



**Legal  
Services  
Society**

Providing legal aid  
in British Columbia  
since 1979

2017

British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

# **Digital Delivery of Public Legal Information in British Columbia, Canada**

PRESENTED TO THE INTERNATIONAL LEGAL AID GROUP

MARK BENTON, QC, CEO LEGAL SERVICES SOCIETY

## Contents

Introduction .....	2
Background and Recapitulation.....	2
What's new since 2015 .....	3
About the Commentator .....	4
Appendix 1 - Contribution from Justice Education Society .....	5
Appendix 2 - Contribution from the Legal Services Society.....	8
Appendix 3 - Contribution from BC Dispute Resolution Office .....	11
Appendix 4 - Dandurand and Jahn: Access to Justice Measurement Framework .....	18

## ***Introduction***

This commentary expands and updates a [report](#) provided to the International Legal Aid Group in June 2015 on the digital delivery of public legal information and information in British Columbia, Canada. This update follows the same format as the 2015 report, it incorporates material provided by three institutions delivering the services and provides some analysis of the emerging service trends in a jurisdictional context. The 2015 paper discussed the diversity of organizational approaches to PLEI. This paper focusses more on digital delivery. The material that follows also refers to a number of emerging initiatives that offer the prospect of better knowledge management within the justice community through common standards and provides an overview of efforts to develop a common metric for measuring access to justice within the jurisdiction.

In assembling this paper three BC institutions, the [Justice Education Society](#), [the Legal Services Society](#), and the BC Government's [Civil Resolution Tribunal](#) were each asked to provide a 1200 to 2000 word synopsis of the most recent developments in their program, an outline of the research and evaluation methodologies being used to determine the effectiveness of the service, and a prediction for how the program(s) will evolve over the next three years. Each organization responded and each reports is attached as an appendix to this note.

The fourth document attached is a report of Access to Justice BC (A2JBC). This group is a collaboration among justice institutions in the province of BC that was established to realize the goals established in the report of [Canada's Action Committee on Access to Justice in Civil and Family Matters](#). A2JBC is an association of justice institutions chaired by the Chief Justice of BC, Robert Bauman. The report, "Access to Justice Measurement Framework" -Dandurand and Jahn, 2017 was developed as a flexible framework to be used by justice service providers to align their reporting and evaluation efforts.

My thanks to Dave Nolette at the Justice Education Society, Darin Thomson at the BC Justice Ministry Dispute Resolution Office, and John Simpson at LSS for their contributions to this package.

## ***Background and Recapitulation***

Canada is a federal state that has ten provinces and three territories. In Canada the administration of justice (which includes legal aid) is a provincial jurisdiction and as a result Canada has 13 legal aid plans. Public legal information and education attracts federal and provincial funding and the number of entities providing these services varies from province to province. Both legal aid and PLEI have national associations in Canada.

British Columbia (BC) is Canada's westernmost and third largest Province. It has a population of about 4.7 million spread over an area about 50% larger than France. Funding for legal aid in BC comes from the Province which in turn receives a contribution from the federal government. Funding to agencies for public legal education services in BC, including LSS and MyLawBC, typically comes from either the Law Foundation or the Notary Foundation. Both foundations receive their revenue from the interest earned on

pooled trust accounts. Government initiatives like the CRT are funded directly by the government.

The digital distribution of legal information has helped the BC's PLEI community develop new skills and more collaborative working styles. The Law Foundation of BC has also become directly engaged in two collaborative efforts among the PLEI providers: to develop publishing standards to support PLEI providers to develop and present content that users can be confident is reliable; and in developing a common approach to metrics as a tool for understanding the impact of PLEI.

### ***What's new since 2015***

In the 2015 paper I noted that as digital delivery has become a more prominent mode of delivering legal information there has been a marked convergence in the service offerings among different public legal information providers. While part of that convergence is driven by perceived user need, there is also an element of organizational survival as different institutions vie for limited public and private funding. In the last two years there're are signs that the convergence is continuing at least with regard to family law.

It is clear that MyLawBC, Solution Explorer and JES' several programs offer real promise. What is not clear is the extent that evaluation processes will be used to ensure value for money or whether the methods utilized will permit an assessment of the relative utility of the different approaches so that users can assess what to use and funders can determine the best use of their funds.

This problem of lack of comparability is not peculiar to digital delivery but is common in the provision of law related services. So much so that BC's Access to Justice group has given priority to establishing an access to justice metrics framework. The measurement framework is intended to serve two purposes:

- to provide an overall measurement framework to monitor the experience of the population (or parts of it) as they address their everyday legal needs. ; and
- to provide justice system stakeholders with a shared frame of reference in order to align their efforts to monitor, evaluate and learn from initiatives designed to improve access to justice.

The discussion paper about the "Triple Aim Approach" to access to justice is attached.

I will have more to tell you in two years.

### ***About the Commentator***

Mark Benton QC

CEO, Legal Services Society

Vancouver, Canada

Mark has been a lawyer since 1980 and has provided publicly funded legal services since 1983. He has served as the CEO of the Legal Services Society (the legal aid plan in British Columbia, Canada) since 2002. Mark has been recognized in the B.C. Legislature as “a passionate advocate for access to justice for the economically disadvantaged in British Columbia, and he brings along with that passion great creativity in the search for solutions for how to make a difference in people’s lives.”

Mark is a past-Chair of the Association of Legal Aid plans of Canada, a member of Canada’s Action Committee on Access to Justice, a member of the Board of Directors of both the Canadian Forum on Civil Justice and the Canadian Institute for the Administration of Justice, and has worked on a number of government and non-government task forces addressing justice issues of consequence to Canadians.

He holds a BA from the University of British Columbia, a LLB from Osgoode Hall Law School at York University, and a LLM from Dalhousie University.

## ***Appendix 1 - Contribution from Justice Education Society***

### **Ask JES Legal Help Services Improving the legal capability of British Columbians**

In Roger Smith's recent article "[Can technology save access to justice?](#)" he explores the question: How can we use technology to construct a network of provision which provides the level of legal advice and assistance to which people are entitled - even in an age of austerity?

This is the very question that led the Justice Education Society (JES) to develop Ask JES Legal Help Services back in 2013. Originally, the service was developed to provide free answers to legal questions related only to civil law (excluding family law). It was available on two court information websites. The service provided several levels of support, starting with a video-based virtual assistant to guide users to information on the website – a precursor to newer guided pathway solutions since introduced in BC. More importantly, the service invited users to ask their legal questions through live chat (weekdays from 11am to 2pm) and during offline hours, to submit questions that were answered by email.

Responses were provided through a knowledge base of legally reviewed questions and answers, which law students use as a baseline reference to answer questions. Until last year, questions were mostly focused on court processes. Most inquiries were about how to take the next step to move a case through the courts. When complex questions were asked, these were escalated to a series of lawyers who would respond by email – providing legal information, not legal advice.

In May of 2016, the Ask JES service was expanded to include everyday legal issues – such as housing, employment, family law, driving and more. In preparation for this, JES produced over 150 Legal Help Guides, including 90+ videos (and more are in development).



In addition, since the start of 2017, the service has been available through a toll free phone number. Plus, the Ask JES service is now available on these websites: [JusticeEducation.ca](http://JusticeEducation.ca), [LegalRightsForYouth.ca](http://LegalRightsForYouth.ca), [RentingItRight.ca](http://RentingItRight.ca), [HowToSeparate.ca](http://HowToSeparate.ca), [SupremeCourtBC.ca](http://SupremeCourtBC.ca) and [SmallClaimsBC.ca](http://SmallClaimsBC.ca).

Over the last three months, Ask JES has responded to over 1400 inquiries and within the next three years, we expect to be helping more than 20,000 people each year. And, we are planning to do a lot more to use digital technology to provide even more legal help

To start, within the next 6 months we will roll up SMS service, enabling users to ask questions more easily from their cell phones. We are also working to establish supporting partnerships within BC's public legal education and information sector. For example, we will begin to forward complex inquiries directly to the Tenant Resources Advisory Centre, certain family law questions to Family Justice Counsellors and others to Legal Services Society (LSS), wills and estates questions to Nidus, poverty law questions to Community Legal Assistance Society as well as community-based advocates, and more partnerships like this are in development.

In addition, we are now working to translate our knowledge-base of 800+ questions and answers into several languages. Using multi-lingual court workers and digital translation, in 2017 Ask JES will provide multi-lingual legal help services. Live chat inquiries will use the digital translation to respond in dozens of languages, and users will be connected directly to JES staff to get answers to their legal question in Mandarin, Cantonese, Punjabi, Hindi, Spanish, Portuguese and French.

To date, there has been almost no promotion of the service, and that is now changing. We will begin to receive referrals from BC211 – which is a helpline that provides information and referral regarding a broad range of community, government and social services in BC.

We are in early discussions with LSS regarding referrals from their legal aid intake, as well as legal information outreach services. We are in discussions with the Ministry of Justice to have Ask JES provide support for the thousands of BC parents who take the online course Parenting After Separation – which is court-mandated and lives at [BC.FamiliesChange.ca](http://BC.FamiliesChange.ca).

Perhaps most significantly, JES is working collaboratively with the Ministry of Justice to have Ask JES Legal Help Services provide direct support for court forms developed through a new, plain language, guided pathway application. (See the early beta here: [justice.gov.bc.ca/divorce](http://justice.gov.bc.ca/divorce)). Work on these forms is underway now and Ask JES will be accessible for at least 40 court forms, starting mid-2018.

Court forms have long been a frustration for courts, justice personnel and self-representing litigants. Incomplete and incorrect court forms costs the courts thousands of dollars because of the delays they cause. The new approach will guide users along a path with simple, plain language questions, and if they get stuck or are unsure how to proceed, they will be able to call, text or chat live to Ask JES their legal questions.

Finally, significant effort is being put into evaluating and data mining Ask JES Legal Help service. A draft evaluation framework has been developed and a preliminary evaluation will proceed this summer. A more detailed evaluation will follow towards the end of 2019. We are also beginning to learn from Ask JES. All inquiries are now coded into one of 14 areas of legal need by the law student responders. With this information, we can begin to address gaps in legal information and services. As we move forward, we will become more granular, so that with court forms for example, we will be able to realize which questions are causing users the most difficulty – and then move quickly to make modifications.

The introduction of Ask JES has set a new standard for legal help in British Columbia. It capitalizes on digital technologies to direct users to information, to respond live to thousands of user questions via phone or chat (and through email in offline hours), to provide answers in the most common BC languages and when complex needs arise, to connect users with the legal expertise they need.

Ask JES Legal Help Services cuts costs (lawyers respond to less than 5% of inquiries) and provides immediate legal assistance. The service is accessible from all internet connected devices and accessible from six websites or through the toll free phone number.



Going forward, the service will connect users with expert support provided through a range of agencies – many of whom will use the same software (ZenDesk) to respond directly to inquiries. Later this year, Ask JES will become multi-lingual, and next year, Ask JES will be integrated into Ministry of Justice court forms, providing direct support to the improved functioning of the Provincial Court and Supreme Court.

To Roger Smith and others wondering about how to apply digital technologies that cost-effectively provide legal help and improve access to justice, we say: Ask JES!

