

Every year, the RLO – Toronto plans and delivers this event. In 2015, it addressed cessation, LGBT issues, domestic violence issues, Immigration Appeal Division re-openings, no credible basis findings, making Law Society complaints, and jurisprudence of the prior year.

As in previous years, it was well received. 89 per cent of all respondents stated that the conference was either very good or excellent; nine per cent indicated it was good, and two per cent indicated that it was fair.

Mentorship

The RLO – Toronto provided a number of mentorship opportunities throughout 2015/16:

- Staff at the RLO – Toronto regularly mentor private bar lawyers through the RLO – Toronto's volunteer program. This program enables lawyers and paralegals in training who wish to acquire experience in immigration and refugee law to work alongside RLO – Toronto lawyers on clients' cases, and receive mentoring along the way. The RLO – Toronto gains much-needed assistance, and lawyers and paralegals in training receive valuable supervised experience. This year two lawyers participated, contributing hundreds of hours to client service.
- Staff at the RLO – Toronto contributed to the development of Second Chair Program—a formal mentorship initiative funded by LAO for members of the private bar panel. Kristin Marshall, a senior refugee trainer jointly employed by LAO's human resources and panel services departments was the primary staffer who implemented the mentorship program for refugee and immigration lawyers. Catherine Bruce and Andrew Brouwer of the RLO – Toronto both provided input into its development.

- Throughout the year, RLO – Toronto lawyers were available as needed to answer questions from members of the private bar.

In the summer of 2015, Alyssa Manning and Aviva Basman and staff from the RLO – Ottawa performed a peer review of the quality of immigration and refugee legal services provided at the Rexdale, Vanier and the Centre Francophone clinics. When it was time to renew refugee-specific clinic funding agreements, the results of the peer review were considered.

Staff at the RLO, including Melinda Gayda and Laura Brittain, led the revision of LAO's **best practices refugee protection manual** used to support the delivery of high quality services.

In early 2015, Catherine Bruce acted as review counsel in the preparation of a completely revised guidebook entitled “**Refugee Hearing Preparation: A Guide for Refugee Claimants**”. The Guide is published in 10 languages and helps refugee claimants and service providers to:

- learn key refugee legal issues
- track individual refugee claims on the right timeline
- learn strategies to prepare for the refugee hearing
- complete the hearing preparation checklist
- get answers to frequently asked questions
- find legal and community resources in Metro Vancouver, Edmonton, Calgary, Winnipeg, Greater Toronto Area, and Montreal

18.4 Governance and accountability

18.4.1 Develop team-based case management

In 2014, the RLO – Toronto initiated team-based case management. All staff except senior counsel and the director were assigned to one of two teams, each case-managed by lawyer/managers.

Initially, case managers assigned cases to their team members and team members worked in partnership with their team members. In practice, however, staff found it neither desirable nor possible to retain such rigid divisions in the allocation of work. Moreover, when the RLO – Toronto introduced a case assignment court in 2015, staff began to volunteer to work on cases with staff who were not on their team.

As a result, RLO – Toronto eliminated the rigidity of its work allocation. Cases still were, however, assigned to one of the teams to enable lawyer managers to effectively manage the people in their team, control case costs and develop and implement budgets.

Members of both teams were required to and did align their performance goals to the business and strategic plan.

18.4.2 Develop performance measures and balanced scorecard

The RLO uses six performance measures to measure the activity of the RLO Toronto, Hamilton and Ottawa:

1. Number of clients served/case volume
2. Outcomes
3. Cases in progress
4. Average case cost
5. Resource allocation
6. Client satisfaction.

More information on these measures is in Section 10.5.

At this time, the RLO – Toronto does not have a balanced scorecard.

18.4.3 Develop roles and responsibilities for each employee position

In 2014, the RLO developed detailed job profiles for each employee. The support staff role was redefined to assign one support staff person to each of the two teams of lawyers in the RLO. Work needs to be done to ensure that each employee is in a role best suited to her/her capabilities and that existing litigation support is used and enhanced.

18.4.4 Knowledge management

Knowledge management including the use of Sharepoint for projects and documents

An RLO Sharepoint has been set up and is located on a restricted access section of LAO's intranet, the Source. It has lists for staff services (communications, country research, forms library, performance measures), project, policies and forms, plus a contact list (which staff uses to access contact details of all staff members) and a shared calendar (which staff uses to show when they are out of the office and where they can be contacted if out of the office).

Staff did not fully make use of other aspects of the Sharepoint site, including a shared country research list, 2015/16.

