

## Individual and Public Costs of Everyday Legal Problems

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### Research on Cost in Access to Justice

In spite of Oscar Wilde's aphorism about *knowing the cost of everything and the value of nothing* cost is an ever present issue in access to justice. When cuts to legal aid are on the political agenda research often focuses on the magnitude of unintended or "knock-on" costs of cutting service. The message is that the money that might be saved by cutting service is far outweighed by the cost to publicly funded institutions<sup>1</sup> and in terms of human adversity<sup>2</sup> that will occur as a consequence. Research sometimes focuses on the contribution of legal aid to cost savings and efficiencies in the courts.<sup>3</sup> The problem is, however, that almost invariably the policy decision, if not the actual cuts, has already been made and the research is not persuasive or effective because policy decisions of this sort are rarely reversed, at least in the short term.

Another strain of the research on cost and access to justice pursues an investment theme. Econometrics studies estimate that for every dollar spent on legal aid the economic benefit that will accrue for the economy overall will be some multiple of that.<sup>4</sup> The message from this research is that the economic benefits of investing in access to justice are so great that not spending more on legal aid and other access to justice programs is imprudent. The problem with this sort of research, even for decision makers who understand econometrics modelling, is that government budgeting is too compartmentalized and while the overall picture is attractive there is no easy budgetary road to it within typical systems of government finance.

The big hurdle to providing what most champions for access to justice consider adequate funding for or expanding access to justice is probably ideological. The predominant paradigm assumptions do not favour or value public funding on access to justice. According to one argument, the compromise between the principle of universality and reality of rationing of access to justice has come about because of the high cost of legal services. David Luban argues that "while equality before the law holds a privileged place in our system, and to deny equality

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<sup>1</sup> Graham Cookson, *Unintended Consequences: The Cost of the Government's Legal Aid Reforms*, A Report for the Law Society of England and Wales, King's College London, 2011

<sup>2</sup> Vicki Trerise, *Where the Axe Falls: the real cost of government cutbacks to legal aid*, The Law Society of British Columbia, 2000

<sup>3</sup> PricewaterhouseCoopers, *Economic Value of Legal Aid: Analysis in relation to Commonwealth funded matters with a focus on family law*, National Legal Aid, Australia, 2009

<sup>4</sup> Perryman Group, *The Impact of Legal Aid Services on Economic Activity in Texas: An Analysis of Current Effects and Expansion Potential*, 2009

before the law delegitimizes that system, access to equal legal services, however, would take more money than our society can be expected to provide for its poor.”<sup>5</sup> He therefore argues for “the more modest ideal of minimal access to legal services for the poor.”<sup>6</sup>

This is a very long term reality in access to justice that may have a cyclical quality. Decades ago, Cooper pointed out that the increasing expenditure on civil legal aid eventually becomes greater than the political commitment to sustain it. He describes this as the “Cinderella prophecy” according to which legal aid is never a high political priority and governments have shown themselves more than willing to propel their legal aid plans downstairs to the basement after a brief period in the limelight of the ball.<sup>7</sup> These reversals can happen any time but more often in the wake of periodic recessions as governments struggle to reduce public debt.<sup>8</sup>

### Cost in Contemporary Legal Problems Research

The contemporary body of legal problems literature began with the Comprehensive Legal Needs Study<sup>9</sup> sponsored by the American Bar Association and with Hazel Genn’s very influential Paths to Justice study<sup>10</sup> in the U.K. These two seminal studies have been the foundation for numerous state-level legal needs studies in the U.S and a large international body of legal problems research. The approximately 26 major studies carried out in different countries since the publication of *Paths to Justice* have produced a remarkably consistent body of results documenting the prevalence and patterns of everyday legal problems and the substantial gaps in access to justice described by the number of problems for which people do not obtain timely and appropriate assistance and the costs in terms of human adversity.<sup>11</sup> This body of research has had a considerable influence on access to justice policy and programs.<sup>12</sup>

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<sup>5</sup> David Luban, “The Right to Legal Services” in A.A. Paterson and T.Goriely (eds.), p. 61

<sup>6</sup> Ibid., p. 39

<sup>7</sup> J. Cooper, “Legal Aid Policy: A Time for Reflection”, *Environment and Planning C: Government and Policy*, Volume 2, 1984 p. 432

<sup>8</sup> A. Currie, *Getting Ahead of the Curve: The Challenges and Opportunities of Recessions for Legal Aid*, Keynote Address, International Forum on Legal Aid, Taiwan Legal Aid Foundation, 2009

<sup>9</sup> Albert H. Cantril, *Agenda for Access: The American People and Civil Justice*, Final report on the Implications of the Comprehensive Legal Needs Study, Consortium on Legal Services and the Public, American Bar Association, 1994; *Legal Needs and Civil Justice: A Survey of Americans, Major Findings of the Comprehensive Legal Needs Study*, Consortium on Legal Services and the Public, American Bar Association, Chicago, 1994; *The Legal Needs of the Low-Income Public: Findings of the Comprehensive Legal Needs Study*, Consortium on Legal Services to the Public, American Bar Association, Chicago, 1994; *The Legal Needs of the Moderate-Income Public: Findings of the Comprehensive Legal Needs Study*, Consortium on Legal Services to the Public, American Bar Association, Chicago, 1994; *The Legal Needs of the Low- and Moderate-Income Public: Findings of the Comprehensive Legal Needs Study*, Consortium on Legal Services to the Public, American Bar Association, Chicago, 1994

<sup>10</sup> Hazel Genn, *Paths to Justice: What people do and think about going to law*, Oxford, 1999

<sup>11</sup> Results are widely known and available elsewhere.

<sup>12</sup> Pascoe Pleasence, Nigel J. Balmer and Rebecca L. Sandefur, *Pathways to Justice; a past present and future roadmap*, Centre for Empirical Legal Studies, University College London, 2013

Up to the present the contemporary body of legal problems research has focused on the prevalence of everyday legal problems, the occurrence of multiple problems and problem clusters, what people do about legal problems, the extent to which people get the help they need and what happens when they do not. Cost has occupied a minor place in the research literature. For the most part, legal problems studies have focussed on the role of cost in people's decision to take no action to resolve their problems. Typically, studies have asked respondents about the importance of cost as opposed to other factors in their decision not to attempt to resolve the problem. The results have suggested that cost is a minor factor in decisions not to take some action to resolve legal problems, although the numbers vary. Results from the U.S. Comprehensive legal needs study show that 16% of low and moderate income Americans cited cost as a concern in the decision to take action for a legal problem.<sup>13</sup> In Genn's Paths to Justice study, among the 13% of respondents who took no action to resolve their problem, the percent saying "cost too much" was the a major reason for taking no action ranged from 2% for employment problems to 16% for problems related to rented accommodation.<sup>14</sup> Research carried out by the Legal Services Research Centre in England and Wales also showed that among people who took no action to resolve a justiciable problem only 4% in the 2001 survey and 2% in the 2004 survey said that cost was a major factor.<sup>15</sup> Concern about costs was more frequently cited as a reason for not taking action in certain problems types: 12% for money and debt problems in 2001 and 20% in 2004, 13% for clinical negligence problems in 2001 and 18% in 2004, 21% for mental health-related legal problems in 2001.<sup>16</sup> Anticipated stress was cited more frequently by 9% of respondents as a reason for taking no action in the 2004 survey.<sup>17</sup> A New Zealand study found that 4% of respondents said the cost would be too great as a reason for not seeking help with the most serious problem experienced.<sup>18</sup> In the same study 14% cited high cost as a reason for not seeking help with a family law problem.<sup>19</sup> Similarly, a study carried out in Northern Ireland found that 20% of respondents who took no action to resolve a legal problem said cost was an important consideration.<sup>20</sup> Only 2.6% of respondents in the Hong Kong legal needs study said cost was the reasons for taking no action to resolve the problem, compared with 23.9% who said they did not know what to do.<sup>21</sup> The 2012 survey of legal problems in Australia reports that 27.1% of

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<sup>13</sup> Comprehensive Legal Needs Study, American Bar Foundation, p. 25

<sup>14</sup> Ibid. P. 40

<sup>15</sup> Pascoe Pleasence, Causes of Action: Civil Law and Social Justice (2<sup>nd</sup> edition), Legal Services Commission, 2006, p. 83

<sup>16</sup> Ibid., p. 86

<sup>17</sup> Ibid., p. 83

<sup>18</sup> Ignite Research, Report on the 2006 National Survey of Unmet Legal Needs and Access to Services, Wellington, New Zealand, 2006, p. 60

<sup>19</sup> Ibid., p. 70

<sup>20</sup> Tony Dignan, Northern Ireland Legal Needs Survey, Northern Ireland Legal Services Commission, 2006, p. 70

<sup>21</sup> Demand Study Report (Part II), Hong Kong, p. 217

respondents who took no action said they did so because of cost, compared with 21% who said they didn't know what to do.<sup>22</sup> Results from the 2014 CFCJ study indicate that 21.7% of respondents who took no action said they did so because it would cost too much compared with 41.7% who said they took no action because they did not know what to do. When asked to rank the reasons for not taking action in order of importance, "thought it would cost too much" ranked third (13.6%) after "I didn't think anything could be done" (22.7%) and "it was too stressful" (18.2%).

