



Learning from justice metrics models in other jurisdictions



What can BC learn from initiatives in other jurisdictions
about enhancing justice data quality and expanding
empirical research, evaluation and measurement?

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1.0 INTRODUCTION

This study is one of six background reports requested by the University of Victoria, Faculty of Law, Access to Justice Centre for Excellence (ACE) to help lay the groundwork for enhanced empirical justice research in B.C. Its purpose is to document significant initiatives in other jurisdictions intended to:

- enhance justice data quality,
- encourage data sharing, and/or
- expand the use of empirical research and justice program evaluation.

Literature was reviewed from five jurisdictions: Australia, the United States, the Netherlands (primarily reports from the Hague Institute and Tilburg University), the U.K., and Canada. The scale of this contract did not permit, nor intend the review to be exhaustive. It was deliberately selective, focussing on diverse measurement themes and initiatives that were described and appeared to be strengths in each jurisdiction.

The organization of this report is by jurisdiction, in each case describing how initiatives to enhance data quality, encourage data sharing, and expand research and evaluation have been handled. These three types of initiatives are complementary in that they share a common objective: i.e. the development and use of data to enhance measurement, understanding and improvement of the justice system. Thus for the most part, the themes are interwoven in the jurisdictional descriptions, but the terminology of "quality", "data sharing" or "expanding empirical research" is used where applicable. It is in understanding these three developmental elements that justice system players in B.C. will be able to extract the necessary lessons and benefit from the experience of these jurisdictions.

The contract specified that to the degree information is available, discussion of these three initiative types would examine:

- the genesis and objectives of the measurement initiative(s)
- types of measurement frameworks and approaches (e.g. databases, indices, systematic evaluation)
- time period involved
- parties involved; how and to what degree coordination/collaboration was encouraged and implemented
- obstacles encountered
- lessons learned

In the initiatives that were reviewed the first three items were often described, even if briefly, but the last three were often not explicitly or systematically elaborated, so the presentation that follows is not organized under these headings. However, to the degree possible, these issues are addressed.

Eight appendices contain examples of key measurement products from diverse jurisdictions.

2.0 AUSTRALIA

Australia is noteworthy for its attempt to create a systematic response to access to justice measurement at the national level. The discussion that follows outlines the overall components and their elaboration over time. It is presented in greater detail than for other jurisdictions, both because of the progress Australia has made in this area, and because the researcher benefited from email communications with the Attorney-General's Department of the Australian government.

2.1 The Federal Government

At the federal level in Australia, the planning of improved justice data quality initiatives was given impetus by observations from law reform bodies and reports about the lack of comprehensive and consistent data to inform civil justice policy and program reforms. This is often the pattern in other jurisdictions as well, and is certainly the case in Canada.

In Australia, data deficiencies were emphasized in the 2009 *Report of the Access to Justice Taskforce* for the Australian Attorney-General's Department (“the “Taskforce Report”):

Statistics are inconsistently collected and reported and significant gaps remain. Data is necessary not only to the institution to identify and act on problem issues, but also to inform analysis and understanding (undertaken by agencies, academics, the public) regarding the performance of the justice system generally.¹

In the same year, the Australian National Alternative Dispute Resolution Advisory Council (NADRAC) released a report entitled *The Resolve to Resolve: Embracing ADR to improve access to justice in the federal jurisdiction*, which drew attention to the lack of data collection, particularly collection of comparable data, for both ADR services and the justice system more generally. NADRAC noted that at a systemic level there was little data from which conclusions can be drawn about:

- the use of and the demand for ADR;
- the profile of ADR practitioners and organisations;
- the appropriateness of different forms of ADR for different disputes; or
- the effectiveness of different processes.

In the period 2009-2015, including the Taskforce report, there have been five types of activity² in which these metrics issues were addressed, using both “top-down” and

¹ Attorney-General's Department, *A Strategic Framework for Access to Justice in the Federal Civil Justice System – Report by the Access to Justice Taskforce*, September 2009 at p. 72

² The notion of “activity types” is the author's interpretation of what has happened in Australia. The term “phases” has not been used in the literature, or in the activities reviewed.

"bottom-up" approaches. The "top-down approach" (see activities 1 and 2 below) basically addressed the question "if we were building a civil justice system today, what would we expect of it, and how would we measure it?" The "bottom-up" approach (see activities 3 and 4 below) examined specific data sets to explore data that already existed and assessed how it could or could not be used to support the desired evidence base. Activity 5 is implementation-oriented, providing an example of a data collection system that provides a strong, reliable data base for planning and resource allocation decisions for common services operating at the Commonwealth, state and territory government levels. It is also a good example of the generation of shared data.

a) Activity 1: drawing the connection between high level access to justice principles, a framework for action, and the implications for effective data collection (2009-10)

This first "top-down" approach can primarily be seen as an initiative to foster justice quality through a clear delineation of overall goals and related data collection needs. At the same time, it involved the notion of data sharing (especially in the development of a Roundtable as described below) in that there was a collective definition of data needs that could build a commonality across different components of the justice system.

The 2009 Taskforce report enunciated five principles of access to justice: accessibility, appropriateness, equity, efficiency and effectiveness.³ These principles are more fully defined in Appendix 1.

What are the goals of a justice data collection system?

How do access to justice principles translate into data collection?

What data needs does the system have?

An "Access to Justice Methodology" was designed to help policymakers translate these access principles into measurable elements:⁴

- *Information* – Enabling people to understand their situation and their options, and then make decisions about what to do;
- *Action* – Intervening early to prevent legal problems from occurring or from escalating;
- *Triage* - Enabling matters to be directed to the most appropriate destination for resolution, irrespective of how people make contact with the system;
- *Outcomes* – Providing a pathway to fair and equitable outcomes - i.e. resolving disputes without going to court, and when court is necessary, ensuring that processes are accessible, fair, affordable and simple;
- *Proportionate cost* – Ensuring that the cost and method of resolving disputes is proportionate to the issues;

³ Loc cit, pp 62-63

⁴ ibid

- *Resilience* – Building resilience in individuals, the community and justice system;
- *Inclusion* – Directing attention to the real issues experienced by people working their way through legal events.

These elements in turn informed the following data collection needs:⁵

- who uses the justice system, and who does not;
- what types of disputes they use it for;
- what kind of assistance they seek and what they find;
- the quality of outcomes:
 - what kind of results they get - how do they resolve their dispute, how long does it take, how effective is it?
- how much it costs - including better information about:
 - the actual costs (public and private);
 - the costs of particular pathways and mechanisms for resolving disputes; and how satisfied parties are with the outcome.

A 2010 Federal Civil Justice System Roundtable sponsored by the Attorney-General's department supported this orientation and helped define a project called the "*Building an Evidence Base for the Civil Justice System Project*". This project's aim was to develop, over time:

- a robust evidence base that will help to answer important questions about what the civil justice system delivers to the people who use it, its value to the Australian community and the extent to which it meets broad public policy objectives;
- reliable information about people's needs and expectations, why and how they choose and move between services, what influences those choices and decisions, what happens to them along the way, the extent to which their needs and expectations are met and the outcomes they achieve;
- approaches to analysing information that is gathered so as to facilitate understanding about how changes to one part of the system may influence other parts of the system so that better judgements can be made about system-wide impacts of policy and service delivery changes.⁶

The AG's department also engaged a consultant (Elizabeth Shearer) to advise on the issues implicit in building a civil justice system evidence base. Shearer elaborated on the question of the features that should characterize a data base:⁷

⁵ *A Strategic Framework*, loc cit, p.72

⁶ <https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>, p. 3

⁷ Shearer, E. *An Evidence base for the federal civil justice system*. (2010) Retrieved from the Australian Government Attorney-General's Department website:
<https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>

- *comprehensiveness* - The data gathered should be comprehensive, allowing assessment of performance against all objectives. (Here the consultant reiterated the Taskforce's data collection elements listed above);
- *consistency* - Data should be gathered in a manner that is consistent, allowing comparison across different service types, service providers and pathways to justice;
- *economy and simplicity* - The simplest and least expensive data collection methods should be used;
- *data is capable of aggregation and disaggregation* - Data should be gathered in a way that is capable of aggregation and disaggregation;
- *relevance* - Data gathered should be relevant to the agencies and individuals providing it as well as to government objectives;
- *timeliness* - Data should be gathered frequently enough and released soon enough after gathering to retain relevance for decision makers.

b) Activity 2: establishing an approach for building an evidence base (2011)

Building on these principles, the next phase involved grappling with how to build a system-wide evidence base for the civil justice system in Australia. It was understood that this would be a long-term, iterative process. The Department gathered a reference group of data and research experts drawn from academia and various justice and community institutions to support a more systematic orientation and follow-through on data quality and data collection improvement. In a paper for a May 2011 symposium to "build an evidence base for the civil justice system" the author noted:

Building a system-wide evidence base is a long-term, iterative undertaking that requires a sustained commitment from all stakeholders

It was recognised that if the project was to be successful it would need the support and commitment of all, or at least key, stakeholders in the civil justice system. The project will be a long term one which will require stakeholders to engage with it and commit some resources, if only in terms of time, to achieve its objectives.⁸

The purpose of the symposium was defined clearly in terms both of data quality and data sharing. As described in the symposium paper:

The aim of this project is to work towards shared information about the civil justice system as a whole. Organisations may wonder what advantages this will deliver for them and why they should engage with it.

A shared system-wide evidence base that comprises consistent data about the people who use the system and the services delivered to them will enable us to see:

⁸ Symposium paper, p. 3. Retrieved from the Australian Government Attorney-General's Department website: <https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>

- *whether the civil justice system as a whole is achieving its objectives and what it is delivering to the Australian community,*
- *how different organisations and services contribute to that;*
- *how people connect with and what patterns emerge as they move through the system;*
- *where there are gaps, pressure points, emerging trends and opportunities;*
- *where there are opportunities for better coordination;*
- *where potential exists for development of more complementary services;*
- *where there is potential for innovation; and*
- *how changes in one area are likely to impact elsewhere.*

Such an evidence base will enable us to build stronger cases for funding for civil justice services both new and existing. It will assist in establishing clearer links with other key government priorities such as closing the gap on Indigenous disadvantage, social inclusion, homelessness, regional development, and multiculturalism. That should also increase the likelihood of attracting funding under other government agendas.⁹

These and the resulting activities took place as part of what was called the Civil Justice Evidence Base Project. The working group that was established to further this Project produced the draft objectives of the civil justice system set out at Appendix 2 of this report.

The authors of the symposium paper listed the following as challenges inherent in this type of undertaking:

Challenges include reaching agreement between diverse interests, making changes to entrenched systems, stakeholders who may not wish to engage, and the need for a long term commitment of resources.

- *first, reaching agreement in a diverse system comprising a range of different professional interests is likely to be difficult;*
- *second, many organisations already have significant investments in electronic and other data collection systems that would be costly to change;*
- *third, engaging private service providers such as lawyers and commercial arbitrators or mediators and state/territory bodies will be challenging; and*
- *fourth, resourcing. Initially the project will require an ongoing commitment of time by personnel able to contribute to progressing it. As the project develops there may be requirements for IT or other systems to be developed for reporting and recording of agreed data terms and metrics. If necessary a case for resourcing may be able to be made.¹⁰*

In 2012 the orientation of the "*Building an Evidence Base for the Civil Justice System Project*" started to shift towards "bottom-up" approaches that grappled with data consistency and

⁹ loc cit. p.4

¹⁰ ibid

standardization issues, exemplified in activities 3 – 5 described below. The project “has not progressed significantly since late 2013.”¹¹

c) Activity 3: assessing the quality and coverage of existing data sets in the civil justice system and working towards data standardization (2012-13)

Three studies undertaken in 2012 reported on the quality and coverage of existing data sets in various sectors, services or research areas within the civil justice system. These included: 1) the maintenance and use of data from applications for a reduction of court fees in the federal Court and Federal Magistrates Court; 2) data concerning self-represented litigants (SRLs) in various agencies within the civil justice system; and 3) a scan of research into the civil justice system conducted in the previous five years, with the intent of clarifying data challenges, and the availability and visibility of quality research.

Clearly the three studies were different in terms of their settings and driving issues. This fact underlines the significant diversity of data needs that should be acknowledged in any jurisdiction. However, when joined with clarity about the “top-down” objectives in terms of data quality, “bottom-up” studies of this type are necessary to make adjustments to on-the-ground data systems and collection procedures.

d) Activity 4: building a research classification framework (2012)

A project was undertaken to scan empirical civil justice system research related to the draft civil justice system objectives set out at Appendix 2. This research was classified under the relevant objectives through assignment to a classification framework (see Appendix 3) developed in consultation with the Commonwealth Attorney-General’s Department (AGD).

It may be useful for BC to consider using a “bottom up” approach to get more information about existing data collections

Through this process of scanning the literature, the consultants were also asked to make findings in relation to the state of civil justice research in Australia, with a view to informing the planned development of an evidence base for the civil justice system. The final chapter of the consultants’ report provides a discussion on the state of research and data collection, as evidenced by the literature scan, and contains a number of recommendations for moving forward.

The project was conceived as part of the “bottom-up” approach to building an evidence base for the civil justice system. As noted above, this entails assessing the utility of existing data collections. It may be a useful model for B.C. to ensure that research and evaluation accords with the top-down objectives or principles that may evolve in this province.

¹¹ July 9, 2018 email communication from the Legal Assistance Branch of the Commonwealth Attorney General’s Dept.

e) Activity 5: building an integrated data collection system: an example (2013-2015)

This activity involves the actual creation of a data collection system or approach that is consistent, comparable and reliable, and provides a genuine evidence base for decisions. An excellent resource in this area is the National Legal Assistance Data Standards Manual¹² (DSM). It was used in Australia to facilitate the collection of consistent and comparable data across the legal assistance sector.¹³

Groundwork and support studies leading to the development of the DSM

The groundwork for this development was laid in two ways. Firstly, between May 2012 and June 2013, a consulting firm undertook a review of the previous *National Partnership Agreement on Legal Assistance Services* (the NPA) and experienced significant issues with consistency of data when conducting the NPA review. Further, it was thought that differences in how various services and actions are defined make it difficult to gain a comprehensive picture of service delivery. Major issues included gaps in data, inconsistent descriptions of services, and inconsistent demographic data. For those reasons, towards the end of 2013, the department sought to revise and simplify the draft manual that had been produced and work began on the *Data Standardisation Project*.