18.4.5 Technology

The RLO – Toronto experimented with various technological solutions to implement administrative efficiencies, increase accountabilities and reduce costs:

- **Introduction of policies and procedures for use of legal files.** All staff began to docket their time, and were provided with target hours which they were expected to meet. They now also enter disbursements on legal files. This makes tracking and management of time spent and expenses incurred easier.
- **E-faxing** is used for incoming emails, and limited e-faxing is available for outgoing emails.
- **A pilot of A2J software** was attempted, to help prepare forms used in the refugee claim process. A2J was intended to pre-populate biographical data requested on multiple occasions on different immigration forms. Unfortunately, the program's pre-population worked only for individual applicant's cases, not for multiple family members. Its use has been suspended until a decision is made on whether or not to allocate additional funding that would allow further development of the program. Management is considering whether to employ A2J for high-functioning

claimants, who could complete the Basis of Claim form themselves; legal workers, paralegals or lawyers would then review and amend as required.

- **Electronic filing.** The RLO – Toronto hoped to initiate procedures to electronically file application records, but this is not yet allowed by the Federal Court. Ongoing efforts are needed to stimulate conversations with the Federal Court on this matter.

Likewise, the RLO – Toronto hoped to initiate procedures to electronically file BOCs, but the IRB has not yet instituted electronic filing. As with the Federal Court, ongoing conversations with the IRB are still needed.

- **Mobile phone for detention intake.** The RLO experiments with this tool have been discontinued, because it was not possible to restrict its use to newly detained clients. Existing detained clients would call the mobile phone number and ask to be transferred to the RLO lawyer they had retained, but the phones couldn't transfer such calls. These clients had to be instructed to make another telephone call—a frustrating alternative for both clients and staff.

19. Appendix B: How RLO – Ottawa (ILSO) meets its strategic objectives

19.1 Leadership in refugee law

Maintain active participation and strong networks with key partners and stakeholders (clinics, community agencies, UNHCR)

ILSO is committed to public legal education and has engaged with partners and stakeholders to achieve this goal.

In 2016, staff lawyer Nicolas Ranger became a member of a UNHCR Vancouver/Ottawa working group created to implement its Global Beyond Detention Strategy (BDS). The

BDS seeks to improve the conditions of detainees and end the detention of asylum seekers and refugees.

ILSO is also committed to supporting initiatives created by community organizations—most notably, the Refugee Sponsorship Support Program, a nationwide project that assists groups with the private sponsorship of refugees residing outside Canada.

In addition, ILSO participated in two mentorship programs that provided field experience to law students—the University of Ottawa Community Legal Clinic Joint Placement Program and the Stage en droit communautaire de l'Association des juristes d'expression française de l'Ontario.

ILSO continued to work in partnership with legal clinics in Ottawa, particularly with the South Ottawa Community Legal Services, Community Legal Services Ottawa Centre and the West End Legal Services of Ottawa. In collaboration with local legal clinics, ILSO provided legal advice in immigration matters and secured representation for vulnerable individuals who do not qualify for legal aid coverage.

The Law Practice Program (LPP) is a new initiative of the Law Society of Upper Canada that offers an alternative path to the legal profession for individuals seeking experiential training to complete the law society's lawyer licensing process. ILSO staff worked with the University of Ottawa to teach the immigration and refugee module of the LPP.

19.2 High-quality, compassionate sustainable services

Services to Francophones and contribution to access to justice in French

ILSO strives to promote access to justice in both official languages and to go beyond the requirements of the *French Language Services Act* and the *Legal Aid Services Act* in offering French services.

All members of the ILSO immigration and refugee team (two lawyers and a Legal Aid Worker) are fluently bilingual, to ensure that each interaction can be in the client's official language of choice.

While Francophones represent a relatively small proportion (4.8 per cent, i.e. a population of 611,500) of Ontario's population, 42.2 per cent of Francophones live in the Eastern region and 25.2 per cent live in Ottawa.¹

This makes French services particularly meaningful in ILSO's catchment area (Ottawa / Eastern region). The numbers indicate that there is a demand for French legal services in Ottawa, and Francophones indeed represent a substantial portion of ILSO's clientele.

ILSO represented 41 per cent (24 of 59) of its clients in French in 2015.² Additionally, 27.4 per cent (106 of 387) of ILSO's immigration duty counsel clients have requested services in French.

