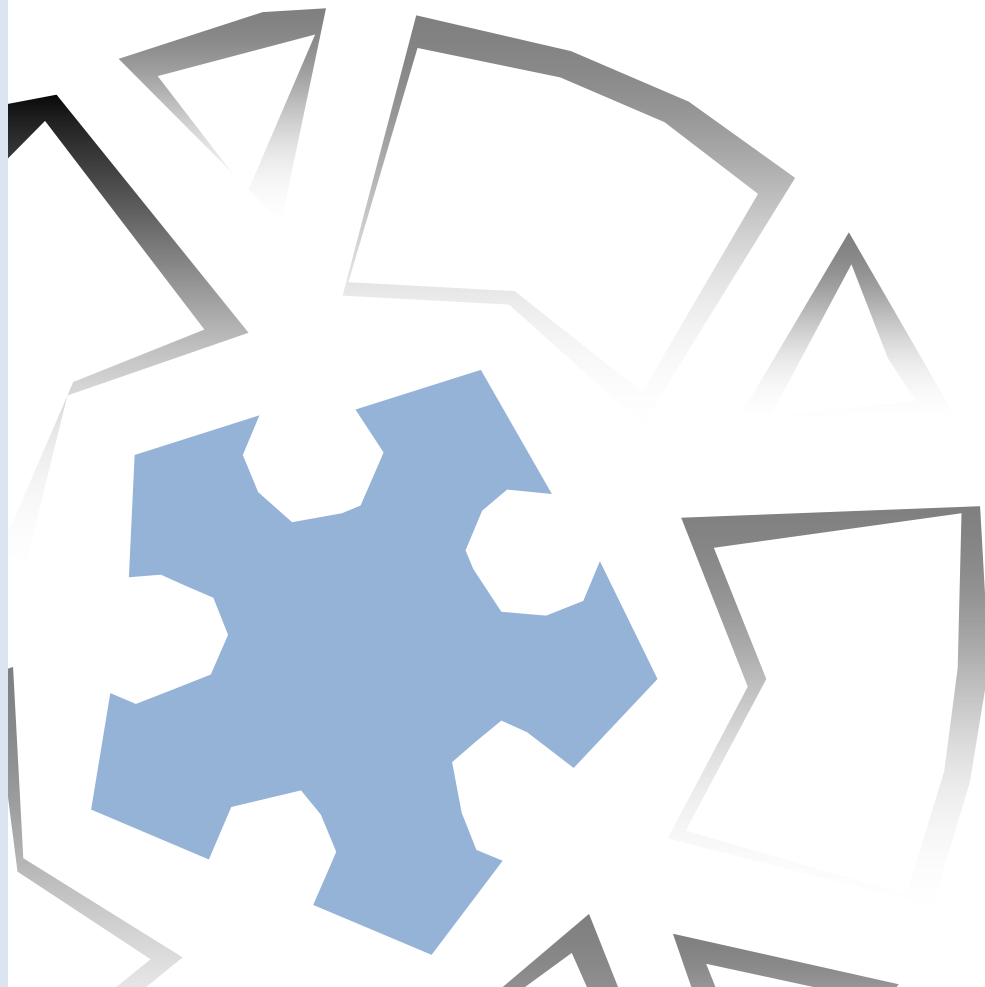


COMMUNITY LEGAL EDUCATION ASSOCIATION

LAW PHONE-IN & LAWYER REFERRAL PROGRAM

2013 Report



Introduction

The Law Phone-In & Lawyer Referral Program has been a program of Community Legal Education Association since 1987. The program began in 1975. The Law Society of Manitoba and the Manitoba Law Foundation fund the program. Two lawyers staff the service: Jennifer Dunik and Sean Young. Mary Troszko, the Executive Director of Community Legal Education Association, acts as the supervisor of the service.

We provide a comprehensive service. Callers are given legal information and general advice over the phone, may be referred to an appropriate law-related agency or may be referred to a lawyer. Many provinces have legal information or lawyer referral services and virtually all of the states in the United States have lawyer referral services. What makes our service unique is that we provide both legal information and lawyer referrals, and lawyers with practicing certificates staff the service.