## ***Appendix 2 - Contribution from the Legal Services Society***

### Background and Refresher

As many of you know, LSS developed MyLawBC over the past two years, working with the Hague Institute for the Internationalization of Law (HiIL) and a software developer and platform provider, Modria. MyLawBC is a new service for ordinary British Columbians who need information to help them resolve legal problems, based on an interactive set of questions and answers. The use of Guided Pathways (GPs) is nothing new outside legal aid. Take for example the online tax preparation services that many of us are familiar with in Canada, especially at this time of year! But GPs are still a fresh idea in legal circles. The Dialogue Tool (DT) is an innovative online dispute resolution platform that ex-partners can use to negotiate and resolve family law disputes, and create a separation agreement. MyLawBC users are encouraged to seek mediation and legal advice services where appropriate, but the DT can also be used without assistance.

### What is different about MyLawBC?

MyLawBC's pathways guide users to the right information that they need to address their problem – nothing more, nothing less. As users answer questions, the system gathers information in the background. At the end of a pathway, MyLawBC delivers an action plan personalized to the user's situation. Contrast this with more traditional ways of providing online legal information: sometimes cumbersome, text-heavy websites that many people find complicated, confusing and difficult to navigate. MyLawBC is written in plain language and is designed to make it as easy as possible to take the next step. We know that many people face a range of barriers and need one-on-one support to use a tool like MyLawBC. For that reason, we provide online tutorials and guides, as well as training for staff in legal aid offices, intermediaries and frontline workers in community agencies so that they can refer the public to the GPs and the DT.

### Demand for GPs – a few statistics

Our experience so far reflects what we already knew about the unmet need for user-friendly legal information. Over 20,000 used the site in the last year, and the audience has grown since the website launched a little over a year ago. In the last quarter (Jan-Mar, 2017), MyLawBC users started over 12,500 sessions at the website, more than the previous two quarters combined. The number of users nearly doubled over the previous quarter with 8,773 people using the site. No matter how you look at those figures, that is dramatic growth. The wills and making a separation agreement pathways accounted for nearly half of the pathways starts during the first year.

If our experience with other legal information websites is any indication, MyLawBC has only just begun to find its audience. We know that many more people could benefit from the current suite of pathways (covering family law, domestic violence, wills and personal planning, foreclosure) and the Dialogue Tool. We plan to increase public awareness of MyLawBC this year through online and other forms of advertising, as well continued

outreach to intermediaries and community workers through our conferences and workshops, our network of office locations, and social media.

### What we're learning from MyLawBC users

LSS routinely tests PLEI resources to ensure that they are useable, learnable and responsive to needs of the target audience. User-testing has evolved over the past decade into a professional discipline. With an experienced moderator, as few as five testers and a carefully crafted testing plan, valuable insights can be gleaned about how people use a website, what works and what doesn't – and what needs to be done to make it a more productive experience. For us, user-testing is a critical step towards demonstrating positive outcomes.

Over the course of two weeks in March, 2017, we completed a series of in-person tests of MyLawBC's pathways and Dialogue Tool. The testers were a diverse group of 23 people who came from a variety of backgrounds, in keeping with the varied content of the pathways. Users were asked to perform a task while sharing their thoughts on the site. Each session was conducted by a trained moderator while members of our team observed remotely in another room. As one of the team members said, it was a humbling experience to watch users navigate a site, sometimes struggle a bit to find what they need, but ultimately prevail.

What kinds of things did our users tell us? Well, first and foremost, the GPs and the DT were generally easy to use, and useful to them. But their feedback also showed us how to make it better. I can give you a couple of examples:

- A recurrent design feature involved placing tabs at the top of the page. The team had worked with these tabs for two years. We were so familiar with this feature – common on many other websites - that we didn't really think about it. We were surprised when several testers overlooked the tabs, prompting us to think of ways to improve that feature.
- Some testers were concerned about privacy, even though our terms of use are clear that no personal information is collected in any of the other GPs (only the DT collects personal information as accounts must be set up to enable two-way negotiations). But terms of use are usually hidden at the bottom of a webpage. Key messages about privacy and confidentiality may need to be conveyed more prominently.

The results were analyzed in detail, and improvements to the site were recommended. We made a number of immediate improvements based on the user testing and other feedback we've received since the site launched. Over the coming months, more improvements will be implemented.

### Evaluation Plans

While user-testing is valuable, it only tells you so much about the difference it makes for users. We are about to start a more thorough external evaluation of the website. A qualified firm that is experienced in legal aid evaluations will conduct this evaluation over the next year and a half. The purpose of the evaluation is fourfold:

- assess the performance of the MyLawBC platform against its intended outcomes
- inform its continuous development and improvement
- demonstrate the impact the platform provides to end-users and build the body of knowledge for this type of technology.

The evaluation's methodology will include:

- regular monitoring of site usage through data collection
- online (pop-up) surveys to gather feedback from GP users and surveys emailed to users of the DT
- voluntary, in-depth interviews of GP and DT users
- interviews with stakeholders, intermediaries and other key informants

(LSS is sensitive to privacy and confidentiality issues and appropriate consents will be sought for participation)

What lies ahead?

We'd like to develop more GPs. Once you start thinking about legal processes in this context, you realize that there are many possibilities beyond our current offerings.

GP technology is evolving rapidly, with other entrants to the field developing similar - and sometimes different - technologies. Some of you may be familiar with the "chatbot" developed in the UK. First applied to parking tickets, and more recently to refugee claims, the chatbot enlists the power of texting to create simple guided pathways that are perfect for small screens. The same kind of technology has been used in the US to develop apps for life planning and other decisions. In the not too distant future – within the next five years - existing voice technologies may become commonplace, enabling users to find answers without using a keyboard at all.

Consider that mobile devices are now the dominant technology for communication purposes, having displaced desktops a few years ago, and that smartphones are steadily replacing landlines, even among those with limited incomes, as older phones cycle out of the system. Only a few years ago, the focus was on responsive design – creating sites that automatically resize to fit the screen you are using, be it a tablet, iPad or smartphone. Already that is old news. Responsive design only takes us so far. The future lies in steadily harnessing new technologies to improve access to justice.

The challenge for legal aid organizations is to find the resources to keep up with the rapid pace of change, in an environment where the lifespan of an online tool is perhaps 5 years and the development costs are substantial. Collaborations like MyLawBC are essential so that we can all move forward and take advantage of new technologies.

## Appendix 3 - Contribution from BC Dispute Resolution Office

### About the Solution Explorer

The Solution Explorer is the online expert system created by the British Columbia Ministry of Justice. It's a stable, scalable, cloud-based desktop and mobile-ready system now in production and use with BC's new Civil Resolution Tribunal.

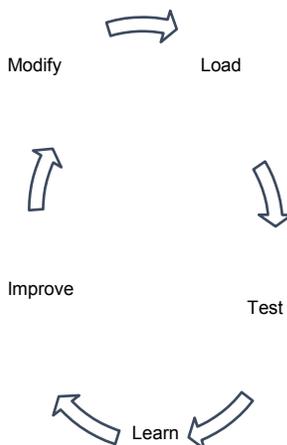
## Solution Explorer



- Diagnosis
- Information
- Self-Help
- Streaming & Triage

24/7 Expert info & guidance. Free. Online. Delivered directly to non-experts.

### Continuous Improvement



The Solution Explorer enables rapid prototyping, loading and improvement. It was specifically designed to enable business experts in a domain to create, load and update their own content. Specialized IT contractors or programmers aren't required for regular system updates and improvements.

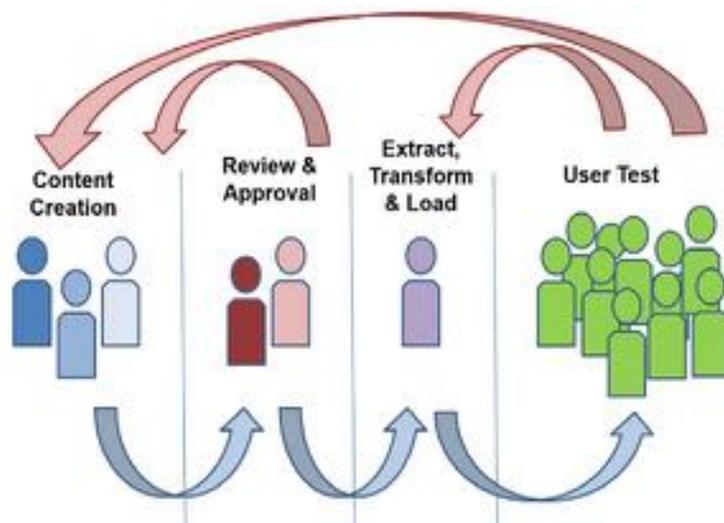
## ***Knowledge Engineering***

The BC Ministry of Justice has created an end-to-end knowledge engineering process for creating, refining, loading, testing and improving expert system content.

Expert knowledge is acquired directly from Subject Matter Experts, translated into a user-friendly format, and then transformed into the format required for loading into the Solution Explorer. The system can then provide the expert guidance and information directly to non-expert users.

The knowledge engineering process includes multiple steps:

1. **Raw content creation:** knowledge engineers and subject matter experts create raw content for the Solution Explorer Content.
2. **Review and approval:** content is reviewed for legal accuracy and approved by the responsible organization.
3. **Extract, transform & load:** approved content is converted into Solution Explorer-readable format and loaded into the system.
4. **User testing:** content is tested in Solution Explorer platform.
5. **Continuous improvement feedback loops:** content is continuously refined and improved based on testing and user feedback.



The BC Ministry of Justice has trained many people to support the knowledge engineering process. It has also engaged with a wide range of subject matter experts. In 2017, some Canadian law schools will begin training law students in the knowledge engineering process with support from the BC Ministry of Justice.

### ***The Solution Explorer and the Civil Resolution Tribunal***

The Solution Explorer serves as the first dispute resolution phase of BC's online civil tribunal, The Civil Resolution Tribunal (CRT). It is part of a seamless end-to-end process that starts with self-help using legal diagnosis, information and early resolution tools collected from subject matter experts, then carries through to facilitation and adjudication in the tribunal. The Solution Explorer passes off user data from the Solution Explorer into the CRT process.

Civil Resolution Tribunal  
Strata: Over 5,000 uses  
Small Claims: Open June 2017

As of March 2017, the public had completed over 5,000 explorations using the Solution Explorer for people with strata property (condominium) disputes.