Summarizing the American research, Sandefur writes that "surveys of Americans who considered and decided not to use lawyers have found that the decision is motivated by cost in only a minority of instances."<sup>23</sup> This is confirmed in a recent study carried out by Sandefur in which 17% of respondents said who took no action said cost was a major reason.<sup>24</sup> Sandefur provides a sociological perspective on why cost is a minor factor as a barrier to access to justice. Legality is socially constructed. "One important reason why people do not turn to law to deal with their legal problems is that they do not consider them as legal."<sup>25</sup> This explanation is supported by the reasons often reported more frequently than costs by respondents in legal problems surveys for not taking action to resolve legal problems; they did not think anything could be done, did not know their legal rights or did not think advice would make any difference.<sup>26</sup> More recent research by Sandefur reveals some of the explanations of legal problems held by some people; just bad luck, it was part of God's plan.<sup>27</sup>

The predominant account of why people do not use conventional legal means to resolve problems and disputes is the high monetary cost.<sup>28</sup> <sup>29</sup> A recent Canadian study of self-representing litigants in family matters indicates that over 90% of srl's said that the cost of legal services was the reason why they were not represented by a lawyer.<sup>30</sup> An Ontario study of legal problems experienced by the public found that 42% did not seek legal assistance because of the

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<sup>22</sup> Christine Coumarelos, Deborah Macourt, Julie People, Hugh M. McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsey, *Legal Australia-Wide Survey, Legal Need in Australia*, Law and Justice Foundation of New South Wales, 2012

<sup>23</sup> Sandefur. *Money Isn't Everything*, p. 221

<sup>24</sup> Rebecca L. Sandefur, *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study*, American Bar Foundation, Chicago, 2014, p. 13

<sup>25</sup> *Ibid.*, p. 245

<sup>26</sup> Pleasence, *Causes of Action*, (2<sup>nd</sup> edition), p. 82

<sup>27</sup> Sandefur, 2014, p. 14

<sup>28</sup> Rebecca L. Sandefur, "Money Isn't Everything: Understanding Low and Moderate Income Households' Use of Lawyer's Services," in *Middle Income Access to Justice*, Lorne Sossin and Michael Trebilcock (eds.) University of Toronto Press, 2012, p. 226; see also Rebecca L. Sandefur, "The Importance of Doing Nothing: Everyday Problems and Responses of Inaction" in Pascoe Pleasence, Alexy Buck and Nigel Balmer (eds.), *Transforming Lives: Law and Social Process*, Legal Services Commission, 2007

<sup>29</sup> Ability to pay is clearly a key element in the decision to engage legal means as well.

<sup>30</sup> Julie Macfarlane, *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants*, Final report, May 2013

high cost.<sup>31</sup> The qualitative interviews in Genn's pioneering Paths to Justice study reached a similar conclusion. "There was a widespread feeling among respondents that obtaining legal advice was simply not an option because of cost, especially fear of costs escalating if they became involved in legal proceedings."<sup>32</sup> More recently, Pleasence and Balmer report that 57% of respondents in the Civil and Social Justice Panel Study who obtained help from an advice agency rather than from a lawyer said they did so because of the perceived high cost.<sup>33</sup>

## Methodology and Data Source

The data for this analysis are drawn from the 2014 Canadian Forum on Civil Justice national survey of everyday legal problems. The representative population survey examines the everyday legal problems experienced by the Canadian public. The defining feature of this research, as with all of the previous studies within this body of research, is that it looks at legal problems from the point of view of the people experiencing them, not from the perspective of the formal justice system. For purposes of the survey, respondents did not have to recognize the legal implications of the problems or use any part of the formal justice system to resolve them. Respondents were asked if they had experienced any problems from a list of 84 specific problem scenarios<sup>34</sup>, each one carefully worded to assure that the issue had legal content. Threshold language in the questions encouraged respondents to report only problems they considered to be serious and difficult to resolve. Subsequent parts of the survey asked about actions taken in response to problems, consequences of experiencing problems, the types and adequacy of assistance received, connections between problems and the costs related to experiencing everyday legal problems. In order to limit the time required to administer the telephone survey, the detailed questions about problem experience and other aspects were asked about the first and second problems only. The random telephone survey of 3264 adults was carried out in the 10 provinces between October 2013 and April 2014 by the Institute for Social Research at York University. The results are accurate within a 1.7% margin of error. The sample completion rate was 42%. The basic results of the survey are similar to previous legal problems surveys carried out in Canada<sup>35</sup> and elsewhere.

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<sup>31</sup> Listening to Ontarians: Report of the Ontario Civil Legal Needs Project, Lorne Sossin, Principal Investigator, Toronto, 2010,

<sup>32</sup> Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law*, Oxford, 1999, p.80

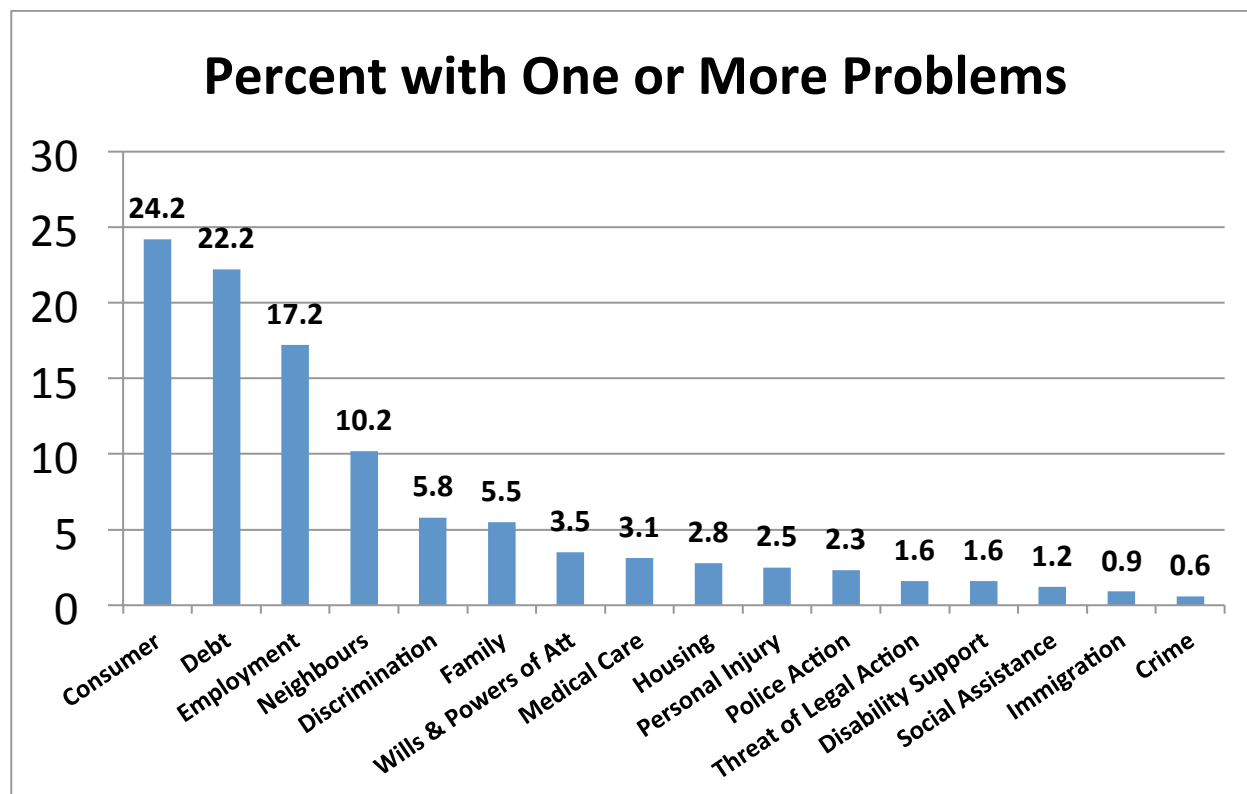
<sup>33</sup> Pascoe Pleasence and Nigel Balmer, *How People Resolve Legal Problems*, Legal Services Board, London, 2014, p. 4

<sup>34</sup> The results are reported for 17 problem types in order to make the analysis and presentation of data manageable.