Often callers are sent written information to augment the verbal information provided to them. In 2013 we sent out 212 pieces of information, including 39 *Uncontested Divorce Guides*, 34 CLEA brochures, 30 *Family Law in Manitoba*, 19 *Divorce Law Questions and Answers*, 11 *Family Law for Children*, as well as precedents, excerpts of legislation, cases and legal forms (49).

A total of **6,400** calls were handled in 2013. This brings our grand total to over 353,000 calls (353,548), since the service began in 1975.

1,378 of the calls in 2013 were referrals to lawyers listed with the Lawyer Referral Service. Appendix 1 shows the breakdown of referrals by topic.

In 2013 callers were referred to 134 various law-related and other agencies. We have a very comprehensive database of law-related and other agencies that we add to on a regular basis. The Law Phone-In staff lawyers are very adept at finding appropriate agencies and matching callers accordingly. The top agency referred to was Legal Aid (51), with Employment Standards in second place (42) and the Consumer Protection Office in third place (39).

Self-Represented and Unrepresented Litigants

Who Are They?

Primarily the self-represented and unrepresented litigants that contact Law Phone-In are either people who had lawyers, but because of the high cost of litigation can no longer afford their lawyers, or, they are people who cannot afford a lawyer from the beginning. A small number of them are people who have had a bad experience with lawyers and no longer trust them. Some cannot hire a lawyer because they are in a remote area of the province or they are incarcerated. Another group would prefer to hire a lawyer, but being self-represented in and of itself prevents this. They have contacted lawyers who have

declined to take their case sensing that the file is a mess or that this will be a difficult client, or both.

What Do Self-Represented Litigants Need?

Initially, they also need to know whether they have a case. They may have some information about starting a proceeding but don't know whether their situation is supported by case law or legislation. After that, they mainly need help with procedural matters. They are either at the very beginning of their matter and need direction and an overview of the process, or the matter has been going on for a while and they need help with the next step. In either case, they need help with filling out forms, relevant case law, relevant court rules.

How Law Phone-In Helps Self-Represented Litigants

Since the Law Phone-In Program is staffed by lawyers, and because the Court Registry and court rules and forms are available on-line, the staff lawyers can see what documents have been filed to date, can provide procedural information on next steps, can explain how to fill out forms, can send out precedents and direct self-represented litigants to case law. We have also developed some self-help booklets (*Uncontested Divorce Guide, Probate Guide*). If clients have this material in front of them, it makes it much easier to guide them through the process.

Appendix 2 provides a summary of the kinds of questions asked by self-represented litigants during the course of a month.

Trends

In terms of trends, generally, calls are being received in the areas of law where either no other services exist, or where services are inadequate to meet the needs. There continue to be a disproportionate number of calls in the areas of medical malpractice, workers compensation and Autopac, perhaps indicating systemic problems. Calls in Employment Law have increased, primarily as a result of more referrals from the Employment Standards Branch. We also noticed an increase in child protection calls. There were 31 referrals in child protection matters, compared to 6 in 2012. There were 335 calls from unrepresented individuals. These calls are more complicated, take more time and often require the lawyers to provide information on procedure, legislation, case law and how to fill out various legal forms.

Who Refers Clients to the Law Phone-In Program?

In 2013, our records indicate that we received referrals from 156 different sources: various individual contacts, lawyers and law firms, MLA's and MP's, community agencies, government departments, organizations, businesses, and as a result of being listed in various publications. The majority of the calls came from **Employment Standards, Legal Aid, Legal Help Centre, and The Law Society of Manitoba, various provincial**

government departments, particularly those under the umbrella of Manitoba Justice, including Court Offices (Small Claims and Queen's Bench). This information is based on callers self-identifying who referred them. Appendix 3 provides a complete list of who referred clients.

We have also noticed an increase in callers who are accessing our services through our website and the Internet. (In 2013 we handled 1,297 e-mail requests for information and referrals, 1,125 in 2012 and 840 the year before). CLEA, and therefore Law Phone-In, also comes up as a link on many organizations' websites. Every year we have hundreds of repeat callers, (594) in 2013.