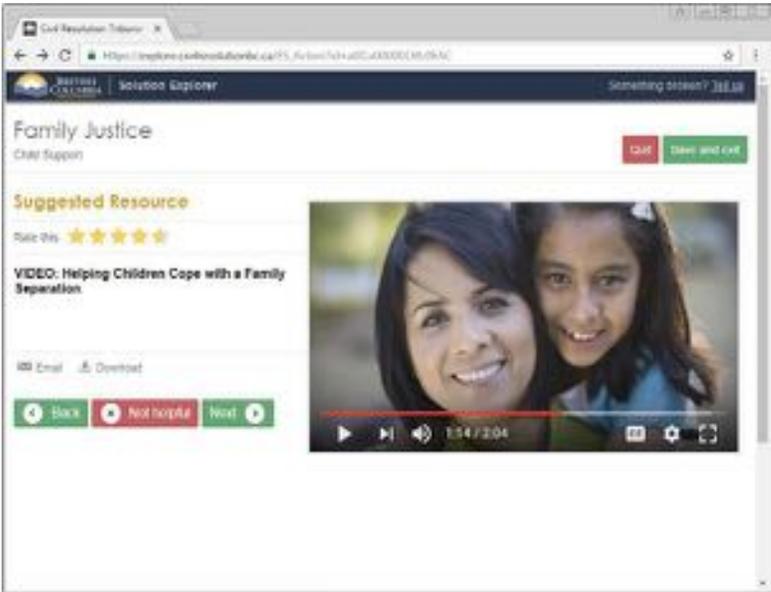
The Solution Explorer will officially open for small claims disputes in June 2017. The small claims version of the system has already successfully completed beta testing with the public and is now undergoing content improvements.

***The Family Justice Solution Explorer***

As of March 2017, user testing has begun on the first phase of the Family Justice Solution Explorer. This phase is focused exclusively on child support disputes.

Many of the end-to-end pathways link directly to BC government family justice services. Other pathways lead to private dispute resolution professionals and to the courts.

The system also includes self-help tools like communication templates to empower users to begin managing or resolving disputes on their own, even if they cannot afford a lawyer or qualify for legal aid.



Funded in part by Canada’s Department of Justice, the child support phase of the Family Justice Solution Explorer went from concept to beta testing in seven months. Upon successful completion of user testing, the Solution Explorer will be reviewed with other Canadian provinces and territories, then adjusted based on their feedback. Plans for expanding beyond child support will be developed in consultation with the Department of Justice and other Canadian jurisdictions.

### ***Online Triage / Intake for Service Providers***

In addition to problem diagnosis, information and self-help communication tools and templates, the

Solution Explorer for child support disputes also includes a new “online triage” function that will:

1. Enable users to specify that they want to get help from BC’s Family Justice Services with their child support problem;
2. Enable users to enter their information into the system to expedite intake with respect to basic data entry;
3. Enable users to indicate their region or area to allow for better matching with front counter service locations;
4. Give users choices as to how they would like to receive service (e.g. whether they would like to receive a telephone call or email from Family Justice Services) to set up a first appointment, further expediting the intake process;
5. Provide Family Justice Services with the ability to expedite intake by having the

online triage form show the user's problem and steps they had taken to try and resolve it, and any relevant information or evidence the user had about their dispute.

The screenshot shows the 'Family Justice Services BETA' online triage form. At the top, it asks 'How do you want us to contact you?' with three radio button options: 'Email' (selected), 'Phone', and 'I will print this form and contact you at 1-888-888-8888'. Below this is an 'Email' input field. The next section is 'Daytime phone number (optional)', with a main input field and an 'Ext.' field. A link '+ Add another phone' is provided. The 'Additional information' section contains a note: 'We're asking in case the tribunal can take steps to serve you better.' It then asks 'Do you have any of the following that may require a special accommodation?' with a list of checkboxes: 'Difficulty reading and writing', 'English speaking difficulty', 'Visual impairment', 'Hearing impairment', 'Mental health issues', and 'Other'.

### ***Landlord-Tenant Solution Explorer***

In 2017, the BC's Residential Tenancy Office became the second organization to adopt the cloud-based Solution Explorer platform – using it for landlord-tenant disputes.

The screenshot shows the 'Solution Explorer for Residential Tenancies BETA' interface. It features a header with the title and 'BETA' in yellow. Below the header, there are two lines of text: 'Ready to start? Click the button that best describes your problem.' and 'Already have a code? Click the 'Continue an Exploration' button.'. At the bottom, there are three large, dark blue buttons with white text and a yellow arrow icon on the left. The buttons are labeled: 'I am a Landlord', 'I am a Tenant', and 'Continue an Exploration'.

The Solution Explorer also includes multiple built-in user satisfaction data collection points, including 'star ratings' other 'rating buttons' specifically designed to identify user frustration or dissatisfaction with specific resources. Users have multiple ways to send messages to administrators if they think something is broken, or if they think that the system is missing some content.



The combination of business intelligence and user satisfaction data are used to support the continuous improvement practices employed by the Civil Resolution Tribunal and BC Ministry of Justice teams. The guiding aim is to create a system that gets better and better the more it is used.

### ***Three Year Forecast for the Solution Explorer***

Over the next three years, the Solution Explorer will see sustained and increasing use as the front end of the Civil Resolution Tribunal, providing free, 24/7 legal information, tools and guidance for the public experiencing strata (condominium) and small claims disputes. The knowledge engineering team will continue to create new content to expand the system's knowledge base in administrative and civil justice. In collaboration with the Department of Justice Canada and other Canadian jurisdictions, the Solution Explorer will see further expansion into family justice areas beyond child support, including child support variation and spousal support. The continuous improvement cycle will also create ongoing improvements based on data collected by the system from its users.

The BC Ministry of Justice is in discussions with other organizations that are now considering how the Solution Explorer might enable them to provide legal information, advice and early resolution services throughout British Columbia, across Canada, and around the world.

**Appendix 4 - Dandurand and Jahn: Access to Justice Measurement Framework**



**ACCESS TO JUSTICE BC**

**Access to Justice Measurement Framework**

**Measurement Working Group<sup>1</sup>**

A2JBC is proposing a measurement framework to support a shared approach to monitoring and evaluating improvements in access to justice in British Columbia. The framework is inspired by a Triple Aim approach originally developed in the health sector.<sup>2</sup> It is a flexible framework that can be used by justice system stakeholders in BC to align their various monitoring and evaluation efforts, and to learn from each other's experience with access to justice innovation.

**Accessible Justice**

Access to justice, as a concept, encompasses all the elements needed to enable people to identify and manage their everyday legal needs and address their legal problems, seek redress for their grievances, and demand that their rights be upheld.

The Action Committee on Access to Justice in Civil and Family Matters (2013) proposed an expansive, user-centered vision of an accessible family law and civil law justice system. It is a system that includes the necessary institutions, knowledge, resources, and services to avoid, manage, and resolve civil and family legal problems and disputes. That system, according to the Committee's vision, must be able to do so in ways that are as timely, efficient, effective, proportional, and just as possible:

- by ensuring public awareness of rights, entitlements, obligations and responsibilities

---

<sup>1</sup> Developed for the A2JBC Working Group by Yvon Dandurand and Jessica Jahn, School of Criminology, University of the Fraser Valley, & International Centre for Criminal Law Reform and Criminal Justice Policy, with the assistance of Ms. Jane Morley and Mr. Tim Roberts.

<sup>2</sup> See, for example, Berwick, Nolan & Whittington, 2008.



- by preventing disputes and by early management of legal issues;
- through negotiation and informal dispute resolution services; and
- where necessary, through formal dispute resolution by tribunals and courts

### **Access to Justice BC**

Access to Justice BC (A2JBC) is a network of justice system stakeholders collectively committed to achieving access to justice in BC. It seeks to break down silos, align justice stakeholders in the pursuit of the access to justice goal, and support and encourage collaborative, innovative, user-centred and evidence-based access to justice initiatives implemented by stakeholders.

A2JBC has adopted a *Framework for Action* that sets out how it intends to contribute to system-wide changes that focus on the experience of users. The *Framework for Action* is founded on the three-pronged balanced objective to: (1) improve population access to justice outcomes; (2) improve user experience of access to justice; and, (3) improve costs.

### **Access to Justice Goals**

A2JBC has yet to define its vision of “access to justice”. The Action Committee, established in 2007 by Chief Justice McLachlin, developed the following justice development goals<sup>3</sup> that provide content to the concept:

- Address everyday legal problems
- Meet legal needs
- Make courts work better
- Improve family justice.

The Canadian Bar Association’s report on “Equal Justice” (CBA, 2013) identified the following major access to justice goals:

- Ensuring substantive and procedural fairness
- Satisfying disputants’ substantive interests
- Satisfying disputants with the dispute resolution process itself
- Reducing risks related to disputes
- Reducing harm to disputants and others, including society generally

---

<sup>3</sup> <http://www.justicedevelopmentgoals.ca/goals>



- Providing greater choice in dispute resolution processes for disputants and ADR professionals
- Increasing disputants' capabilities to handle other disputes
- Promoting productive relationships between disputants
- Satisfying disputants with the services of dispute resolution professionals
- Improving the culture of disputing for disputants, professionals, and society
- Promoting compliance with social policies expressed in the law, such as non-discrimination

Reliable and meaningful metrics and benchmarks are needed to measure progress towards these goals.

### **The Need for a Measurement Framework**

The primary focus of A2JBC is to catalyze action and produce a measurable and significant improvement in access to civil and family justice in the province. This requires the collection of data and the development of agreed upon metrics to both guide action and measure its impact.

At the national level, the Action Committee on Access to Justice in Civil and Family Matters made it clear that reliable and meaningful metrics and benchmarks need to be established across all levels of the system in order to evaluate the effects of reform measures: "We need better information in the context of increasing demand, increasing costs and stretched fiscal realities" (2013:23).

Because A2JBC is a collaborative impact initiative that seeks to achieve access to justice for all British Columbians by stimulating specific access to justice initiatives among stakeholders, it requires a measurement framework (an access to justice matrix) to monitor changes in the BC population's overall access to justice, evaluate the impact of various initiatives and innovations, and learn from experience. The adoption of the measurement framework by justice system stakeholders will contribute to positive system change by encouraging a logical, focused and transparent approach to measurement that informs justice system policy, programs and innovations, and by generating data to assist in making the case for access to justice funding.

### **Purpose of the Measurement Framework**

The measurement framework will serve two complementary purposes:



- Provide an overall measurement framework to monitor the experience of the population (and sub-populations) managing their everyday legal needs and in accessing the justice system, and provide evidence of the value (costs and benefits) of improved access to justice.
- Provide justice system stakeholders with a shared frame of reference in order to align their efforts to monitor, evaluate and learn from the impact of their respective initiatives to improve access to justice;

The goal is not to ensure that the impacts of all access to justice initiatives are measured the same way, using standardized indicators or a single methodology. In fact, given the varied nature of these initiatives, it is neither desirable nor possible to impose a one-size-fits-all outcome measurement model.

A2JBC hopes that its partners and stakeholders will chose to use the framework when measuring the population's access to justice or the outcomes of a particular initiative. The measurement framework identifies key, logically related, dimensions of access to justice, each encompassing different elements for which a number indicators (or measures) can be adopted or developed. Focussing on a subset of these indicators is all that may be required to monitor the impact of any given initiative, depending on its nature, scope, and specific goals.

### Triple Aim Thinking



The term 'Triple Aim' refers to the simultaneous pursuit of improving the population's access to justice, improving people's experience of the justice system when attempting to resolve a legal problem, and ensuring that the costs of providing access to justice are sustainable. It is essentially, at a high level, a cost-benefit approach to thinking about access to justice, where the benefits are defined

in terms of both population access to justice and the user experience of the justice system.

