A report of community consultations conducted throughout the Northern region regarding the needs and issues of seniors in the new area of elder and senior law.
INTRODUCTION

In 2016 an application was made to Legal Aid Ontario for funding for the “Northern Elder Law Initiative”. This application was made by the Northwest Community Legal Clinic on behalf of the Northern Region Collaborative Practice Model – a group representing all of the eleven Community Legal Clinics in Ontario’s northern regions.

Elder Law was identified in the North’s Needs Assessment 2015 as an unmet need. The key activities of this initiative were the creation of a mobile lawyer position to be supervised and managed by a collaborative governance structure developed with the participation of all northern clinics.

The vision for this initiative is to provide mentoring to northern caseworkers as well as advice and representation to elders in our communities in certain areas of practice through a collaborative practice model. Based on the funding application for the Northern Elder Law Initiative, the staff lawyer is expected to take the lead in preparing precedents, providing workshops to agencies and clinic staff on issues in elder law and to provide direct client representation in the following areas of law:

- Powers of attorney (both personal care and property);
- Consent and capacity board hearings;
- Issues with Long Term Care Facilities;
- Elder abuse;
- Wills (with no real property); and,
- Consumer-protection matters.

In advance of the start date of the elder law/senior law staff lawyer, Lake Country Community Legal Clinic initiated an outreach project to travel to select northern communities in an attempt to determine the specific community needs in this area of practice. Initial contact was made by email to all northern clinics, inviting any interested clinics to engage in the consultations. An outreach team travelled to each Clinic that indicated an interest to be consulted. The following report reflects the results of the visits.

After visits to 16 communities over four months with Indigenous, community groups and individuals, certain broad, common themes were identified across all the jurisdictions that participated in this consultation. The top three legal identified needs in the area of elder law/senior law identified through this consultation are:

1. Issues relating to adequate supportive housing/long term care homes;
2. Issues relating health care; and,
3. Issues relating to powers of attorney/incapacity.
Of the specific suggestions received, one that was identified independently in several different communities was the obvious need for senior advocacy services both in health care and with respect to long-term care homes. This may represent a significant and promising community development/law reform opportunity. Some consideration should be given to advocating for the creation of a special seniors advocacy office, created by statute and fully funded by the Ministry of Health and Long Term Care, modeled along the lines of the Psychiatric Patient Advocate Office, to provide free rights advice and some advocacy on behalf of seniors engaged in the process of applying for or accessing long-term care home services.

Clinic staff identified the need for training about the different levels of jurisdiction when working with indigenous communities. The issues of services on and off reserve, the transfer of property, appeal and governance processes were some of the areas that a navigation tool might provide guidance. The guide could provide general information and indicate the specific areas that will require local input.

OUTREACH TEAM

The outreach team included:

Amanda Dale, Running Water Over Sacred Stone – Bear Waters Gathering
Strength Of Two Buffalo Dale – Bear Waters Gathering
Heather Hay – Community Legal Worker, LCCLC

In addition, the team was also joined on some community visits by:

Meghan MacDonald – Northern Region Community Development Coordinator
Monique Woolnough – NRTP Manager
Grace Alcaide Janicas – new Northern Region Elder law/Senior law Lawyer

All photographs copyright 2017-2018 Heather Hay
Sault Ste. Marie was the first community visited by the outreach team of Heather Hay and Strength Of Two Buffalo Dale. Amanda Dale coordinated the schedule and indigenous contacts.

The outreach team met with a circle of elders at the community centre at Garden River where Strength opened the circle with a smudge and drumming. This practice was a vital part of the outreach with indigenous communities. Many of the elders indicated reluctance to access services or support for fear that attention would bring more problems with the system.