<sup>35</sup> A. Currie, *A National Survey of the Civil Justice Problems of Low and Moderate Income Canadians: Incidence and Patterns*, *International Journal of the Legal Professions*, Vol. 13, No. 3, 2006 presents the results of a 2004 Canadian survey of legal problems; A. Currie, *The Legal Problems of Everyday Life*, in Rebecca L. Sandefur (ed.), *The Sociology of Law Crime and Deviance: Vol. 12, Access to Justice*, Emerald, 2009, pp 1 – 42 presents the results of a 2006 Canadian survey of legal problems and A. Currie, *Lives of Trouble: Criminal Offending and the Problems of Everyday Life*, paper presented at the International Legal Aid Group Conference, Wellington New Zealand, 2009 presents the results of the 2008 Canadian legal problems survey.

The results of the 2014 CFCJ survey indicate that 49.1% of adult Canadians will experience one or more legal problems within a three-year period they consider to be serious and difficult to resolve. Respondents experienced an average of 1.42 problems per individual.<sup>36</sup> In terms of absolute numbers this represents an estimated 13 million people experiencing one or more everyday legal problems. The percentages of respondents experiencing one or more problems within each problem type are shown in Figure 1.

**Figure 1: Percent Experiencing One or More Legal Problems within Problem Types**



The 2014 CFCJ survey is the first legal problems survey to have asked extensive questions about the costs associated with experiencing everyday legal problems. Questions were asked about the monetary cost to individuals of attempting to resolve problems, intangible costs associated with experiencing legal problems in terms of physical health problems, high levels of stress and emotional problems and the loss of security of the person due to loss of employment or housing. Respondents were asked about costs they felt were directly related to experiencing legal problems. Costs to the public are derived from responses to questions about receipt of social benefits and, in the case of health care, external data on health care costs.

<sup>36</sup> This includes respondents experiencing one or more problems in the calculation.

## The Monetary Cost to Individuals of Experiencing Everyday Legal Problems

Slightly more than one third, 37.1% of respondents, said they spent money in an attempt to resolve the problem. This amounts to an estimated 4.8 million people, calculated on the basis of the approximately 13.0 million experiencing at least one problem. The amounts of money spent are based on detailed data gathered about two problems experienced by respondents. However, 17.5% of respondents experienced three or more problems. For that reason the data underestimate the total amount spent. Respondents reported the amounts of money spent specifically on the one or two problems they experienced. The figures presented below will show the amounts of money for which detailed data were collected.

Respondents were asked how much money they spent as a result of experiencing the problem. The following introduction to the cost section was read to all respondents by the interviewer. *Now I would like to ask you about any cost you may have had to pay as a result of experiencing the problem.* This was followed by the more specific question: *Did it cost you any money to deal with the problem?* Respondents who said 'yes' were then asked if they had spent money on certain specific costs: lawyer's fees, fees for other advisors or mediators, court fees, purchase of materials, telephone and fax costs, transportation, child care and other household related costs and, finally, an 'other' category. The amounts spent for each specific category of expense were not asked of respondents, only whether they had spent money in those particular areas. The percentages are shown in table III.<sup>37</sup>

The total amount respondents said they spent over the three-year reference period for the study to resolve everyday legal problems, taking into account only problem one was \$49.5 billion. The amount spent to resolve the second problem on which respondents reported was \$28.7 billion. The total for problems one and two was an estimated 78.2 billion. This equals an annual total of \$29.4 billion. The average amounts were \$13,993 for problem one and \$15, 296 for problem two. These are very high averages affected by high values at the upper end of the distribution. Table I shows the percentages spending various amounts dividing the distribution of amounts spent as closely as possible into quartiles. Respondents were asked to report the total amount they spent in an attempt to resolve the problem in \$50 increments.

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<sup>37</sup> The intention was that respondents would specify the other costs. Unfortunately, the specific items on which other costs were incurred were not recorded. This places limitations on understanding the entire profile of costs. Because relatively few people obtain legal advice in dealing with everyday legal problems and even smaller numbers use the formal justice system a detailed examination of other costs would have been instructive, particularly since over 50% of respondents indicated they had incurred expenses within the residual category. Also, the more detailed data may have provided some insights into the extraordinarily large amount of money estimated for the population respondents said they *had spent in dealing with the problem.*

Table I: Quartile Ranges for Amount Spent to Resolve Problems

	Range for Problem One	Cumulative Percent	Range for Problem Two	Cumulative Percent
First Quartile	\$50 to \$350	25%	\$50 to \$200	25%
Second Quartile	\$400 to \$1400	50%	\$400 to \$1400	50%
Third Quartile	\$1500 to \$5200	75%	\$1500 to \$6000	75%
Fourth Quartile	\$6000 or more	100%	\$7000 or more	100%

The amounts spent dealing with everyday legal problems are presented below in Table III in quartile ranges in order to help make better sense of the very large number overall. Estimated for the entire population the total amount people spent dealing with problem one was \$129.9 million. The range for the quartile was \$50 or less to \$300. The mean expenditure was \$444, the median was \$150 and the mode was \$200. This represents 292,568 individuals estimated for the entire population. For problem two the range for the first quartile is \$50 or less to \$200. People spent an estimated \$17.1 million. The average expenditure was \$112, the median was \$110 and the mode was \$100, representing an estimated 153,170 individuals in the population. Panel two shows the data for the second quartile range. The numbers are higher but in both panels and for both problems one and two the means, medians and modes cluster together in a way that suggests, at least numerically, that the data present a true picture.

Panel three showing the data for the third quartile, shows that the mean amount spent within the third quartile on problem one is very much higher than the mode and the median.

Table II: Amount of Money Spent As A Result of Experiencing Everyday Legal Problems by Quartile Segments of the Distribution

Quartile Measures	Problem One	Problem Two	Cumulative Total for Problems One and Two	
1 <sup>st</sup> Quartile	<\$50 to \$300	<\$50 to \$200		\$147.0 m
Total \$	\$129.9 m	\$17.1 m	\$147 m	
Mean	\$444	\$112	(\$129.9 = \$17.1)	
Median	\$150	\$110		
Mode	\$200	\$100		
Number of individuals Estimated for the population	292,568	153,170		
2 <sup>nd</sup> Quartile	\$350 to \$1400	\$250 to \$1500		\$495.5



Total \$ Mean Median Mode Number of individuals Estimated for the population	\$222.8 m \$746 \$750 \$1000 298,467	\$126.1 m \$758 \$750 \$500 166,299	\$349.9 m (\$222.8 + \$126.1)	
3 <sup>rd</sup> Quartile  Total \$ Mean Median Mode Number of individuals Estimated for the population	\$1500 to \$5200  \$504.6 m \$17,812 \$2600 \$5000 283,130	\$1700 to \$6000  \$533.8 m \$3573 \$3000 \$5000 149.419	\$1,042.2 m (\$504.6 + \$533.8)	\$1,536.0 m
4 <sup>th</sup> Quartile  Total \$ Mean Median Mode Number of individuals Estimated for the population	\$6000 to \$1,000,000  \$15,643 m \$50,609 \$25,000 \$20,000 309,084	\$7000 to \$1,000,000  \$12,221 m \$180,131 \$30,000 \$50,000 156,296	\$27,864 m (\$15,643 m + \$12,221 m)	\$29,400 m

The mean, median and mode for the third quartile segment of problem two expenditures are consistent numerically. In the fourth quartile the numbers become substantially larger and the spread between the mean and the median and mode becomes greater. The data for the third quartile of problem two and the fourth quartile for both problems suggests that the extraordinary high costs probably reside in peculiarities within the distributions of these upper ranges.

The \$29.4 billion figure is of an order of magnitude unfamiliar in the justice sector.<sup>38</sup> Attempting, then, to put the number in an economic perspective, \$24.9 billion equals 1.4% of

<sup>38</sup> In this initial exploration into the *terra incognita* of costs related to experiencing everyday legal problems there are no benchmarks to help make sense of the data. Some data on consumer spending in other areas might provide some helpful context. In 2013 Canadians spent \$1.4 billion on prestige beauty products ([www.nepgroup.ca](http://www.nepgroup.ca)); \$1.6 billion on pet food ([www.tfoCanada.ca](http://www.tfoCanada.ca)); \$5.3 billion on cosmetics, spa and beauty products ([www.tfoCanada.ca](http://www.tfoCanada.ca));

estimated GDP of \$1,825.1 billion (41.8 trillion) for 2014.<sup>39</sup> It represents 2.5% of \$987.3 billion in total household consumption expenditures for 2012.<sup>40</sup> It equals 5.4% of \$457.5 billion in total retail sales for 2011.<sup>41</sup> It may be significant that Canadians are spending, overall, 2.5% of total household expenditures to resolve everyday legal problems. The large number demonstrates an important fact about the cost of everyday legal problems. The very large numbers of everyday legal problems experienced by the public is a powerful engine that drives the aggregate costs to a commensurately high level. Before legal problems research began using survey research to focus on the legal problems faced by the public, the very high prevalence of these serious and difficult everyday legal problems remained hidden, hidden in plain sight largely by a dominant perspective on legal problems that emphasized legal problems resolved within the formal system. This was, as Alan Paterson has observed, a sort of tautology in which the legal nature of the thing is determined by the manner in which it is treated.<sup>42</sup> The cost of everyday legal problems has for the same reasons been hidden in plain sight. It appears as if, driven by the large numbers of problems the aggregate costs are very large indeed even though the costs connected with the majority of individual problems are modest and within the range of ordinary experience. Table II shows the types of expenditures mentioned most frequently by respondents. Lawyer's fees are the most frequent type of expenditure. Evidently, people often required to travel for appointments or appearances at courts or tribunals because this expenditure is the second most frequently mentioned, followed by expenditures on such things such as materials, printing and copying. Fees for other advisors and mediators and court fees are mentioned fourth and fifth in terms of frequency.