Implicit in the Triple Aim notion is the idea that its three elements are interdependent and that all initiatives to improve access to justice must find an appropriate balance of the three elements in the context of various policy, financial, and other practical constraints.



Also implicit in the Triple Aim notion is the idea that action is simultaneously required at different levels and that it is therefore difficult to isolate the respective impact of various initiatives on the overall goal of improved access to justice in British Columbia.<sup>4</sup> As a result, there is a need for both a set of high-level indicators of access to justice at the population and sub-populations levels, as well as a flexible measurement framework to monitor and evaluate the impacts of innovative ideas and initiatives to improve various aspects of access to justice.

### **The Main Elements of the Framework**

The measurement framework is based on three elements:

- Improving population access to justice outcomes (including equity among sub-populations, between different regions, etc.)
- Improving user experience (including the development of legal capability and improving the quality of the services users receive)
- Improving costs

To measure the population's access to justice, four main dimensions are identified: (1) the prevalence of legal problems within a given population or for the whole of the province; (2) the system's response to legal needs; (3) fair and equitable access to justice; and, (4) the social and economic impact of access to justice.

Five dimensions are identified in order to measure user experience: (1) the users' experience of accessing the justice system and the obstacles encountered; (2) the quality of the users' experience of the justice system; (3) the effectiveness of access to justice in addressing user legal problems; (4) the appropriateness of the justice process; and, (5) the justice outcomes from the point of view of the users.

---

<sup>4</sup> Impact attribution will remain a challenge. It will at times be impossible to isolate the respective impacts of simultaneous initiatives or to distinguish their impact from that of other changes in the justice system, the social context, or the needs and priorities of people with legal needs.



The third component, on costs of access to justice, includes three dimensions:

- (1) the per-capita costs of the justice system (or any of its components);
- (2) the per user costs of various services (or pathways to justice); and,
- (3) other costs of access to justice.

The measurement framework incorporates both high-level (e.g., province-wide) indicators of access to justice and indicators relating more directly to the impact of specific projects or initiatives. Over time, there may even be efforts in some sectors, for example in the area of public legal education and information, to develop some standardized and more specific indicators.

### Main Dimensions Captured by the Measurement Framework



### Characteristics of the Measurement Framework

The Canadian Bar Association’s report on “Equal Justice” (CBA, 2013) suggested the following principles to underpin a measurement framework:

- *Comprehensiveness*: The data gathered should be comprehensive, allowing assessment of performance against all objectives;



- *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 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.

A broad approach to access to justice in civil and family law matters does not only look at the per capita costs of offering existing services (cost-effectiveness), both also compares the costs and benefits of various approaches and initiatives (cost-benefit analysis).<sup>5</sup> It must consider who is bearing these costs (including transactions costs for people facing legal problems and costs to other sectors), as well as the social and other costs of not preventing conflict and not offering effective conflict resolution options to people with legal problems. It must also try to define what are satisfactory justice outcomes and how they can be improved. When there are inter-sectoral issues, in which justice is a part, the outcomes should focus on the overall outcomes for the members as well as the justice outcomes. Finally, it would take a broad view of the various dimensions of the “user experience” that need to be improved and measured (e.g., quality, acceptability, appropriateness, accessibility, effectiveness).

The A2JBC measurement framework is:

- Value-based and relates to the moral imperative behind the need to improved access to justice;
- Multidimensional, capable of capturing the complexity of a broad collective-impact initiative;
- Flexible in order to enable learning about evolving goals, objectives, and strategies;

---

<sup>5</sup> Unfortunately, this aspect is often poorly integrated in access to justice initiatives due to the lack of data, the lack of funding for proper cost-effectiveness and cost-benefits analyses, and the lack of cost-able comparison programs and approaches.



- Designed to offer sensible feedback to managers and policy makers;
- Including metrics that are intuitive, non-controversial and referring in clear terms to the outcomes the system is intended to deliver.

## Units of Analysis

***A given population as a unit of concern:*** The frame of reference for the Triple Aim approach is the recognition of a given population as the unit of concern. This involves specifying the population of concern for each potential dimension of the measurement framework and its related indicators. Within a defined population, various sub-populations may be of interest. Sub-populations can be defined in a variety of ways, including by gender, age, income, eligibility to services, race-ethnicity, or type of legal needs. In addition, there is also a keen interest in capturing data about the access to justice experience of particularly vulnerable populations that encounter specific legal problems or obstacles to access to justice.

When it comes to initiatives to improve people's ability to manage their everyday legal needs (their legal capability) or awareness of their rights and obligations, or to prevent conflict, whole populations or sub-populations are usually the target (and the reference group). Alternatively, when the focus is on unrepresented litigants in court, only a subset of that population is relevant. In principle, it is only when the target population is specified that it becomes possible to measure this group's experience of legal problems and of the justice system, the justice outcomes that were achieved for members of this group, and the per-user costs of the process. Consequently, specifying the relevant target population(s) is an important step in the development of access to justice metrics, keeping in mind also that gathering data on some of these populations is harder than for others.

***Legal problems:*** It is important to measure access to justice as it relates to different types of legal problems. The assumption is usually made that people recognize problems but do not always see them as legal (or as justiciable problems).

***Paths to justice:*** Another relevant unit of analysis is the "path to justice" taken by individuals with a legal need or legal (or justiciable) problem. Choosing that construct as a unit of analysis makes it possible to focus on various aspects of the justice process and on their costs, quality, and outcomes from a user perspective. One must also keep in mind that most legal needs are met outside the formal legal system. This presents challenges in terms of defining metrics that apply to both formal and informal paths to addressing legal problems.



## Structure of the Measurement Framework

Table 1, below, summarizes the main dimensions related to each element of the Triple Aim, as well as the key components of each dimension that together make up the proposed access to justice measurement framework. Following the table is a detailed description, under each elements of the Triple Aim, of the main dimensions related to that aspect and the main elements that form part of each dimension. When possible, examples of measures that could be used for each of these elements are also offered.



Table 1 - Access to Justice Measurement Framework - Summary		
Elements	Dimensions	Components
Improving Population Access to Justice	<b>Prevalence of legal needs/problems</b>	<ul style="list-style-type: none"> <li>• Prevalence of legal problems in the population</li> <li>• Prevalence of unaddressed legal needs in the population</li> <li>• Public legal awareness</li> </ul>
	<b>Response to legal needs</b>	<ul style="list-style-type: none"> <li>• People's choice of path to justice</li> <li>• Legal information and education needs</li> <li>• Legal advice needs</li> <li>• Need for legal representation and other legal assistance</li> <li>• Need for consensual dispute resolution process</li> </ul>
	<b>Fair and equitable access to justice</b>	<ul style="list-style-type: none"> <li>• Accessibility of justice system for British Columbians                             <ul style="list-style-type: none"> <li>• Including geographical access, accessibility for Indigenous people, accessibility for people with mental illness, and accessibility for immigrants and refugees</li> </ul> </li> <li>• Financial access to justice system</li> <li>• Timeliness of access to justice system</li> </ul>
	<b>Social and economic impact of access to justice</b>	<ul style="list-style-type: none"> <li>• Social policy objectives</li> <li>• Protection of people's rights</li> <li>• Public confidence in the justice system</li> <li>• Public confidence in social institutions</li> <li>• Gender equality</li> <li>• Justice for Indigenous people</li> <li>• Social &amp; economic costs and benefits of access to justice</li> </ul>
Improving User Experience of Access to Justice	<b>User experience of obstacles to access to justice</b>	<ul style="list-style-type: none"> <li>• Obstacles to access (distances, technology, affordability)</li> <li>• Eligibility to services</li> <li>• Affordability of services</li> <li>• Delays in accessing justice services and their impact</li> </ul>
	<b>Quality of user experience of the justice system</b>	<ul style="list-style-type: none"> <li>• Quality of legal information and education</li> <li>• Trust and confidence in legal information</li> <li>• User empowerment</li> <li>• Quality of referral services</li> <li>• Quality of legal advice</li> <li>• Quality of legal assistance and representation</li> <li>• Experience of self-represented litigants</li> <li>• Quality of consensual dispute resolution processes</li> </ul>
	<b>Effectiveness of justice system in addressing user legal problems</b>	<ul style="list-style-type: none"> <li>• Effective resolution of legal problems</li> <li>• Mitigated impact of legal problems</li> <li>• Prevention of legal problems</li> <li>• Prevention of conflicts</li> <li>• Unmet legal needs and their consequences</li> <li>• Limits to the assistance received</li> </ul>
	<b>Appropriateness of the justice process</b>	<ul style="list-style-type: none"> <li>• Fairness, equity and impartiality of the process</li> <li>• Cultural appropriateness</li> <li>• Voice and participation</li> </ul>
	<b>Justice outcomes for the users</b>	<ul style="list-style-type: none"> <li>• Outcomes of the justice process</li> <li>• User satisfaction with outcomes of justice process</li> <li>• Compliance with court orders, judgments, and mediated agreements</li> <li>• Post-resolution support</li> <li>• User enhanced legal awareness</li> <li>• Enhanced legal capability</li> </ul>
Improving Costs	<b>Per-capita costs of services</b>	<ul style="list-style-type: none"> <li>• Per capita costs of services</li> <li>• Impact on new initiatives on per-capita costs</li> </ul>
	<b>Per-user costs of services</b>	<ul style="list-style-type: none"> <li>• Per user costs by type of services</li> <li>• Impact of new initiatives on per-user costs</li> </ul>
	<b>Other costs</b>	<ul style="list-style-type: none"> <li>• Social and economic costs of unresolved legal problems</li> <li>• Impact of unresolved problems on costs in other sectors</li> </ul>



## Improving Population Access to Justice (Aim #1)

In order to determine whether the justice system includes the necessary institutions, knowledge, resources, and services to help British Columbians avoid, manage everyday legal issues, and avoid or resolve civil and family legal problems and disputes, access to justice is measured in relation to four key dimensions:

- 1- Prevalence of legal problems
- 2- Response to legal needs
- 3- Fair and equitable access to justice
- 4- Social and economic impact of access to justice

As mentioned before, a given population is a unit of concern when measuring access to justice. A2JBC is focussing on the situation in British Columbia, but there are instances where comparisons between the population of this province and other population will also be instructive. It will be useful when appropriate to collect disaggregated data (by age and gender) and for different segments of the population, including groups that are particularly vulnerable or may face specific obstacles to access to justice. Given that access to justice is likely to vary geographically, geographical differences within the population should also be captured whenever feasible.

### 1.1. Prevalence of Legal Needs or Problems within Population

#### 1.1.1 Prevalence of legal problems in the population

***Prevalence of legal problems:*** *The extent to which the population (or a sub-population) is experiencing legal problems, or a specific type of legal problem.* (This can also include decisions people make not to address a legal problem)

This “demand-oriented” approach to measuring access to justice focuses on the legal problems experienced by people, or their legal needs. The focus is on people with legal needs or legal problems. The focus can also be on so-called “essential legal needs”. According to a report of the Canadian Bar Association, “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” (Buckley, 2016: 1).



