

M E M O R A N D U M

TO: CELA STAFF AND MANAGEMENT COMMITTEE
FROM: CELA LEGAL STAFF
RE: SALARY ALLOCATIONS AND OTHER RELATED MATTERS
DATE: MAY 27, 1987

I. BACKGROUND

Attached please find a copy of the memo that was given to the non-legal staff prior to our staff meeting held on May 8, 1987.

This memo will outline the main points in our position and attach a slightly modified proposal for salary allocation.

It should be noted, at the outset, that Legal Aid has adopted the policy of trying to bring salaries paid to clinic lawyers more in line with lawyers working in the private and government sectors. The purpose of this policy is to attract and keep experienced lawyers in the system in order to better serve their legal aid clients. We have attached two memos from the Clinic Funding staff which reflect this policy.

We would also like to bring to management's attention that because of the experience level of the three staff lawyers we are bringing a total of 29.7% increase to the salary pool this year. The non-legal staff brings in an increase of approximately 5%. We would point out that because of the seniority of the CELA lawyers we place our Board in the enviable position of being able to provide all staff with a substantial increase this year. It should be noted that we have been able to ascertain that other clinics with less experienced legal staff can only give their staff raises in the 5-7% range.

Finally, it should be noted that it is CELA lawyers who are bringing in additional money to the salary pool from MISA payments, public speaking and supervisory funds for a research project we recently obtained.

II. GENERAL PRINCIPLE

We believe that the appropriate principle the Board should apply in salary allocations is to pay CELA staff as close as it can to salaries paid to persons of similar skills and experience in the public and private sectors. We believe that the allocations suggested by the CELA lawyers will ensure that the secretaries are being paid at comparable rates to secretaries working outside

CELA. We also believe this is the case for our office manager. In the case of the CELA lawyers, we believe that we are still far behind salaries paid to individuals with our experience in government and the private bar. We would estimate this gap to be between \$20,000-35,000 (see Appendix I regarding salaries in the public and private sector).

III. CELA LEGAL STAFF'S PROPOSAL FOR SALARY ALLOCATIONS 1987-88

The total amount to be allocated for salaries is \$313,346.00. It is our proposal that the three lawyers be given a 20% increase in salary bringing our total pool to \$135,927.00. As has been done for the past 10 years, CELA legal staff proposes to divide this pool following the general principle that the lawyers' salaries should be moved closer to each other over time.

Our proposed allocation would be as follows (average 19.44%):

Toby Vigod	\$ 46,100.00
Michelle Swenarchuk	45,100.00
Steven Shrybman	44,100.00
SUB TOTAL	<u>135,300.00</u>

As far as the researcher position, there is no disagreement with non-legal staff that the salary be pegged at \$26,500.00. This amount has already been approved by the Board.

The other salary allocations would be as follows:

Sarah Miller (15%)	\$ 31,500.00
Researcher Kathy Cooper (N/A)	26,500.00
Mary Vise (15%)	10,045.25
Bonnie Gibson (15%)	15,067.30
Linda Gilbert (17.6%)*1	24,500.00
Maureen Johnston (17.6%)*1	24,500.00
Articling Student (12.7%)	22,500.00
SUB TOTAL	<u>154,612.55</u>

TOTAL SALARIES	<u>\$290,539.55</u>
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7% benefits	20,337.77
Bookkeeping fees*2	1,800.00
LSUC compensation*3	1,275.00
SUB TOTAL	<u>23,412.77</u>

TOTAL	<u>\$313,325.32</u>
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OVERALL ALLOTMENT	\$313,346.32
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Balance	20.68
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OTHER REVENUE	\$ 9,000.00
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It should be noted that while there is not much disagreement between the lawyers and non-lawyers' proposals as far as non-legal staff salaries, the key difference is that the non-legal staff proposed to take 5% away from the lawyers' salaries and place them in various contingency funds and, as well, provide for the librarian's position to be upped from a two-day a week position to a more full-time position. This will be discussed below.