ILSO also participated in other initiatives to promote access to justice in French. Most notably and as mentioned above, Nicolas Ranger taught the immigration and refugee module for the Law Practice Program offered in French by the Common Law Section of the University of Ottawa. One of the main objectives of this program is to promote access to justice for Francophones by training highly qualified lawyers to offer legal services in French.³

Lastly, ILSO cooperated with the Ottawa LAO criminal duty counsel office to offer immigration advice for clients seeking to enter a plea. ILSO lawyers have travelled to the court to assist vulnerable clients unable to travel to ILSO and/or to accommodate the availability of interpreters.

Working with clients with mental health, domestic violence issues

In 2015/16, ILSO supported many clients who suffered from serious mental health illnesses and were victims of domestic violence.

Community organizations have recognized ILSO's dedication to society's most vulnerable individuals such as these. On November 26, 2015, Immigrant Women Services Ottawa (IWSO) presented their 2015 Community Leader Award to ILSO in recognition of its dynamic and outstanding leadership, and particularly for its advocacy on the issue of violence against women and children in the City of Ottawa. This award is given to a person/organisation that made a significant contribution to supporting immigrant and visible minority women and their children, and whose extraordinary efforts made a difference in the community. George MacPherson, Manager of Legal Services, Eastern Region accepted the award on behalf of ILSO – LAO.

ILSO is a multi-service stop, well equipped to assist vulnerable individuals facing several interconnected problems. ILSO's staff continued to work in partnership to provide family, landlord and tenant, disability benefits, and immigration and refugee legal advice to clients when these issues arose concurrently.

In-house social worker

Chantal Renaud, ILSO's in-house social worker, began to offer new and unique services. Chantal helps clients secure housing or shelter, medical attention, counseling, or other social services. This is particularly useful for immigrants and refugees who lack the social networks and knowledge to access these essential services.

Chantal also supports ILSO's clients in applying for social assistance, enrolling children in school and accompanying clients to meetings and interviews when necessary. She has been particularly successful in finding shelter and securing social assistance for clients suffering from mental health disorders.

Providing ongoing training for staff

In 2015, Sarah Concettini organized the LAO Planning Day and annual Eastern Region Continuing Professional Development Day conference. It was an opportunity for all lawyers and staff of the Eastern region to meet with LAO's administrators and to give feedback on local issues.

Given that this was an in-house conference, LAO staff members were presenters and the audience. Although the areas of discussion were not geared towards immigration per se, many presentations dealt with intersecting areas of law, which offered an opportunity to highlight how immigration issues may come up in criminal or family law matters.

Supporting other LAO offices

ILSO is helping several LAO offices deliver quality and cost efficient refugee and immigration services.

ILSO works in tandem with the Ottawa District Office to assess when to issue immigration certificates. This includes reviewing opinion letters and acting as an access point between private lawyers and LAO. ILSO also helped the LAO RAD and JR review committee evaluate merit assessments, particularly for French cases.

ILSO has acted as Supreme Court agent for the RLO – Toronto in several matters before the Supreme Court of Canada.

20. Appendix C: How the RLO – Hamilton meets its strategic objectives

20.1 Leadership in refugee law

Maintain positive and good relationships with the private bar, clinics, community agencies, and non-governmental agencies and provide mentorship to private bar lawyers and/or articling students.

The RLO – Hamilton has actively participated in public legal education programs.

Its staff members have provided presentations or seminars on immigration and refugee law on the intersection between immigration and criminal law, initiating an inland

refugee claim at CIC, completion of applications for permanent residence for convention refugees, PRRA & H&C applications, and legal aid services provided to immigration and refugee clients.

They have presented these presentations to numerous stakeholders in the Southwest Region, including to the Fort Erie Multicultural Centre, St. Catherines Multicultural Centre, undergraduate students at the University of Western Ontario in London and MacMaster University in Hamilton, Micah House Shelter in Hamilton, Hamilton Community Legal Clinic, Waterloo Community Legal Services, Maplehurst Correctional Complex, YMCA Hamilton Immigrant Services, and the Family Violence Project with Carizon Family & Community Services in Kitchener.

The RLO – Hamilton is also interested in ensuring that mentorship opportunities are available to assist junior lawyers or articling students in order to expand the number of private bar lawyers who provide general and appellate legal aid services in the Southwest Region. So far, the office has completed legal training for one articling student and endeavors to expand this training to lawyers who are interested in the practice of immigration and refugee law.

20.2 High-quality, compassionate, sustainable services

The RLO – Hamilton is committed to providing high quality and effective legal representation for immigration and refugee clients in the Southwest Region and ensuring access to justice for vulnerable clients.