- Advocating for a Universal Declaration on the Rights of Older People
- Income security
- Wills and powers of attorney (property and personal care)
- Pension issues for those who worked in the United States
- Better understanding of how to access long term care services, wait-lists, transfers
- Accessing adequate homecare services on reserve
- Accessible features in housing (e.g. hand rails, tub rails, modifications to toilet, walk-in tubs)
- Cost of utilities
- Adequate housing
- Dental services (ongoing dental issues no longer covered through Non-Insured Health Benefits program and lifetime cap of $10,000)
- Inadequate community homecare services in rural areas
- Transportation concerns with handi-trans/para-bus

The first outreach meeting at the clinic was held with local community partners and Grace Alcaide Janicas the new Northern Region elder law/senior law lawyer. A second meeting was scheduled to meet with the rest of the staff and additional community contacts.

The Algoma Community Legal Clinic does not currently provide representation or advice in the area of senior law. Frequently, inquiries are received with respect to estate, wills and power of attorneys. Individuals are referred to the private bar. Recently, one file was opened for a client with a collection...
issue relating to his deceased spouse’s long-term care tenancy, but such files are exceptional. There is a potential issue for the clinic involving a client and the band.

The Seniors Rights Protection Council of Sault Ste Marie and Area provides training in the community about POA’s, wills and fraud and some of the clinic staff have also done PLE’s on the subject. There have been requests for information regarding passing of property on reserve and certificates of possession. Tools to assist with navigating the various systems were requested by most clinics.

- Long-term care waiting lists, level of care
- Community homecare services, lack of trained PSW’s
- Lack of funding for services, poverty
- Income tax preparation
- Powers of attorney, wills, frauds and scams
- How to navigate systems on and off the reserve, jurisdiction map or guide
- Double and triple recoveries for overpayments
- Push for self managed care offloads employer responsibilities on disabled
- PSW’s have to “borrow” supplies from other clients due to delays in getting supplies through approved sources
- Legal system not prepared to deal with responsive behaviours
- Mennonites have no access to OHIP (refuse picture)
- Assisted suicide voids life insurance policy
- People forced into carehomes or given bills for Alternative Level of Care (ALC) beds

**SAGAMOK - ANISHNAWBK FIRST NATION**
November 15, 2017

The outreach team stopped in Sagamok and visited various offices including the Elders Eagle Lodge and the Community Justice office. The staff at the elders lodge included the Finance Officer for the band who shared the many frustrations navigating funding systems. Grants are applied for but the funding doesn’t arrive in time to spend before the deadline. Project funding is short term and people won’t disturb current supports for temporary work or there is a lack of qualified workers.

- Restrictions on limited support homecare can provide (can’t change a light bulb)
- Substandard housing and limited funds to make accessible
- Wills are seen as white people stuff
- Capacity assessments don’t account for education level
- Lack of services on reserve means elders have to leave
- The community justice office deals with most legal issues and scams on reserve
- Legalisation of marijuana and impact on dry communities
The Life Centre in Serpent River had a full parking lot with all the staff from the community gathered for a meeting. The team met with an elder who moved into the elder lodge when the mold in her house made her ill. She would like to have her home fixed and return to it but she will likely remain at the lodge until she is moved to long term care in Sudbury. Rachelle Nyman, coordinator for the elder lodge shared the following:

- Elder abuse includes financial abuse, neglect and medication theft
- Substandard housing, lodge needs upgrade as well
- Racism in the medical system – different care if white passing nurse attends, assumed drunk vs having a stroke
- Who pays for capacity assessments?
- INAC appointed trustee – long wait to access funds, elder can’t participate in social activities
- Lack of palliative care means seniors have to leave family and support
- Rules about medical travel and relatives difficult to meet in community where everyone related
- No accountability for lack of medical care from CCAC (wound dressing not changed for 3 days)
GARDEN VILLAGE

Nipissing First Nation
November 18, 2017

Outreach staff attended the Annual General meeting and community fair for the Garden Village. A booth/table was set up. Garden Village is located near the town of Sturgeon Falls, Ontario and is part of the territory of the Nipissing First Nation and within the catchment area of the Nipissing Community Legal Clinic.