The importance of the data standardisation was reaffirmed and it was recommended that the legal assistance sector adopt common definitions, measures and collection protocols

Secondly, on 8 April 2014, the Australian Productivity Commission released a draft report into *Access to Justice Arrangements* which indicated that data in the legal assistance sector was generally insufficient and inconsistent, and that this was hindering efforts to evaluate justice system performance. That report recommended that the legal assistance sector adopt common definitions, measures and collection protocols and reaffirmed the importance of the *Data Standardisation Project* and subsequent Data Standards Manual (DSM) for the sector.

Working group to develop the manual

The DSM was developed in 2015 by the National Legal Assistance Data Standards Working Group, led by Commonwealth Attorney-General's Department and comprised of representatives from the four Commonwealth-funded legal assistance groups: community legal centres (CLCs), legal aid commissions (LACs), Aboriginal and Torres Strait Islander legal Services (ATSILS) and family violence prevention legal services (FVPLS).

¹² <https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Documents/National-Legal-Assistance-Data-Standards-Manual.pdf> >

¹³ Information presented throughout the description of activity 5 in this section and section 2.1.1 is taken almost verbatim from the July 9, 2018 email communication from the Legal Assistance Branch of the Commonwealth Attorney General's Dept.

The working group also maintained representation from the Australian Bureau of Statistics, bringing together the practices of a diverse sector and seeking to align service types and data items where practicable and appropriate. The department maintained a mediatory role in the operation of the working group by facilitating constructive discussion and ensuring that all representatives were heard.

One of the primary challenges the data standards working group faced was around the inconsistency of data collection within each faction of the legal assistance sector. Each of the LACs, CLCs and ATSILS recorded data in slightly different ways. One of the challenges faced, which is ongoing since the release of the manual, is its interpretation. Whilst the LAC, CLC and ATSIL providers are consciously utilising the DSM, the interpretation of the manual varies by provider.

Release of the Manual

On 1 July 2015, the DSM was released and targeted at the entire legal assistance sector. The purpose of the DSM is to provide best practice guidance on how legal assistance service providers capture data during the course of providing services to clients. It was designed to facilitate the collection of consistent and comparable data across the legal assistance sector and applies to data collected through regular service provision across all services and law types, as well as data collected through snapshot surveys and other mechanisms. The DSM was developed for the benefit of the entire legal assistance sector so that, where a service provider collects a particular data item, the data item is defined, counted and collected in the same way. The Australian Government only requires a small subset of the data for reporting purposes made under various funding agreements.

The purpose of the Australian Data Standards Manual is to provide best practice guidance on how all legal assistance service providers can capture data during the course of providing services to clients.

The approach and layout could easily be applied in a manual for comparable services in B.C.

In developing the DSM, the department's aim was to reduce the burden on service providers under future funding arrangements, while assisting the sector to improve the value of the data they collect.

Key themes

The Manual emphasizes several quality-related themes that have been discussed above:

Consistent and comparable data collection provides the foundation for a strong, reliable evidence base that informs legal assistance policy and supports planning and resource allocation decisions to ensure that limited resources are directed to areas where services will have the greatest benefit. A reliable evidence base also provides a comprehensive overview of legal assistance services delivered and the people and organisations accessing those services, and helps service providers

respond to current and emerging legal need. Finally, reliable evidence demonstrates how effectively the legal assistance system, and the justice system more broadly, is functioning in Australia.

This manual recognises the differences in the way legal assistance providers deliver services to all those who access their service. It is also recognised that laws, process and practices differ between States and Territories and in different legal jurisdictions. These differences will be acknowledged when the Attorney-General's Department analyses any data provided by the jurisdictions, pursuant to the definitions in this manual.¹⁴

Systematic explanations

The Manual provides detailed rules for data collection that are exemplary in terms of creating the potential for data consistency and comparability - both of which are prerequisites for meaningful sharing of data. It describes a full range of service categories and sub-types within those categories. It provides questions and discrete answers so choices are easily made. Where necessary, it defines terms (e.g. of service types). It provides detailed counting rules (e.g. where information is provided about one or more problems at the same time). It includes "case studies" that help explain those counting rules. The approach and layout could easily be applied in a manual for comparable services in B.C.

Training in use of the manual

With regard to training relating to the DSM, it is not intended to be an enforceable set of rules for data collection and as such, no official training has been developed or provided. The department is however working with the National Association for Community Legal Centres to provide additional support where required.

How data is stored

Data collected by LACs, CLCs and ATSILS is not stored on the same database. Each service provider utilises their own system to record the data collected. States and territories and the department receive a de-identified subset of the data recorded by LACs, CLCs and ATSILS periodically each year and in line with existing funding arrangements.

Outcome data and outcome assessment

The idea of outcomes-based reporting has been canvassed amongst the legal assistance sector over a number of years. While there has been no movement to collect quantitative data on outcomes, Commonwealth funding agreements in the legal assistance sector require that case studies be conducted and the results forwarded to the department. These

¹⁴ P. 1 of the DSM. Loc cit in footnote 12.

case studies provide some anecdotal evidence of the outcomes of the services provided, which goes some way towards outcomes-based reporting.

2.1.1 Justice program evaluation initiatives

Evaluation and research are important aspects of program administration for the whole department and are continuous activities undertaken through administration of the current *National Partnership Agreement on Legal Assistance Services* and other programs the department runs. At present, and specifically in the civil justice space, the department is undergoing a number of evaluations and reviews including for the *Family Advocacy Support Service*, the *Specialist Domestic Violence Units Pilot Program*, the *Expensive Commonwealth Criminal Cases Fund*, and reviews of both the current NPA and the *Indigenous Legal Assistance Program* (ILAP). Under the current NPA, a review is required to be undertaken 18 months prior its expiry. This review, being run concurrently with the ILAP review, will assess the effectiveness, efficiency and appropriateness of the current NPA as a mechanism for achieving its objectives and outcomes within available resources, and identify best practice and opportunities for improvement. All of the above reviews and evaluations currently underway are expected to be completed by December 2018 and are expected to help inform future policy decision-making processes and may inform future Commonwealth funding arrangements.

Further, the department is supportive of other sector-driven research and evaluation activities. The Law Council of Australia is currently undertaking a review of the state of access to justice in Australia through *'The Justice Project: A National Blueprint for Justice for All'*.

2.2 The State level

A systematic review of initiatives at the state level in Australia was not possible, but one development can be highlighted. An approach similar to that described under "phase 3" at the federal level is being undertaken in certain courts in New South Wales by the Law and Justice Foundation of New South Wales. This is part of a broader Department of Justice NSW project to optimise the use of civil court and tribunal data for evidence-based decision-making. As described on the Foundation's website¹⁵, the Foundation is analysing the quality and utility of the data by attempting to answer a series of policy questions in each jurisdiction, including:

- who is taking action against whom?
- about what matters?
- what are these matters worth?
- are matters defended/how do parties participate?
- are parties represented and by whom?
- how do matters progress to finalisation?

¹⁵ <http://www.lawfoundation.net.au/ljf/app/5141D05E8AC0EF1D85258078004EC072.html>

- how long do matters take?
- how are matters finalised?

Each of the reports generates findings about these questions, but more important in terms of data quality, develops a critique of the strengths and limitations of the data itself, and recommendations for improving the utility of the data for policy development, court management and administration. This type of approach – and the findings about data quality – is similar to that taken by Focus Consultants in a study for the Canadian Forum on Civil Justice respecting civil case outcomes in the Supreme Court of British Columbia.¹⁶

3.0 THE UNITED STATES

Unlike Australia, where justice data activity was driven primarily by the federal Attorney-General's Department, developments in the United States emerge from diverse sources, systems and organizations.

Much of the American literature concerns the setting of performance measures and the creation of evaluation frameworks, indexes and indicators. These approaches speak to service quality concerns, but also to the possibility of sharing, comparing and aggregating data, while ensuring that evaluations relate to system objectives.

In contrast to government-driven data activity in Australia, similar work in the U.S.A. emerges from diverse sources, systems and organizations.

The programs are diverse, and are summarized below.

3.1 "Roles Beyond Lawyers" initiatives

The American Bar Foundation and the National Center for State Courts published a study funded by the Public Welfare Foundation which developed a preliminary evaluation and classification framework for "roles beyond lawyers" (RBL) projects. This type of activity is similar to that undertaken in Australia (section 2.1, activity 4) in its review of literature through the lens of the classification scheme that was developed for the civil justice system. In this American example, the focus is narrower, but nonetheless highly relevant to the way services are delivered to increase access to justice. In Canada it could be utilized in the discussion around how best to serve SRLs, and how to broaden the role and scope of PLEI services.

Emerging strategies for solving this access to justice crisis include a growing number of experiments involving new roles for individuals who are now authorized to provide certain specific services traditionally supplied only by lawyers. In some of these roles, the individuals are supervised by attorneys; in others, they are not. In some, the individuals can participate in court proceedings; in others, they cannot. This project

¹⁶ Focus Consultants. *Civil Non-Family Cases Filed in the Supreme Court of BC: Research Results and Lessons Learned*. (2015) Retrieved from the Canadian Forum on Civil Justice website: <http://www.cfcj-fcjc.org/sites/default/files/Attrition%20Study%20Final%20Report.pdf>

creates a framework for evaluating the functioning and impacts of such programs with a particular focus on their potential to contribute to solving this “justice gap.”¹⁷

In establishing the framework, the authors developed three criteria on which RBLs are evaluated:

Roles Beyond Lawyers programs attempt to balance the goals of increasing access to justice and ensuring consumer protection through delivering services traditionally provided only by lawyers by means of people who are not fully legally qualified. Achieving the dual goals of access and protection requires programs to respond to the challenges of appropriateness, efficacy, and sustainability.¹⁸

Evaluation topics within these three criteria include the following:

- for appropriateness: role definition, service scope, practice location scope, regulation strategy, host, quality control.
- for effectiveness: role definition, training, practice location scope, marketing mode, role formality, host, quality control, role permanency.
- for sustainability: role payment, training, marketing mode, role formality, host, quality control, role permanency, funding strategy.¹⁹

The framework was applied by the authors in a subsequent evaluation of the New York City Court Navigators program, involving three pilots.²⁰

The U.S. appears to be considerably more advanced than Canada in developing systematic court-based indicators

3.2 Measures for Justice

Measures for Justice is an initiative that, even though it pertains to the criminal justice system, could be considered as a potential model for the development of consistent court-based indicators related to access to justice. The U.S. appears to be considerably more advanced than Canada in regard to the development of systematic court-based indicators.

The genesis of the initiative is described as follows:

Measures for Justice (MFJ) was founded in 2011 to develop a data-driven set of performance measures to assess and compare the criminal justice process from arrest

¹⁷ p.4, Sandefur, R.L., Clarke, T.M. *Increasing access to justice through expanded “roles beyond lawyers”: preliminary evaluation and classification frameworks.* (2015). Retrieved from the Self-Represented Litigation Network website: http://www.americanbarfoundation.org/uploads/cms/documents/rbl_evaluation_and_program_design_frameworks_4_12_15.pdf

¹⁸ Ibid, p.2

¹⁹ Ibid, p. 17

²⁰ Sandefur, R.L., Clarke, T.M. *Roles beyond Lawyers: Summary, Recommendations and Research Report of an Evaluation of the New York City Court Navigators Program and Its Three Pilot Projects*(2016). Retrieved from the American Bar Foundation website: http://www.americanbarfoundation.org/uploads/cms/documents/new_york_city_court_navigators_report_final_with_fin_al_links_december_2016.pdf

to post-conviction on a county-by-county basis. The data set comprises measures that address three broad categories: Fiscal Responsibility, Fair Process, and Public Safety.

MFJ developed and tested its first draft set of measures with a grant from the Department of Justice's Bureau of Justice Assistance. MFJ gathered some of the finest measurement experts in the country with diverse expertise in the judicial system to isolate useful indicators of system performance and from them develop MFJ's initial set of measures. These were first piloted in Milwaukee County, Wisconsin, and then extended to cover the entire state. Based on the success of that pilot, MFJ received funding to measure more states.²¹

Key elements of relevance to a B.C. initiative are the fact that the process had financial support to develop the initial measures, that there are overall categories which reflect fundamental principles (which would of course be different for a civil initiative in B.C.), and that a large group of what the initiative calls "contextual measures" describe the broader population in the area served by the court. Another feature is that the system has an on-line data portal which permits sharing of data.²²

3.3 Institute for the Advancement of the American Legal System (IAALS): Civil Justice Initiative

Another court-oriented A2J measurement initiative in the U.S. was aimed specifically at the civil justice system. In 2013 the Conference of Chief Justices (CCJ) created the Civil Justice Improvements Committee (CJIC). The CJIC was charged with developing guidelines and best practices for civil litigation based upon evidence derived from state pilot projects and other applicable research, and making recommendations as necessary in the area of case flow management for the purpose of improving the civil justice system in state courts.

One of the recommendations of the CJIC concerned the use of technology to aid case management, including measuring progress in reducing unnecessary cost and delay, collecting real time information about civil case management, and publishing measurement data to increase transparency and accountability.²³ The National Center for State Courts and IAALS are partnering on a three-year project to implement the CJIC Recommendations.