Table III: Percent of Respondents Mentioning Different Types of Expenditure

Type of Expenditure	Problem One	Problem Two
Lawyer's Fees	22.6%	21.6%
Transportation	16.3%	14.2%

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\$13.7 billion on government run lotteries, video terminals, casinos and slot machines ([www.financialpost.com/story/html?](http://www.financialpost.com/story/html?)); \$24.1 billion on alcohol products in 2012-2013 (<http://ca..finance.yahoo.com/blogs/pay-day/sin-spending-price-canaadian-vices-152050067.html>); \$31.1 billion on cigarettes ((<http://ca..finance.yahoo.com/blogs/pay-day/sin-spending-price-canaadian-vices-152050067.html>)); and in 2004 \$37.1 billion on food sales at restaurants, cafeterias food vendors and drinking places ([www41.statcan.gc.ca/2006/0163/ccb0163\\_002-eng.htm](http://www41.statcan.gc.ca/2006/0163/ccb0163_002-eng.htm)). These numbers do not constitute evidence but the amounts of money reported in other areas of consumer spending suggest that the seemingly astronomical amount people said they spent related to experiencing legal problems is not out of proportion with some other expenditures.

<sup>39</sup> Accessed at [www.tradingeconomics.com/canada](http://www.tradingeconomics.com/canada)

<sup>40</sup> Accessed at <http://www5.Statcan.gc.ca/Cansim/a01>, Table 384-0041

<sup>41</sup> Industry Canada, Consumer Trends Update, Office of Consumer Affairs, Industry Canada, n.d. Accessed at [www.consumer.ic.gc.ca](http://www.consumer.ic.gc.ca)

<sup>42</sup> Alan Paterson, *Lawyer's and the Public Good: Democracy in Action*, Chapter 3, *Access to Justice: wither legal aid*, Hamlyn lectures, Cambridge University Press, 2012

Purchase of Materials/Copying and Printing	14.1%	16.6%
Other Advisors and Mediators	10.1%	9.6%
Court Fees	9.7%	9.4%
Telephone and Fax	6.2%	3.9%
Child Care and Other Household Expenses	4.8%	3.1%
Other Expenses	56.2%	59.8%
	n = 1361	n = 707

It would be expected that if people spend money to resolve an everyday legal problem the problem would be more serious than if no money were spent. By the same logic, a greater amount of money spent should signal a more serious the problem. This appears to be true using the limited measures of problem complexity in a self-report survey. Respondents were asked how important it was to resolve the problems and the extent to which experiencing the problem was disruptive to their daily lives. Response categories were on a 5-point qualitative scale from “not at all” to “extremely” important or disruptive. The amount of money spent is related to self-reported level of importance and to degree of disruption to daily life. Table II presents the correlations between the binary variable spent money to resolve the problem versus did no and the five point scales for importance to resolve the problem and degree of disruption to daily life. Table III shows the similar correlations between the amount of money spent and those same two variables, using the same four quartile expenditure categories as in Table I. The correlations are modest but they all show statistically significant relationships between spending money to resolve a problem and the amount of money spent with the variables representing respondent perspectives on the importance of resolving the problem and the degree to which it was disruptive to daily life.

Table IV: Correlations between Spent Money to Resolve the Problem (Binary Yes/No) and Importance to Resolve and Disruption to Daily Life (Eta Statistics with Spent Money Dependent)

	Importance	Disruption
Problem One	Eta = .17 $\chi^2 = 36.4$ , n = 1342, pr = .0001	Eta = .20 $\chi^2 = 58.8$ , n = 1342, pr = .0001
Problem Two	Eta = .17 $\chi^2 = 19.9$ , n = 701, pr = .003	Eta = .20 $\chi^2 = 30.7$ , n = 701, pr = .0001

Table V: Correlations between Amount of Money Spent to Resolve the Problem (Quartile-Based Categories) and Importance to Resolve and Disruption to Daily Life

	Importance	Disruption
Problem One	Gamma = .31, Tau c = .18 $\chi^2 = 14.8$ , n = 430, pr = .0001	Gamma = .33, Tau c = .23 $\chi^2 = 21.9$ , n = 433, pr = .0001
Problem Two	Gamma = .52, Tau c = .31 $\chi^2 = 28.9$ , n = 213, pr = .003	Gamma = .36, Tau c = .25 $\chi^2 = 15.7$ , n = 209, pr = .001

It should be expected that favourable outcomes should follow from spending money and on the amount of money spent. The series of table below present the relationships between spending money and whether problems were resolved, if resolved whether the outcomes were perceived as favourable and if not resolved whether the situation was perceived as having deteriorated. Only statistically significant relationships are presented. The evidence is fragmented but, overall, and with appropriate caution, it can be concluded that spending money does not produce better results.

Table VI shows that if respondents spent money to deal with problem one, they were more are more likely to report that the problem was not resolved<sup>43</sup>; 40.% of people who spent money said the problem was ongoing, compared with 38.2% of people who did not spent money.

Table VI: Percent of Respondents Reporting Different Outcomes Comparing: Spent or Did Not Spend Money to Resolve the Problem (Problem One)

Problem One	Resolved	On-Going	Abandoned	
Spent Money	50.5%	40.4%	6.1%	507
Did Not Spend Money	54.3%	38.2%	9.0%	853
$\chi^2 = 11.2$ , n = 1360, pr = .03				

Table VII shows the same result for problem two. Among respondents who spent money to resolve 46.7% said the problem was on-going compared with 35.8% of respondents who did not spend money in an attempt to resolve the problem

Table VII: Percent of Respondents Reporting Different Outcomes Comparing: Spent or Did Not Spend Money to Resolve the Problem (Problem Two)

Problem Two	Resolved	On-Going	Abandoned	
Spent Money	45.9%	46.7%	5.8%	259
Did Not Spend Money	56.1	35.8%	5.8%	448
$\chi^2 = 9.2$ , n = 707, pr = .05				

<sup>43</sup> This may be because the problems are more complex.

The amount of money spent is also related to problem status for problem one. The greater the amount of money spent the larger the percentage of respondents saying the problem remained unresolved.

Table VIII: Percent of Respondents Reporting Different Problem Outcomes by Amount Spent to Resolve the Problem (Problem One)

Amount Spent to Resolve the Problem	Resolved	On-Going	Abandoned	
\$50 to \$350	60.2%	28.5%	4.8%	83
\$400 to \$1400	55.6%	33.3%	8.5%	117
\$1500 to \$5200	52.7%	37.3%	9.1%	110
\$6000 or more	42.3%	52.0%	4.9%	175
$\chi^2 = 34.9, n = 485, pr = .0001$				

If the problem was resolved respondents who spent money to resolve it were more likely to feel that the outcome was unfair. Among respondents saying they spent money, 54.4% said the outcome was not fair compared with 36.3% who did not spend money.

Table IX: Percent of Respondents Reporting Whether the Outcome was Fair or Unfair: Spent or Did Not Spend Money to Resolve the Problem (Problem One)

Problem One	Outcome Fair	Outcome Not fair	
Spent Money to Resolve the Problem	45.3%	54.4%	274
Did Not Spend Money	67.3%	36.3%	540
$\chi^2 = 26.2, n = 794, pr = .0001$			

The data presented in Table IX support the same conclusion. For problem two, 53.4% of respondents with resolved problems who spent money said the outcome was unfair compared with 34.6% who did not spend money to resolve the problem.

Table X: Percent of Respondents Reporting Whether the Outcome was Fair or Unfair: Spent or Did Not Spend Money to Resolve the Problem (Problem Two)

Problem Two	Outcome Fair	Outcome Not fair	
Spent Money to Resolve the Problem	43.3%	53.4%	134
Did Not Spend Money	61.3%	34.6%	273
$\chi^2 = 13.9, n = 407, pr = .003$			

The data for problem one suggest that people who spent money to resolve the problem tended to get less from the outcome than they had expected (Table XI) compared with people who did not spend money.