The Nipissing First Nation has settled their land claim and invested the money so that capital projects are funded from the interest. Money is also being invested in the community and the youth. The highlight of the AGM was seeing the young women of the youth council being celebrated. Graduates of an archaeology training project are employed in the field and able to participate in uncovering their own history.

The additional wealth has created more opportunities for financial abuse. One participant identified that financial abuse of elders is a problem in the community but that details will not be shared with outsiders. Some participants indicated that they would appreciate some information with respect to powers of attorney.

NIPISSING COMMUNITY LEGAL CLINIC

North Bay
December 18, 2017

Heather attended a board meeting at the Nipissing Community Legal Clinic and spoke with staff who advised that as a general service clinic they are operating at capacity. Some concern was expressed by staff as to how a small, general service clinic could possibly be expected to provide additional services in three new areas of law without an increase in staffing resources.

Staff at the Nipissing Clinic indicated they receive a lot of calls requesting assistance with wills which they refer to the private bar. In addition, with respect to elder law services, Nipissing staff receive numerous inquiries for assistance with income tax returns, financial abuse, consumer protection, retirement home issues and problems with hydro bills.

Among the other elder law issues identified are:

- Waiting list for senior housing
- High cost of market rental housing
- Lack of mental health services
- High transportation costs
- Cost of legal representation in estate matters
KINNA-AWEYA LEGAL CLINIC – STAFF AND BOARD  
December 4 & 5, 2017

The outreach team drove down to Toronto on December 4 for a flight to Thunder Bay and a meeting with the clinic staff and board. Freezing rain required rescheduling some of the visits that evening and the next day.

A major problem identified in Thunder Bay is seniors facing eviction when transitioning from ODSP onto Old Age Security and the rent is no longer automatically paid.

The clinic has partnered with the Bora Laskin Faculty of Law at Lakehead University to offer PLE in POAs, wills and birth certificates in communities throughout the region. The clinic serves senior clients with issues including capacity, evictions, CPP, identity bank and accessing pensions. Other issues include:

- Lack of retirement planning for those on disability
- Need for in house training in income supplement and senior systems
- Everyone in poverty receiving all benefits, GIS apply every year, tax returns
- Options for funding home maintenance
- Bands are the employer, landlord and service provider
- Getting control back from OPGT, better trustee system
- Lack of direct pay for OAS money leads to evictions

GERALDTON SATELLITE OFFICE/GREENSTONE  
December 6, 2017

The team drove to Geraldton and overnighted there for an early meeting with clinic staff before meeting with the staff from the Friendship Centre. We talked to many of the participants at the holiday luncheon hosted by the Friendship Centre. The final meeting before driving back to Thunder Bay was with some of the key clinic partners.

“A lot of seniors that apply for long-term care would do extremely well in supportive housing but because we don’t have any and they want to live in this area they go to long-term care.”

Service provider, Municipality of Greenstone Seniors’ Supportive Housing Project, September 2017 update report
The municipality known as “Greenstone” includes the towns of Geraldton and Longlac. According to the 2016 census data, 44% of Greenstone’s population is senior-aged and 27% identify French as their first language.

As a result of these meetings, the following local needs were identified:

- Help with powers of attorney
- PLE – capacity assessments, wills and POAs
- Better community services/social events for seniors
- More long term care home beds/long waiting list
- Better translation services (French services)
- Need for patient advocates/NIHB navigator/LTCH advocate – suggested creation of a Elder/Senior Healthcare advocacy service
- Evacuation/emergency plan for seniors
- Medical travel grants
- Guardianship issues on reserve
- Financial elder abuse
- Culturally relevant “mini-mental-state” questions
- Prescription and other health benefits for non-Indigenous long-term home care residents
- Transitional issues ODSP to OAS (prescription, medical supplies, dental)
- Confusion with fee structure LTC vs. ALC
- Housing wait lists
- Inheritance issues on reserve