The Civil Justice Initiative produced a series of publications on "Performance Measures for Civil Justice." One or more measures are suggested for each of the following matters: clearance rates, time standards, time to disposition, discovery disputes, default judgment rates, continuances/extensions, trial rates, and court costs. Survey methodologies are

²¹ Measures for Justice website at <https://measuresforjustice.org/about/overview/>

²² <https://measuresforjustice.org/portal/>

²³ p. 31, National Center for State Courts. Call to Action: *Achieving Civil Justice for All. Recommendations to the Conference of Chief Justices by the Civil Justice Improvements Committee* (2016). Retrieved from National Center for State Court website: <http://www.ncsc.org/~media/Microsites/Files/Civil-Justice/NCSC-CJI-Report-Web.ashx>

suggested for costs of litigation for litigants, attorney experiences and opinions, court staff opinions and litigant experience and opinions.²⁴

3.4 National Center for Access to Justice: An Access to Justice Index and Access to Justice Indicators

Two initiatives of the National Center for Access to Justice (NCAJ) deserve mention. The first is the development of a national Access to Justice Index²⁵ created in 2014. Court officials in each state completed questionnaires in which they responded to a series of questions that assessed the existence of “best practices” in their state for increasing access to justice in each of the following categories:

- approach used with self-represented litigants;
- availability of lawyers for the poor;
- accessibility for persons with disability;
- language access.

All of the questions ask whether a binding best practice is defined by statute, rule, regulation, or other written format. For each of the responsive jurisdictions, pro bono attorneys working in teams reviewed the responses and conducted a quality assurance review that included a variety of steps such as corresponding with court officials, reviewing citations and sources, and conferring with other volunteer attorneys and NCAJ staff. A weighting system was used to derive composite and overall scores.²⁶ The index is seen as a way of encouraging implementation of best practices in each jurisdiction.

The second NCAJ initiative concerned the development of indicators. It is of interest both because of the diversity of parties involved and the breadth of the civil justice vision. The recommendations grew out of a meeting in 2016 in which 30 officials from 15 agencies in the White House Legal Aid Interagency Roundtable participated, as well as 30 A2J experts from the academic and non-profit communities. To some degree, the notion of data sharing is implicit in this joint development of indicators.

The meeting related to the 2030 Sustainable Development Agenda of the United Nations which articulated 17 “sustainable development goals” (SDGs).

As described in the consultation report,

Goal 16 of the SDGs calls on all countries to ensure access to justice. In particular, Goal 16 calls on countries to: “[p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.” One of Goal 16’s designated “targets”, intended to

²⁴ pp 3-9, Institute for the Advancement of the American Legal System. *Civil Justice Initiative: Performance Measures for Civil Justice*. (2017) Retrieved from the IAALS website: <http://iaals.du.edu/rule-one/publications/performance-measures-civil-justice>

²⁵ Described at the National Center for Access to Justice website: <https://justiceindex.org/about/#ji2016>

²⁶ The survey instrument for 2014 can be found at: <http://ncforaj.org/wp-content/uploads/2015/03/Justice-Index-Survey-Instrument-2015.pdf>. The composite index for 2016 can be found at <https://justiceindex.org/2016-findings/findings/#site-navigation>

guide implementation of the goal, is: “[p]romote the rule of law at the national and international levels and ensure equal access to justice for all.”²⁷

The report emphasizes that "... goal 16 helps to reinforce the broad understanding that access to justice is valuable in reducing poverty"²⁸. In the B.C. context there has been acknowledgement that A2J initiatives may involve cost savings in other areas of government or institutional social service areas, but the connections have not been built systematically, much less in terms of specific indicators.

The categories of civil justice indicators in the report include:

- disability
- disaster response
- education
- employment/labor
- family law and matrimonial matters
- finance and consumer protection (including credit card debt and home foreclosure)
- gender-based violence
- healthcare
- housing
- immigration
- public benefits
- tribes and tribal members
- veterans and service members

The U.S. National Center for Access to Justice has developed civil justice indicators under multiple categories. Funders or service providers in B.C. could easily draw upon these indicators to systematically document inputs, outputs and outcomes.

In all categories there are at least some indicators that relate closely to A2J programming. In the B.C. context, government, funders or service providers wishing to serve clients in any of these areas could draw upon some of these indicators to systematically document inputs, outputs and outcomes. The report also lists a series of "broader approaches to measuring access to justice and developing indicators", including such topics as using geo-spatial data to understand consumer need and impact, and technology indicators for Courts, administrative agencies and Legal Aid organizations.²⁹

3.5 World Justice Project

As with the Access to Justice Indicators discussed in the previous section, the activities of the independent but U.S.-based World Justice Project (WJP) closely relate to United Nations Sustainable Development Goals, and incorporate a broad civil justice vision.

²⁷ p. 4, Centre for Access to Justice at Fordham Law School. *Recommended Access to Justice Indicators for Implementation of Goal 16 of the UN 2030 Sustainable Development Agenda in the United States*. (2016). Retrieved from the National Centre for Access to Justice at Fordham Law School website: <http://ncforaj.org/wp-content/uploads/2016/12/NCAJ-CHRI-9-15-16-Recommended-AtJ-National-Indicators-12-1-16-final.pdf>

²⁸ *ibid*, at page 6

²⁹ *ibid*, pp. 88-119.

WJP developed a survey module administered in 45 countries designed to:

... capture data on how ordinary people deal with their legal problems, highlighting the most common legal conflicts, respondents' assessment of both formal and informal resolution processes, and the experiences of people who did not seek legal assistance or who were unable to resolve their problem. In addition, the dispute resolution module also gathers information on citizens' legal confidence and capability, as well as the impact of legal problems on their life.³⁰

The survey canvasses 38 "everyday legal problems" that respondents may have experienced in the previous two years, and then follows up on each problem with 36 questions exploring the actions taken by the respondent, results, costs and impacts experienced as a result of the legal problem. There are 26 questions covering demographic and living situations.

Such pathways-to-justice surveys contribute significantly to our understanding of A2J service needs. Although, as will be described below, surveys of this type have been administered in B.C., the WJP survey module should be consulted as a potential resource for future surveys.

3.6 Measuring Online Legal Resources: A Framework Inspired by the Drake Equation

This is the title of a short but important article that addresses the difficult question of measuring the impact of online resources by building out from standard metrics such as page views, documents assembled and satisfaction scores to determine the number of serious users of a resource and what degree of action the resource might have enabled. The basic framework is as follows:

An American methodology being developed to measure the impact of online resources could be useful in B.C. in the PLEI context

- *Targeted (T): People that the resource would ideally serve in the geographic area and legal topic covered.*
- *Accessible (A): The percentage of T that are able to use the existing resources — for instance based on literacy, language or technology.*
- *Found (F): The percent that find the resources — for instance, by being aware of the site, via a Google search or through a referral from a community partner.*
- *Used (U): The percent that interact with the resources in some more substantive way—for instance, by navigating to the end, printing information or assembling a form.*

³⁰ World Justice Project. *Global insights on access to justice: Findings from the World Justice Project general population poll in 45 countries*. (2018). Retrieved from the World Justice Project website: https://worldjusticeproject.org/sites/default/files/documents/WJP_Access-Justice_April_2018_Online.pdf. The survey questions can be accessed through a link at p. 63 of this report.

- *Enabled Action (EA): The percentage of people for whom the resource enabled some meaningful next step in the real world—for instance, filing a form, creating a referral or a decision by the constituent that it's not worth their time to act.*
- *Achieved Outcome (O): The percent that reach an outcome – which could be defined in many ways. (We've identified seven different types of outcomes).*³¹

For each point in the equation, the article describes several sub-variables that could be used to create the numbers required at each point in the equation, and describes the assumptions involved. The authors describe this equation and the supporting documentation as a methodology that is still being developed and tested. Nevertheless, within the B.C. context it could be a useful approach for measurement of the impact of online PLEI resources that goes beyond Google analytics.

4.0 NETHERLANDS

The Hague Institute for Innovation of Law (HiiL) in the Netherlands is a world leader in measuring access to justice. HiiL began operations in 2005 with financial support from the Dutch Government and The Netherlands Organisation for Scientific Research.

4.1 Hague Institute for Innovation of Law

As part of a three-year Measuring Access to Justice Project, HiiL has produced a series of papers on "measuring the costs and quality of paths to justice".³² This led to publication of their *Handbook for Measuring the Costs and Quality of Access to Justice* in 2009.³³ The methodology is based on following a given procedure or path to justice of users while focusing on three questions:

- What are the average costs for people who follow this procedure?
- How do they rate the quality of the procedure?
- How do they rate the outcome of the procedure?

Analytically, the methodology is valuable for exploring all three questions, and could be used to analyze a project in which users may have travelled different paths, or be used to compare different paths. The handbook includes three versions of their measurement instrument:

- Instant scan – a short questionnaire which is easy to administer and process

³¹ p. 7, Quinn, L., Raby, J., *Measuring Online Legal Resources: A Framework Inspired by the Drake Equation*. (2018). Retrieved from the Florida Legal Technology Center website: <https://floridajusticetechnologycenter.org/wp-content/uploads/2018/02/Drake-Equation-for-Online-Legal-v7.pdf>

³² First published in 2006 as Barendrecht, J.M., Mulder, J. & Giesen, L. *How to Measure the Price and Quality of Access to Justice?* (2006). Retrieved from the Hague Institute for the Innovation of Law website: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=949209

³³ Gramatikov, M. et al. *A Handbook for Measuring the Costs and Quality of Access to Justice*. (2010). Retrieved from the Law For Life website: <http://lawforlife.org.uk/wp-content/uploads/2013/05/handbook-for-measuring-the-costs-and-quality-of-access-to-justice-271.pdf>

- Quick scan – a complete evaluation of a path to justice by measuring all parameters of the procedure and computing an index of the assessment
- Thorough Scan – includes a comprehensive questionnaire and at least two data collection methods to guarantee reliability of the results and findings.³⁴

All three questionnaires provide detailed indicators in the form of sub-questions for each of the three question areas (costs, quality, and outcome).

Over time, HiiL has tested the validity and reliability of the methodology in numerous studies. For example, the authors compared two very different paths to justice in relation to different administrative systems in two countries (a municipal-level administrative review procedure in The Netherlands and a judicial review procedure in the Supreme Administrative Court of Bulgaria.) This allowed them to refine and develop the methodology and qualify its strengths.³⁵

Much of the groundwork laid leading up to the publication of the Handbook has since been used in the form of Justice Needs Surveys (JNS) which have been conducted in Yemen, Mali, Indonesia, the Netherlands, Ukraine, Uganda, United Arab Emirates and Tunisia. They focus on the same three areas of (cost, quality and outcome) through 110 questions in what HiiL calls a "bottom-up approach" to determining justice access needs through user surveys.

*HiiL in the Netherlands
has produced tools that
could be adapted for use
in measuring access in
any jurisdiction*

HiiL has also constructed an Access to Justice Index, which aggregates the data related to cost, quality and outcomes.³⁶ Although the overall index is not shown, Appendix 4 in this report lists the main sub-categories for these three dimensions. The authors illustrate the use of the index in a case study of consumer disputes in the Netherlands. The HiiL index and the questionnaires in the Handbook could be made into useful tools for measuring in any jurisdiction.

5.0 THE UNITED KINGDOM

Three strengths of A2J measurement approaches in the U.K. are 1) its court-based statistic reporting, 2) ground-breaking work on justiciable problems and paths to justice, 3) legal capability, and 4) recent work on assisted digital support (ADG).

5.1. Civil Justice Statistics Quarterly

³⁴ Ibid, p.17

³⁵ Gramatikov, M.A., Barendrecht, M. & Laxminarayan, M., *Assessment of the Validity and Reliability of a Methodology for Measuring the Cost and Quality of Access to Justice*. (2010). Tilburg University Legal Studies Working Paper No 003/2010. Retrieved from the Hague Institute for the Innovation of Law website: <http://ssrn.com/abstract=1559782>

³⁶ Gramatikov, M.A., Laxminarayan, M., *Weighting Justice: Constructing an Index of Access to Justice* (2009). Tilburg University Legal Studies Working Paper No. 18/2008. Available at SSRN: <https://ssrn.com/abstract=1344418> or <http://dx.doi.org/10.2139/ssrn.1344418>

It is widely acknowledged that court activity is just the tip of the iceberg in terms of how everyday legal problems are processed. Nonetheless, comprehensive civil court statistics are necessary to understand what happens when disputes are taken to court. Section 3.2 of this report outlined developments in the U.S. around recommendations for more comprehensive civil court metrics. In the U.K., the Ministry of Justice publishes a Civil Justice Statistics Quarterly which provides statistics on such metrics as money and non-money claim volumes; specified versus unspecified money claim; which court track money claims were allocated to; number and percentage of claims with legal representation, and for which parties; trials and time taken to reach trial; judgments and default judgments; enforcements and warrants; judicial reviews; and appeal court statistics, including days sat by Judge.³⁷ The Ministry also publishes a useful guide to interpret the metrics, describing, for example, the main court processes for specified money claims and the different case-management tracks for civil county court actions.³⁸

5.2 Justiciable Problems and Paths to Justice

As noted in the discussion of the Netherlands in section 4.0, the concept of "paths to justice" is intrinsic to much of the work that HiiL has done around the globe. This tradition has been developed in the U.K. since the 1990's, and builds on the concept of "justiciable problems". This concept refers to problems that raise civil legal issues, whether or not this is recognized by those facing them and whether or not any action taken to deal with them involves the legal system.³⁹

In the U.K. the English and Welsh Civil and Social Justice Panel Survey (CSJPS), provides a large-scale representative overview of the public's experience of civil justice issues and successes in seeking justice when addressing them. It is a longitudinal study, with wave 1 interviews in 2010 and wave 2 interviews 18 months later:

Respondents to the first two waves of the CSJPS were asked about the experience of problems in each of 15 distinct civil justice problem categories: consumer; employment; neighbours; owned housing; rented housing; money; debt; welfare benefits; divorce; problems ancillary to relationship breakdown; domestic violence; education; care proceedings; personal injury, and clinical negligence.