NOTES:

*1 We believe that because secretaries are traditionally underpaid that an additional increase is warranted.

*2 Last year's budget for bookkeeping was \$1,500.00
Actual expenditure was 1,641.00

*3 It should be noted that Legal Aid has finally put as a line item the LSUC compensation portion of our fees. It is our submission that this should remain that way and be paid by CELA when our fees are due. As well, in keeping with the Board policy passed earlier this year, the remainder of these fees should be paid out of CELA Other or the contingency fund.

A. Contingencies

It is the lawyers position that contingencies, including additional secretarial time, etc., be paid out of the \$4,000 MISA money, which represents the minimum of funds that Toby will bring in during the 1987-88 fiscal year for participation in the MISA Advisory Committee. As well, we have just obtained \$16,000 to prepare a report by September 1, 1987 to the Task Force on Nuclear Safety. We estimate that a minimum of \$5,000 will come to CELA to cover Steve's supervision of the project. It should be noted that additional secretarial expenses have been covered by the project. Also, speaking fees have not even been included in the contingency fees that have been anticipated. These should probably continue to go to CELA Other, but could certainly be used toward any unanticipated expenditures.

Therefore, the CELA lawyers anticipate that there will be \$9,000 available as contingency money. While we feel that we should not allocate this money towards individual salaries, it clearly should more than adequately cover all contingencies that may arise in the next year.

Again the CELA lawyers are in fundamental disagreement with the non-lawyers' approach of not initially taking into account the MISA and other funds which are certain to be used as contingency funds, and instead advocating a 5% reduction in lawyers salaries. Given that our salaries for this year become the basis from which

future increases will be calculated, we do not wish to have that base reduced, particularly to allow for contingency funds with which we are not in agreement.

B. Response to other items in the non-legal staff proposal

1. Re Mary's increased time

It is the position of the staff lawyers that to date this proposal to increase Mary's time has been made unilaterally by the non-legal staff without approval of the Board or other staff. It is the lawyers' position that, while we sympathize with Mary's plight, funds for her additional time should be sought elsewhere before funds are taken away from any existing staff salaries. As well, there has always been considerable debate as to the allocation of funds for a librarian in the first place and there is not unanimity that the position be turned into a more full-time position. We are not adverse to using some of the contingency funds brought in by the CELA lawyers or indeed some of the \$4,000 Environment Canada money for this purpose. However, it is our position that:

1. this issue should be fully debated by the Board before any final decision is made;
2. if the Board decides we should fund Mary for an additional three days, that all efforts to obtain these funds from other sources be pursued (application to MOE for the funds has already been made);
3. no funds for this position come from the amount allocated by Legal Aid for salaries this year. This would also mean that some of the contingency funds could be considered for this purpose.

2. Re payment of overtime to secretaries

CELA has since its inception in 1970 always made clear to new secretaries that we have no specific funds to allocate to the payment of overtime. We have instead stated that overtime at CELA is voluntary and further that we have a policy that time off can be taken as compensation for overtime. The personnel policy recognizes this but does provide that payment of funds may be made for overtime. Overtime is subject to the authorization of the clinic director.

It is our position that this policy should stand as is, with the exception that if overtime is done in conjunction with a specific case and funds are available, that secretaries have a choice as to whether time or money be taken as compensation. We do not feel that a large contingency should be set aside for overtime out of existing salary allocations. As well, having a paid overtime system leads inevitably to questions being raised about

the secretaries' productivity during working hours. We do believe that there should be some contingency money set aside for the hiring of temporaries, especially when the secretaries are on vacation. It is our position that the \$9,000 contingency funds should more than adequately cover these expenses.

Again if non-legal staff wish to propose an amendment to the personnel policy, this should go through the procedure established under that policy.

