



2018 ANNUAL REPORT

Workers' Health and Safety Legal Clinic

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Workers' Health and Safety Legal Clinic (WHSLC) exists to promote and provide access to justice to low income non-union workers/organizations by providing advice, representation, public legal education and law reform concerning occupational health and safety and related workplace laws through consistently high quality services in a cost-effective, efficient and innovative manner.

The Clinic's activities in pursuit of those goals are described below under the following headings:

1. Law Reform Initiatives
2. Casework
3. Outreach Initiatives (including networking, community development and education)

1. LAW REFORM INITIATIVES

The Clinic continues to promote improved occupational health and safety laws and their enforcement. As well, we promote improved WSIB laws on behalf of our client community.

- (i) Written and Oral submissions to the Minister of Labour, in reference to WSIB Stress Consultation;
- (ii) Written and Oral submissions to the Standing Committee on Finance and Economic Affairs (Stronger Healthier Ontario Act) regarding WSIA amendments concerning chronic mental stress;
- (iii) Submissions to the Consultation on Legal Advice for Victims of Workplace Sexual Harassment;
- (iv) Submissions to Consultation Secretariat at WSIB regarding WSIB Rate Framework Policy Consultation;
- (v) Submissions in reference to Bill C-65 submissions - Bill to amend the Canada Labour Code (harassment and violence);
- (vi) Oral submissions on Ministry of Labour enforcement role as part of the Occupational Health and Safety Strategy;

- (vii) Written submissions to Ministry of Labour Consultation regarding Voluntary Occupational Health and Safety Management System Accreditation;
- (viii) Oral submissions concerning vulnerable workers as part of the Provincial Occupational Health and Safety Strategic Plan;
- (ix) Oral submission to the Minister of Labour on employer training accreditation;
- (x) Application for leave to intervene in a higher court matter: *Toronto Star v. Ministry of the Attorney General*;
- (xi) Written submissions to the Minister of Labour and the Chief Prevention Officer advocating for improved occupational health and safety committee involvement on behalf of workers at risk of developing post-traumatic stress disorder due to being exposed to trauma at work while investigating accidents or injuries in their workplaces.

2. CASEWORK

Our 2017 Annual Report noted that our casework statistics increased because we reallocated administrative funding to direct service as a result of the retirement of our Office Manager. These funds allowed us to hire a full time intake lawyer. Not only did our statistics rise to an all-time high as of March 2017, we also improved the timeliness of our service because callers are no longer screened by reception and instead have direct access to legal advice.

2017-18 we used surplus FEG funds to hire two articling students who were key in assisting with our application for leave to intervene on behalf of the Clinic and the Ontario Network of Injured Workers' Groups ("ONIWG") in reference to The Toronto Star matter referred to above.

As well, we continued to use FEG funds to share a Spanish speaking articling student with the Centre for Spanish Speaking Peoples. As a result, we have reached more Spanish speaking low-wage workers and assisted them with their workplace issues.

We continue to represent people at hearings and mediations within and outside the GTA in OLRB section 50 reprisals, ESA terminations, Ontario Human Rights Tribunal as well as WSIAT matters and Small Claims Court wrongful dismissal matters.

Casework/Advice Statistical Review

Our casework statistics declined for the first time in a decade for the following reasons:

- a) The inception of CIMS in May 2017 has had some impact on our ability to efficiently maintain records and serve our clients. CIMS is awkward and far slower than CMT. The CIMS Working Group successfully supported much needed improvements to the system which were implemented beginning the spring of 2018 which we hope will be reflected in the 2018-19 Annual Report.
- b) 2017-18 saw the departure of key staff: Our FEG Staff Lawyer and employment law specialist, Jeffrey Pariag moved to a private practice firm in December 2017. The position remained vacant until March 7, 2018 when 2016 call Doug Letto assumed Jeffrey's role.
- c) As well, our part time CLW, Carl Kaufman, retired December 1, 2017. This deflated our outreach and advice statistics as we considered whether to convert the position to one with a casework focus.

All of these factors combined resulted in a net decline in casework statistics for 2017-18.

Casework Statistics for the 12 month periods ending -

March 31, 2018	March 31, 2017		March 31, 2016
Global Cases/Advice*	Cases	119	99
328	Advice	458	458

* staff vacancies and CIMS inception deflated case statistics in this reporting period

3. OUTREACH/PUBLIC LEGAL EDUCATION INITIATIVES

- a) The job share between Carl Kaufman, CLW with the Clinic since 1997, and Genevieve D'Iorio, a long time clinic volunteer ended December 1, 2017 when Carl retired.

Since hiring Carl during 1997, our community legal worker position has been solely dedicated to providing public legal education sessions in the community on occupational health and safety and other workplace law topics. Due to Carl's retirement, our Funding Application for 2018-2019 reported that this is a moment to step back and reassess service needs.