The survey constitutes a key method by which government is able to inform itself about the overall need for, provision and quality of individual -oriented legal services. It is central to the empirical base upon which access to justice, and broader civil justice policy, develops.

³⁷ United Kingdom. Ministry of Justice. *Civil Justice Statistics Quarterly, England and Wales, January to March 2018 (provisional)*. Retrieved from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714286/civil-justice-statistics-quarterly-jan-mar-2018.pdf

³⁸ United Kingdom. Ministry of Justice. *Guide to Civil Justice Statistics Quarterly*. (2017). Retrieved from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/595648/civil-justice-statistics-guide.pdf

³⁹ p. iii, Pleasence, P., Balmer, N. J., Sandefur, R. L. *Paths to Justice: A Past, Present and Future Roadmap* (2013). Retrieved from Nuffield Foundation website: <http://www.nuffieldfoundation.org/sites/default/files/files/PTJ%20Roadmap%20NUFFIELD%20Published.pdf>

Key topics of the reports are the incidence of civil justice problems, their impact, people's understanding of them, their problem resolution strategies, the outcomes, attitudes to the justice system and the experience of those eligible for legal aid.

In a major review of these types of surveys, Pleasence et al - who were co-authors of the reports in the longitudinal panels - note that since the mid-1990s, at least 26 large-scale national surveys of the public's experience of justiciable problems have been conducted in at least 15 separate (national) jurisdictions, reflecting widespread legal aid reform activity. Twenty-four of these surveys fall within the Paths to Justice tradition.

The authors claim that despite being part of a single tradition,

... there are marked differences in the methods employed by recent surveys, concerning sample frames, sampling methods, response rates, modes of administration, data structure, units of analysis, reference periods, filtering, the justiciable problems included, framing and question formulation. Each of these differences can be expected to impact on survey findings.⁴⁰

The authors make numerous recommendations to increase design comparability if similar surveys are undertaken in other jurisdictions.

5.3 Legal Capability

Another result of the CSJPS as a measurement strategy is its ability to inform about legal capability needs and PLEI strategy. In a separate study of data resulting from the UK Civil and Social Justice Panel Survey mentioned in section 5.2, Wintersteiger noted:

The unevenly distributed profiles of legal capability in the population correlate with other aspects of personal capability, and compound underlying disadvantage. The research confirms that the way in which people come to understand the law and legal processes is framed by pre-existing beliefs and attitudes and by their social and familial settings. Confidence or lack of it impacts on their ability to act effectively and navigate day-to-day legal encounters.

Perhaps most pressingly, the findings confirm the need to recognise the lack of reach of traditional legal services into the lives of people who experience common and sometimes complex legal issues, their reticence to seek legal advice and the concomitant need to reshape justice policies to be more responsive and proactive in providing multidimensional forms of assistance in a timely and targeted way.⁴¹

⁴⁰ ibid

⁴¹ Wintersteiger, L. *Legal Needs, Legal Capability and the Role of Public Legal Education*. (2015). Law for Life: The Foundation for Public Legal Education. Retrieved from LawforLife website: <http://www.lawforlife.org.uk/wp-content/uploads/Legal-needs-Legal-capability-and-the-role-of-Public-Legal-Education.pdf>

A useful conceptual framework for evaluating domains of legal capability was created by Law for Life in the UK in 2011.⁴² Appendix 5 outlines the 4 domains and contains a scenario in which it might be applied. Other scenarios are contained in the overall framework, and show that it can usefully be applied in diverse contexts or paths that individuals might encounter as they grapple with an everyday legal problem.

5.4 Assisted Digital Support

A recent UK study highlights the need for evaluation of needs and policy in the area of "Assisted Digital Support" (ADS). ADS refers to support necessary to enable citizens to access digital services. The need for ADS is of course closely related to the increased orientation towards online resolution of problems, e.g. in B.C. with the Civil Resolution Tribunal.

A recent UK study highlights the need for evaluation of needs when citizens access digital services and online dispute resolution programs – such as the BC Civil Resolution Tribunal.

In the U.K. this orientation was increased as a result of a 2016 paper released by the Lord Chancellor, Lord Chief Justice and Senior President of Tribunals outlining the development of a series of new online courts and court services. The Civil Justice Council (an advisory public body established by legislation to oversee and coordinate modernisation of the civil justice system) commissioned a report to examine ADS needs as a result of the increased digitization of Courts and Tribunals.⁴³

A number of methodologies were used in the study:

- Analysis of data from the Legal Problem and Resolution Survey in England and Wales (a continuation of the Paths to Justice study tradition described in section 5.3), specifically related to internet use and access;
- Assessments of service using Government Digital Service Standards to explore their adequacy in meeting ADS needs;
- A literature review of academic and policy material bearing on this topic.

ADS is usually provided in the form of telephone assistance for a user to be able to use the technology appropriately, but at times involves face-to-face assistance. The report contains many findings, a key one being that the level of legal capability required to make use of digital Ministry of Justice services is routinely underestimated in digital service assessments. Digital capability is different from legal capability. "ADS must be understood within the context of the task that is being completed; failure to do so risks the development of an online system that is accessible in principle but not in practice."

⁴² Collard, S, Deeming, C, Wintersteiger, L, Jones, M, Seargeant, J. *Public Legal Education Evaluation Framework*. (2011). Retrieved from: www.bristol.ac.uk/media-library/sites/geography/migrated/documents/pfrc1201.pdf.

⁴³ Denvir, C. *Assisted Digital Support for Civil Justice System Users: Demand, Design and Implementation*. (2018). Retrieved from the U.K. Courts and Tribunals Judiciary website: <https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>

The author suggests the following service evaluation metrics that could be applied to whether ADS is adequate. The first group are usage metrics:

- Call waiting times
- Expected users versus actual users
- Number of aborted calls
- Number of calls unanswered
- Repeat Contacts

The second groups consist of outcome-based data:

- Whether all user queries are resolved within the scope of the call –this will be of particular importance if the duration of telephone advice is capped
- The number of users indicating willingness to use similar services independently in the future
- The number who express willingness to navigate the whole system online (when end to end digital courts are introduced in full) and the number who go on to do so
- Integration of the ADS journey across linked services, ensuing a seamless user experience
- The extent to which the advisor is able to keep the user in an online state of mind (as evidenced by the user’s willingness to persist with digital completion)
- Measuring the change – asking what the user’s next steps are
- Assessing what clients might have done were the service not provided
- Follow-up studies that measure digital confidence amongst service users
- Logging broad categories of issues that service users are facing so as to feed into iterative design of the online service itself
- Where ADS is provided under a ‘business as usual model’ it is crucial that Court staff are included in evaluation so as to ensure the sustainability of the service.

6.0 CANADA

This section examines measurement initiatives in Canada in four areas: 1) outcome metrics and benchmarks, 2) legal capability and the impacts of PLEI, 3) cost-related approaches, 4) indexes, and 5) evaluation of an online resource. The inspiration for the development of A2J metrics in the past four or five years has been the National Action Committee on Access to Justice in Civil and Family Matters.⁴⁴

6.1 Canadian Bar Association (CBA)

The CBA has been a significant player in contributing to the discussion of access to justice metrics. In 2013 the Association published a discussion paper on the development of A2J

⁴⁴ National Action Committee on Access to Justice in Civil & Family Matters. *Access to Civil and Family Matters: Roadmap for Change*. (2013). Retrieved from Canadian Forum on Civil Justice website: http://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf

metrics.⁴⁵ A major part of the report explored international metrics initiatives. The report stressed the need to go beyond output measures and develop meaningful outcome measures. The final part of the paper laid a conceptual framework for access to justice metrics based on cross-Canada consultations to incorporate voices of marginalized community members in access to justice metrics. This can be seen as another "bottom-up" approach to the creation of justice metrics. There were two main questions asked of their respondents:

- What happens when access to justice is denied?
- What happens when access to justice is afforded?

A summary of the key responses to these questions, and what they suggest in terms of metrics, is presented in Appendix 6.

In the same year the CBA produced their Reaching Equal Justice Report, most of which was devoted to the overall vision for access to justice in Canada. One section focussed on metrics. The report urged that the federal government take the lead but work with all justice system stakeholders, with the goal of publishing a first report on Canadian access to justice metrics by 2020 and a comprehensive report by 2030.⁴⁶ A summary of some of the key insights the CBA reported from their consultations in regard to how to structure such an initiative includes the following:

The CBA report stresses the need to go beyond output measures and develop meaningful outcome measures.

- *Community voices should be integrated into framing of access to justice metrics.*
- *Inclusivity should be a measure of access to justice.*
- *It is critical to "not to just go where the light is brightest", for example, by focusing on court data. Court data does not tell the whole access to justice story.*
- *The variety of metrics required includes needs measurements, efficiency metrics, outcome measurements, and inclusivity measures. Efforts must include a measure of low-income persons who do not proceed through the justice system.*
- *Client satisfaction measures are insufficient, as measurements need to incorporate broader background and context.*
- *If we are going to measure access to justice, the tools must be good – poor measurement is worse than no measurement at all.*
- *Data collection can be time-consuming and we should avoid adding too much burden on individuals and small organizations that provide services.*
- *Data collection should be forward-looking.*

⁴⁵ Canadian Bar Association. *Access to Justice Metrics – A Discussion Paper: Envisioning Equal Justice*. (2013). Retrieved from the CBA website: http://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/Access_to_Justice_Metrics.pdf

⁴⁶ p. 145, Canadian Bar Association. *Reaching equal justice: an invitation to envision and act: Report of the CBA Access to Justice Committee*. (2013). Retrieved from the CBA website: https://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf

- *A phased approach is most practical, given concerns over the resources required and to overcome other barriers to moving forward.*
- *The development of access to justice data and metrics is clearly a government responsibility, but the approach, framework and data collection methods have to be developed collaboratively with the commitment of key stakeholders, including the public. There is some tension between government and the judiciary about data collection that needs to be resolved.*
- *The framework should be developed on a national basis, with room for provincial and territorial adjustments as needed.*
- *Privacy issues have to be taken into account; data sharing agreements must include agreements to conceal private data. The idea of “justice identifiers” like health insurance numbers that help to ensure privacy while satisfying the need for robust information base is under discussion.*
- *The development of protocols to commit to moving to common data collection over time, as systems are upgraded, is key.⁴⁷*

Of note here is the emphasis on a national approach, which suggests that any initiatives in B.C. should constantly remain connected to such an approach if it does in fact materialize. In the last four points there is a clear vision related to the theme of data sharing, i.e. that metrics need to be developed collaboratively, with national and provincial cooperation, in the nature of data sharing agreements, and the reference to common data collection over time.

In 2016 a joint working group of the CBA Access to Justice Committee and the Association of Legal Aid Plans of Canada proposed national Benchmarks for Public Legal Assistance services. They are summarized in Appendix 7 of this report.

The development of access to justice data and metrics is clearly a government responsibility, but the approach, framework and data collection methods have to be developed collaboratively with the commitment of key stakeholders.

6.2 PLEI and Legal capability measures

Two reviews concerning measurement of PLEI initiatives identified below are 1) a 2011 report by Focus Consultants about how to build a case for PLEI⁴⁸ and 2) a 2014 study by the Public Legal Education Association of Canada (PLEAC) exploring the impact of public legal education.⁴⁹ A third study in 2016 by Community Legal Education Ontario (CLEO)

⁴⁷ Ibid, p. 146. Note that these points are reproduced verbatim, but with some deletions. The points have also been reorganized to lead into the comment immediately following the text.

⁴⁸ Focus Consultants. *Building a Case for Public Legal Education and Information: Lessons Learned Report*. (2011). Ottawa: Department of Justice Canada.

⁴⁹ Public Legal Education Association of Canada. *The impacts of Public Legal Education in Canada: Research Report*. (2014). For Research and Statistics Division, Department of Justice Canada.

consisted of an online scan of research related to legal capability, but did not specifically identify measurement issues.⁵⁰

The Focus Consultants report involved a review of evaluations of PLEI programs and interviews with PLEI program personnel, which generated templates of short term, medium term and long term outcome measures both for users and institutions. These are shown in Appendix 8 of this report. Another line of inquiry in the report explored challenges in measuring outcomes as identified by PLEI groups. The primary challenges identified were: 1) the long term nature of some PLEI outcomes, 2) the complexity of identifying the PLEI component when it is part of a multi-layered approach involving the delivery of other services, and 3) special challenges in relation to conducting outcomes-based PLEI research with youth (attitude change was sometimes difficult to define and required measurement over time) and immigrants (possible difficulties involving issues of language and trust).⁵¹

The PLEAC report relied heavily on the 2011 report by Focus Consultants in terms of outcome measurement, but broke new ground in exploring with respondents in PLEI services the notion of sharing data, the national adoption of measures and/or developing common measures. Their response was mixed: on the one hand there was considerable interest in sharing more information about their evaluation strategies, frameworks, methods, practical tools, and resources to advance the practice of impact evaluation. However, many reservations were expressed about creating national PLEI measures for fear of "homogenizing" PLEI, marginalizing key PLE objectives, and inhibiting innovation. Other concerns were that PLEI providers would need to be fully engaged in the process for it to be meaningful; national measures would need to be grounded in context when assessing impact (i.e. services operated in very different contexts, thus demanding different emphases in the nature and content of PLEI); and the lack of funds and resources even to undertake evaluation and measurement initiatives.