Table XI: Percent of Respondents Achieving Expected Outcome: Spent or Did Not Spend Money to Resolve the Problem (Problem One)

Problem One	All	Most	Some	Little	None	
Spent Money to Resolve the Problem	19.9	17.0	24.5	10.3	25.5	282
Did Not Spend Money	40.7	15.7	14.5	6.7	21.2	523
$\chi^2 = 41.6, n = 805, pr = .0001$						

Taken together, these data show that spending money to resolve an everyday legal problem does not always produce favourable outcomes. These results represent the perceptions of people experiencing the problems. The legal complexity of the problems, a factor that cannot very easily be assessed using a survey of this type no doubt plays a role in producing the results. One would expect that people would spend more money on the more complex problems and these would be more likely to remain unresolved.

The results seem to reflect one important lacunae in access to justice and that is the absence of “sorting mechanisms” that assure that people obtain the appropriate help for the particular problem. In terms of the cost of access to justice, many people spend money and in terms of what can be measured here do not obtain access to justice.

### Other Individual Costs and Related Costs to Public Services

People experience legal problems and, therefore, ultimately, all costs fall on individuals and their families. These include intangible costs of physical health problems, high levels of stress and emotional problems that frequently occur as a direct result of experiencing legal problems.<sup>44</sup> The costs can include loss of personal security due to loss of employment or of housing. There are intangible costs of everyday legal problems for which the monetary costs may be passed on to the public sector through various social benefits programs.

Intangible individual costs such as ill-health are important in themselves. If they occur as a consequence of experiencing legal problems something should be done to mediate them. Distinguishing the human costs from the strictly monetary costs to government programs, the

<sup>44</sup> Martin Gramatikov, Maurits Barendrecht, Malini Laxminarayan, Jin Ho Vrdonschot, Laura Klaming and Corry Van Zeeland, *A Handbook for Measuring the Cost and Quality of Justice*, Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems, Maklu, 2010

importance of the costs passed along to the state through social benefits programs becomes a balance of costs issue. If the costs are greater than the government's investment in access to justice it would make sense for government to increase spending on access to justice in order to reduce the financial impacts of the everyday legal problems experienced by the public on the public purse.

#### Loss of Employment and the Cost of Experiencing Everyday Legal Problems

Because it represents a loss of security for individuals and families, loss of employment is one of the very serious consequences of experiencing legal problems. Loss of employment also has substantial costs for the state because at least some of the individuals who become unemployed as a consequence of experiencing a legal problem will receive employment insurance benefits.

Within the three-year reference period of the survey 8.5% of respondents said they had experienced loss of employment as a consequence of experiencing a legal problem. For the total population, this amounts to an estimated 1,107,000 individuals over the period. As one might expect most respondents who said they lost employment as a direct result of experiencing a legal problem said they had experienced one or more employment problems, 65.7%. However, since the remaining 34.3% did not experience a legal problem related to employment, job loss can be triggered by other types of problems.<sup>45</sup>

Among respondents who said they had lost employment as a consequence of a legal problem, 47.7% were married or living as a couple (not statistically significant) and two thirds of these respondents, 66.3%, had one to three dependent children in the household.<sup>46</sup> Education was the only other socio-demographic variable for which the relationship with losing employment directly related to a legal problem was statistically significant. Respondents with less than high school education had the lowest percentage saying they had experienced a loss of employment directly attributable to experiencing a legal problem at 5.0%. The percentage rose with level of education; 9.0% for high school grads, 8.2% for respondents who had some post high school training but no diploma or certificate, and 11.1% for people who had completed college or technical training. The percentage of respondents saying loss of employment was caused by a legal problem declined to 6.8% for respondents with a bachelor's degree and to 1.9% for those with a graduate degree.<sup>47</sup>

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<sup>45</sup> Loss of productivity is a potentially huge social cost of legal problems related to employment. This will be the subject of a separate analysis.

<sup>46</sup> ( $\chi^2 = 238.6$ ,  $n = 220$ ,  $pr = .0001$ )

<sup>47</sup>  $\chi^2 = 7.7$ ,  $n = 1357$ ,  $pr = .008$

Over two thirds of respondents, 68.6%, who said they suffered a loss of employment as a consequence of experiencing a legal problem experienced three or more problems.<sup>48</sup> Experiencing multiple problems is a marker for social disadvantage suggesting that losing employment as a consequence of a legal problem is part of a larger net of problems.

Among respondents losing employment as a result of a legal problem 25.9% said they obtained legal advice (not statistically significant). A smaller percentage, 14.1%, said they used a court or tribunal in an effort to resolve the problem over the three-year period.<sup>49</sup>

About 35.9% of respondents who had suffered a loss of employment as a result of the legal problem they had experienced also said they received Employment Insurance. This equals 398,000 people estimated for the entire population. The average number of weeks on employment insurance reported by respondents was 47.8 and the average payment per week was \$384.03. Based on these sample numbers, the estimated amount of Employment Insurance paid to individuals whose loss of employment was directly related to the legal problems was an estimated \$128.5 million for the three years. This would amount to about \$42.8 million per year. In 2012/13 the total payout of EI benefits was \$15.2 billion.<sup>50</sup> The impact of experiencing legal problems on the total expenditure on employment insurance is about 0.3% of the total.

This analysis provides a clear indication that the cost of a lack of access to justice is greater than one might suspect. One of the legacy findings of the body of contemporary legal problems research is the ubiquitous quality of legal problems. The very high prevalence of legal problems experienced by the public has until recently been hidden by the predominant paradigm of access to justice that to a large extent acknowledged as legal problems only those attracting the interest of lawyers and coming to the attention of the courts. As the everyday legal problems narrative of the public's experience with legal problems becomes more widely accepted and increasingly informs our knowledge about the legal problems faced by members of the public, not replacing but subsuming the narrative that emphasizes the importance of access to justice in the courts, it is becoming clear that the very high prevalence of legal problems is a powerful engine that drives the aggregate costs a lack of access to justice to surprising levels.

#### Consequences for Health and the Cost to the Health Care System of Experiencing Everyday Legal Problems

Experiencing legal problems can cause or aggravate physical health problems. Legal problems can also cause high levels of stress and emotional health problems. These are costs to

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<sup>48</sup>  $\chi^2 = 40.5$ ,  $n = 1367$ ,  $pr = .0001$

<sup>49</sup>  $\chi^2 = 8.0$ ,  $n = 1283$ ,  $pr = .005$

<sup>50</sup> Impacts and Effectiveness of Employment Insurance Part I, Employment and Social Development Canada, Chapter 2, Chart I; accessed at [www.esdc.gc.ca/eng/home/shtml](http://www.esdc.gc.ca/eng/home/shtml); on September 29, 2014)



individuals. As well, in a society with a comprehensive health care system they can also become costs to the state when people turn to physicians because of the health problems they are experiencing as a consequence of the legal problems. The prevalence of everyday legal problems among the Canadian public is high. It can be assumed that given the large numbers of people experiencing legal problems, the numbers of people experiencing health problems as a consequence will be high, as will the costs to the publicly funded health care system. This brief research note examines the cost of experiencing everyday legal problems for both individuals and the state.

Within the three-year reference period of the survey 15.3% of the estimated 13.0 million people who experienced one or more legal problems said they experienced a physical health problem as a direct consequence of the legal problem. This amounts to an estimated 1,735,947 people. Further, 62.5% of these people said the physical health problem they had experienced resulted in their visiting physicians or other health care facilities more frequently than normal. This is an estimated 1,131, 837 people, 8.7% of all individuals experiencing one or more legal problems.

In order of priority the 10 legal problems respondents said most frequently caused a physical health problem are presented in Table XII. Four workplace problems are mentioned, three family law (relationship breakdown) problems are mentioned, two problems related to medical treatment and one debt problem, harassment by a collection agency, is mentioned among the top ten.

Table XII: Specific Legal Problems Most Frequently Mentioned as Causing Physical Health Problems

1) Harassment at work	6) unfairly fired from a job
2) Workplace accident	7) Harassment by collection agency
3) Hospital treatment	8) Division of marital property
4) Child custody or access issue	9) Child support payments
5) Health and safety issue at work	10) Treatment by a physician or dentist

These problems are of interest but the frequency of their occurrence is partly a function of the frequency with which that problem is reported overall. All other things being equal, one would expect that the number of times a problem occurs the greater the frequency with which it will

be identified as a trigger for physical health problems. Table XII shows the number of times respondents mention problems within a problem type as a percentage of the respondents saying that experienced at least one problem within the problem type. The percentages are proportions and thus represent the likelihood that a problem of a particular type was identified as a trigger for a physical problem relative to the number of problems of that type that were experienced overall. Problem types are used to calculate percentages rather than individual problems because numbers of specific problems would in most cases be very small.