## Measures

- Prevalence of legal problems and severity of legal problems (by type of legal problem)
- Percentage of people with one or more legal problems

### 1.1.2 Prevalence of unmet legal needs in the population

***Prevalence of unaddressed legal needs:*** *The extent to which the population is experiencing legal needs that remain unaddressed.*

A subset of this category can be defined as an unaddressed essential legal need, or the extent to which the population is experiencing unaddressed essential legal needs.

A significant portion of legal needs go unmet. In fact, many people, as a result of lack of knowledge or external advice, do not realize that their problem may be regulated by law and has a remedy obtainable through the legal system. These people may have as great (or perhaps greater) a legal need as those who are aware of their legal need, but their lack of legal awareness is preventing them from accessing the justice system.

For many people, this problem is compounded by the additional clustering of other legal, social, and health related problems, all of which come at significant costs to the individual and the state (Farrow, 2014).

Access to justice can be defined in terms of whether people's needs are met (Farrow, 2014), including and especially the needs of vulnerable groups (CBA, 2014). Socially excluded groups are more vulnerable and this vulnerability compounds the effects of unresolved legal problems. It also makes it more challenging for them to navigate the justice system (CBA, 2014).

Civil justice and family problems are pervasive in people's lives. Some of these legal problems are experienced by a large number of people, while other problems are experienced more frequently by some vulnerable groups (immigrants, institutionalized people, etc.). The majority of people who experience legal problems do not ask for legal help. This is particularly true of people who experience debt problems and other poverty law issues, and less so for people who face family law problems or are threatened with legal action (McEown, 2009).

The unaddressed legal needs of litigants are revealed in part by the number of unrepresented or underrepresented litigants (accused) found in these legal systems. However, as was pointed out in a Department of Justice study, "the number of unrepresented litigants in family and civil courts, while an important problem, is only the tip of a very large iceberg in civil justice" (Currie, 2007: 88).



Legal issues are often triggered by underlying problems, or lead to further problems. Disadvantaged people with complex and multiple needs are often reluctant to access services. Legal services providers must be aware of cultural, economic, health, and poverty issues (see: McDonald & Wei, 2016).

### Measures

Proportion of people who have identified legal needs who are able to self-manage those needs

#### 1.1.3 Public legal awareness

**Public legal awareness:** *The level of public awareness of rights, entitlement and obligations under the law (by type of law, type of legal problem).*

### Measures

- Level of awareness of specific rights or entitlements within a population
- Level of understanding of certain rights and obligations

## 1.2 Extent to Which the Legal Needs of the Population are Met

### 1.2.1 People's choice of a path to justice

**Choice of a path to justice:** *The decisions people make about how to address legal problems (by type of problem).*

In addition to measuring the prevalence of various legal problems (in various population), it is also important to understand the nature of the decisions that are made by people with a legal problem in terms of their choice of a path to justice.

We can be inspired here by the national survey conducted by the Canadian Forum on Civil Justice on “Everyday Legal Problems and the Cost of Justice in Canada” (Farrow, et al., 2016).

That survey looked at legal problems from the point of view of the people experiencing them and taking different paths to resolve them. Survey respondents were asked about the path to justice they used (if any) to address their legal problem, and whether they were satisfied with the path they had chosen.

The findings from surveys examining the various paths to justice have helped build a substantial evidence base around people's experience of



justiciable problem (Pleasence, Balmer & Sandefur, 2013; Jacobs, Kryzaitys & McManus, 2015). There is a substantial body of evidence on the incidence of justice problems, but there is less understanding about how and why people try to resolve their problems (Pereira, Perry, Greevy & Shrimpton, 2015).

We must keep in mind that there are efforts to create new pathways to justice using simple artificial intelligence and online dispute resolution – technologically pathways into the justice system (Thompson, 2015), and the digital delivery of legal services to people on low incomes (Smith, 2016).

## Measures

- Proportion of people experiencing a legal problem who contact a lawyer to solve their problem
- Proportion of people experiencing a legal problem who seek various forms of assistance (by type of assistance, by type of legal problem)
- Proportion of people experiencing a legal problem who go to court or a tribunal to solve the problem (by type of legal problem)

### 1.2.2 Legal information and education needs

***Improved legal information:*** *The extent to which the legal information and education needs of the population are being met.*

## Measures

- The extent to which the relevant legal information can be found and accessed by people with an everyday legal need or a legal problem (by type of legal problem, by type of legal information)
- Understandability of legal information
- Comprehensiveness and accuracy of legal information
- Public perception of relative accessibility of various types of legal information (by type of legal problem, and type of information)
- Perceived trustworthiness of legal information (by type of information and type of information delivery)
- Perceived usefulness of the information in enabling the user to manage their legal need or legal problem-solving process
- Lawyers' perception of legal information accessibility
- Changes in the amount and quality of legal information resources available
- Content analysis of legal information



### 1.2.3 Legal advice needs

**Need for legal advice:** *The extent to which people who express a need for legal advice are able to obtain legal advice (by type of legal problem).*

### 1.2.4. Need for legal representation and other legal assistance

**Need for legal representation:** *The extent to which people who express a need for legal representation (or assistance) are able to access effective legal representation and other forms of legal assistance (by type of problem, type of cases, type of proceedings).*

### 1.2.5 Need for consensual dispute resolution process

**Need for consensual dispute resolution process:** *The extent to which people who express a need to access an alternative dispute resolution mechanisms have access to such a mechanism (by type of problem, type of cases, type of proceedings).*

## 1.3 Fair and Equitable Access to Justice

### 1.3.1 Accessibility of justice system for British Columbians

**Accessibility of justice system:** *The ability of British Columbians to afford, understand, use, and navigate services within the justice system to seek assistance in managing everyday legal needs or a solution to a legal problem (by gender, geographical region, age, etc.)*

#### 1.3.1.1 Accessibility for Indigenous people

**Access to justice mechanisms by Indigenous persons:** *The ability of Indigenous persons to afford, understand, access, use, and navigate services within the justice system to manage their everyday legal needs or resolve their legal problems.*

#### 1.3.1.2 Accessibility for people with mental illness

**Access to justice system by people suffering from a mental illness:** *The ability of persons suffering from a mental health related issues to receive meaningful legal assistance services in an effort to understand their legal needs and help them resolve their legal problems.*



Persons suffering from a mental illness are more likely to become entangled in legal problems. Their illness may also affect their ability to seek out and use legal assistance services, as well as their ability to understand the potential legal, social and financial consequences of these legal problems. However, as MacFarlane (2013) pointed out, without clinical and diagnostic expertise, it is difficult to identify this population, or to monitor their contacts with the justice system.

### 1.3.1.3 Accessibility for immigrants and refugees

***Access to justice system by immigrants and refugees:*** *The ability of immigrants and refugees to receive meaningful legal assistance services in an effort to help them manage their everyday legal needs and resolve their legal problems.*

### 1.3.1.4 Financial access to justice system

***Financial access to justice system:*** *The proportion of the population which cannot access a particular path to justice because of their financial situation.* This dimension could lend itself to inter-provincial comparisons. It could also include a measure of the proportion of people reporting a legal problem who are expected to qualify for legal assistance, by type of problem.

The financial eligibility criteria limiting access to certain services (e.g., legal aid) may be set on the basis of income, family size and type, property and assets, debts, area of residence, receipt of social assistance, the merit, urgency, and complexity of the case, among other factors).

In Canada, legal aid services are provided through separate legal aid plans in each province and territory. The services provided by legal aid plans may include legal representation, advice, referrals, and information services. The extent of coverage varies among provinces and territories. Tsoukalas and Roberts (2002) noted that, “across Canada, there are a variety of criteria and provision of services based on differing ideas and definitions of what it is to be economically disadvantaged, and the appropriate or necessary legal services that should be provided” (p. 3).

When determining eligibility, it seems that all legal aid plans in Canada take into consideration the applicant’s (1) income; (2) family size and composition; (3) assets; and (4) debts. Additionally, other varying factors may include the merits of the case, case urgency and complexity, whether the applicant is receiving social assistance, the area of the applicant’s residence (i.e., an urban or rural community), and whether the interests of the applicant will be best served by legal aid.



These measures of legal aid eligibility are concerned primarily with financial access for lower income populations. It will also be important to develop measures that relate to the financial capacity of middle income earners to access the justice system.

## Measures

- The proportion of legal aid applicants who qualify for the service (by type of legal aid service)
- The proportion of legal aid applicants who receive the service (by type of legal aid service)
- The proportion of potential applicants for legal aid services self-selecting out
- The total number of persons in receipt of legal aid
- The proportion of people with a legal aid problem who receive legal aid and/or other legal assistance
- Public perception of the fairness of the eligibility criteria used for determining access to legal services

### 1.3.3 Timeliness of access to justice system

***Timeliness of access to justice system:*** People's experience of delays in accessing the justice system.

## Measures

- Delays in accessing a consensual dispute resolution
- Delays in accessing court
- Delays in accessing legal aid
- Costs and consequences of delays in accessing the justice system
- Province-wide breakdown of cases by length of time to conclude
- Median time to obtain first appearance in court
- Median time to conclude court cases by type of cases

## 1.4 Social Impact of Justice System

### 1.4.1 Social policy objectives

***Achievement of social policy objectives:*** The extent to which various changes in level of a population's access to justice are linked to achieving various social policy objectives.

### 1.4.2 Protection of people's rights

***Protection of people's rights:*** The extent to which changes in the level of access to justice by the population are contributing to the protection of people's

rights (e.g. the prevention of discrimination, the best interests of the child, etc.).

### 1.4.3 Public confidence in the justice system

**Public confidence in the justice system:** *The extent to which changes in the level of access to justice by the population affects that population's confidence in the justice system.*

Perceptions of institutions are often based on interrelated feelings of confidence and trust in institutions. While some research on perceptions of institutions uses the terms confidence and trust interchangeably, the two are related, but distinct concepts. In this sense, confidence is related to perceptions of an institution's ability to perform its duties, while trust is related to actions, interpersonal experiences and expectations, and perceptions of integrity.

Confidence or trust in the justice system has also been defined as “the belief among members of the public that the justice system has the appropriate intentions toward them and is competent in the tasks assigned to it” (Hough, Radford, Jackson & Roberts, 2013, p. 11).

The General Social Survey (GSS) regularly conducted by Statistics Canada contains general questions on Canadians' confidence in justice and other institutions (see also: Roberts, 2004).

#### Measures

- Proportion of people with and without a current legal problem who believe that the justice system is mostly fair.
- Proportion of people with and without a current legal problem who believe that the justice system is effective in helping people resolve their legal problems.
- Proportion of people who believe that the justice system is relevant to them, either in assisting in managing their everyday legal needs or their legal problems. Whether and to what extent the justice system is perceived as effective in helping people manage their everyday legal needs and solve their legal problems.
- The level of confidence in the justice system expressed by people who have had contacts with that system as compared to that of the rest of the population.
- The level of confidence in the justice system expressed by British Columbians as compared to that of the population in other parts of Canada.
- The level of confidence in the judiciary expressed by the population.
- Variations in the level of confidence in the justice system within different segments of the British Columbian population (e.g., Indigenous population,

Access to Justice Measurement Framework  
immigrants, etc.).