6.3 Canadian Forum on Civil Justice: Justiciable Problems and Cost Studies

An important development in the understanding of access to justice in Canada was the notion of "justiciable problems" and the related concept of "paths to justice", which as noted in section 5.2, both were first articulated in the U.K. A national study of this nature was first undertaken in Canada in 2004 by Ab Currie, at that time with the Department of Justice Canada⁵² followed by another in 2006.⁵³

⁵⁰ Community Legal Education Ontario. *Building an understanding of legal capability: An online scan of legal capability research*. (2016). Retrieved from PLE Learning Exchange website: <http://www.plelearningexchange.ca/wp-content/uploads/2016/09/online-scan-legal-capability.September-2016.final.pdf>

⁵¹ Focus Consultants, *loc cit.*, pp 10-12

⁵² Currie, A, *National Survey of the Civil Justice Problems of Low and Moderate Income Canadians: Incidence and Patterns* (Ottawa: Department of Justice Canada, 2007), Retrieved at: <http://www.cfcj-fcjc.org/sites/default/files/docs/2006/currie-en.pdf>

⁵³ Currie, A, *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians* (Ottawa: Department of Justice (2009). Retrieved from Department of Justice website: http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07_la1-rr07_a11/

Another significant development was incorporation of work on cost of justice approaches, drawing on the pioneering work of HiiL in Netherlands, as described in section 4.1. Both the ‘justiciable problems’ and ‘cost of justice’ approaches strands were brought together under the aegis of the Canadian Forum on Civil Justice (CFCJ) in a national legal-problems survey addressing both everyday problems and the costs to Canadians. “Costs” include time and opportunity costs, costs to their physical and mental health, and costs to their livelihood. The CFCJ has written a series of reports based on this survey work, in which they segment the cost of everyday legal problems into costs “related to physical and mental health”⁵⁴, “related to social assistance”⁵⁵ and “related to employment and loss of housing.”⁵⁶

An important development in the understanding of access to justice in Canada was the notion of “justiciable problems” and the related concept of “paths to justice”

From a standpoint of measurement, these three reports highlight the need for research that can generate sufficient data on particular problem types to be able to capture the differential impacts – and potentially the need for PLEI, legal services and social resources – in each problem area.

6.4 Index approaches

Three Canadian access to justice initiatives have involved the development of indexes to assess performance of institutions involved in some aspect of justice delivery.

The Access to Justice Index for Federal Administrative Bodies (the “Index”) began in 2014 as a pilot project to develop a tool, as a way to measure access to justice in the context of administrative law, specifically for federal administrative bodies. The Department of Justice initiated the project to develop and pilot a quantitative measurement of access to justice in the context of Canadian administrative law. It was in part modelled on the index developed by the National Center for Access to Justice in the U.S., as described in section 3.4 of this report.

The basic framework was described as follows:

⁵⁴ Moore, L., Currie, A., Aylwin, N., Farrow, T.C.W., Di Libero, P. (*The Cost of Experiencing Everyday Legal Problems Related to Physical and Mental Health*. (2017). Canadian Forum On Civil Justice. Retrieved from the CFCJ website: <http://www.cfcj-fcjc.org/sites/default/files//docs/The%20Cost%20of%20Experiencing%20Everyday%20Legal%20Problems%20Related%20to%20Physical%20and%20Mental%20Health.pdf>

⁵⁵ Moore, L., Currie, A., Aylwin, N., Farrow, T.C.W., Gilbert-Walters, Q., Di Libero, P. (2017). *The Cost of Experiencing Everyday Legal Problems Related to Social Assistance*. Retrieved from the CFJC website: <http://www.cfcj-fcjc.org/sites/default/files//docs/The%20Cost%20of%20Experiencing%20Everyday%20Legal%20Problems%20Related%20to%20Social%20Assistance.pdf>

⁵⁶ Moore, L., Currie, A., Aylwin, N., Farrow, T.C.W. (2017, December). *The Cost of Experiencing Everyday Legal Problems Related to Loss of Employment and Loss of Housing*. (2017) Retrieved from the CFJC website: <http://www.cfcj-fcjc.org/sites/default/files//docs/The%20Cost%20of%20Experiencing%20Everyday%20Legal%20Problems%20Related%20to%20Loss%20of%20Employment%20and%20Loss%20of%20Housing.pdf>

The Index comprised four categories based on a review of the access to justice literature:

- 1) Access to the administrative body (including the sub-categories of physical access and access through technology);*
- 2) Processes (including procedural justice, representation, interpersonal and informational aspects);*
- 3) Costs (including service charges and intangible costs); and*
- 4) Outcomes (including distributive, functional and transparency elements).*

Researchers developed questions from the users' perspective. The questions required a yes/no answer. Each positive response carried a weight of 10, 5 or 1 based on the importance of the issue to the overall category from the perspective of the user/client/party. Negative responses received a score of zero. The participating administrative bodies responded to the questionnaire and were also able to provide comments. A score for each category was calculated by dividing the total weighted score earned by the total weighted score possible and multiplying by 100. The composite, or overall, score for each administrative body was calculated as an average of the four category index scores.⁵⁷

The instrument is contained in the report. The pilot of the Index showed positive results, but the instrument will likely be refined and developed further, as was its American predecessor.

A second index initiative was also funded by the Department of Justice, and the unpublished report describing the initiative was submitted earlier this year.⁵⁸ It involved the creation of an "Access to Justice well-being index". Its format is closely modelled on the Administrative Bodies index, and uses similar overall categories, but with different questions. There are 52 weighted questions with binary yes/no answers designed to be used as a self-assessment tool by programs and services, including non-profit organizations that are funded by the Department and that are included in its seven program initiatives. Its purpose is to provide a consistent standard by which programs that are funded through the Department can measure the degree to which they have facilitated access to justice and increased the well-being of program users, and to identify a set of baseline indicators so that progress in meeting these outcomes can be compared and measured over time. This approach to measuring access to justice can also provide feedback to program funders and staff on best practices.

A third index initiative was a "Sense of Justice (SAJ Index)" has been empirically tested in settlement conferences (SCs) conducted by Quebec trial court judges under a facilitative integrative problem-solving approach. The model was in part inspired by the cost and

⁵⁷ pp. 6-7, McDonald, Susan. *Development of an Access to Justice Index for Federal Administrative Bodies*. (2017). Research and Statistics Division. Department of Justice Canada. Retrieved from Dept of Justice website: http://publications.gc.ca/collections/collection_2018/jus/J4-61-2017-eng.pdf

⁵⁸ Tim Roberts and Associates Consulting. *Access to Justice Well-being Index: Final report and Index*. (2018). For Department of Justice Canada, Evaluation Division. (not as yet published).

quality approaches used by HiiL in the Netherlands, discussed in section 4.1, and paths to justice approaches in the U.K. (see section 5.2). There are three pillars to the index approach: 1) the user's feelings of fairness with respect to the outcome and SC process; 2) the user's feelings of usefulness with respect to the cost-effectiveness of the SC; and 3) the user's sense that professional support was available from the judge mediator during the SC.⁵⁹ The index was empirically tested in 2013 and 2014. A committee of judges and lawyers pre-tested the index questionnaire for reliability and validity. The index questionnaire was subsequently tested over the course of a year with 740 participants in all settlement conferences between April 2013 and April 2014, involving 380 citizens and 360 lawyers.

This initiative was conducted in relation to Quebec Civil Procedure Reforms in 2003, but the results were also considered an aid in interpreting what a "fair-minded" process is according to the preliminary provisions of the Quebec 2014 Code of Civil Procedure. The author concludes:

The SAJ index methodology provides a benchmark to measure progress regarding access-to-justice from the litigant's perspective in the context of settlement conferences. It could be adapted in order to be replicated for a different path of justice such as court-connected mediation or trials.⁶⁰

Canadian experience to date suggests that indexes could be a useful part of the measurement toolbox to gauge access to justice for a variety of processes.

These three examples suggest that indexes could be a useful part of the measurement toolbox to gauge access to justice for a variety of processes. They require careful elaboration and testing, and revision over time.

6.5. Longitudinal study of on-line users

Effective measurement of on-line users experience with access to justice can be challenging. This is a brief summary of the methodological approach for a longitudinal study in 2013 of on-line users of *JP Boyd on Family Law*, a wikibook with over 120 web pages of substantive legal information built on the MediaWiki platform, an open-source application. The wikibook is on Clicklaw, a public legal education site operated by Courthouse Libraries BC (CLBC).

The evaluation model was described as follows:

The first phase of this project evaluated the outputs and the outcomes of the wikibook by collecting and analyzing usage data from Google Analytics and user feedback provided through a pop-up survey accessed through the website and a follow-up

⁵⁹ p. 342, Roberge, J-F. "Sense of Access to Justice" as a Framework for Civil Procedure Justice Reform: an Empirical Assessment of Judicial Settlement Conferences in Quebec (Canada). (2015) Retrieved from: <https://cardozoicr.com/wp-content/uploads/2015/12/Roberge.pdf>

⁶⁰ *ibid*, p. 359

survey administered one week later in order to gauge the efficacy of the wikibook as a collaborative public legal education model.

The second phase of the evaluation examined the longitudinal effect of legal information obtained from the wikibook through a follow-up electronic survey conducted with the original sample group six months after completion of their first phase surveys. Data from Google Analytics were also updated during the second phase for a one-year period from 1 February 2015 through 31 January 2016.⁶¹

Key methodological elements included:

- Longitudinal component: initial pop-up survey, one week follow-up survey; six month follow-up survey;
- incentives for completion of the pop-up survey and follow-up survey (\$100 prepaid VISA gift-card offered in monthly draws; five additional entries for second draw if they completed the follow-up survey);
- easy connection to on-line surveys (via FluidSurveys);
- drafting and review of survey content by project team and CLBC staff to maximize comparability with other CLBC surveys

These incentives and staging of longitudinal elements proved effective: 546 individuals completed the pop-up survey, 148 completed the one-week follow-up, and 53 completed the six-month follow-up. To meet the challenge of respondent fall-off, having a substantial initial response base is important: of the initial 546 individuals, 351 (64%) agreed to be contacted for the second survey, and of these, 142 completed the survey (40%). Of 117 respondents who agreed to do the 6-month follow-up, 45% actually completed it.⁶²

7.0 CONCLUSIONS

Numerous themes have emerged in the course of this review. Where applicable, section numbers that address that conclusion are shown in parentheses.

- In almost all cases, institutional leadership and financial resources have been a critical element in driving sustained development of measurement initiatives, be it a national or state government (2.1, 2.2,6.4), an institute, non-profit association, bar association, or court body (3.1 - 3.5,4.1,5.1,5.4,6.1,6.2, 6.3).

*In almost all cases,
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⁶¹ p. ix, Bertrand, L.D., Paetsch, B.A. *An Evaluation of the Clicklaw WikiBook JP Boyd on Family Law: Final Report*. (2016). Canadian Research Institute for Law and the Family. Retrieved from CRILF website:

<http://www.crilf.ca/Documents/JP%20Boyd%20Wikibook%20Evaluation%20-%20Final%20-%20Apr%202016.pdf>

⁶² *Ibid*, pp, 4-5.

- Both "top-down" and "bottom-up" initiatives are essential. "Top-down" initiatives usually refer to high level establishment of guiding principles for access to justice, whereas "bottom-up" refers to building an evidence base by assessing the capabilities of existing data collections.
Australia has been shown to incorporate the best of both approaches. Examples have been given of how bottom-up activities such as examining existing databases or determining the best focus of evaluation activity leads to consistency of data collection in part because that activity has been preceded by the establishment of clear principles or high level objectives. At the same time, it is the bottom-up activities that are critical in producing the end products, and to be effective they require ongoing assistance and input from cross-organizational working groups (2.1 and 2.2).
- There are many challenges to reaching agreement on measurement goals and indicators either 1) across major systems or 2) in fields such as PLEI, for example, where there are many smaller players. The main challenges are 1) the need for a lead organization(s) or a working group that comprises different professional interests to guide the measurement "mission" over an extended period of time, 2) lack of technological resources and/or investments in existing technologies can become an impediment to implementing shared or common metrics, so there frequently is a need for resource support for IT services, hardware and training , 3) the lack of engagement directly with private service providers such as private , arbitrators, mediators (although bar associations have played significant roles in Canada and the United States), 4) fears that services will become "homogenized" and that unique service delivery needs, local context or innovative services will not be recognized (2.1,6.2).
- Because they are a single "system", the courts have the potential to develop access to justice measures that are meaningful for their end of the justice continuum. However, the record has been mixed, both in regard to the attention paid to the development of measures that reflect A2J issues, and to the consistency of recording. Through a variety of approaches, the U.S. appears to be making the greatest progress in A2J court measures among the jurisdictions reviewed (3.2, 3.3, 3.4, but see also 5.1 for the U.K.) Another unified "system" that has been successful in developing meaningful common metrics is that of legal assistance providers in Australia. The National Legal Assistance Data Standards Manual enables both consistent reporting, but also allows for differing different delivery methods and contexts (2.1)
- Traditionally the view of access to justice was through the lens of the service provider rather than the user of services, and focused on the traditional legal system of lawyers, legal aid and courts. Since the late 1990's, two developments that have radically shifted the discourse on access to justice have been the emergence of research related to "everyday legal problems" or "justiciable problems", and the related notion of path to justice. (4.1, 5.2,5.3, 6.3) The methodology of measuring

There are many challenges to reaching agreement on measurement goals and indicators

the costs and quality of individuals' path to justice first developed in the Netherlands and strongly applied in Canada, builds on these approaches. (4.1,6.3,6.5) All three strands have informed the emergence of legal capability measures, which in turn are highly relevant for the measurement of PLEI(5.3), which lies at the core of a much enlarged vision of access to justice.

- Empirical research through evaluation has added power to inform access to justice strategy when it relates closely to principles that are determined at a common or high level (2.1 and appendix 3, 3.1).
- The development of indexes is a relatively new methodological approach which has shown considerable flexibility. Indexes have been used to inform public and professional opinion (3.4), guide departmental managers or provide information to assess court processes (6.4).
- The emergence of online approaches for PLEI and guided pathways for administrative tribunal and court processes has given rise to new measurement questions and approaches, both in terms of assessing the reach of online PLEI (3.6, 6.5)) and in understanding the relation – but difference – between digital capability and legal capability (5.4).