Total April 1, 2017-March 31, 2018: 198 contacts, 2237 participants*
Total April 1, 2016-March 31, 2017: 226 contacts, 3102 participants
Total April 1, 2015-March 31, 2016: 149 contacts, 1976 participants

- b) The Clinic continues to work with other groups who share similar goals and objectives. These groups are:
1. Workers' Compensation Network
 2. Toronto Injured Workers Advocacy Group (TIWAG)
 3. O.F.L. Health and Safety Committee
 4. Provincial Workers' Rights Advocacy Group
 5. Institute of Work and Health and Occupational Health Clinic for Ontario Workers (OHCOW)
 6. Prevention Program Review Group
 7. Prevention Council
 8. Experience Rating Working Group
- c) In keeping with tradition, every year Clinic lawyers speak about new developments in WSIB and OH&S on the Labour News Program, which runs for an hour at 8:00 p.m. every Thursday night on 1610 AM Radio, Voces Latinas.
- d) For the fourth consecutive year, the Clinic hosted fourth year placement students from the University of Toronto's Engineering Strategies Project. During the 2017-18 term, the 8 students created a worker friendly mobile app for locating hazard information associated with workplace chemical products.
- e) Clinic partnership with CSSP - reported under "6. Other Source Funding."

- f) French translation of our two main clinic pamphlets: “What Are Your Health and Safety Rights At Work?” and “Fired? Forced To Quit? Need Help?”

4. MEMBERSHIP REPORT

As of March 31, 2018 the Clinic had 181 members and a newsletter mailing list of approximately 200 names of individuals and organizations.

5. LEGAL AID ONTARIO

During May 2017, LAO retired the statistical program called “CMT” and installed the new Client Information Management System. Although initially slow and awkward, the system has improved.

During winter 2018, LAO announced the availability of a \$1.05 million dollar financial eligibility enhancement fund aimed at making long term service delivery improvements at specialty and ethno-linguistic clinics.

6. PARTNERSHIP WITH THE CENTRE FOR SPANISH SPEAKING PEOPLES

During 2017-18, the Clinic’s ongoing partnership with the Centre for Spanish Speaking Peoples (CSSP) intensified due to a two-year health and safety/employment project, funded by the Ministry of Labour, aimed at low-wage Spanish speaking workers.

During phase 1 we created written materials in Spanish and English and a distribution plan. The project would be called “Buena Paga” with the programs and activities described on WHSLC and CSSP websites.

Following that, our newly hired outreach lawyer began talking about the project and workers’ rights on Voces Latinas, a bi-weekly Spanish speaking Radio Call-in Show. During the life of the project, the show had guests on a variety of legal topics and over 15 radio scripts were created and taped.

As well, weekly workshops at San Lorenzo church basement resulted in materials

being distributed and legal information, advice and referrals were provided to low wage Spanish speaking workers.

At WHSLC we noticed that due to this outreach to the Spanish speaking community we were advising and opening cases for workers who hadn't managed to find us in the past, namely, newcomer low-wage and often undocumented Spanish speaking workers. Highlights follow:

- a) **WSIB** – We assisted in obtaining benefits for a seriously injured undocumented construction worker who worked on cash basis. The employer had denied knowing him.
- b) **Wrongful Dismissal** – A 63 year old long term construction worker dismissed with no notice pay.
- c) **Human Rights/OHSA** – A female assistant cleaner fired after making a complaint to the cleaning company and to the location condo corporation in writing about repeated instances of sexual harassment by a condominium property management employee.
- d) **WSIB** – We obtained full benefits and psychological treatment for an industrial worker who had suffered an injury when his foot got caught in a machine. Both physical and post-traumatic stress disorder diagnosed yet WSIB had withheld benefits and forced a premature return to work which was not suitable.

Also, at CSSP, part of the project developed into a well-attended monthly gathering called “El Cafecito” complete with music, snacks, skits and a quiz about workers’ rights.

This Ministry of Labour-funded project ended in September 2018. The project met its aim which was to do outreach, public legal education, advice and representation to low-wage Spanish speaking workers.

CSSP and WHSLC will be applying to LAO to permanently fund the continuation and enhancement of this project. Fortunately, at the time of the writing of this report, LAO is accepting applications to disburse the \$1.05 million FEG fund for specialty and ethno-linguistic clinics.

In the Clinic’s 2018-19 funding application we reported the following statistics arising from the joint CSSP/WHSLC project as of December 2017:

31 workshops with 378 participants
26 radio shows (taped) with 24 different topics (15 guests, 65 call ins)
Buena Paga website: 1066 visitors with radio materials accessed 742 times