3. Re percentage increases in the future

CELA lawyers believe that, due to the inability to predict the amounts of money that Legal Aid allocates to us from year to year, the Board should not set any firm policy of percentage increases. Obviously if the total increase is very small, an across-the-board percentage would make sense. However, the past two years has shown that it is Legal Aid's intention to finally recognize the need to encourage experienced lawyers to stay in the clinic system and we feel that this principle should be acknowledged by the Board. Again because of our small number of staff, and turnover, the Board may decide to hire at a lower salary than currently allocated to a specific position. A percentage increase would not be appropriate in this case.

4. Other matters

CELA lawyers totally sympathize with the position that career progress units for CLWs and support staff should not be frozen after 6 years clinic experience. We expressed the same position last year. We suggest that the non-legal staff prepare a letter for Board approval that can be sent by the President to Legal Aid staff. It is suggested that the OALC be contacted to ascertain if an across the clinics lobby can be mounted.

In conclusion, the staff lawyers believe that they have put forward a reasonable position as to salary allocation. Again, we consider a 20% increase to lawyers to be a compromise position as the amount we do bring to the clinic based on our experience is considerably more. We however believe that the principle of trying to bring salaries, especially at the lower level closer to that of the private and public sectors necessitates an increase higher than the 5% allocated by Legal Aid to the non-legal staff. That is why we have advocated allocated the approximately 15% for the other positions.

Thank you for your consideration of our position.

/lg
Encls.

APPENDIX I

LIMITED SURVEY INFORMATION

1985 CBAO Salary Survey (1986 will apparently not be available
for another month)

CIVIL (LAWYERS WITH 5 YEARS EXPERIENCE):Toronto small firm

Average	87,000
Top 10%	163,000
Bottom	31,000

Sole practitioners

Average	66,000
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Large firm

Partner	120,000
Associate	65,000

<u>NOTE:</u> 1985/86 CELA legal salaries average	33,000
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SECRETARIES (CURRENT):

MOE legal services branch	21,506 to 23,927
McCarthy & McCarthy	\$345 to \$390/week

M E M O R A N D U M

To: CELA Staff
From: CELA Legal Staff
Date: May 8, 1987
Re: Salary Allocations

Legal Aid has adopted a policy of trying to bring salaries paid to legal aid lawyers (both within and outside clinics) more in line with other sectors. Presently salaries are far behind those paid lawyers in the private sector and government (we will attempt to provide you with the most recent Canadian Bar Association Survey of lawyers salaries).

The purpose of this is to attract and keep skilled and experienced lawyers in the system in order to better serve the legal aid clients.

Legal Aids policy in this regard is articulated this year in the covering letter that accompanies the proposed salary allocations. It has also been made clear in the formula Legal Aid has adopted to allocate salary funds, which is to give clinics with experienced lawyers much more money than clinics without them.

We believe that it would be unfair to bring legal salaries more in line with those paid elsewhere if this were to occur at the expense of other clinic staff. However, as the following calculations demonstrate, we are proposing a significant increase to support staff salaries as well. Ironically resources are available for those increases because of the seniority of CELA's legal staff.

It also may be of interest to note that CELA staff will have a much higher allocation this year than most other clinics (several of which are getting increases in the 4 to 10% range) because of the large increases given in our lawyers salaries pool.

If you look at how increases have been allocated this year for our clinic the lawyers salaries have increased by 29.7%, Support staff increases are in the order of 5% (see Table 1).

Table 1

<u>Increase</u> - 1987/88	6 x 600 (base)	\$ 3,600.00
FG		1,225.00
SM		600.00
MJ		100.00
BG		700.00
LG		600.00
AS		<u>-</u>
 <u>Lawyers</u>		
MS		15,125.00
TV		8,075.00
SS		<u>7,150.00</u>
		30,350.00
Stipend Increase 1500		<u>1,500.00</u>
		31,850.00
3 x 600 Base		<u>1,800.00</u>
		33,650.00
Support Staff salary pool		
86/87		37,039.00
6865 represents an		
increase of		<u>4.98%</u>
Legal salary 86/87		113,274.00
33,650.00 represents an		
increase of		29.7%

To further illustrate, had CELA hired a lawyer fresh from the Bar Admission course, the increase in our collective salary pool would have been reduced by \$23,900. This would have left us with an overall increase of \$20,440 or 7.6% rather than the 16.4% that we have been given.