Office Procedure

The Law Phone-In & Lawyer Referral Program operates Monday through Friday from 9 a.m. to 4 p.m. The Program maintains telephone numbers separate from Community Legal Education Association's administration line. Members of the public are able to reach the Program on two Winnipeg phone lines and one province-wide toll-free line. Callers requiring only a referral to a lawyer can contact the service through a third Winnipeg line. Callers are asked to leave a brief message on voice-mail.

Information about each call is recorded on a computer database, using FileMaker Pro 12 software. Each record includes a detailed summary of the caller's problem and the information given, the area of law the call involves, any referrals provided to a lawyer, agency, or government department, the caller's gender, and the time and date the staff lawyer spoke with the caller. Information such as the caller's name, geographic region and address are noted if the caller chooses to provide this information or in the case of referrals to lawyers.

Personnel

Two lawyers staffed the Law Phone-In and Lawyer Referral Program in 2013: Jennifer Dunik, and Sean Young. Jennifer was called to the Bar in 2002 after articling with Taylor McCaffrey. She joined Law Phone-In in August of 2002. Sean Young received his Call to the Bar in 2011. He articulated at Legal Aid Manitoba and joined Law Phone-In in November of 2011.

Students through the Pro Bono Students Canada Program at the University of Manitoba assisted us. The students handled calls requiring a referral to a lawyer or straightforward information. The law students who assisted us in 2012/13 were: Alyssa Mymko, Will Steinburg, Megan Smith, Sarah Thomson, Kelly Hjorth, Leah Klassen and Zachary Kinahan. We would also like to thank Kyle Harder and Billy Cromb, the University of Manitoba Program Coordinators. The law students who assisted us in 2013/14 were Alyssa Mymko (Supervisor), Jessica Davenport, Evan Amablee, Nihar Kaushal, Jonathan Avey, Zachary Kinahan, and Devin Wehrle. We would also like to thank Katie Haig-Anderson and Leah Klassen, University of Manitoba Program Coordinators.

Demographics

57% of our callers were female.

73% of our callers were from Winnipeg. The Manitoba calls from outside Winnipeg came from **216** communities, spanning the length and breadth of the province. The following communities generated the largest numbers of calls: Brandon (145), Portage la Prairie (116), Steinbach (80), Selkirk (62), Thompson (51), Pine Falls (33), The Pas (33), Flin Flon (28), Beausejour (27), Dauphin (26).

There were also **258** calls from outside Manitoba. **196** calls came from other parts of Canada: British Columbia (32), Alberta (56), Saskatchewan (26), Ontario (68), Quebec (6), Nova Scotia (1), New Brunswick (4), Northwest Territories (2), Nunavut (1).

There were **41** calls from 17 states in the United States. These were: California, Florida, Illinois, Kentucky, Minnesota, Nevada, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Texas, Washington, Washington D.C., West Virginia, Wisconsin and Wyoming. Some clients were referred through branches of the American Bar Association or Lawyer Referral Programs in their home province and others had located us online.

21 calls were from around the world: Armenia, Brazil, Egypt, Germany, Iran, Italy, Kenya, Mexico, Nigeria, Philippines, Republic of Congo, and the United Kingdom. The legal issues in these international calls were primarily in the area of Immigration Law. Some of the callers were looking for a lawyer or for information for a matter taking place in Manitoba (estates, divorce, mobility in family law matters, varying child support).