#### 1.4.4 Public confidence in social institutions

**Public trust and confidence in social institutions:** *The extent to which changes in the level of access to justice by the population affects that population's trust and confidence in social institutions.*

Public confidence in the justice system is known to affect public confidence in other institutions including governance and political institutions. The OECD has suggested the development of an indicator to measure public trust in institutions. The OECD noted that the level of citizen trust in public institutions has been a key policy concern in recent years.

It added that "trust is one of the foundations upon which the legitimacy and sustainability of political systems are built, is crucial to the implementation of a wide range of policies, and it influences behavioural responses from the public to such policies" (OECD, 2014:2). Trust in institutions captures how citizens perceive the effectiveness of public institutions in delivering good governance. The OECD is currently in the process of developing Guidelines on Measuring Trust, which are expected to be completed in 2017.

#### 1.4.5. Gender equality

**Gender equality:** *The extent to which changes in the level of access to justice by the population are translating legal guarantees of gender equality into real improvements in the daily lives of women.*

#### 1.4.6 Justice for Indigenous People

**Justice for Indigenous people:** *The extent to which changes in the level of access to justice by Indigenous people are translating into real improvements in the daily lives of Indigenous individuals and families.*

In its "Calls to Action", in keeping with the United Nations Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission (2015) called "upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada" (recommendation 50).

The recent report of Special Advisor Grand Chief Ed John, "Indigenous Resilience, Connectedness and Reunification: From root causes to root solutions" (2016) explained that the justice system is not serving the best

interests of Indigenous children and youth, parents, and families. The report contains several specific recommendations (recommendations 12 to 19) on how to improve access to justice for Indigenous children, youth and families.

#### 1.4.7 Social and economic costs and benefits of access to justice

***Social and economic development:*** *The extent to which changes in the level of access to justice by the population affects that population's social and economic development and promote inclusive growth.*

The inability to access legal and justice services can be both a result and a cause of poverty. According to a recent OECD document, “providing people access to justice enables them to tackle these inequalities, and to participate in legal processes that promote inclusive growth” (OECD and Open Society Foundations, 2016: 6).

***Social and economic benefits of access to justice:*** *The social and economic benefits related to the provision to access to justice.*

One can operationalize the concept of “public value” as a performance measure and try to develop a concrete and explicit definition of the public value that an access to justice initiative/activity is trying to create (Moore, 1995).

### Improving User Experience of Access to Justice (AIM # 2)

The second major component of the framework relates to the users' experience of access to justice. It contains five dimensions:

- User experience of obstacles to access to justice
- The quality of the user experience of the justice system
- The effectiveness of the justice system in addressing user legal needs and legal problems
- The appropriateness of the justice process
- Justice outcomes for the users

## 2.1 User Experience of Obstacles to Access to Justice

### 2.1.1 Obstacles to access (e.g., transaction costs, language; vulnerable groups)

***Obstacles to access to justice:*** *User experience of obstacles to access to justice.*

Many different obstacles and barriers may prevent people from identifying a problem as a legal problem, understanding their legal rights and responsibilities, using legal assistance services to help solve their legal



problem, and participating meaningfully in the resolution of their legal



problem. There barriers may include costs or affordability of services, procedural complexities, communication challenges, and physical restrictions).

Noone (1992:1) explained that “access to justice may be restricted because of geographical factors; institutional limitations; racial, class and gender biases; cultural differences as well as economic factors. The way legal services are delivered by the legal profession, the nature of court proceedings, including procedural requirements and the language used, are also barriers limiting people’s opportunity to obtain justice”.

Research makes it clear, however, that such barriers are not experienced uniformly by persons with a legal problem. Furthermore, Beqiraj and McNamara (2014) explained that, in practice, “barriers operate simultaneously and have reciprocal effects on each other that intensify their impact” (p. 10).

Schetzer and Henderson (2003) categorized particular groups of socially and economically disadvantaged individuals that are more likely to experience multiple barriers when accessing the justice system, including people with disabilities (i.e., those suffering from an intellectual, physical, sensory, psychiatric, and acquired brain injuries); people from culturally and/or linguistically diverse backgrounds; indigenous peoples; children and young adults; elderly persons; people residing in rural and remote communities; people with low levels of education and literacy; persons who are gay, lesbian, and transgendered; women; people living in institutions (i.e., prisoners and mentally ill persons in psychiatric facilities); people on low incomes; homeless people; and people who face multiple disadvantages.

According to Chief Justice Beverley McLachlin (2015), “procedural barriers are rules and processes that are more complicated than they should be. This leads to unnecessary delay and cost. And in some cases, it prevents people from using the justice system or availing themselves of their rights. The complicated structure of the court and administrative tribunals, the complex rules and procedures, and the sheer difficulty of finding one’s way in the law, all present formidable challenges to access to justice” (para 14).

Given the challenges associated with understanding complex rules and processes, MacDonald (2005) suggests that “for many people, it is exactly the characterisation of a problem as a legal problem that is the most important barrier to access” (p. 29).

### 2.1.2 Eligibility to services

***Eligibility to Services:*** Consequences of the criteria established and/or applied to determine whether individuals are eligible to receive services (including, but not limited to free, subsidized, or low cost legal assistance services and benefits from such services).



## Measures

- Changes in the eligibility criteria for various forms of legal aid
- Perceived clarity of the application procedure
- Perceived complexity of the application procedure (and required documents)
- Perceived fairness (or its opposite, discrimination) of the eligibility determination process
- Amount of time elapsed between submission of an application for service and determination of eligibility (or notification of eligibility)
- Ease of access to legal assistance (or other services) once an applicant is found to be eligible
- Perceived complexity and accessibility of an eligibility determination appeal process
- Perceived fairness of outcomes of eligibility appeals
- Proportion of people self-selecting out of applying for legal aid or other services
- Proportion of applicants found to be eligible
- Proportion of individuals found eligible for service who actually received that service
- Applicants' satisfaction of the eligibility determination process and/or its outcome
- Applicants' perception of the relative usefulness of information received about the service and/or about eligibility standards and eligibility determination process

### 2.1.3 Affordability of services

***Affordability of services:*** *The extent to which the cost of access to justice services are within the financial means of people facing a justice need or problem*

The costs may be defined either as the direct costs of the services or as the total costs of accessing the services, including additional costs involved in using the services, such as transportation, child care, lost wages, etc.). Affordability indicators must be calculated as a ratio of costs of a particular pathway to justice as a proportion of overall income.



The affordability of particular pathway to justice is determined not only by the costs associated with that pathway, but also by the individual's ability to meet those costs.

On the path to justice, people spend money and other resources such as personal time, existing opportunities, stress and emotions. Improving access to justice therefore means lowering both the monetary costs by making the system more affordable, and also reducing the personal monetary, opportunity and intangible costs. It is important to measure the private costs of justice borne by the user in his/her pursuit to solve a legal problem. The anticipated transaction costs often determine whether an individual will do something to solve the legal problem.

For most participants in the family and civil litigation process the "perceived quality of the outcome will be tempered by the transaction costs involved: for some, justice is unaffordable, which leads to a lack of confidence in the courts. For others, justice comes at too high a price, thus also undermining confidence in the courts and the legal profession" (Victorian Law Reform Commission, 2008: 88).

Several access to justice initiatives are indirectly addressing the affordability issue by trying to improve the mechanisms for the early and inexpensive resolution of civil disputes. From the point of view of access to justice, there is also an interest in ensuring that the costs incurred by users of the system are 'proportional' to the matter in dispute.

### Measures

- Mean financial expenditures for legal services as a proportion of mean household income (for a given population, or group)
- Perceived affordability of services offered
- Perceived affordability of services received
- Level of subsidies (or loan) offered to render services affordable

#### 2.1.4 Delays in accessing justice services and their impact

**Timely referrals:** *The extent to which individuals seeking access to justice mechanisms are appropriately referred to these mechanisms in a timely manner.*

Sometimes delaying access to justice amounts to denying access to justice. The experience of delays and the personal consequences of unnecessary delays are part of the user's experience. These delays can increase the transaction and personal costs associated with various pathways to justice.



This dimension could also be related to the delays experienced in actually accessing a service after being referred to it (including cases where the service cannot be accessed at all after being referred to it).

## 2.2 Quality of User Experience of Justice System

### 2.2.1 Quality and usefulness of legal information

**Quality of Legal Information:** *Individuals seeking information or trying to improve their knowledge of the law received meaningful, credible and trustworthy information about the law (or a legal problem) that is relevant to the jurisdiction in which they find themselves, enables them to identify whether they have a legal problem, and offers direction on how that problem might be addressed or resolved.*

**Usefulness of Legal Information:** *The extent to which general information about the law or a legal problem (not specific to a user's case) is perceived to be helpful (ability to make informed choices and decisions) and to contribute to helping people identify and manage their everyday legal needs and assist in the identification and resolution of a legal problem or the prevention of a legal problem.*

Bond, Wiseman, and Bates (2016) define legal information as “general information about the law that is not tailored to an individual’s specific situation, can help a person understand when a problem is a legal problem, and can discuss options and possible next steps, indicate when a person needs to get more help and advice, and how to find that help” (p. 12).

For Sandefur and Smyth (2011), legal information refers to “information about a legal problem or matter that is of a general, factual nature and not specific to any given client’s case. Provision of legal information does not form an attorney-client relationship” (p. 146).

Additionally, Buckley (2013) identified four key functions served by public legal education and information:

- Helping people to understand the law, their legal rights and responsibilities, and how their justice system works.
- Helping people to learn how to identify and address their everyday legal needs.
- Helping people to gain an understanding of their legal problems and their options for next steps, including where and how to get more help.
- Helping people to address their legal problems by gaining an understanding of their legal rights and related legal process issues, and taking some or all steps in the process on their own.



Quality of legal information may include: (1) accurate, updated, and relevant based on the jurisdiction in which the clients are (or the legal problem arises); (2) findable by a range of target audiences; (3) written in plain language; (4) credible, trustworthy, and verifiable; (5) useful and useable; and, (6) ability to empower and provide direction for next steps.