Table XIII: Problems Types Identified by Respondents as Having Directly Caused a Physical Health Problem as a Percentage of Respondents Experiencing Problems of that Type

Problem Type	Percent Identified as Trigger of a Physical Health Problem	Problem Type	Percent Identified as Trigger of a Physical Health Problem
1.Disability Support	15.2%	9. Housing	4.2%
2.Medical Care	13.3%	10. Police Action	3.6%
3.Inheritance or Managing the Personal or Financial Matters of Another Person	12.8%	11. Neighbourhood Problems	3.0%
4. Family: Relationship Breakdown	12.4%	12. Discrimination	2.5%
5. Social Assistance	8.3%	13. Threat of Legal Action	2.3%
6. Other Family Law	6.3%	14. Debt	1.1%
7.Employment	5.9%	15. Consumer	0.6%
8. Personal Injury	5.1%	Immigration and crime not mentioned	

Looking at the data this way, problems within the smaller problem groups are more likely to trigger physical problems or make worse existing ones. Problems with disability support payments is the most likely to trigger a physical health problem, followed by problems with medical care. The next two legal problems that most frequently trigger physical health problems are trying to settle a will or managing the personal care of another person, wills and powers of attorney, and relationship breakdown problems, including disputes about custody or access, separation, divorce or settlement of marital property. In terms of absolute numbers problems within the three most frequent problem types are most frequently identified as triggers of physical health problems. However, taking into account frequency of occurrence, of the problem debt, consumer and employment problems are the least likely to be directly responsible for physical health problems.

Respondents identified high levels of stress or emotional problems occurring as a consequence of legal problems more frequently than physical health problems. In this sample, 17.7% of respondents said they experienced stress or an emotional problem as a direct consequence of a legal problem. This equals an estimated 2,301,139 people over the three-year reference period of the study. A large percentage, 41.2% of these respondents said the stress or emotional difficulty resulted in their visiting a physician or other health service more than normal. Estimated for the population as a whole, this amounts to 948,069 individuals.

The specific legal problems most frequently mentioned as having caused the high stress or emotional problem are shown in Table XIII.

Table XIV: Specific Legal Problems Most Frequently Mentioned as Causing High Stress or Emotional Health Problems

1. Harassment at work	6. Separation from partner/spouse
2. Disputes about inheritance or managing the medical or personal care of another person	7. Unreasonably stopped and questioned by police
3. Obtaining wages or other compensation owed	8. Regular and excessive noise by a neighbour
4. Unfairly fired from a job	9. Unfair disciplinary procedure at work
5. Harassment by collection agency	10. Unfairly refused credit

Similar to the specific problems triggering physical health problems shown in Table XI, harassment at work was identified most frequently. Four employment problems are within the 10 most frequently mentioned. Two debt problems, being unfairly refused credit and harassment by a collection agency are also among the top ten. The remaining 4 problems are from different problem types, settling a dispute about inheritance and managing the financial matters or personal care of another person, a domestic separation, being stopped and questioned by the police and regular and excessive noise caused by neighbours.

As with the specific problems causing physical health problems, the frequency with which the problems are mentioned is partly a function of the number of problems of that type overall. Table XIV presents the individuals identifying a problem within a problem types as having triggered an emotional problem as a percentage of all people reporting they had experienced one or more problems of that same type.

Table XV: Problems Types Identified by Respondents as Having Directly Caused a Physical Health Problem as a Percentage of Respondents Experiencing Problems of that Type

Problem Type	Percent Identified as Trigger of High Stress or an Emotional Health Problem	Problem Type	Percent Identified as Trigger of High Stress or an Emotional Health Problem
1.Disability Support	23.9%	10.Discrimination	9.8%
2. Inheritance or Managing the Personal or Financial Matters of Another Person	23.9%	11.Social Assistance	8.3%
3. Family: Relationship Breakdown	20.4%	12.Threat of Legal Action	2.3%
4. Other Family Law	18.8%	13.Immigration	8.3%
5. Police Action	18.1%	14.Housing	8.3%
6. Medical Treatment	16.7%	15.Neighbourhood Problems	6.3%
7.Employment	13.4%	16.Debt	4.7
8.Personal Injury	11.5%	16.Consumer	1.8
9.Threat of Legal Action	10.9%	Crime not mentioned	

Similar to the results for physical problems, disability support is the problem type respondents said was most likely to cause stress or emotional difficulties. Disputes over inheritance or managing the personal care or financial matters of others is the second most likely trigger , compared with third place as a cause of physical health problems. Both family law: relationship breakdown problems and other family law problems<sup>51</sup> are third and fourth most likely to trigger stress and emotional problems. Employment problems fall in about the middle of the range of problem types in terms of likelihood of causing stress and emotional problems, although four specific employment problems are among the ten most frequently mentioned. Respondents said that debt and consumer problems were the least likely to cause stress and emotional problems as was the case with physical health problems.

<sup>51</sup> This category includes becoming the parent or guardian of a child, child apprehension by a government family services agency, obtaining independent representation for a child, abduction or apprehended abduction of a child, child unfairly suspended from school.

In this survey respondents were asked detailed information about a maximum of two problems they had experienced. The two problems are probably not independent. Respondents may have perceived and acted upon them differently because of the experience with the other. The nature of this interdependence is potentially complex and has not yet been well explored. Therefore, the relationships between demographic variables and variables indicating whether respondents experienced physical health problems or stress/emotional health problems are analysed separately for the two problems. The effects of demographic variables have been examined separately for problems one and two, for effects on experiencing physical health problems and problems of high stress and emotional difficulty.

Only three variables: gender, age and employment produced statistically significant relationships with having experienced a physical health problem as a consequence of a legal problem. Relationships for specific problem types are not explored at this stage of the analysis. Gender had a statistically significant relationship with experiencing a physical health problem for problem one only. Women were more likely than men to identify a physical health problem a direct result of a legal problem; 67.1% of women compared with 53.2% of men. However, the correlation coefficient of 0.14 is quite weak.<sup>52</sup> The relationship between age and experiencing a physical health problem was also statistically significant only for problem one. The percentage of respondents reporting they experienced a physical health problem as a result of the legal problem increased from 39.1% for people 18-35 years of age to 61.5% for individuals aged 55-64. The percentage dropped to 61.5% for people aged 65 and over.<sup>53</sup> Overall, people who were not employed in the labour force employed were somewhat more likely to say a physical health problem resulted from the legal problem they had experienced, 69.4%, compared with people working full time, 63.3%, and working part time, 34.6%.<sup>54</sup> Within the not employed group, people on some form of disability support, 80.0% and people at home full time, 73.3%, were particularly more likely to say a physical health problem occurred as a direct result of a legal problem compared with the average, 62.2%.<sup>55</sup> Overall, the relationships between socio-demographic variables and experiencing physical health problems are weak and are limited to a few variables. No conclusive patterns can be gleaned from the data. An attempt at multivariate analysis did not produce a robust model.

Women were more likely than men to say that they experienced high levels of stress or emotional problems as a consequence of a legal problem, 52.2% and 41.8%, respectively.<sup>56</sup> The relationship was statistically significant for problem one only. There was also a weak

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<sup>52</sup>  $\chi^2 = 8.4$ ,  $n = 444$ ,  $pr = .004$ ,  $\Phi = .14$

<sup>53</sup>  $\chi^2 = 17.1$ ,  $n = 435$ ,  $pr = .002$ ,  $\Phi = .20$

<sup>54</sup>  $\chi^2 = 20.4$ ,  $n = 430$ ,  $pr = .001$ ,  $\Phi = .22$

<sup>55</sup>  $\chi^2 = 28.0$ ,  $n = 444$ ,  $pr = .02$ ,  $\Phi = .25$

<sup>56</sup>  $\chi^2 = 18.9$ ,  $n = 1388$ ,  $pr = .0001$ ,  $\Phi = .1$

relationship between age and experiencing stress or emotional problems but for both problems one and two. The patterns were very similar. For problem one the percentage of respondents aged 18-34, the percentage saying a legal problem caused stress or emotional difficulties was 47.6%. The percentage increased to 51.7% for people aged 55-64 and dropped to 37.5% for respondents 65 years and older. The overall average was 48.1%.<sup>57</sup> Similarly, for problem two, the percentage rose from 44.0% for respondents aged 18-34 to 50.3% for the group aged 55-64, falling to 37.7 for people aged 65 and older. The overall average was 48.6%.<sup>58</sup> In terms of highest level of education, respondents with less than high school had the largest percentage saying that high stress or emotional problems occurred as a result of a legal problem, 55.2%. The percentage declined as education increased, falling to 35.8% for people with master's and doctoral degrees. The overall average was 48.2%.<sup>59</sup> People who were divorced, 79.2%, and separated, 53.9%, were more likely to say high stress or emotional difficulties resulted from a legal problem than the average of 48.4%.<sup>60</sup> Level of income is modestly related to experiencing high stress or emotional problems for both problems one and two. For problem one, the percentage of respondents saying they experienced stress and emotional problems was highest for respondents with incomes of less than \$20,000 per year, 57.3%. The percentage declines to 40.7% people with reported incomes greater than \$150,000. The overall average for all income categories was 48.6%.<sup>61</sup> The pattern was identical for problems two, with 64.3% of respondents with incomes of \$20,000 or less saying they experienced stress and emotional problems. The percentage declined to 43.2% people with reported incomes greater than \$150,000.<sup>62</sup> In terms of employment, people not working, 50.9% for problem one and 53.8% for problem two, are more likely to have experienced high stress or emotional problems related to a legal problem compared with people working full time, 46.4% for problem one and 48.3% for problem two, and for people working part time, 44.1% for problem one and 38.3% for problem two.<sup>63</sup> for problem one and ( $\chi^2 = 14.8$ ,  $n = 726$   $pr = .02$ ,  $\Phi = .14$  for problem two) Within the 'not working' group, two categories had especially high percentages reporting extreme stress and emotional problems directly related to a legal problem. For problem one the percentages of people unemployed, 68.5%, and people on disability support, 80.5%, were much higher than the average for all categories of 47.8%<sup>64</sup> and, for problem two, 83.3 percent of the unemployed and