The emergence of online approaches for PLEI and guided pathways for administrative tribunal and court processes has given rise to new measurement questions and approaches

Bibliography

AUSTRALIAN SOURCES

Australian Government Attorney-General's Department. (2009). *A strategic framework for access to justice in the federal civil justice system. Report by the Access to Justice Taskforce*. Retrieved from the Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Documents/A%20Strategic%20Framework%20for%20Access%20to%20Justice%20in%20the%20Federal%20Civil%20Justice%20System.pdf>

Australian Government Attorney-General's Department. (2011). *Symposium Paper: Building an evidence base for the civil justice system*. Retrieved from the Australian Government Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>

Australian Government Attorney-General's Department. (2012) *Self-Represented Litigants Report – Gathering Useful Information*, Monash University. Retrieved from the Australian Government Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Documents/2012%20Report%20Self-Represented%20Litigants%20Report%20-%20Gathering%20Useful%20Information%20Monash%20University.PDF>

Australian Government Attorney-General's Department. (2012). *Application for reduction of court fees in the Federal Court and Federal Magistrates Court: Initial data analysis study*. Retrieved from the Australian Government Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Documents/Report%20Application%20for%20Reduction%20of%20Court%20Fees%20in%20the%20Federal%20Court%20and%20Federal%20Magistrates%20Court.doc>

Australian Government Attorney-General's Department. (2015). *National Legal Assistance Data Standards Manual*. (2015). Retrieved from the Australian Government Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Pages/National-Legal-Assistance-Data-Standards.aspx>

Commonwealth of Australia. National Alternative Dispute Resolution Advisory Council. (2009). *The resolve to resolve – embracing ADR to improve access to justice in the federal jurisdiction: a report to the Attorney-General*. Retrieved from the Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/AlternateDisputeResolution/Documents/NADRAC%20Publications/the-resolve-to-resolve-embracing-adr-improve-access-to-justice-september2009.pdf>

Curran, L. *A Literature Review: examining the literature on how to measure the 'successful outcomes': quality, effectiveness and efficiency of Legal Assistance Services*. (2012). Retrieved from the Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Documents/Literature%20review%20of%20legal%20assistance%20by%20Dr%20Liz%20Curran.pdf>

Law and Justice Foundation of New South Wales. (2016) *Data Insights in civil justice: NSW Civil and Administrative Tribunal, Overview NCAT Part 1*. Retrieved from the Law and Justice Foundation of New South Wales website:

[http://www.lawfoundation.net.au/ljf/site/templates/reports/\\$file/NCAT_Overview_2016.pdf](http://www.lawfoundation.net.au/ljf/site/templates/reports/$file/NCAT_Overview_2016.pdf)

Law and Justice Foundation of New South Wales. (2016) *Data Insights in civil justice: NSW Local Court*. Retrieved from the Law and Justice Foundation of New South Wales website:

[http://www.lawfoundation.net.au/ljf/site/templates/reports/\\$file/Local_Court_Report_2016.pdf](http://www.lawfoundation.net.au/ljf/site/templates/reports/$file/Local_Court_Report_2016.pdf)

Law and Justice Foundation of New South Wales. (2017) *Data Insights in civil justice: NSW District Court*. Retrieved from the Law and Justice Foundation of New South Wales website:

[http://www.lawfoundation.net.au/ljf/site/templates/reports/\\$file/District_Court_Report_2017.pdf](http://www.lawfoundation.net.au/ljf/site/templates/reports/$file/District_Court_Report_2017.pdf)

Shearer, E. *An Evidence base for the federal civil justice system*. (2010) Retrieved from the Australian Government Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>

Sheen, R., Gregory, P., *Civil justice system framework and literature review report*. (2012).

Retrieved from the Australian Government Attorney-General's Department website:

<https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>

U.S. SOURCES

American Bar Association. Commission on the future of legal services. *Report on the future of legal services in the United States*. (2016). Retrieved from the American Bar Association website:

https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf

Centre for Access to Justice at Fordham Law School. *Recommended Access to Justice Indicators for Implementation of Goal 16 of the UN 2030 Sustainable Development Agenda in the United States*. (2016). Retrieved from the National Centre for Access to Justice at Fordham Law School website: <http://ncforaj.org/wp-content/uploads/2016/12/NCAJ-CHRI-9-15-16-Recommended-AtJ-National-Indicators-12-1-16-final.pdf>

Institute for the Advancement of the American Legal System. *Civil Justice Initiative: Performance Measures for Civil Justice*. (2017) Retrieved from the IAALS website:

<http://iaals.du.edu/rule-one/publications/performance-measures-civil-justice>

Legal Services Corporation. *Justice Gap Report: Measuring the Civil Legal Needs of Low-income Americans*. (2017). Retrieved from the Legal Services Corporation website: <https://www.lsc.gov/media-center/publications/2017-justice-gap-report>

Quinn, L., Raby, J. *Measuring Online Legal Resources: A Framework Inspired by the Drake Equation*. (2018). Retrieved from the Florida Legal Technology Center website: <https://floridajusticetechnologycenter.org/wp-content/uploads/2018/02/Drake-Equation-for-Online-Legal-v7.pdf>

Measures for Justice. *Measures for Justice Methodology* (Version 1.8.)(2017). Rochester, NY: Measures for Justice Research Department. Retrieved from the Measures for Justice website: <https://measuresforjustice.org/docs/methodology/methodology.pdf>

Measures for Justice. *The Measures for Justice* (Version 1.8). (2017). Rochester, NY: Measures for Justice. Retrieved from the Measures for Justice website: <https://measuresforjustice.org/about/measures/measures.html>

National Center for State Courts. *Call to Action: Achieving Civil Justice for All. Recommendations to the Conference of Chief Justices by the Civil Justice Improvements Committee*. (2016). Retrieved from National Center for State Court website: <http://www.ncsc.org/~media/Microsites/Files/Civil-Justice/NCSC-CJI-Report-Web.ashx>

Sandefur, R.L., Clarke, T.M. *Increasing access to justice through expanded "roles beyond lawyers": preliminary evaluation and classification frameworks*. (2015). Retrieved from the Self-Represented Litigation Network website: http://www.americanbarfoundation.org/uploads/cms/documents/rbl_evaluation_and_program_design_frameworks_4_12_15.pdf

Sandefur, R.L., Clarke, T.M. *Roles beyond Lawyers: Summary, Recommendations and Research Report of an Evaluation of the New York City Court Navigators Program and Its Three Pilot Projects*(2016). Retrieved from the American Bar Foundation website: http://www.americanbarfoundation.org/uploads/cms/documents/new_york_city_court_navigators_report_final_with_final_links_december_2016.pdf

World Justice Project. *Rule of Law Index, 2017-18*. (2018)Washington, D.C. Retrieved from the World Justice Project website: <https://worldjusticeproject.org/our-work/publications/rule-law-index-reports/wjp-rule-law-index-2017-2018-report>

World Justice Project. *Global insights on access to justice: Findings from the World Justice Project general population poll in 45 countries*. (2018). Retrieved from the World Justice Project website: https://worldjusticeproject.org/sites/default/files/documents/WJP_Access-Justice_April_2018_Online.pdf

NETHERLAND SOURCES (HAGUE INSTITUTE FOR THE INNOVATION OF LAW (HiIL) AND TILBURG UNIVERSITY

Barendrecht, J.M. et al, *Final Report: Measuring Access to Justice in a Globalising World. The Hague Model of Access to Justice*. (2011). Retrieved from the Hague Institute for the Innovation of Law website:
http://www.hiil.org/data/sitemanagement/media/HiiL_final_report_Measuring_260410_DE.pdf

Barendrecht, J.M., Mulder, J. & Giesen, I., *How to Measure the Price and Quality of Access to Justice?* (2006). Retrieved from the Hague Institute for the Innovation of Law website:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=949209

Gramatikov, M.A., Laxminarayan, M., *Weighting Justice: Constructing an Index of Access to Justice* (2009). Tilburg University Legal Studies Working Paper No. 18/2008. Available at SSRN: <https://ssrn.com/abstract=1344418> or <http://dx.doi.org/10.2139/ssrn.1344418>

Gramatikov, M.A., Barendrecht, M. & Laxminarayan, M., *Assessment of the Validity and Reliability of a Methodology for Measuring the Cost and Quality of Access to Justice*. (2010). Tilburg University Legal Studies Working Paper No 003/2010. Retrieved from the Hague Institute for the Innovation of Law website: <http://ssrn.com/abstract=1559782>

Gramatikov, M.A., Barendrecht, J.M., & Verdonchot, J.H., *Measuring the costs and quality of paths to justice: Contours of a methodology*, Hague journal on the rule of law, 2011/vol.3(2), pp. 349-379. Retrieved from the Hague Institute for the Innovation of Law website:
<http://journals.cambridge.org/action/displayIssue?decade=2010&jid=ROL&volumeId=3&issueId=02&iid=8394462>. Also available at: SSRN: <https://ssrn.com/abstract=1269328> or <http://dx.doi.org/10.2139/ssrn.1269328>

Gramatikov, M. et al. *A Handbook for Measuring the Costs and Quality of Access to Justice*. (2010). Retrieved from the Law For Life website: <http://lawforlife.org.uk/wp-content/uploads/2013/05/handbook-for-measuring-the-costs-and-quality-of-access-to-justice-271.pdf>

Verdonchot, J. H., Barendrecht, M., Klaming, L., Kamminga, P., *Measuring Access to Justice: The Quality of Outcomes*. (2008). Tilburg University Legal Studies Working Paper No. 014/2008; TISCO Working Paper No. 007/2008. Available at SSRN: <https://ssrn.com/abstract=1298917> or <http://dx.doi.org/10.2139/ssrn.1298917>

UK SOURCES

Balmer, N. *English and Welsh Civil and Social Justice Panel Survey: Wave 2*. (2011) Retrieved from:
http://doc.ukdataservice.ac.uk/doc/7643/mrdoc/pdf/7643_csjps_wave_two_summary_findings.pdf

Collard, S, Deeming, C, Wintersteiger, L, Jones, M, Seargeant, J. *Public Legal Education Evaluation Framework*. (2011). Retrieved from:
www.bristol.ac.uk/media-library/sites/geography/migrated/documents/pfrc1201.pdf

Denvir, C. *Assisted Digital Support for Civil Justice System Users: Demand, Design and Implementation*. (2018). Retrieved from the U.K. Courts and Tribunals Judiciary website: <https://www.judiciary.uk/wp-content/uploads/2018/06/cjc-report-on-assisted-digital-support.pdf>

Plesence, P., Balmer , N. , Patel, A., Cleary, A., Huskinson, T., Cotton, T. *English and Welsh Civil and Social Justice Panel Survey: Wave 1. Findings and Technical Report of the 2010 English and Welsh Civil and Social Justice Panel Survey*. (2011). Retrieved from: http://doc.ukdataservice.ac.uk/doc/7643/mrdoc/pdf/7643_csjps_wave_one_report.pdf

Plesence, P., Balmer , N. J. , Sandefur , R. L. *Paths to Justice: A Past, Present and Future Roadmap* (2013). Retrieved from Nuffield Foundation website: <http://www.nuffieldfoundation.org/sites/default/files/files/PTJ%20Roadmap%20NUFFIELD%20Published.pdf>

United Kingdom. Ministry of Justice. *Guide to Civil Justice Statistics Quarterly*. (2017). Retrieved from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/595648/civil-justice-statistics-guide.pdf

United Kingdom. *Ministry of Justice. Civil Justice Statistics Quarterly, England and Wales, January to March 2018 (provisional)*. Retrieved from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714286/civil-justice-statistics-quarterly-jan-mar-2018.pdf

Wintersteiger , L. *Legal Needs, Legal Capability and the Role of Public Legal Education*. (2015). Law for Life: The Foundation for Public Legal Education. Retrieved from LawforLife website: <http://www.lawforlife.org.uk/wp-content/uploads/Legal-needs-Legal-capability-and-the-role-of-Public-Legal-Education.pdf>

CANADIAN SOURCES

Bertrand, L.D., Paetsch, B.A. *An Evaluation of the Clicklaw WikiBook JP Boyd on Family Law: Final Report*. (2016). Canadian Research Institute for Law and the Family. Retrieved from CRILF website: <http://www.crilf.ca/Documents/JP%20Boyd%20Wikibook%20Evaluation%20-%20Final%20-%20Apr%202016.pdf>

British Columbia Justice and Public Safety Council. *Performance Measurement Update for the Justice and Public Safety Sector*. (2015). Retrieved from the BC Justice and Public Safety Council website at: <https://www.justicebc.ca/app/uploads/sites/11/2016/03/pm-nov-2015.pdf>

Buckley, M. *A National Framework for Meeting Legal Needs: Proposed National Benchmarks for Public Legal Assistance Services*. (2016). Retrieved from the CBA website: https://www.cba.org/CBAMediaLibrary/cba_na/PDFs/LLR/A-National-Framework-for-Meeting-Legal-Needs_Proposed-National-Benchmarks.pdf

Canadian Bar Association. *Access to Justice Metrics – A Discussion Paper: Envisioning Equal Justice*. (2013). Retrieved from the CBA website: http://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/Access_to_Justice_Metrics.pdf

Canadian Bar Association. *Reaching equal justice: an invitation to envision and act: Report of the CBA Access to Justice Committee*. (2013). Retrieved from the CBA website: https://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf

Community Legal Education Ontario. *Building an understanding of legal capability: An online scan of legal capability research*. (2016). Retrieved from PLE Learning Exchange website: <http://www.plelearningexchange.ca/wp-content/uploads/2016/09/online-scan-legal-capability.September-2016.final.pdf>

Currie, A. *National Survey of the Civil Justice Problems of Low and Moderate Income Canadians: Incidence and Patterns* (Ottawa: Department of Justice Canada, 2007), Retrieved at: <http://www.cfcj-fcjc.org/sites/default/files/docs/2006/currie-en.pdf>

Currie, A. *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians* (Ottawa: Department of Justice (2009). Retrieved from Department of Justice website: http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07_la1-rr07_aj1/

Farrow, T.C.W., Currie, A., Aylwin, N., Jacobs, L., Northrup, D., Moore, L. *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report*. (2016). Canadian Forum On Civil Justice. Retrieved from the CFCJ website: <http://www.cfcj-fcjc.org/sites/default/files/Everyday%20Legal%20Problems%20and%20the%20Cost%20of%20Justice%20in%20Canada%20-%20Overview%20Report.pdf>

Focus Consultants. *Building a Case for Public Legal Education and Information: Lessons Learned Report*. (2011). Ottawa: Department of Justice Canada.