The RLO – Hamilton has provided effective and quality legal representation to the refugee and immigrant population and successfully enhanced client services in the Southwest Region. Clients appreciate having access to its services, based on the informal feedback received from clients by staff at the office.

This office officially opened on February 3, 2014, with one staff lawyer, Lily Tekle, in the Hamilton-Kitchener District office.

Given the significant volume of files that were referred to the RLO Hamilton, the diverse types of immigration matters that the office acts in, and the large service catchment area, the office was inundated with requests for legal assistance from the beginning.

Gradually, the need for a wider range of RLO services in communities throughout the Southwest region became evident.

Stephanie Talbot was hired as the RLO paralegal in September 2014, and Keith MacMillan was hired as an articling student in February 2015. After the successful completion of his articles as well as his call to the Ontario bar in January 2016, Keith was hired as a bilingual staff lawyer and offers legal services to clients in French.

The office has achieved a very good success rate, particularly with refugee matters, humanitarian and compassionate applications, appellate matters, deferral of removal requests with CBSA, and urgent stay of removal applications in Federal Court.

Its extremely diverse legal practice represents clients from Iraq, Eritrea, Haiti, Congo, Syria, Colombia, El Salvador, Honduras, Pakistan, Jamaica, Somalia, Central African Republic, Kenya, Venezuela, Zimbabwe, Chad, Nigeria, Palestine, Gambia, Hungary, Czech Republic, Slovak Republic, Poland, and Burundi.

The RLO – Hamilton now provides advice and representation in a diverse range of refugee, immigration and removal matters in Fort Erie, Kitchener, Niagara, and St. Catharines. The bulk of the work in the office consists of:

- refugee hearings
- representing refugee claimants at the Refugee Protection Division
- detention reviews
- representing immigration detainees at detention review hearings in the Southwest region's multiple detention centres (Maplehurst Correctional Centre in Milton, Niagara Detention Centre in Thorold, Southwest Detention Centre in Windsor, Grand Valley Institution in Kitchener)
- humanitarian and compassionate applications
- pre-removal risk assessment applications

- representing clients before the Immigration and Appeal Division
- outreach initiatives with various stakeholders in the region.

The office also represents clients on Ministerial Danger Opinion applications and engages in appellate litigation such as representation before the Refugee Appeal Division, judicial reviews and emergency stay of removal applications in Federal Court.

The RLO – Hamilton remains particularly committed to working with vulnerable clients who experience domestic/sexual violence, suffer from mental health illness and/or substance abuse problems due to drug/alcohol addictions, and offering critical legal support or assistance to long-term immigration detainees.

All three staff members currently carry full caseloads and spend a significant amount of time travelling to various locations such as:

- Toronto for hearings
- Maplehurst Correctional Complex and the Niagara Detention Centre for professional visits with clients and detention review hearings
- to Fort Erie, Kitchener, and St. Catharines to meet with clients for legal representation or to meet with stakeholders for outreach initiatives or public legal education presentations.

To date, the office has provided legal services to approximately 250 clients and currently has approximately 105 files in process.

Shelters, community organizations, legal clinics and other LAO staff members frequently refer clients for summary legal advice to clients for issues such as:

- writing immigration opinion letters for criminal matters
- providing viable legal options to clients
- explaining the detention review hearings process, the impact of spousal relationship breakdowns and measures available to maintain permanent residence status, eligibility requirements to make a refugee claim in Canada, and the availability of rights to appeal or the option of pursuing a stay application in Federal Court.

Duty counsel at the criminal courthouse in Hamilton and surrounding areas also refer walk-in clients to the RLO – Hamilton.

The number of matters referred to the office continues to increase, in light of recent Legal Aid Ontario organizational changes and the impact of legislative changes affecting the region’s refugee and immigration populations.

Footnotes

Footnotes for Appendix A:

1.

Statistics taken from: S. Rehaag: “Judicial Review of Refugee Determinations: The Luck of the Draw” Queens Law Journal, Volume 38, No 1, 2012 ; “2014 Refugee Claim Data” prepared by Sean Rehaag and Response to AATIP request number A-2012-07338/mb/.

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Footnotes for Appendix B:

1.

Office of Francophone Affairs – Ontario, 2011 census available at

<http://www.ofa.gov.on.ca/en/franco-stats.html>.

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2.

Full representation; including files open before 2015 but worked on actively in 2015-2016.

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3.

<https://commonlaw.uottawa.ca/en/lawpractice>; Please note that Karima Karmali, staff lawyer (ILSO – Immigration and Refugee Team – currently on maternity leave), was an instructor in 2014, the first year this program was offered.

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