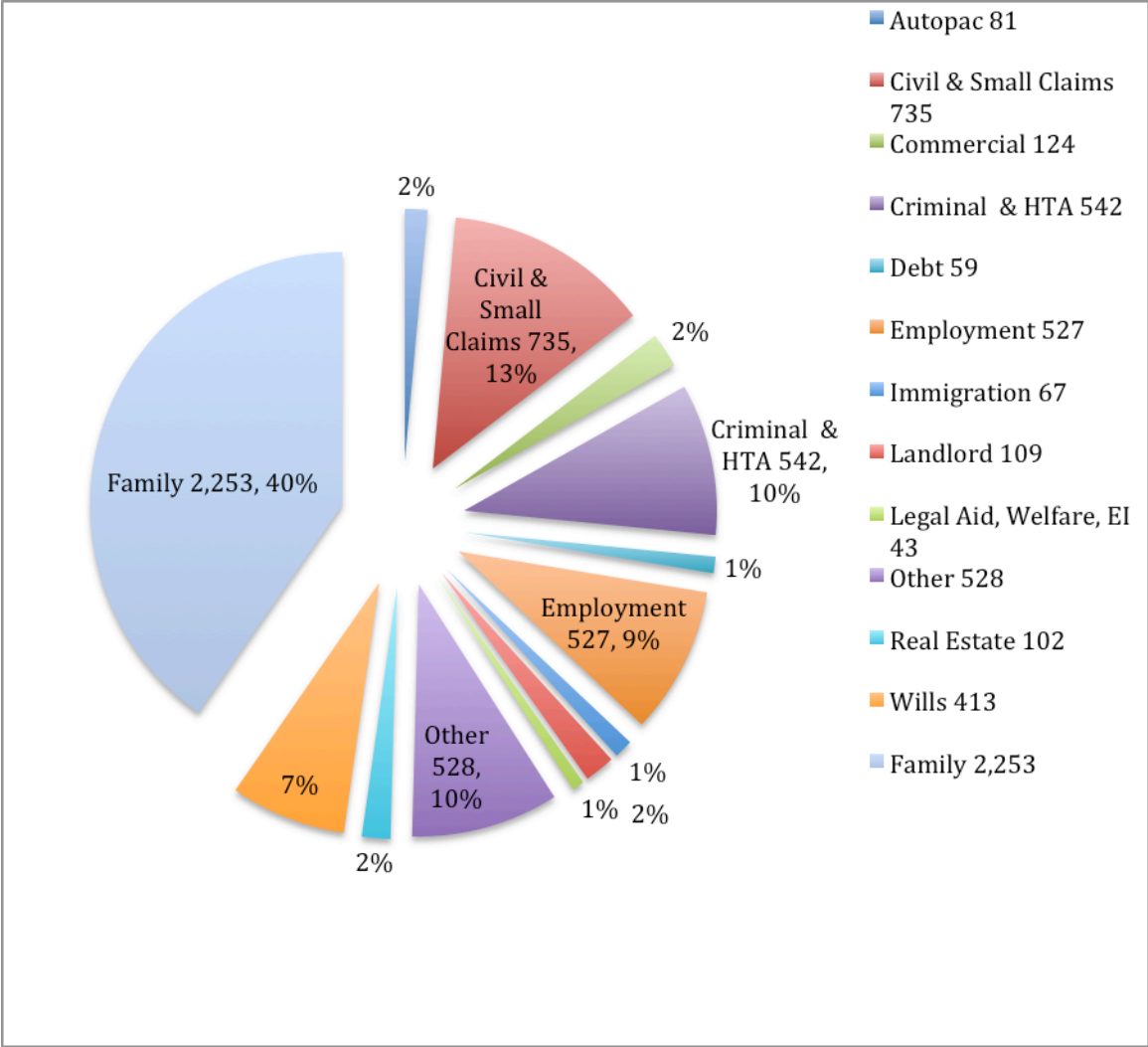
Although most of our contacts were telephone calls, there were also **1,297** e-mail information requests, **11** faxes, both to and from callers, and **77** walk-in clients (even though we do not have the facilities to offer drop-in services).

Areas of Law

Family Law continues to be the largest category with 2,253 calls received, over 35% of total calls. There are also a significant number of calls in the areas of Civil Litigation (including Small Claims), Wills and Estates, Employment Law and Criminal Law, comprising another third of total calls.

To appreciate the diversity of the calls, a list of the calls received on a typical day, those received on February 19, 2013, is included as Appendix 4.

The pie chart on the next page shows the breakdown of completed calls by topic.



Lawyer Referrals

In 2013, **1,378** referrals were made to lawyers, **137** of these were on a Legal Aid basis. We received 370 evaluation forms from lawyers (a 26.8% return rate).

Based on evaluations received, **72%** of clients attended for an office interview or had a telephone interview with the lawyer referred. **24.5%** of those clients hired the lawyer. A further **19%** of the lawyers indicated that they may be hired or were not sure at that point whether they would be hired. Lawyers who actually met with clients were more likely to be hired. Many of these clients likely would not otherwise have gone to see a lawyer, let alone hired one.