**Walk a Mile - Ann Magiskan**
**Blue Sky Healing Centre**
**Thunder Bay Indigenous Friendship Centre**
**Bingwi Neyaashin Anishinaabek (BNA) & Edna Hodgkinson**
**Elevate NWO**
**Kinna-Aweya Legal Clinic - Partners**

Thunder Bay
December 7 & 8, 2017

The last two days in Thunder Bay began with a smudge lead by Ann Magiskan using the eagle feather that had been gifted to her during her private testimony at the MMIW inquiry the day before. The inquiry dominated many of our conversations throughout the week. The Blue Sky Healing Centre offers services and support to many who are homeless, mentally ill or struggling with addiction. The first thing said at the friendship centre where seniors were doing a craft activity was “No pictures, no names.” A phone interview with Enda Hodgkinson lead to a circle of elders from BNA. Elevate NWO hosted a coffee meetup for the queer community and there was a final meeting for any partners we had missed during the week at the clinic office.
In addition to the issues raised in the other outreach meetings:

- Lack of supports of trans seniors/rampant discrimination and human rights violations
- Deeply rooted anti-Indigenous racism throughout justice and medical systems
- A client that needs a cane requires a doctor visit for referral, two trips to find a store that will accept the voucher all without a cane
The Kenora Fellowship Centre offers breakfast for people leaving the shelter for the day and a mix up with kitchen meant we provided breakfast for 35 people at McDonalds. The Tea and Talk was an insight to the community participation in Kenora. The highlight of the meeting at the Friendship centre was the partnership between a police officer and a social worker working to help seniors navigate the system. On the last day we drove a half hour north to the Ochiichagwe'Babigo'Ining Ojibway Nation before driving back to Winnipeg and the return flight to Toronto.

The community consultations identified the following local issues:

- Health care – transportation out of community – sent to Thunder Bay or Hamilton rather than Winnipeg which is much closer; challenges getting back
- Health care – excessive waits at hospital emergency; concerns of racism as Indigenous individuals wait longer to see doctor
- Health Care – lack of translation services (Ojibwe and sign language); need for advocacy and assistance navigating system; assistance with required paperwork
- Health Care – lack of family physicians
- Assistance with funding applications to help access better services in the community
- Lack of affordable, safe housing
- Extremely long waiting lists for social housing
- Long waiting lists for long-term care beds
- Excessive fees in nursing homes
- No culturally sensitive retirement homes
- Lack of cultural sensitivity by staff in social services/housing services/LTC
- Financial abuse and neglect
- Mobility challenges due to lack of snow removal on sidewalks
Northwest Clinic Staff
Kenora
December 11-13, 2017

Consultations with staff of the Northwest Community Legal Clinic identified that the clinic regularly receives calls relating to the following legal issues:

- Estates (both on and off reserve)
- POAs (clinic currently engaged in PLE in the community in this area)
- Housing issues with retirement homes/personal care homes
- Consumer issues (clinic currently provides some representation in this area)
- Consent and capacity issues
- OAS/GIS issues
- Financial abuse
- Rules and regulations relating to nursing homes
- Medical and dental benefits after age 65
LAKE COUNTRY COMMUNITY LEGAL CLINIC
Severn Bridge, November 20, 2017
Dwight, November 24, 2017
Bracebridge, January 15, 2018
Gravenhurst, February 12, 2018

Outreach in Muskoka was done in combination with a series of lunch and learn workshop on aging safely. The outreach team for this portion consisted of Heather Hay who is also the Coordinator for Elder Abuse Prevention Muskoka. The clinic has been a driving force in the development of the Age Friendly Communities Muskoka Master Aging Plan. The January meeting was the Senior Planning Table for service providers in Muskoka.