### Measures

- Experience of users in locating and accessing relevant and updated legal information
- Experience of users in using the legal information.
- Extent to which the available information is understood by users
- Whether, in the experience of the users, the legal information provided was helpful in identifying/understanding their legal needs or legal problem(s)
- Whether the legal information provided addressed the users legal needs (users' perception)
- Whether the legal information provided helped users understand what steps to could take to address their legal needs and problem(s)
- Whether, in the opinion of service users, the legal information they received contributed to an effective resolution of their legal problem (or empowered them to resolve their legal problem)

### 2.2.2 Trust and confidence in legal information

***Users' confidence in legal information received:*** *Whether the users of the legal information perceived it to be trustworthy.*

- Extent to which users perceive a legal information source as trustworthy (impartial, competent, and as having integrity)
- Extent to which users perceived the legal information received as accurate, complete, or up-to-date
- Extent to which users perceived the legal information received as reliable
- Proportion of users of a particular service relying on it more than once

### 2.2.3 User empowerment

***User empowerment:*** *Extent to which users of legal information and education are empowered to participate in the management of everyday legal needs and the resolution of legal problems and able to access appropriate services.*



## 2.2.4 Quality of legal advice received

**Quality of legal advice:** *Whether meaningful and credible legal advice about a legal problem received by people with legal problems is delivered competently, tailored to a specific case, and useful in providing direction about how to proceed in addressing that problem.*

### Measures

- Whether people with a legal problem could access free or inexpensive summary legal advice
- Amount of time elapsed between applying/requesting legal advice and receiving the advice
- Whether beneficiaries feel that they are treated with respect by the legal professional providing the legal advice
- Whether the client feel that lawyer-client confidentiality was maintained
- Whether the advice helped the user identify next steps (or path) in resolving the legal problem
- The extent to which the user trusted the legal advice received

## 2.2.5 Quality of legal representation received

**Quality of legal representation:** *The quality of the services provided by a third party acting on behalf of person with a legal problem who is seeking a solution to a legal problem before a court, tribunal, or other adjudicating authority, in terms of whether the service was helpful and aligned with the client's best interests.*

### Measures

- Trust in the service providers providing representation
- Perceived usefulness of the representation provided (whether the legal need was addressed, or the legal problem resolved)
- The extent to which the client felt respected by the service providers
- Satisfaction with the substantive outcome of the case
- Percentage of returning clients

## 2.2.6 Quality of referral services

**Quality of referral service:** *The quality, accessibility and fairness of the process through which an individual (or potential client) is referred to a service that can provide assistance (including specialized or more suitable assistance) or is otherwise helped in navigating to justice system efficiently and effectively.*



This dimension may include whether an individual in need of access to justice is referred or not to suitable services, how that information is communicated, the timeliness of the referral, and whether the referral leads to access to appropriate service and follow-up actions after the referral.

Trusted intermediaries, who may or may not be service providers, may direct individuals to service agencies or programs. Sometimes clients are also referred to services that can provide additional and more specialized assistance.

The Canadian Bar Association suggests providing so-called ‘warm’ referrals, in which “the organization approached takes responsibility for ensuring that a referral leads to follow up and action rather than leaving that with the individual” (CBA, 2013: 73).

## Measures

- User experience of the quality of referrals for services
- The extent to which various referrals produce favourable outcomes in terms of timely access to the referred service;
- The extent to which the referrals are perceived by the clients as responsive to their needs
- The extent to which referrals are followed up by a referring service provider to ensure that the client received adequate and prompt assistance
- Delays experienced by people in accessing services upon referrals (by type of needs, characteristics of users, type of services)
- Impact on clients of delays in accessing services upon referrals ((by type of needs, characteristics of users, type of services)
- Number of referrals received by an agency (by type of needs, characteristics of users, type of services)
- Timeliness of various referrals from the perspective of the clients
- Appropriateness of referrals (as perceived by clients or by receiving agency)
- Clients’ experience/satisfaction with referral process (by type of needs, characteristics of users, type of services)

### 2.2.7 Experience of self-represented litigants

***Experience of self-represented litigant:*** *The path to justice used by unrepresented litigants and their experience in trying to navigate the legal system to resolve their legal problem in the absence of legal representation.*



While financial distress is a strong predictor of self-representation, other factors include distrust and negative predispositions towards lawyers; the litigant perceives their legal problem as simple and straightforward; reliable access to legal help, often from friends or family members; high level of education and professional experience, which may enable them to navigate legal documents and court proceedings; familiarity with courts or legal processes; an amicable relationship between the two parties; desire to retain control over the case; and a litigant may hold a 'do-it-yourself' mentality.

### 2.2.8 Quality of consensual dispute resolution processes

**Quality of consensual dispute resolution processes:** *Whether people with a legal problem who chose the path of a consensual dispute resolution process found the process useful, impartial, or effective, and whether they are satisfied with the process.*

#### Measures

- User's satisfaction with the consensual dispute resolution process they participated in
- Users' satisfaction with the fairness of the consensual dispute resolution process
- Awareness of available conflict resolution services by people facing a legal problem
- Ease of navigating access to the mechanism (including ability to navigate online dispute resolution platforms)
  
- Amount of time between filing a case through a consensual dispute resolution mechanism and accessing the mechanism
- Amount of time between filing a case through a consensual dispute resolution mechanism and case resolution

## 2.3 System's Effectiveness in Addressing Legal Problems

### 2.3.1 Effective resolution of legal problems

**Effective resolution of legal problem:** *The extent to which the legal problems faced by justice system users are resolved (by type of problem, type of service).*

### 2.3.2 Mitigated impact of legal problems

**Mitigation of impact of legal problem:** *The extent to which the impact of the legal problem faced by justice system users is being mitigated (by type of problem, type of service).*



### 2.3.3 Prevention of legal problems

**Prevention of legal problems:** The extent to which access to justice services helps service users prevent the emergence of legal problems (by type of problem, type of service, by sup-population).

“Our long range goal is to shift justice system resources away from finding effective ways to deal with legal problems, conflicts and disputes, toward preventing them in the first place” (CBA, 2014: 62).

### 2.3.4 Prevention of conflicts

**Prevention of conflict:** *The extent to which conflicts are prevented, resolved, or prevented from further escalating, and the extent to which the impact of the conflict is mitigated (by type of problem, type of service, by sup-population).*

### 2.3.5 Unmet legal needs and their consequences

**Unmet legal needs:** *The extent to which users’ legal needs are unmet and their legal problems are unidentified or unaddressed and the personal consequences of unmet legal needs (Including personal consequences of unmet needs).*

The problem of unmet legal needs is exacerbated by the additional clustering of other legal, social, and health related problems, all of which come at significant costs and consequences for the individual or group experiencing the legal problem (Farrow, 2014: 965).

### 2.3.6 Limits to the assistance received

**Limits to assistance received:** *The extent to which the scope, coverage, and quality of the services provided (or that could be accessed by an individual or a group) prevented the legal needs to be fully met.*

## 2.4 Appropriateness of the Justice Process

### 2.4.1 Fairness, equity and impartiality of the process

**Fairness, equity and impartiality of the process:** *The extent to which users perceive the justice process as fair, equitable and impartial.*

We know that many users judge the outcome of the justice system in relation to the fairness of the process (or procedural justice). However, justice must be more than fair process (Farrow, 2014). Measuring access to justice involves addressing the question of “what is a fair and just outcome”,



or at the very least “what is a useful outcome” from the point of view of those accessing justice mechanisms. From the user’s perspective, the result of the justice process is perceived as favourable or unfavorable; just or unjust; useful or not useful.

As HILL emphasized, “offering citizens a procedure leading to a fair outcome is the core business of courts” (HILL, 2016: 8). The requirement of procedural fairness encompasses a variety of dimensions. One of them is the perception of fairness by users of the system. At least two main things matter when people deal with the authorities: the quality of decision making by the authorities and the quality of the treatment that they receive from them” (Blader & Tyler, 2003)

### Measures

- The extent to which users perceive the outcomes of the process as fair and impartial (by types of users or specific groups of users; by types of legal problems or legal needs, for each path to justice)
- The extent to which users’ substantive interests are satisfied

#### 2.4.2 Cultural appropriateness

***Cultural appropriateness of process:*** *The extent to which users perceive that the justice services they accessed were delivered in a culturally appropriate and linguistically useful manner.*

#### 2.4.3 Voice and participation

***Voice and participation:*** *The extent to which an individual can meaningfully participate and be heard in a court of law, tribunal, or other related proceeding in order to resolve his/her legal problem.*

### Measures

- The extent to which individuals had an adequate and meaningful opportunities for participation.
- The extent to which participants had an informed understanding of the circumstances surrounding the case



## 2.5 Justice Outcomes for the Users

### 2.5.1 User satisfaction with outcomes of justice process

#### Definition

*User satisfaction with outcomes of process:* The extent to which users perceive, based on the nature of their legal problem and the circumstances surrounding it, that their best interests were considered, fulfilled, and reflected in the outcome of the justice process.

There are issues with the measurement of client satisfaction, but these are not insurmountable. For example, Curran (2012) points to numerous international studies that have run into difficulty due to the client's level of dissatisfaction with their situation, which may or may not have any relevance to the appropriateness or quality of the legal assistance they received. Nevertheless, some useful indicators can be derived from client satisfaction studies. For example, the Legal Services Society regularly conducts client satisfaction surveys (e.g., LSS & SENTIS, 2015).

### 2.5.2 Compliance with court orders, judgments, and mediated agreements

*Compliance:* The extent to which court orders, judgements, mediated agreements and other commitments resulting from the justice process are enforced or complied with.

### 2.5.3 Post-resolution support

*Post resolution support:* The extent to which people with legal problems are supported following a resolution of their legal problems.

### 2.5.4 User enhanced legal awareness

*Users' legal awareness:* Whether, as a result of accessing a particular path to justice service users gain a greater awareness of the law, and of their rights, entitlement and responsibilities.

Accessibility depends in part on awareness of legal rights and of available procedural mechanisms for the enforcement of such rights. In many instances, as was noted by the Victorian Law Reform Commission, "injustice results from nothing more complicated than lack of knowledge" (Victorian Law Reform Commission, 2008: 90). Surveys have shown that there often is a substantial knowledge deficit with respect to people's knowledge of legal rights, and many people misinterpret or misunderstand their rights (in the U.K., Wintersteiger, 2015).





### 2.5.5 Enhanced legal capability

**Legal capability:** *Whether people’s experience of access to justice services system empowered and enabled them to manage their legal needs or resolve legal problems beyond the legal problem they were initially concerned with (self-confidence in resolving legal problems or disputes).*

Knowledge, capacity, capability, and understanding are believed to be key prerequisites to access to justice. Legal capability is a key indicator for the effective use of legal services. Surveys have shown that people with low levels of legal capability are more likely not to act, and less likely to sort things out alone: “They are less able to successfully solve legal problems, and are twice as likely to experience stress-related ill-health, damage to family relationships and loss of income” (Wintersteiger, 2015: 3)(see also: Forell and McDonald, 2015).

Collard and Deeming define legal capability as the ability of individuals to recognize and deal with law-related issues that they might face. Legally capable individuals, they argue, should be empowered to deal with law-related issues. They identify four domains of legal capability:

- Recognizing and framing the legal dimensions of issues and situations
- Finding out more about the legal dimensions of issues and situations
- Dealing with law-related issues and situations
- Engaging and influencing (Collard & Deeming, 2011: 3).

## 3. Improving Costs (Aim #3)

The third aspects of the Triple Aim is to improve costs or, at the very least, to ensure that access to justice costs remain sustainable. Three distinct dimensions are included in this component:

- Per-capita costs of services
- Per-user costs of services
- Other costs, including the costs of unmet legal needs on the costs of other service sectors

### 3.1 Per-capita Costs of Services

#### Definition

**Cost of services:** Per-capita costs of delivering various forms of access to justice services (for the population as a whole, for sub-populations, by type of service).



The Canadian Forum on Civil Justice has been doing some interesting work on the costs of civil justice. It noted that: “we know there is a cost to the lack of access to civil justice — but we do not know what these costs are” (The Canadian Forum on Civil Justice, 2012: 5). It also noted that there currently are limited statistics available to capture activities in our civil and family courts and even fewer regarding the broader system intended to serve the overall legal needs of the public. The Forum is currently pursuing a project to fill the current void of evidence-based information about the legal, economic, and social costs and benefits of pursuing, or not pursuing, justice through various dispute resolution pathways.