Focus Consultants. *Civil Non-Family Cases Filed in the Supreme Court of BC: Research Results and Lessons Learned*. (2015) Retrieved from the Canadian Forum on Civil Justice website: <http://www.cfcj-fcjc.org/sites/default/files/Attrition%20Study%20Final%20Report.pdf>

McDonald, Susan. *Development of an Access to Justice Index for Federal Administrative Bodies*. (2017). Research and Statistics Division. Department of Justice Canada. Retrieved

from Dept of Justice website: http://publications.gc.ca/collections/collection_2018/jus/J4-61-2017-eng.pdf

McHale, J. *"The Justice Metrics Problem": Background Paper* (2017). Action Committee on Access to Justice in Civil and Family Matters, Vancouver, B.C. Retrieved from: <https://static1.squarespace.com/static/5532e526e4b097f30807e54d/t/590a60968419c273fe4dd99c/14938523>

Moore, L., Currie, A., Aylwin, N., Farrow, T.C.W., Di Libero, P. (*The Cost of Experiencing Everyday Legal Problems Related to Physical and Mental Health*. (2017). Canadian Forum On Civil Justice. Retrieved from the CFCJ website: <http://www.cfcj-fcjc.org/sites/default/files//docs/The%20Cost%20of%20Experiencing%20Everyday%20Legal%20Problems%20Related%20to%20Physical%20and%20Mental%20Health.pdf>

Moore, L., Currie, A., Aylwin, N., Farrow, T.C.W., Gilbert-Walters, Q., Di Libero, P. (2017). *The Cost of Experiencing Everyday Legal Problems Related to Social Assistance*. Retrieved from the CFJC website: <http://www.cfcj-fcjc.org/sites/default/files//docs/The%20Cost%20of%20Experiencing%20Everyday%20Legal%20Problems%20Related%20to%20Social%20Assistance.pdf>

Moore, L., Currie, A., Aylwin, N., Farrow, T.C.W. (2017, December). *The Cost of Experiencing Everyday Legal Problems Related to Loss of Employment and Loss of Housing*. (2017) Retrieved from the CFJC website: <http://www.cfcj-fcjc.org/sites/default/files//docs/The%20Cost%20of%20Experiencing%20Everyday%20Legal%20Problems%20Related%20to%20Loss%20of%20Employment%20and%20Loss%20of%20Housing.pdf>

National Action Committee on Access to Justice in Civil & Family Matters. *Access to Civil and Family Matters: Roadmap for Change*. (2013). Retrieved from Canadian Forum on Civil Justice website: http://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf

National Action Committee on Access to Justice in Civil & Family Matters. Prevention, Triage and Referral Working Group. *Final Report: Responding Early, Responding Well: Access to Justice through the Early Resolution Service*. (2013). Retrieved from Canadian Forum on Civil Justice website: <http://www.cfcj-fcjc.org/sites/default/files/docs/2013/Report%20of%20the%20Prevention%20and%20Triage%20and%20Referral%20WG%20.pdf>

Public Legal Education Association of Canada. *The impacts of Public Legal Education in Canada: Research Report*. (2014). For Research and Statistics Division, Department of Justice Canada.

Roberge, J-F. *"Sense of Access to Justice" as a Framework for Civil Procedure Justice Reform: an Empirical Assessment of Judicial Settlement Conferences in Quebec (Canada)*. (2015) Retrieved from:

<https://cardozojcr.com/wp-content/uploads/2015/12/Roberge.pdf>

Tim Roberts and Associates Consulting. *Access to Justice Well-being Index: Final report and Index*. (2018). For Department of Justice Canada, Evaluation Division. (not as yet published).

Appendix 1: Summary of Five Access to Justice Principles (Australia)

Strategic Framework for Access to Justice principles ⁶³	
Accessibility	Justice initiatives should reduce the net complexity of the justice system.
Appropriateness	<p>The justice system should be structured to create incentives to encourage people to resolve their disputes at the most appropriate level.</p> <p>Legal issues may be symptomatic of broader non-legal issues. The justice system should have the capacity to direct attention to the real causes of problems that may manifest as legal issues.</p>
Equity	<p>The justice system should be fair and accessible for all, including those facing financial and other disadvantage.</p> <p>Access to the system should not be dependent on the capacity to afford private legal representation.</p>
Efficiency	<p>The justice system should deliver fair outcomes in the most efficient way possible. Greatest efficiency can often be achieved without resort to a formal dispute resolution process, including through preventing disputes. In most cases this will involve early assistance and support to prevent disputes from escalating.</p> <p>The costs of formal dispute resolution and legal assistance mechanisms – to Government and to the user – should be proportionate to the issues in dispute.</p>
Effectiveness	<p>The interaction of the various elements of the justice system should be designed to deliver the best outcomes for users. Justice initiatives should be considered from a system-wide perspective rather than on an institutional basis.</p> <p>All elements of the justice system should be directed towards the prevention and resolution of disputes, delivering fair and appropriate outcomes and maintaining and supporting the rule of law.</p>

⁶³ Although drawn from the *Strategic framework for access to justice in the federal civil justice system*. 2009 report, this table was produced at page 3 in Sheen, R., Gregory, P., *Civil justice system framework and literature review report*. (2012). Retrieved from the Australian Government Attorney-General's Department website: <https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>

Appendix 2: Building an Evidence Base for the Civil Justice System (Australia)

Draft Objectives – 30 May 2012⁶⁴

Overarching Objective: *The Australian civil justice system contributes to the well-being of the Australian community by fostering social stability and economic growth and contributing to the maintenance of the rule of law.*

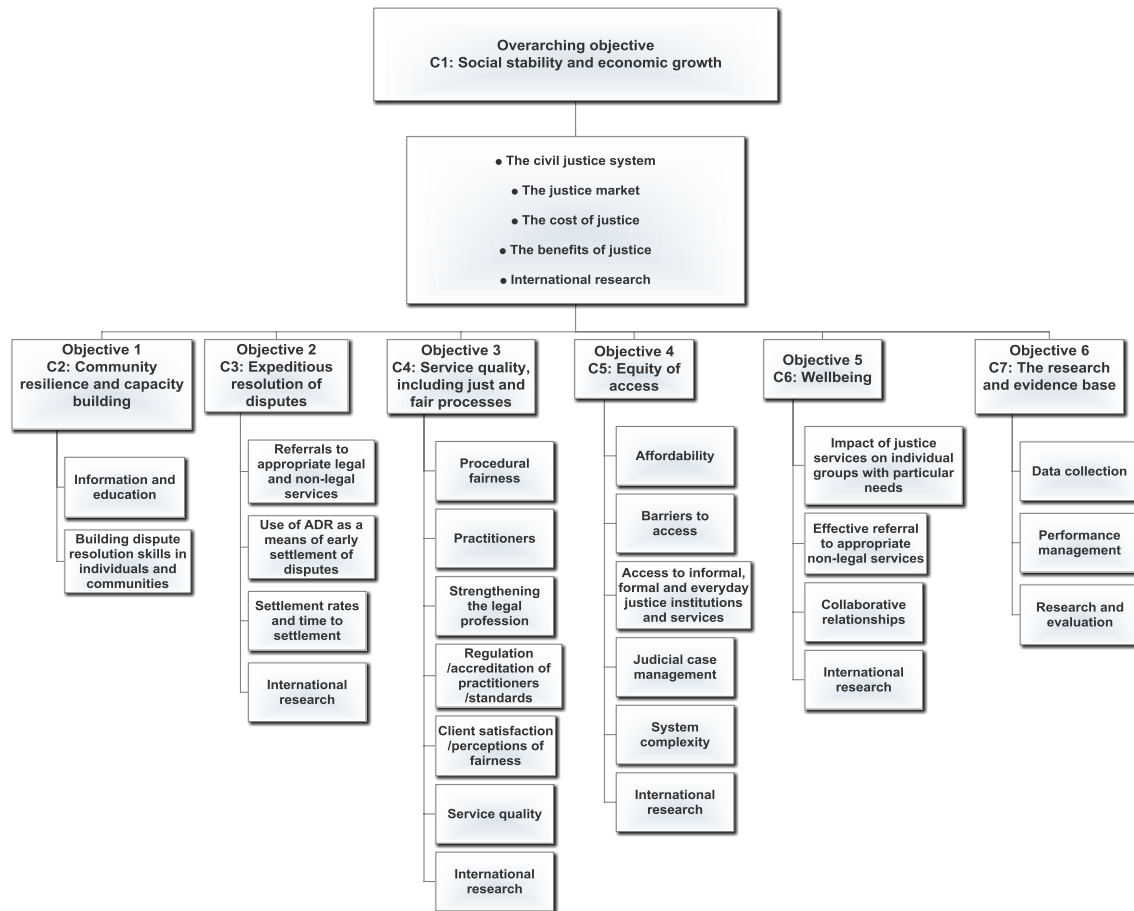
1. People can solve their problems before they become disputes
2. People can resolve disputes expeditiously and at the earliest opportunity
3. People are treated fairly and have access to legal processes that are just
4. People have equitable access to the civil justice system irrespective of their personal, social or economic circumstances or background
5. People benefit from a civil justice system that values the well-being of those who use it
6. People can be confident that the civil justice system is built on and continuously informed by a solid evidence base

The word 'People' includes any legal entity which may use services provided by the civil justice system including corporations, incorporated associations etc.

⁶⁴ This document was developed by a working group of civil justice system stakeholders and data experts in Australia who are developing a framework to guide the collection of consistent data to create an evidence base for civil justice system. See discussion in the current report on pp 7-8.
Retrieved from <https://www.ag.gov.au/LegalSystem/Pages/Anevidencebasefortheciviljusticesystem.aspx>

Appendix 3: Research Classification framework and objectives (Australia)

This framework⁶⁵ presents the classifications of research objectives with sub-topics that was developed for the Australian Government Attorney-General's Department



⁶⁵ p.4, Sheen, R., Gregory, P., *loc cit.*

Appendix 4: Building an Index: Indicators of the Costs and Quality of Paths to Justice (Netherlands, Tilburg University)

Costs of the Procedure⁶⁶		
<i>Indicator</i>	<i>Description</i>	<i>Examples</i>
Out-of-pocket expenses	The monetary amount spent on transactions during and as a result of the proceedings	Lawyer fees, expert fees, filing fees, transportation fees, bailiff and witness fees, notary fees, costs for communication
Time	Time spent dealing with the procedure	Searching for a legal advisor, collecting information, contacting professionals, travelling, awaiting/attending hearings, waiting in queues
Other lost opportunities	The cost of lost opportunities due to the proceedings and their possible lengthiness	Lost income, devaluated resources, losing a job opportunity
Intangible costs	On their paths to justice, people tend to expend emotions, suffer stress, become depressed or experience deterioration in their relationships with significant others become depressed or experience deterioration in their relationships with significant others	Stress, negative emotions such as frustration, fear, disappointment or anger, loss of relationships
Quality of the procedure		
<i>Indicator</i>	<i>Description</i>	<i>Sub-indicators</i>
Procedural Justice	Fairness perceptions of users regarding the processes that are utilized to resolve disputes and allocate resources	Process control, decision control, consistency, bias suppression, accuracy, ability to correct, ethicality
Restorative Justice	Concerned with the harm that has been caused by the legal problem and attempts to offer reparation to the user of justice	Opportunity to ask the other party for an explanation and recognition

⁶⁶ This table is from pp.10-12, Gramatikov, M.A., Laxminarayan, M., *Weighting Justice: Constructing an Index of Access to Justice* (2009). Tilburg University Legal Studies Working Paper No. 18/2008. Available at SSRN: <https://ssrn.com/abstract=1344418> or <http://dx.doi.org/10.2139/ssrn.1344418>

Interpersonal Justice	The extent to which people are treated with politeness, respect, and propriety	Politeness, respect, propriety, respect for rights
Informational Justice	The validity of information provided by decision makers as the foundation of the decision making process	Honesty, explanation of rights and options, as well as whether the explanation was timely, understandable, and in need of clarification
Quality of the Outcome		
<i>Indicator</i>	<i>Description</i>	<i>Sub-Indicators</i>
Distributive Justice	The allocation of resources among individuals with competing needs or claims	Equity, equality, need
Corrective (compensatory) Justice	When one person is wrongfully injured by another, the injurer must make the harmed party whole	Compensation
Restorative Justice	Looks to the future and the best means to achieve reparation of harm, including elements of apology, shame and repair of relationships	Opportunity given to the offender to show remorse and to accept responsibility, the degree of reparation of emotional and monetary harms, closure, alleviation of fear
Retributive Justice	An infliction of proportionate loss and pain to the injurer is necessary to achieve justice	Just deserts
Utilitarianism	Social harmony can be attained via the prevention of future	Deterrence and incapacitation
Informational Justice	The validity of information provided by decision makers as the foundation of the decision making process	Outcome justification
Transformative Justice	The future is a main concern, in addition to transformations with the self, self-in-relationships, and self-in-society	Considering parties' interests and re-building relationships
Legal pragmatism	Concerned with facts and consequences	Pragmatic outcome, consequences taken into account

Formal Justice	Similar cases are defined by the situation, not the person – i.e., treat similar cases alike	Similar outcomes and ability to compare outcomes with related others
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Appendix 5: Legal Capability: (Law for Life, UK)

The Four Key Domains for Evaluation and Scenario⁶⁷

Recognising and framing the legal dimensions of issues and situations	Is aware of the concept of rights and obligations and can recognise where the law applies to a situation.	Is able to frame a situation in terms of the law and distinguish between civil and criminal legal issues.	Is aware of the basic legal principles that underpin the legal system and can apply them to issues	Has the communication skills and confidence to explain a law-related issue and ask and answer questions about it.			
Finding out more about the legal dimensions of issues and situations	Able to find out what rights and obligations apply in a particular situation	Able to find out about basic legal processes and procedures that apply to particular situations	Able to find out about the steps involved in dealing with a law-related issue	Able to assess the different sources of information about a law-related issue	Able to assess risks and opportunities, and decide when they can deal with a law-related issue themselves and when they might need expert advice	Able to find out about different sources of advice and to choose one which will meet their needs	

⁶⁷ p. 12, Collard. S, Deeming. C, Wintersteiger. L, Jones. M, Sargeant. J. *Public Legal Education Evaluation Framework*. (2011). Retrieved from: www.bristol.ac.uk/media-library/sites/geography/migrated/documents/pfrc1201.pdf. The scenario on the next page is from p.10 of this document.