In addition, informal referrals to lawyers were made, for example, clients calling from other jurisdictions requiring the services of a Manitoba lawyer. In those cases, we generally gave

the client a few names from the Lawyer Referral list or from the *Manitoba Legal Services Directory*. Informal referrals were also provided in situations where the client needed the name of a lawyer who speaks a language other than English, or where the client was advised to see a lawyer but already knew of a lawyer or for some other reason did not want a formal referral. Referrals were also made to a wide variety of agencies, government departments and Internet resources, **134** in total.

We currently have **130** panel members. That number has remained very consistent over the years.

Lawyer Referral Evaluations

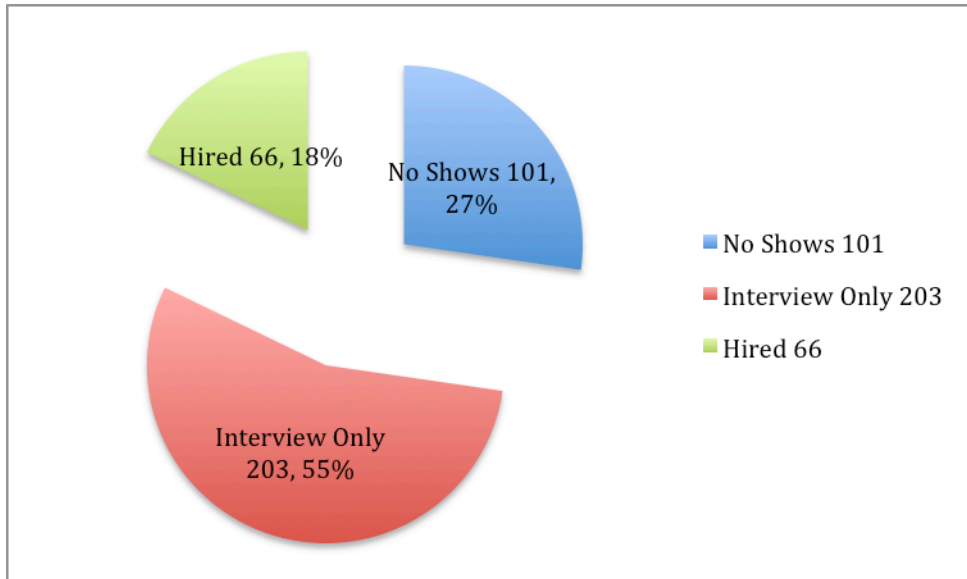
We received a total of **33** evaluations from clients (a **2.4%** return rate) and **370** from lawyers (a **26.8%** return rate).

Lawyer Evaluations

370 evaluation forms were received from lawyers. **269** of the clients contacted the lawyers referred to them, either by attending for an office interview or having a telephone interview with the lawyer. The length of the telephone interviews ranged from 1 minute to 48 minutes. The average length of the interviews was 17 minutes. The length of the office interviews ranged from 5 minutes to 120 minutes with the average length of interview being 48 minutes. **66** of the lawyers reported being hired. An additional **52** indicated that they might be hired in the future or that they were not certain as to whether they would be hired.

Most of the comments from the lawyers explained what action had been taken regarding the client's case, or were comments about the client's case. Often it is difficult for us to gauge a case based on the client's initial phone call to us. Therefore, the lawyers' comments provide important information. Often from the lawyers' comments it was clear that even though the client had not hired them, they were pleased to provide the client with the information or advice requested.

The pie chart on the next page depicts what the lawyers told us in their evaluations.



Client Evaluations

Thirty-three evaluations were received from clients. Nine of the clients reported hiring the lawyer. An additional 5 were not sure or were going to hire the lawyer in the future. Most were happy with the service. Sixteen said they would use the lawyer referred again, if the need arose.

Comments about the Law Phone-In & Lawyer Referral Program and staff:

"Thank you so much!! This is very helpful. The information you have provided will certainly help us through what has been a stressful situation!! The Community Legal Education Association is a wonderful resource – thank you again!"

"If you ever need or could use a referral from a client, please don't hesitate to let me know. I find your service to be outstanding."