This leads to questions such as: (1) Is the cost of achieving resolution economically and socially warranted? (2) What choices and changes are recommended based on the available evidence? (3) What can be done to effectively prevent disputes and at what costs and benefits?

### 3.2 Per User Costs of Services

**Per user costs:** *The costs of delivering various forms of access to justice services calculated in relation to the number of users of these services (by type of service or path to justice, or for each new access to justice project or initiative).*

### 3.3 Other Costs

#### 3.3.1 Social and economic costs of unresolved legal problems

**Social and economic costs:** *The social and economic costs associated with unresolved legal problems or with various gaps in access to justice services, including broad economic costs, and the social costs of unresolved conflicts.*

Poor access to justice and the resulting unresolved legal problems have social and economic costs (Dandurand & Maschek 2014; Cookson, 2013). Unfortunately, it remains quite difficult to empirically and conclusively demonstrate the cost effectiveness of providing greater access to various forms of legal aid or the economic consequences of failing to provide sufficient legal aid services.

#### 3.3.2 Impact of unmet legal needs on the costs of other service sectors

**Impact of justice system on costs of other sectors:** *The impact of access to justice or the lack thereof on the costs related to the provision of public services in other sectors (e.g., health care, public housing, social assistance, child protection, etc.).*



The costs of not achieving resolution (considering the tendency of unresolved legal problems to cluster) are sometimes transferred to other sectors, including personal health, public health, public housing, child care, social assistance, etc. (The Canadian Forum on Civil Justice, 2012).



## References

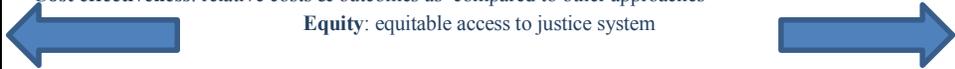
- Action Committee on Access to Justice in Civil and Family Matters (2013). *Access to Civil and Family Justice – A Roadmap for Change*, October 2013.
- Berwick, D. M., Nolan, T. W., & Whittington, J. (2008). The Triple Aim: Care, Health, and Cost. *Health Affairs*, 27 (3): 759-769.
- Beqiraj, J. & McNamara, L. (2014). *International Access to Justice: Barriers and Solutions*. Bingham Centre for the Rule of Law. International Bar Association.
- Bond, J., Wiseman, & Bates, E. (2016). The Cost of Uncertainty: Navigating the Boundary Between Legal Information and Legal Services in the Access to Justice Sector. *Journal of Law and Social Policy*, 25: 1-25.
- Buckley, M. (2013). *Evolving Legal Services: Review of Current Literature*.
- Buckley, M. (2016). *A National framework for Meeting Legal Needs: Proposed national benchmarks for public legal assistance*. Report of Canadian Bar Association Access to Justice Committee. Ottawa: Canadian Bar Association.
- Canadian Bar Association (2013). *Equal Justice – Balancing the scales*. Ottawa: Canadian Bar Association.
- Collard, S. & Deeming, C. (2011). *Public Legal Education Evaluation Framework*. University of Bristol, Personal Finance Research Centre.
- Curran, L. (2012). *A Literature Review: examining the literature on how to measure the successful outcomes: quality, effectiveness and efficiency of Legal Assistance Services*, Curran Consulting, prepared for the Commonwealth Attorney-General's Dept.
- Curran, L. & Crockett (2013). Measuring Legal Services: A practical methodology for measuring quality and outcomes of legal assistance services, *The University of Tasmania Law Review*, 32 (1): 70-95
- Currie, A. (2007). *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians*. Ottawa: Department of Justice Canada.
- Dandurand, Y., & Maschek, P. (2014). *Assessing the Economic Impact of Legal Aid in British Columbia - Promising Areas for Future Research*. Prepared for The Law Foundation of British Columbia. Abbotsford: UFV School of Criminology.
- Farrow, T.C. W. (2014). What is Access to Justice. *Osgood Hall Law Journal*, 51(3): 957-988.
- Farrow, T.C.W., Currie, A, Aylwin, N., Jacobs, L, Northrup, D., & Moore, L. (2016). *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report*. Toronto: Canadian Forum on Civil Justice.,
- Forell, S. and McDonald, H. M. (2015). Beyond Great Expectations: Modest, meaningful and measurable community legal education and information, *Justice Issues, paper 21*. Sydney: Law and Justice Foundation of New South Wales.
- HILL (2010). *Measuring Access to Justice in a Globalising World*. The Hague: National Law in a Global Society
- HILL (2016). *Trend Report Online Dispute Resolution*. The Hague: Hague Institute for the Internationalization of Law.
- Hough, Mike, Bradford, Ben, Jackson, Jonathan and Roberts, Julian R. (2013) *Attitudes to sentencing and trust in justice: exploring trends from the crime survey for England and Wales*. Ministry of Justice analytical series, Ministry of Justice, London, UK.
- Jacobs, L., Kryszaitys, D., & M. McManus (2015). *Paths to Justice and the resolution of Consumer Problems. Findings from the 2014 Everyday Legal Problems and the Costs of Civil Justice in Canada National Survey*. Toronto: Canadian Forum on Civil Justice.
- LSS & SENTIS (2015). Legal Services Society – 2015 Client Satisfaction Survey
- Marchiori, T. (2015). *A Framework for Measuring Access to Justice - Including Specific Challenges Facing Women*. New York: UN Women.
- McEown, C. (2009). *Civil Legal Needs Research Report* (2nd Edition). Vancouver: Law Foundation of British Columbia.



- Macfarlane, Julie (2013). *The National Self- Represented Litigant project: Identifying and Meeting the Needs of Self- Represented Litigants* – Final Report. Public Safety and Emergency Preparedness Canada: Ottawa.
- McDonald, H. M. & Wei, Z. (2016). How People Solve Legal Problems: level of disadvantage and legal capability. *Justice Issues, paper 23*. Sydney: Law and Justice Foundation of New South Wales.
- McLachlin, B. (2015). *Remarks of the Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada*, at the Annual Conference of the Canadian Institute for the Administration of Justice, October 16, 2015.
- Moore, M 1995, *Creating Public Value: Strategic Management in Government*, Harvard University Press: Cambridge, MA.
- Noone, M.A. (1992). *Paralegals: In the Community's Interest*. West Heidelberg Community Legal Services, La Trobe University.
- OECD (2014). Public Governance and Territorial Development, Public Governance Committee (2014). *Towards an OECD Strategy on Trust in Government*, Meeting of the Public Sector Integrity Network, 16-17 June 2014 at OECD, GOV/PGC/ETH(2014)8, 27 May 2014.
- OECD and Open Society Foundations (2016). *Leveraging the SDGs for Inclusive Growth: Delivering Access to Justice for All*.
- Pereira, I., Perry, C., Greevy, H. & Shrimpton, H. (2015). *The Varying Paths to Justice: Mapping problem resolution routes for users and non-users of the civil, administrative and family justice systems*. London: Ministry of Justice.
- Pleasence, P., Balmer, N. J., & Sandefur, R. L. (2013). *Paths to Justice: A Past, Present and Future Roadmap*. London: Centre for Empirical Legal Studies and Nuffield Foundation.
- Roberts, J., A. (2004). *Public Confidence in Criminal Justice: A Review of Recent Trends*.
- Sandefur, R. L. & Smyth, A. C. (2011). *Access Across America: First report of the Civil Justice Infrastructure Mapping Project*. Chicago: American Bar Foundation.
- Schetzer, L. & Henderson, J. (2003). *Access to Justice and Legal needs - A project to identify legal needs, pathways and barriers for disadvantaged people in NSW*. Sydney: Law and Justice Foundation of New South Wales.
- Smith, R. (2016). *Digital Delivery of Legal Services to People on Low Incomes*. The Legal Education Foundation.
- The Canadian Forum on Civil Justice (2012). *The Cost of Justice: Weighing the costs of fair & effective resolution to legal problems*.
- Thompson, D. (2015). Creating New Pathways to Justice Using Simple Artificial Intelligence and Online Dispute Resolution, *International Journal of Online Dispute Resolution*, Vol. 1 (2): 1-43.
- Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems (TISCO) (2009). *A Handbook for Measuring the Costs and Quality of Access to Justice*.
- Truth and Reconciliation Commission of Canada (2015). *Honouring the truth, reconciling for the future*.
- Tsouklalas, S. & Roberts, J. (2002). *Legal Aid Eligibility and Coverage in Canada*. Ottawa: Department of Justice Canada
- Verdonschot, J. H., Barendrecht, M., Klaming, L., & Kamminga, P. (2008). *Measuring Access to Justice: the Quality of Outcomes*. Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict resolution Systems, Tilburg University.
- Victorian Law Reform Commission (2008). *Civil Justice Review*. Melbourne, Victoria.
- Wintersteiger, L. (2015). *Legal Needs, Legal Capability and the Role of Public Education*, The Legal Education Foundation.



### Appendix 1 – Example of Applying the Framework

Pathways	EXPERIENCE OF PEOPLE WITH A LEGAL PROBLEM (users)				
	Accessibility	Quality	Effectiveness	Appropriateness	Outcomes
Obtaining legal information	Families get access to the information and resources they need at the right time				Families get access to the information and resources they need at the right time
Obtaining legal advice/ assistance	Referral to appropriate multi-disciplinary information and services	Users experience the family justice system as responsive to the needs of family members.			
Early resolution service	Family disputes are resolved more quickly using CDR		Ongoing connections with the Court and CDR provider to resolve ongoing conflict	Families would use mediation again	Family disputes are resolved more quickly using CDR than through the traditional court process
Consensual dispute resolution	Problem-solving using a variety of CDR processes		Families are very satisfied with the effectiveness and affordability of each component of the integrated model	Court time per file reduced	Enforceable agreements or orders Future conflicts prevented
Litigation	Litigation remains available		Judicial resources are reserved for matters that require adjudication	Court cases volumes reduced. Wait-times for trials are reduced	
Obtaining legal representation					
Not addressing the problem					
<p><b>Efficiency:</b> optimal use of resources to yield maximum results</p> <p><b>Cost effectiveness:</b> relative costs &amp; outcomes as compared to other approaches</p> <p><b>Equity:</b> equitable access to justice system</p> 					

The above is an example of how the framework can be used to plan or evaluate the impact of a new initiative to improve access to justice for a given group, in relation to a particular type of legal problem, or with respect to a particular legal need. In this example, it is a Mandatory Assessment and Presumptive CDR project. One can map out how a project plans to improve the experience of users in one or more of the pathways to justice (left column) by improving one or more dimensions of the experience of users of the justice system (top row). The experience of users is described and eventually measured by considering five aspects of people's experience of the justice system (accessibility, quality, effectiveness, appropriateness, and outcomes) and two relating to the performance of the system in which justice services are provided and people legal needs are addressed (efficiency and equity). This is done at the same time as other measures are used to assess the cost-efficiency and cost-effectiveness of that project as compared to other approaches. By measuring the outcomes of the project for different groups (parts of the population served), one can also assess how the approach in question contributes to providing equitable access to justice to members of these groups.

.....