Dealing with law-related issues	Able to apply relevant information or advice that has been obtained.	Able to decide what a satisfactory outcome to a law-related issue looks like for them.	Able to anticipate and plan ahead, to identify opportunities and obstacles.	Able to identify and assess different courses of action for dealing with a law-related issue (which may include doing nothing) , then plan and follow through an appropriate course of action	Has communication and interpersonal skills to manage relationships and deal with the other parties involved.	Has personal skills and attributes such as confidence, self-esteem, motivation, calmness to persevere throughout the process	Able to keep a good record of events, information and correspondence, and keep track of evidence.
Engaging and influencing	Aware of the impact of the law and legal institutions on their lives and on the lives of others	Is aware of relevant processes, structures and institutions that can be used to influence and participate in decision-making in order to achieve change.	Is able to critically assess situations in order to weigh up opportunities	Has communication and interpersonal skills necessary to engage and influence	Has personal skills and attributes such as confidence, self-belief and strength to effect change either individually or collectively.		
<p>Scenario: Amina is nineteen years old and in her first job. She wants to leave home and rent a flat which she will share with two girlfriends. The three of them are about to start looking for a flat to rent</p> <p>What legal capabilities might be relevant in this situation?</p>							

<p>Recognising and framing the legal dimensions of issues and situations, for example:</p> <p>Recognising that different housing options exist e.g. private rentals, social housing, lettings through estate agents and private landlords</p> <p>Recognising that tenants and landlords have rights and obligations that are set out in a legally binding contract</p> <p>Recognising the financial aspects of renting a home e.g. deposits and rent, bill payment, council tax, maintenance charges</p> <p>Recognising the issues related to sharing a flat e.g. what happens if one friend cannot afford to pay the rent? Do they need a licence for every TV they have? How do they work out the level of contents insurance they need?</p>	<p>Finding out more about the legal dimensions of issues and situations, for example:</p> <p>Being able to find out and understand the rights and obligations that exist between tenants and landlords, and how these vary between landlords</p> <p>Being able to find out who to ask for reliable and accurate information about the issues related to sharing a flat</p> <p>Being able to find out who to ask for help with tenancy agreements</p>
<p>Dealing with law-related issues, for example:</p> <p>Being able to explain housing options to her two friends, based on information and advice she has received</p> <p>Being able to weigh up and agree the best option with her friends</p> <p>Being able to plan and follow through a course of action to secure a tenancy e.g. securing deposit, getting guarantors or references, negotiating particular terms of the contract</p>	<p>Engaging and influencing, for example:</p> <p>Sharing information and experiences with friends, relatives or colleagues in a similar situation</p> <p>Writing to a local MP to highlight poor practice by a landlord or letting agent</p>

Appendix 6: CBA Report – Building indicators from community voices (Canada)

The following indicators are based on consultations by the CBA with marginalized groups across Canada (see introduction in section 6.1 of this report.) Under each of the two main headings are four responses frequently given by respondents. The CBA paper then summarized how those responses informed a definition of Access to Justice. A fuller discussion of the responses is presented in the CBA report.⁶⁸

A. What Happens When Access to Justice is Denied?

Responses:

1. Legal rights are “just on paper”

How does this inform a practical definition of access to justice?

- Justice transcends barriers.
- Justice is freely and equally available regardless of socio-economic status, ability, education or race.
- Justice applies equally to everyone, regardless of their status.
- Justice requires that information about rights and how they can be enforced is readily available.
- Justice means that complaint and appeal avenues must be accessible and safe.

2. Justice Systems “Cannot Be Trusted”

How does this inform a practical definition of access to justice?

- Justice systems earn the trust of the marginalized communities who access them.
- Just processes are effective, efficient and timely.
- Just systems have reasonable and fair expectations.
- Justice ensures that parties are heard.
- Justice processes and outcomes are reflective of the social and personal realities of the parties.
- Just outcomes are meaningful: they effectively redress the wrong or protect from wrong.

3. Justice is Person-Dependent

How does this inform a practical definition of access to justice?

- Just systems ensure consistency in the quality of its justice professionals.
- They are consistently effective, fair, respectful and sensitive.
- They act with integrity and do not engage in reprisal.
- The quality of their service does not depend on how much money they make.
- They take the time to listen, to inform, and to do a good job.

4. Justice Systems are Difficult to Navigate

How does this inform a practical definition of access to justice?

⁶⁸ pp. 23-31, Canadian Bar Association. *Access to Justice Metrics – A Discussion Paper: Envisioning Equal Justice*. (2013). Retrieved from the CBA website: http://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/Access_to_Justice_Metrics.pdf

- Justice recognizes that information empowers.
- Justice systems are clear about their processes.
- The processes themselves are streamlined and straightforward.
- Participation is not dependent on one's financial resources.
- Supports are in place so everyone can participate.
- Safety and privacy concerns are addressed in meaningful ways.
- The emotional health of the participants is considered and supported.

B. What Happens When Access To Justice Is Afforded?

Responses:

1. Legal Rights and Justice

How does this inform a practical definition of access to justice?

- Justice is inviolable.
- It ensures fairness and equality for all, and moreover, respect for all its participants.
- Respect from justice means being heard and providing an effective, meaningful outcome.

2. Information as a Prerequisite to Justice

How does this inform a practical definition of access to justice?

- Information about law and its processes empowers.
- It enables community members to know what their rights are and how to enforce them.
- Being informed ensures equal participation in the justice system.
- Power is shared equitably between justice professionals and the parties accessing justice systems.

3. Justice is about Respect

How does this inform a practical definition of access to justice?

- Justice systems respect its participants.
- Respect is demonstrated by treating participants kindly, seeing them as equals and ensuring they are informed.

4. Justice is a Holistic Concept with Systemic Solutions

How does this inform a practical definition of access to justice?

- Justice is more than what is happening inside the justice system.
- Justice is about what is happening at home, at schools, at workplaces and on the street.
- A just society is a foundation for an effective, fair justice system.

Appendix 7: Proposed National Benchmarks for Public Legal Assistance Services (Canada)

Benchmarks⁶⁹

1. A National Public Legal Assistance System

Canadian public legal assistance systems are sustainably-funded and provide comprehensive, people-centered legal services tailored to local, regional and provincial and territorial circumstances to meet essential legal needs and contribute to the health and well-being of disadvantaged and low-income Canadians.

2. Scope of Services

Public legal assistance services are provided to individuals, families and communities with essential legal needs who are otherwise unable to afford assistance. Essential legal needs are legal problems or situations that put into jeopardy a person or a person's family's liberty, personal safety and security, health, equality, employment, housing or ability to meet the basic necessities of life.

3. Service Priorities

Public legal assistance services are provided on a priority basis to individuals, families and communities who are financially disadvantaged or otherwise vulnerable to experiencing unmet essential legal needs.

4. Spectrum of Services

Public legal assistance service providers use discrete and systemic legal strategies and work in collaboration with non-legal service providers to offer a broad range of services, from outreach to after care, targeted and tailored to people's legal needs, circumstances and capabilities.

5. Quality of Services

Public legal assistance services in all provinces and territories are fully accessible, timely, high quality, culturally appropriate and cost-effective. Such services will lead to evaluated meaningful participation and fair and equitable outcomes, and contribute to the empowerment and resilience of individuals, families and communities.

6. A Supported, Collaborative, Integrated Service Sector

Public legal assistance service providers participate in collaborative service planning across this sector and are mandated and supported to innovate and to fulfill their integral role of ensuring access to justice and an effective justice system, working in partnership with all stakeholders.

⁶⁹ These six national benchmarks were prepared by a joint working group of the CBA Access to Justice Committee and the Association of Legal Aid Plans of Canada. See section 6.1. of this report

Appendix 8: Outcomes for PLEI Users and Institutions (Canada)

Outcomes for Users and Institutions⁷⁰

USERS					
Short term outcomes		Intermediate term outcomes			Long term outcomes
Increased Knowledge and Awareness	Prevention of Legal Problems or More Serious Problems	Increased Satisfaction with the Justice System	Increased Sense of Security and Confidence	More Realistic and Effective Use of the Justice System	Resolution of Legal Problems
<p>PLEI users develop increased awareness or knowledge about:</p> <ol style="list-style-type: none"> 1. Citizenship, the rule of law in society (rights and responsibilities), and the law as a reflection of Canadian values 2. How legal systems and processes work in Canada 3. Whether there is a legal component to an issue, concern or problem 4. The substantive 	<p>As a result of early or timely access to PLEI, users are able to:</p> <ol style="list-style-type: none"> 1. Prevent the development of more serious and longer term legal problems 2. Undertake broader collective actions to achieve broader social goals 3. Anticipate the need for formal agreements or contracts in certain 	<p>PLEI users feel:</p> <ol style="list-style-type: none"> 1. More satisfied with the justice system and process 2. Greater respect for the law/; less alienation from the justice system; more trust in the justice system 	<p>PLEI users experience:</p> <ol style="list-style-type: none"> 1. Less trauma during involvement in the justice system 2. More confidence or empowerment about participating in the justice system and taking appropriate steps 	<p>PLEI users:</p> <ol style="list-style-type: none"> 1. Have more realistic expectations of the justice system 2. Are able to participate or use legal systems appropriately and effectively (e.g. know where to go, or seek appropriate advice) 3. Initiate or respond directly to legal procedures 4. Work with or assist others in achieving 	<p>PLEI users, where applicable, are able to:</p> <ol style="list-style-type: none"> 1. Achieve resolution of their legal problems or issues 2. Minimize the effects of legal problems on their lives and the lives of family members 3. Save money, gain compensation, avoid/minimize loss of money, property and/or intangible costs 4. Maintain positive

⁷⁰ pp 35-36. Focus Consultants. *Building a Case for Public Legal Education and Information: Lessons Learned Report*. (2011). Ottawa: Department of Justice Canada.

USERS					
Short term outcomes		Intermediate term outcomes			Long term outcomes
Increased Knowledge and Awareness	Prevention of Legal Problems or More Serious Problems	Increased Satisfaction with the Justice System	Increased Sense of Security and Confidence	More Realistic and Effective Use of the Justice System	Resolution of Legal Problems
<p>law and/or legal procedure related to an issue, concern or perceived problem</p> <p>5. Options: when and where to obtain assistance with a legal problem (e.g. when to self advocate, use an advocacy organization, attempt alternative dispute resolution, seek a lawyer)</p> <p>6. Types of non-court alternatives to resolve legal problems</p> <p>7. Possible collective responses to legal issues/problems</p>	<p>situations so as to minimize future legal problems</p> <p>4. Save money</p> <p>5. Avoid or minimize deterioration of social relationships</p> <p>6. Avoid or minimize emotional stress and other intangible costs</p>			<p>the collective results resolution of problems</p>	<p>relationships with other parties</p> <p>5. Avoid or minimize emotional stress and other intangible costs</p>

USERS					
Short term outcomes		Intermediate term outcomes			Long term outcomes
Increased Knowledge and Awareness	Prevention of Legal Problems or More Serious Problems	Increased Satisfaction with the Justice System	Increased Sense of Security and Confidence	More Realistic and Effective Use of the Justice System	Resolution of Legal Problems
PLEI users: 1. Develop more critical, informed perceptions about the justice system					

<i>Institutions, Government, Lawyers and Service Providers</i>	
Short term outcomes	Intermediate/ long term outcomes
Service effectiveness and efficiency	Service effectiveness and efficiency
PLEI assists advocacy and service organizations to: 1. Provide more accurate legal information to clients 2. Provide more helpful referrals to clients PLEI increases the efficiency of lawyer or legal support services by:	PLEI saves court time and costs due to: 1. A reduction in frivolous actions 2. The appropriate completion of court forms 3. Self-litigants who are more knowledgeable about procedures 4. An increased willingness of litigants to consider non-court

1. Enabling clients to readily locate contextual legal information 2. Helping clients understand procedures in which they are engaged 3. Helping clients gather relevant materials for their situation or case 4. Helping clients comprehend the sequence of steps in which they may be involved	alternatives Through engagement with PLEI providers, courts: 1. Become more sensitive to the information and process needs of court users 2. Are able to better accommodate unrepresented litigants
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Notes:

1. “Justice system” is used in the broadest sense, and includes the full range of non-court resolution mechanisms.

2. In addressing an issue, individuals frequently use numerous resources over time. These resources can consist of different types of service provider (government services, community advocates, duty counsel, lawyers), different types of PLEI (paper, electronic, webcasts) and different venues (e.g. workshops, community meetings, libraries, courts). Thus PLEI may be involved in only one or two of any given sequence of steps or actions taken by an individual. Attribution of outcomes to the PLEI activity is often difficult.

3. Even in situations involving only one step, PLEI is often an adjunct to another service. Again, the attribution of outcomes frequently cannot be made solely in relation to the PLEI component.