"Law Society Referral was very helpful and I have retained him with complete confidence."

Comments about the lawyers:

"He is kind of expensive and we could not afford it, but we do know he is pretty good but we are against RCA (sic) so I'm not sure any lawyer for any amount of money would win against them."

"To make 2 wills was more than we wanted to spend. She was excellent."

"Seemed genuine and easy to talk to. I would recommend him if someone was looking for a lawyer in his type of law."

"Lawyer provided some great advice and options and now we must decide how we want to proceed."

"Excellent consultation! Good direction offered. Tons of helpful, clarifying information. A very knowledgeable lawyer and generous with her time."

"Very professional and easy to understand. We will keep him in mind for the future."

"Very helpful, supportive lawyer."

"He basically said straight that it's not worth suing as I didn't make enough money in the first place, and he would charge more than I would get back...Overall I was very discouraged by his advice."

"I was given some legal advice and terminology to write a letter. Very useful."

"Courteous and kind. Too expensive and too technical. We need a mediator with the tax law or Legal Aid. I make very little money."

"Seemed to drag out the process and keep negotiating. When I switched lawyers it was resolved quickly and to my benefit."

"Very knowledgeable lawyer and good-hearted person. What a gem!"

"Excellent advice. Very direct and gave me the reality of my situation."

Appendix 1 – Referrals by Topic

Topic	Total Referrals	Notes
Family Law	590	Includes 31 Child Protection
Employment/Labour	188	
Civil Court Action	143	
Criminal Law	125	Includes 11 Youth
Other	117	*Listed Below
Wills & Estates	112	
Autopac	30	
Immigration	27	
Real Estate	22	
Commercial/Corporate/Consumer	21	Commercial 10, Corporate 8, Non-Profit 3
Landlord & Tenant	7	
Debt	1	Bankruptcy
Totals	1378	
*Other Category		
Medical Malpractice	25	
Workers Compensation	22	
Taxation	17	
Municipal	11	
Insurance	6	
Disability Insurance	4	
Intellectual Property	4	
Administrative Law	2	
Human Rights	2	
Securities	1	

Appendix 2 – A sample of questions for one month from self-represented litigants

Small Claims

- When do you submit evidence?
- How do you subpoena witnesses?
- What is the procedure on the hearing date?
- How do you enforce a judgment? How do you fill out a Notice of Garnishment?

Family

- Do you need to file financial information (Form 70D)?
- What papers do you file to apply for grandparent access? What is relevant for the affidavit?
- Do you file a separation agreement?
- What do you file to set aside a protection order? What do you do when court staff will not allow you to listen to the oral evidence by the applicant?
- How do you prepare a court order?
- How do you deal with an assessment that you feel is biased in a custody case? Which cases have ordered contrary to an assessor's recommendations?
- What do you file for a case conference?
- What are the grounds for a variation to a court order? How do you file?
- How do you file for divorce? How do you answer a Petition for Divorce?
- How do you initiate a family property reference?

Civil

- When can you amend pleadings by requisition? When is leave required?
- What are the grounds for a motion to strike?
- How do you relate or distinguish a case?
- How do you prepare a motion for contempt?
- What are the elements of the tort of malicious prosecution?
- What do you need to prove to make out a claim for negligence?

Criminal

- How do you file for a judicial stay of proceedings based on delay?
- What is the process for a peace bond? A private prosecution?
- How do you appeal a prosecutor's decision to stay a private prosecution?
- How do you contact the Crown Attorney's office?