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<sup>57</sup>  $\chi^2 = 25.9$ ,  $n = 1351$ ,  $pr = .01$ ,  $\Phi = .11$

<sup>58</sup>  $\chi^2 = 22.0$ ,  $n = 728$ ,  $pr = .04$ ,  $\Phi = .20$

<sup>59</sup>  $\chi^2 = 31.4$ ,  $n = 745$   $pr = .008$ ,  $\Phi = .28$

<sup>60</sup>  $\chi^2 = 37.2$ ,  $n = 221$   $pr = .02$ ,  $\Phi = .41$

<sup>61</sup>  $\chi^2 = 34.1$ ,  $n = 1191$   $pr = .04$ ,  $\Phi = .11$

<sup>62</sup>  $\chi^2 = 32.9$ ,  $n = 662$   $pr = .05$ ,  $\Phi = .11$

<sup>63</sup>  $\chi^2 = 16.7$ ,  $n = 1360$   $pr = .01$ ,  $\Phi = .11$

<sup>64</sup>  $\chi^2 = 93.5$ ,  $n = 1388$   $pr = .0001$ ,  $\Phi = .28$

81.0% for people receiving disability support compared with an average of 48.3% for all employment categories.<sup>65</sup>

People who are unemployed, have low incomes lower educational attainment and younger have a higher tendency to report stress and emotional problems as a result experiencing a legal problem. The evidence is stronger for experiencing high levels of stress and emotional problems than for experiencing physical health problems. It suggests that the disadvantaged are especially vulnerable to adverse consequences of experiencing everyday legal problems.

A much larger percentage of people experiencing three or more problems said that problem one led to a high degree of stress or emotional problems, 63.9%, compared with 38.0% for people experiencing one problem and 35.5% experiencing two.<sup>66</sup> The findings are similar for problem two; 56.0% experiencing three or more problems said that problem one led to a high degree of stress or emotional problems compared with 50.0% for people experiencing one problem and 32.8% experiencing two.<sup>67</sup>

Similarly, 69.6% of respondents experiencing three or more problems said problem one resulted in a physical health problem. This compares with 52.6% experiencing one problem and 46.6% experiencing two problems.<sup>68</sup>

#### The Cost to the State

Out of the 13 million people experiencing at least one everyday legal problem within the three-year reference period for this study, about 1.7 million said the problem they experienced caused a physical health problem. As a result, an estimated 1,131,837 million people visited physicians more frequently than normal. Eliminating the duplication involving people who experienced both physical health problems and extreme stress or emotional health issues, about 2.3 million individuals said they experienced a high level of stress or emotional problem a direct consequence of a legal problem. An estimated 940,069 people said they visited physicians more frequently than usual as a result. In designing the questions on which these estimates are based, no attempt was made to gather more detail in an attempt to determine exactly how many additional visits. As well, no attempt was made to unpack any complexities involving pre-existing conditions and the medical problem arising as a consequence of the legal problem.

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<sup>65</sup>  $\chi^2 = 72.4$ ,  $n = 747$ ,  $pr = .002$ ,  $\Phi = .31$

<sup>66</sup>  $\chi^2 = 170.1$ ,  $n = 1385$ ,  $pr = .0001$ ,  $\text{Eta} = .26$

<sup>67</sup>  $\chi^2 = 98.4$ ,  $n = 747$ ,  $pr = .0001$ ,  $\text{Eta} = .21$

<sup>68</sup>  $\chi^2 = 16.9$ ,  $n = 444$ ,  $pr = .0001$ ,  $\text{Eta} = .20$

Estimating the additional cost of experiencing legal problems to the health care system assumed one additional visit to a physician per person over the three-year period. This may under-estimate the costs but are based on conservative assumptions that can be made with confidence. According to the Canadian Institute for Health Information, the average cost of a physician visit for 2011-12 was \$58.15.<sup>69</sup> Using this figure, the total estimated cost for the three-year period covered by the study would be \$120,946,553; \$65,816,322 for physician visits relating to physical health problems and \$55,130,231 related to stress and emotional health problems. On an annual basis legal problems cost the health care system in Canada an estimated \$40,315,511. This is almost certainly a low estimate. Clearly if half the people reporting an increased use of physicians had two or more visits the cost could easily rise to a level in excess of \$60 million annually, which is still a surprisingly small number.

### Social Assistance and the Cost of Experiencing Everyday Legal Problems

One of the consequences of experiencing everyday legal problems is that some people, as a direct result of experiencing the legal problem, will fall on hard times and have to resort to social assistance. The financial cost of these personal troubles for individuals are borne by the state in the form of social assistance payments. This brief research note examines this aspect of the cost of experiencing legal problems for both individuals and the state.

Within the three-year reference period of the survey 2.2% of respondents said they had applied for and received social assistance as a consequence of experiencing a legal problem. For the total population, this amounts to an estimated 238,102 individuals over the period. A minority of respondents, 20.0% who said they received as a direct result of experiencing a legal problem said they had experienced one or more problems involving social assistance.<sup>70</sup> Similarly, only 28.7%, of respondents who said they received as a direct result of experiencing a legal problem said they had experienced one or more problems involving disability assistance.<sup>71</sup>

As might be expected, income was moderately correlated with having applied for and received social assistance directly related to experiencing a legal problem. Education and employment were also related to receiving social assistance. Table XVI summarizes the data, presenting the percentages for categories of each of the three variables that were greater than the average percent.

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<sup>69</sup> Physicians in Canada, 2013, Summary Report, Canadian Institute for Health Information. This figure includes office visits, consultations, surgeries and diagnostic tests. It does not include radiology and laboratory costs. (National Physician Data Base, 2012-2013, Data Release. Methodological Notes, Canadian Institute for Health Information, Table B.3.21

<sup>70</sup>  $\chi^2 = 39.5$ ,  $n = 1375$ ,  $pr = .0001$

<sup>71</sup>  $\chi^2 = 59.1$ ,  $n = 1375$ ,  $pr = .0001$



Table XVI: Percentage of Respondents for Selected Categories of Income, Education and Employment Status

Variable	Percentage of Respondents Saying They Received Social Assistance by Selected Categories, Categories Higher than the Average Percentage for all Categories
Income	Less than \$20,000 – 11.8% Average – 2.0% $\chi^2 = 51.7\%$ , n = 1184, pr = .0001 Eta = .22
Education	Less than high school – 7.4% High school – 3.5% Average – 1.8% $\chi^2 = 32.8\%$ , n = 1365, pr = .0001 Eta = .16
Employment Status	Unemployed – 13.6% Disability Pension – 13.6% Stay at Home/Care for family – 9.0% Average – 1.8% $\chi^2 = 34.4\%$ , n = 1375, pr = .003 Eta = .16

A large majority of respondents 80.0%, who said they received social assistance as a consequence of experiencing a legal problem experienced three or more problems.<sup>72</sup> Experiencing multiple problems is a marker for social disadvantage suggesting that experiencing multiple legal problems is part of a larger net of social exclusions and disadvantage.

Among respondents receiving social assistance as a result of a legal problem 23.5% said they obtained legal advice (not statistically significant). The same percentage, 23.5%, said they used a court or tribunal in an effort to resolve the problem.<sup>73</sup>

#### The Cost to the State

As noted above, an estimated 286,500 individuals said they had received social assistance as a direct consequence of having experienced a legal problem. The average number of weeks on social assistance insurance was 47.8 and the average payment per week reported by respondents was \$285.60. Average weekly payments ranged from \$20 to \$560. Based on these sample numbers, the estimated amount of social assistance paid to individuals where the need to apply for social assistance was, according to the respondent, directly related to the legal problem was \$81,824,400 million for the three years. This would amount to an estimated \$27.3 million annually.