Because CELA has three lawyers with considerable seniority we are in a position to provide all staff with substantial increase. Most other clinics cannot do so.

The Principle

As we indicated in our earlier memo to you, we believe that the appropriate principle to be applied in our clinic is to allocate additional funds so that CELA staff can be paid roughly the same salaries as a person of similar skills and experience would be paid elsewhere. Because secretaries are traditionally poorly paid we have proposed an additional increase in their salary category.

Our informal survey of salaries paid elsewhere indicates that the objective of bringing our clinic salaries in line with other sectors is much more of a reality for support staff than for legal staff given the allocations that we propose.

Our Present Proposal

Table 2 represents our proposal with respect to the allocation of funds and remains the same as that of our earlier memo.

Table 2

Lawyers	\$ 135,928.80	
SM	31,500.00	
KC	26,500.00	
Secretaries	24,600.00	
BG	15,200.00	
MV	10,150.00	
RL	<u>22,500.00</u>	
	290,978.80	
	290,978.00	
	<u>18,622.00</u>	benefits @ 6.4%
	309,600.00	
	2,000.00	bookkeeper
	<u>1,275.00</u>	LSUC
	312,875.00	
	1,000.00	RL position
	<u>313,875.00</u>	

Contingencies to be covered by \$4,000 anticipated revenue TV - MISA money.

While this is not a response to the various arguments that you have made in your memo of April 29, 1987, there is however one misapprehension that should be corrected. On page 2 of your memo you indicate that even at a 15% increase, CELA lawyers would receive several thousand dollars over the highest amount paid in 1986 to lawyers in legal clinics with the same number of years experience. If you will refer to Legal Aid material on salaries you will see that this is most definitely not the case. Please consider the following:

Table 3

	Present Salary	Clinics	
		High	Median
M. Swenarchuk '76	\$37,500	\$58,000	45,000
T. Vigod '80	39,300	42,200	35,000
S. Shrybman '81	36,500	41,102	32,875

You will note that CELA salaries are well below the highest paid lawyers working in clinics and in Michelle's case substantially below even the median of salaries paid to lawyers in clinics with the same experience.

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RECEIVED APR 14 1987

THE LAW SOCIETY OF UPPER CANADA
THE ONTARIO LEGAL AID PLAN
OFFICE OF THE DIRECTOR

TELEPHONE
979-1446

SUITE 200
481 UNIVERSITY AVENUE
TORONTO M5G 2G1
April 8, 1987

Private & Confidential

To: The Chairperson of the Board of
Directors/Dean of the Faculty of Law

Re: Personnel Funding 1987/88

I am pleased to enclose the Clinic Funding staff's offer re: for Personnel Funding for 1987/88. Attached is the detailed calculation of the offer, based on the our current staff information.

The funding for personnel this year includes a special "catch up" amount for clinic lawyers, which has been requested by the Clinic Funding Committee. This amount is being distributed through revised values in the "Career Progress Units", "Directors Stipend", and an allotment of \$425.00 per lawyer for the Law Societies Compensation Fund and Legal Aid levies.

The Clinic Funding Committee's goal is to provide sufficient funds to allow an increase of up to 20% on average lawyers' salaries. Whether your clinic can afford a full 20% increase for its lawyers will depend on the numbers of lawyers in your clinic, their experience levels and the salary you are already paying them, and other staff.

To assist your Clinic in assessing its current salary levels, and salary increases for 1987/88, I enclose summary information on salary levels paid by clinics in 1986/87, according to job classification and years of experience.

As in past years, the funds for personnel are provided to each clinic as a pool, out of which personnel expenses are to be met. The "CPU's" are a method of distributing funds to clinics and do not represent "increments" for salary administration purposes: the CPU's do not "belong" to individual staff members. The overall salary increases for individual staff members should be set by each clinic Board (or Dean) out of the overall pool available.