The key issues identified were:

- Clients looking for referrals to other professionals or services
- Bullying amongst residents in district housing is a growing problem
- Concerns about aging family members and being POA, advance care planning
- Poverty, substandard housing, lack of public transportation
- Amalgamations result in closing local offices and replacing with a phone number or webpage
- Newcomers/retirees have a difficult time getting a family doctor
- Lack of PSWs, specialists and gerontology experts locally
- Wait times for homecare support are some of the longest in the province
- LTC and RGI housing have long and possibly imaginary wait lists
- Can’t compete with cottage money to hire local labour to make home accessible or do routine maintenance and snow removal to remain independent at home
- New service programs centered on communities with services and leave rural residents isolated
- Questions about process for assisted dying
- Funding formulas for LIHNs are based on permanent population and does not count seasonal population using the medical system
- Can only get funding for new programs so difficult to create ongoing supports

The clinic staff are engaged with the following legal issues:

- POA’s, wills with no property, identity documents
- Elder abuse - The clinic is part of the Elder Abuse Prevention network
- CPP, OAS, GIS, pensions
- Determining land acknowledgments for district
- Consent and capacity issues
TIMMINS TEMISKAMING COMMUNITY LEGAL CLINIC

Timmins
January 9, 2018

The outreach team met with the staff of the Clinic. The Timmins Clinic is a general service clinic which will host the WSIB lawyer position that is part of the Northern Regional Transformation project. Historically, the clinic has provided some wills/estates and power of attorney legal services in exceptional circumstances, but only rarely. Normally, individuals who seek these services are referred to the private bar. The Clinic also once provided representation with respect to a long-term care matter.

Among the elder law/senior law issues that the clinic has identified are the following:

- Seniors homes increasing the cost of food by several hundred dollars/month
- Retirement Homes attempting to force residents to take meal plans
- Real estate issues
- Wills/estates
- POAs

The Timmins Clinic staff invited numerous community partners to a meeting but none were available to attend. (Geriatric Clinic, Alzheimer’s Society, Bayshore Home Health, Access Better Living, CTRC, CMHA, Timmins Native Friendship Centre, Ontario Works, LHIN, CCAC)
TIMMINS FRIENDSHIP CENTRE LUNCHEON
January 9, 2018

A large group attended this meeting. A Cree interpreter participated and provided translation services. Elder Strength of Two Buffalos provided opportunity for smudging and sang some songs. Heather, Strength, Meghan and Grace spoke and described the service and our goal in consulting with the community. A lively discussion took place. The following issues were identified:

- Lack of knowledge with respect to housing law/rights for off-reserve housing
- Discrimination/racism when attempting to find housing
- Insufficient income-
- Medical transportation
- Prescription coverage (different benefits for those on or off reserve)
- Intergenerational issues (elders do not know how to interact with youth)
- Elder/seniors taking care of grandchildren due to family breakdown/child protection cases
- No Cree interpretation at law offices

KEEWAYTINOK NATIVE LEGAL SERVICES
Moosonee
January 10, 2018

The outreach team consisted of Heather, Strength, Meghan, Monique and Grace. The team met with staff of the legal clinic, as well as three elders.

Keewaytinok Native Legal Services has an all-Indigenous Board of Directors. The Indigenous communities within the catchment area of the Clinic appoint a representative through each band office to sit on the Board of the legal clinic. This governance structure means that Keewaytinok would be in a conflict if a client has a case with a cause of action against one of the First Nations within their catchment area.

Other than one part-time practicing lawyer, there are no other legal services in the community. The clinic has provided legal services in many different types of matters, including family, duty counsel and the preparation of wills when needed.

In addition, there is no family physician in the community.

The clinic has the necessary electronic equipment for virtual video meetings, but there are issues with the bandwidth which makes video transmission spotty. Access to highspeed internet would be necessary in order to be able to transmit/communicate clearly.