<sup>72</sup>  $\chi^2 = 18.7\%$ , n = 1375, pr = .0001

<sup>73</sup>  $\chi^2 = 7.5$ , n = 1288, pr = .006

## Loss of Housing and Experiencing Everyday Legal Problems

Respondents were asked if they had lost their housing as a direct consequence of having experienced a legal problem. A small percentage, 2.7% of people experiencing at least one legal problem reported a loss of housing.<sup>74</sup> Weighted up to the total population this amounts to

320, 516 people over the three-year period. In response to the loss of housing, 3.6% of the estimated 302,516 people said they had to resort to emergency shelters, 39.0% said they relied on friends or relatives for temporary housing and 57.5% were able to secure housing through other means. Weighted to the total population, 3.6% resorting to emergency housing supported by public funds equals an estimated 10, 990 people.

When respondents were also asked how long they were without stable, permanent housing. 38.9% said they were without permanent housing for a week or less, 16.6% between roughly a week and a month, 18.7% between approximately one and three months and 25.8% said they were without permanent housing for a period of about three months to a year. Weighted to estimated numbers for the population, 82,991 people said they were without permanent housing for a week or less, 35,344 for between roughly one week and a month, 39,841 said between approximately one and three months and 55,611 individuals said they were without permanent housing for a period of about three months to a year.

A small number of people said they received a housing subsidy, 2.3% of the sample, or an estimated 4917 people. Unfortunately, none of the respondents were able to say how much money they received. Respondents were not asked about the specific circumstances of the emergency housing assistance they obtained, for example, whether it was emergency shelter, rent subsidy, public housing or some combination for people without permanent housing or longer periods of time. The average cost of emergency shelter and of rent subsidies are reported in other research. Research by the Wellesley Institute reports that the average monthly cost of emergency shelter in Canada was \$1932 per month and the average rental subsidy was \$701 per month.<sup>75</sup> If all of the approximately 4900 respondents were in emergency shelter for the full time they were without permanent housing the total estimated costs would be \$4.2 million. If they all received the average rent subsidy the estimate cost would be \$1.5 million. The middle of this range is \$2.9 million. This is the best estimate that can be made based on available data for the cost of housing subsidies for people who said they lost employment as a direct result of an everyday legal problem.

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<sup>74</sup> The sample "n" = 30.

<sup>75</sup> Stephen Gaetz, Jesse Donaldson, Tim Richer and Tanya Gulliver, *The State of Homelessness in Canada*, Homeless Hub Paper #44, The Wellesley Institute, Canadian Homeless Research Press, Toronto, 2013, p. 32

Housing problems were not the most common types experienced by people who said they lost their housing as a direct consequence of experiencing a legal problem. Experiencing one or more debt problems, followed by family law (relationship breakdown) problems were the two most frequently associated with loss of housing. The statistically significant relationships between loss of housing and experiencing one or more problems within problem types are presented in Table XVII.

Table XVII: Percent of respondent Reporting Loss of Housing as a Direct Consequence of a Legal Problem Experiencing One of More Problems

Problem Type	Percent of Respondents Who Lost Housing Experiencing One of More Problems of that Type	Level of Statistical Significance
Debt	60.0%	$\chi^2 = 4.4$ , n = 1378, pr = .04
Family; Relationship Breakdown	33.3%	$\chi^2 = 22.8$ , n = 1378, pr = .0001
Housing	19.9%	$\chi^2 = 18.0$ , n = 1378, pr = .0001
Social Assistance	13.3%	$\chi^2 = 17.9$ , n = 1378, pr = .0001
Disability Benefits	13.3	$\chi^2 = 10.9$ , n = 1378, pr = .001

These data suggest that although they are not the most likely to be effected by loss of housing people who are already socially vulnerable, experiencing a problem with their social assistance or disability benefits are at risk of losing their housing.

Income had a substantively meaningful and statistically significant relationship with loss of housing occurring as a consequence of experiencing a legal problem. 6.8% of people with incomes of less than \$20,000 and 3.3% of people with annual incomes of \$20,000 to \$39,999 said they lost housing compared with the average of 2.1%.<sup>76</sup> Younger people are more likely to lose their housing as a consequence of experiencing a legal problem. 4.8% of people aged 18 to 35 reported a loss of housing compared with 0.8% of people over 65.<sup>77</sup>

## Conclusion

The ubiquitous character of everyday legal problems is one of the legacy findings of the contemporary body of legal problems research. The high incidence of everyday legal problems ranging from 30% to 50% or higher experiencing one or more legal problems for national

<sup>76</sup>  $\chi^2 = 19.3$ , n = 1186, pr = .007, Eta = .13 with loss of housing as dependent. The 2.1% is based in un-weighted data in order to calculate a chi-square value and differs from the 2.7% based on weighted data.

<sup>77</sup>  $\chi^2 = 11.7$ , n = 1343, pr = .02, Eta = .10

populations and the high human costs such as ill-health is now commonly accepted. The monetary costs associated with everyday legal problems have not been so thoroughly examined in the research literature.

This analysis has focused on what people said experiencing everyday legal problems cost them in monetary terms. The results have produced extraordinarily high costs estimated for the entire population. These figures are as striking as were the incidence levels that were identified earlier in the history of this approach to legal problems research. The overall cost to individuals is estimated to be slightly in excess of \$25 billion annually. Intuitively, this seems like an impossible number but it is a small percentage of other common economic measures that might be taken as contextual benchmarks. Even though the monetary costs of many individual problems is relatively small, the very large number of people experiencing everyday legal problems and, because many people experience multiple problems, the even larger number of problems experienced, is a powerful engine driving the aggregate cost of everyday legal problems to extraordinarily high levels. Analysis of the individual expenditure numbers within quartile ranges suggests that the numbers within the first two or possibly three quartiles present a picture that is typical of most of the population experiencing everyday legal problems. The fourth quartile numbers include very large expenditures reported at the sample level and, consequently, huge estimated costs for the population.

Based on what people said about relying on publicly funded services as a direct consequence of experiencing legal problems, a partial estimate of the cost of everyday legal problems to the public purse is \$110 million annually.

Until recently, that is, until legal problems research shifted attention to the legal problems experienced by the public rather than in the courts, the extent of legal problems has remained hidden; hidden in plain sight by the conventional view that focussed on predominantly on problems dealt with by lawyers often in the courts. The accumulating results of the legal problems research has demonstrated that an approach to access to justice broader than the conventional formal justice system is needed to meet the legal needs of the public. The contemporary body of legal problems research has been very influential influencing access to justice policy.<sup>78</sup> To borrow from C. Wright Mills' concept of the sociological Imagination, a great deal of progress has been made translating the ocean of personal troubles into an issue of public policy.<sup>79</sup>

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<sup>78</sup> Pascoe Pleasence, Nigel J. Balmer and Rebecca L. Sandefur, *Paths to Justice*, 2013

<sup>79</sup> C. Wright Mills, *The Sociological Imagination*, Oxford University Press, 1959. Mills writes that the most fruitful distinction with which the sociological imagination works is between the personal troubles of milieu and the public issues of social structure.....Troubles occur within the character of the individual.....Issues have to do with the organization of many such milieu into the institutions of an historical society, p. 8

A paradigm shift is underway, from the lawyers and courts narrative of access to justice to the everyday legal problems narrative. In Kuhn's original formulation paradigm shifts occur initially at the level of scientific research<sup>80</sup>, eventually filtering outward into the professional and public discourse and to program change. The assumptions, propositions, definitions and empirical facts that make up the accumulating body of research, defining the paradigm at the level of scientific research<sup>81</sup>, not only shape future research questions but define the broader discourse on the issue. In this managerial era, presently characterized by austerity, extending legal problems research to an examination of costs, uncovering the vast sums of money that can be attributed to the everyday legal problems experienced by the public will over the longer term strengthen the agenda for a continuing expanding access to justice "upstream" from the courts.

It may never be the case, in the larger world of government finance that deals in billions and trillions of dollars, that dollar figures attached to experiencing legal problems or not accessing justice will have the shock and awe value to turn the issue. It is probably more realistic that adding data on cost to the body of work that is already well-established and influential will bring the everyday legal problems narrative on access to justice closer to becoming the dominant paradigm of access to justice. Legal aid and, more broadly, access to justice might therefore be less likely viewed as some sort of Leviathan consuming disproportionate amounts of public funds but, rather, viewed *before* the axe falls as the good investment or the cuts too costly to make.

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<sup>80</sup> T.S. Kuhn, *The Structure of Scientific Revolutions*, University of Chicago Press, 1962

<sup>81</sup> Robert K. Merton, *Social Theory and Social Structure* (Enlarged Edition), The Free Press, New York, 1968, p. 104