Clinic Funding Committee policy requires that the personnel fund's calculation be based on staff employed at April 1 of each fiscal year.

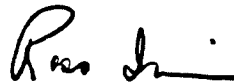
Attached is a second copy of the detailed calculation: would you please review it, amend as necessary based on staff employed as of April 1, sign the sheet, and return it to me at your earliest convenience. The final analysis of grant for 1987/88 for your clinic will be based on this information.

This is part of the Clinic Funding Staff's funding offer to your clinic for 1987/88. It remains subject to the designation of the Clinic Funding Committee's budget by the Attorney General. Should you not wish to accept this offer, please contact me in writing by, April 30, 1987.

Please do not hesitate to contact me if any further information is required regarding this offer.

Thank you for your anticipated cooperation in returning the signed copy of the attached staff listing.

Yours truly,



Ross Irwin,
Clinic Funding Manager,
The Ontario Legal Aid Plan.

RI:af



THE LAW SOCIETY OF UPPER CANADA
CLINIC FUNDING COMMITTEE
THE ONTARIO LEGAL AID PLAN

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SUITE 200
481 UNIVERSITY AVENUE
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March 5, 1987

To: The Chairperson of the Board of
Directors/Dean of the Faculty of Law

Re: 1987/88 CFC Budget Request

I am pleased to inform you that Convocation of the Law Society of Upper Canada has approved the Clinic Funding Committee's budget request for 1987/88. It is the Committee's custom not to make the amount of the request public until the Attorney General has had an opportunity to respond to it. I do, however, want to take this opportunity to inform you of the major features of the request.

In addition to reasonable increases for clinic personnel and operating costs, and administrative expenses, the 1987/88 budget request includes funds for:

1. The establishment of two additional new clinics this year. This brings to a total of six the new clinics established this year, including Willowdale, Brantford, and Windsor/Essex, approved last October, and Sarnia, South Ottawa, and the Kung Ching clinic in Toronto, approved in February, 1987.
2. Further expansion of the clinic system, at an accelerated pace, in 1987/88.
3. Some additional staff for existing clinics.
- * 4. An additional salary increase for clinic lawyers to assist Boards in attracting and retaining experienced lawyers within the system.
5. Expansion of the clinic funding staff.

The resulting overall increase which has been requested is exceptionally large this year - in excess of 30%. The Committee has, however, concluded that the increases are justified.

Since 1983, the Clinic Funding Committee has been of the view that the salaries paid to clinic lawyers were too low, taking into account comparable salaries in the public service. The Committee has therefore decided to seek sufficient funds from the Ministry of the Attorney General to provide a catch-up for clinic lawyers' salaries in 1987/88. This special increase will be provided to clinics, in addition to the normal cost-of-living and merit/experience increments. The overall effect of these increases will be to provide clinics with sufficient funds to increase lawyers' salaries, on average, by 20%, and allow reasonable increases for other clinic staff. Part of this increase will be specifically allocated for the Compensation Fund and Legal Aid Levy portion of lawyers' annual dues paid to the Law Society.

The accelerated pace of expansion which the Committee's budget request incorporates reflects the Committee's view that the citizens of Ontario have a right to equal access to the justice system and legal aid services, wherever they live in the province. The legal services provided by community legal clinics are now recognized as an integral part of the overall services which need to be provided by the Plan, as a complement to the services provided under the certificate program. The Committee has therefore requested funds to establish up to six new clinics next year, which will bring the goal of completing the development of a truly provincial clinic system within sight.

The support of the Law Society of Upper Canada for these initiatives is heartening. I am pleased to report that Convocation approved the Committee's budget request without dissent.

Thank you for your cooperation in sharing this information with the members of your Board and staff.

Yours truly,

A handwritten signature in dark ink, appearing to read "Tom Bastedo", with a large, sweeping flourish extending from the end of the name.

Thomas Bastedo,
Chairman,
Clinic Funding Committee.

TB:vs