“Where does it say that Health Canada regulations supersede United Nations resolutions?”
Dorothy Wynne
Keewaytinok Board Member and member of UN delegation.
There were numerous issues identified in the community that relate to older clients. They include:

- Wills and powers of attorney
- Financial abuse/misuse of power of attorney
- Lack of local health services
- General issues with respect to coverage under the NIHB (Non-Insured Health Benefits) program
- Transportation issues, including lack of reimbursement for necessary travel companion as well as distance and cost generally (provincial/federal differences in coverage)
- Inadequate meal allowance during transportation as well as disqualification of legitimate reimbursement claims when an alcoholic beverage is purchased
- Travel meal ticket provided for only one restaurant in Timmins
- Accessibility issues (within community) for those with mobility limitations – no elevators, poor road conditions not conducive to wheelchairs

A notable, unique issue was identified as a potential community development opportunity. Recently, the construction for a new long-term care facility / retirement residence was completed on the island of Moose Factory, but the facility was empty. Different and conflicting details were provided by various individuals consulted by the team as to why the facility was not in use. It appears that there are staffing, funding and cost issues. Currently, the closest long-term care beds are 1000 km away.

MOOSONEE ELDER RESIDENCE
January 11, 2018

In attendance at this consultation were four older adults who resided at the building, an interpreter, clinic staff and the outreach team. Throughout the discussion, language barriers were identified with respect to engaging with all services – housing, medical, social and legal.

The building is a social housing building made up of one-bedroom units. The building is managed by the Cochrane District Social Services Administration Board with its main offices in Timmins. Previously, there was a staff-person (caretaker) on site who used to receive a reduced rent in exchange for certain duties but this is no longer the case. Social events used to be organized in a multi-purpose room, but that room is now kept locked. While some on-site events still take place, there is less variety now. There is no electronic access (buzzer) for the building, no elevator and no ramp. There are no units that can accommodate a live-in caregiver. When health issues arise that necessitate home care, there sometimes are insufficient community services such that the individual may end up at the hospital longer.
One of the participants spoke Cree. Communication was facilitated with the assistance of a Cree language interpreter. This participant spoke about her desire to return to her home reserve but she has been unsuccessful in accessing housing there since her home burned down. She described some mobility challenges due to a broken leg that did not heal well. She now uses a wheelchair. While she has a medical alert system, the responders do not speak Cree. She does engage in the community, is able to access PSW services that include assistance with cleaning and laundry, and she gets out to socialize with assistance. She would however prefer to return to her community.

Another resident described her challenges. She had spent three days in her bathtub due to a fall. Luckily, a relative came to visit and found her. Since returning to the residence, she has been experiencing mobility challenges. She was interested in getting a transfer to a more suitable unit because she has problems using stairs, especially when she has to carry laundry up and down to the laundry room. The DSSAB has advised that she must obtain a medical report in support of her request for a transfer, but her doctor is located in a southern city and she will not be able to see him for several months. There is a vacant unit on the main floor of the building, which has been vacant since August, but she is not allowed to transfer into that unit unless she can obtain a doctor’s report.

MOOSE FACTORY HOSPITAL
(impromptu tour)
January 12, 2018

Previously arranged events were cancelled due to the funeral of a community member. The team decided to attend the Moose Factory Hospital as we were advised that there were long-term care beds located on-site. The three story hospital has no elevator and was built with asbestos complicating repairs and maintenance. The team was able to speak with two staff members.

As a result of these discussions, the following issues were identified:

- Significant travel hardships created by physical barriers and distance. (Travel often involves getting in and out of boats, helicopters, planes and trains, which elderly individuals find difficult. There are no specialists in the community.

  Historically, a practice has existed to send community members to Kingston to access specialist care. Because of the longstanding nature of this arrangement, the infrastructure exists including social supports and translation services in Kingston but not in a closer, urban centre. Elderly individuals find the trip extremely difficult due to the distance, the circumstances, the lack of supports and language barriers. A closer option would be Sudbury,
which would alleviate a lot of the hardship that results from the extreme distance but the social supports and translation services are not yet in place to make referrals to that community.)

- Inconsiderate Health Canada rules with respect to escort and compassionate travel
- Inability to triage hospital Charter seats (urgent patients not given priority)
- Requirement to obtain prior approval for all medical travel
- Survivors of residential school system are easily triggered by requirement to travel and will refuse to seek necessary treatment e.g. residential alcohol treatment
- No local services for eye exams, dentist