Appendix 3 – Who Refers Clients to the Law Phone-In & Lawyer Referral Program

Aboriginal Health Wellness Centre, Aboriginal Law Program, Age & Opportunity, Archwood Seniors, Arthritis Society, At Your Service, Brandon Court House, Brandon Court of Queen's Bench, Brandon Lawyer, Brandon Legal Aid, Canadian Mental Health Association, Childcare Coordinator, Child Daycare Office, Child Support Recalculation, Child & Family Services, Children's Advocate, City of Winnipeg, Classic Saskatchewan, Companies Office, Consumer Protection Office, counsellor, Court, Court of Queen's Bench, Courts Website, Crisis Line, Crown Attorney, Deanne Crothers, Department of Justice, EAP, EAP Program – Federal Government, Employment Canada, Employment Insurance Rep, Employment Standards, Family Conciliation, Family Law Branch, Family Law in Manitoba Website, Family Law Office, father, For the Sake of the Children, Fort Garry Women's Resource Centre, friend, girlfriend, Government, Government Website, Great West Life, Human Rights Commission, husband, Immigration lawyer, Internet, Justice Minister, Kevin Lamoureux, Labour Board, Law Courts, law firm, Law Society of Manitoba, Law Society Website, Lawyer, Legal Aid, Legal Help Centre, Manitoba Bar Association, MP for West Arctic, Maintenance Enforcement Program, Manitoba Department of Justice, Manitoba Human Rights Commission, Mediation Services, neighbour, North End Women's Resource Centre, Ombudsman, Ontario Securities Commission, Osborne House, Police, Portage la Prairie Family Law Workshop, Provincial Registrar, Public Interest Law Centre, Public Trustee, Queen's Printer, RCMP, Real Estate Lawyers, Red River College Program, Residential Tenancies Branch, school counsellor, Senior's Abuse Hotline, Senior's Guide, Service Canada, sister, SOCAN, St. Boniface social worker, St. Laurent Bilingual Service Centre, social worker at Winnipeg Library, University Law Centre, Victim Services, Victim Services – Selkirk, Welcome Place, Winnipeg 311, Winnipeg Police Service, Winnipeg Public Library, Women's Hospital, Workplace Safety and Health.

Appendix 4 – Calls on a Typical Day – February 19, 2013

- 1) C. wanted a referral to a lawyer in the south end of the city for a real estate matter.
- 2) C. wanted a referral to a municipal lawyer to get an interpretation of municipal policy and whether it violated provincial legislation.
- 3) L. wanted to vary the access provisions of his court order. He is representing himself.
- 4) C. wanted a referral for a medical malpractice matter. Her brother was in a coma after a problem during his surgery.
- 5) A. wanted a referral to a lawyer in order to apply for custody of her daughter.
- 6) J. wanted to dispute a rent increase.
- 7) R. wanted to know how the Lawyer Referral Service worked.
- 8) C. wanted a referral to a family law lawyer in northern Manitoba.
- 9) N. wanted to divorce her spouse. She felt that he only married her to get into the country.
- 10)F. wanted information about administering a small estate.
- 11)G. loaned money to a friend who had not paid him back.
- 12)M. wanted to lay charges against a co-worker. He did not want to go to the police.
- 13)D.'s boyfriend's bail conditions state that he cannot be around children under 12 with the exception of her children. Can CFS apprehend her children?
- 14)B. needed names of lawyers in Manitoba who can practice in Ontario.
- 15)D. wanted to know where to get divorce forms.
- 16)F. wanted names of lawyers who deal with estate litigation.
- 17)M. wanted a referral to a lawyer who speaks German, Ukrainian or Russian, for a criminal law matter.
- 18)R.'s mother was terminated from her employment, where she had been working for over 30 years. She was given 8 weeks' severance.
- 19)P. wanted to know about Legal Aid's financial guidelines and whether there were lawyers in southern Manitoba who may take Legal Aid cases.

- 20)B.'s mother had co-signed a loan for B's brother. What happens if he stops making payments?
- 21)B. wanted to know about applying for access. One of the children is his child biologically, the other is not.
- 22)A. wanted to know about family property division, specifically regarding pensions and RRSP's acquired before marriage.
- 23)F. wants to apply for a divorce. She lives in Ontario.
- 24)M. had complaints about a car dealership and their warranty protection.
- 25)E. filed for divorce three years ago and wanted to know if he is now divorced?
- 26)A. wanted to know the average retainer fee for a lawyer?
- 27)P. wanted a Legal Aid lawyer for his mother, who is a senior.
- 28)M. wanted to know the process involved in a human rights complaint.
- 29)A. wanted to know where to get the *Uncontested Divorce Guide*?
- 30)B. had a complaint about a lawyer who misrepresented the services he could provide.
- 31)D.'s boyfriend missed his court date because he had to work.