



What do we want to know about Access to Justice in BC?



Research questions and priorities related to access
to justice as identified by key respondents working
in the BC civil justice system

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September 2018



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Thank you to Professor M. Jerry McHale, QC for his support to and assistance with this project. Thanks also to Michele Lisanti and Megan Parisotto for their help with the Annotated Bibliography.

And thank you to the eighteen respondents, working in the civil justice system in BC, in a variety of capacities and justice areas, for their insightful contributions to this research.

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This research was completed with funding support from The Law Foundation of British Columbia and the Legal Services Society of British Columbia.



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1.0 Introduction and Description of the Research

This report provides the results of a consultation with eighteen key respondents representing seventeen civil justice organizations (N=17) which focused on identifying key research topics and question priorities that need to be addressed when measuring access to justice (A2J) in the civil justice system (family and non-family) in BC.

This project is one of six research projects currently being implemented by the University of Victoria's Access to Justice Centre for Excellence (ACE) to enhance the quality and comprehensiveness of empirical research on A2J in BC. ACE was established by the University of Victoria's Faculty of Law in 2015 in response to a growing concern within the justice community about the problem of diminishing access to justice and in the belief that there is a unique and important role that the academic community can and should play in addressing factors that limit A2J by citizens to the civil justice system.

This research project gathered information from key respondents working in the civil justice system in BC on the key research areas, specific questions and priorities among these questions that need to be addressed in a future A2J research agenda. (See Appendix I for a list of respondents)

This report includes a description of the two methodologies used in the study, a discussion of some contextual issues related to understanding the challenges within the civil justice system and study limitations. Study findings (Section 5.0) include the identification of the broad research areas that respondents consider to be most and least important and a summary of specific research questions in the areas of research most frequently identified. A brief summary of the research questions in the areas considered less of a priority is also included (Section 6.0)

2.0 Research Methodologies

Two methodologies were used in this research.

1. A scan and limited review of the access to justice literature was conducted in order to identify broad research areas and specific questions that are germane to A2J in BC. (Appendix II). The review collected information on diverse research topics frequently identified in the literature such as the needs of clients, characteristics that affect A2J, pathways to justice, and the outcomes and effectiveness of different methods of justice service delivery. Information from the literature review helped define the broad topic areas explored in the research; these topic areas are listed in Table 1.

Three methods were used to identify the literature used as sources for this project. A key word scan of the academic and grey literature was conducted through the University of Victoria Law School Library. The consultant also undertook a research of academic references and online grey literature. Others working in the A2J field, including Professor McHale, suggested literature that was included in the review. The literature review was not intended to provide an overview of the A2J literature but to provide a solid basis for the question areas that were explored with respondents. (Appendix II: Annotated Bibliography).

2. Interviews with key respondents working in seventeen organizations/services in the BC civil justice system (both family and non-family) were conducted to identify key research areas, specific questions and priorities related to A2J. Respondents were selected to represent key civil justice areas (e.g. family justice and those providing legal services/information to the disabled, tenants, the poor and marginalized, seniors, children/youth and those from the settlement community, as well as other key civil justice services (e.g. Legal Services, Access Pro Bono), and research and funding organizations such as The Law Foundation of BC as well as the provincial government. Respondents were selected by the consultant with input from Professor McHale.

Each respondent was provided with an interview reference document listing broad civil justice topic areas with sample questions as a framework within which they could discuss key research needs if they wished. Respondents were encouraged to identify broad research areas and specific questions related to their mandates and experiences with clients.

3.0 The Civil Justice System: Some Contextual Considerations

Several themes related to A2J in the civil justice system and identified in the literature are summarized in this section to provide context to some of the challenges involved in understanding and addressing A2J in the civil justice system and in developing a cohesive and meaningful research agenda.

Hazel Genn (1997) has noted that critiques of the civil justice system are long-term and typically centre around access, timeliness and the adversarial nature of most justice processes. Contributing to these issues is the fact that a coherent vision of the civil justice system is lacking. This is due to factors such as an historic societal lack of interest in civil justice, (in comparison to the criminal justice system), and how it operates as well as its vast scope. In addition, the fragmentation of funding and service delivery seen within the civil justice system has been driven by changes to funding models which now stress individual responsibility rather than a collectivist approach. Over the years this has led to an environment characterized by more restricted program eligibility and the reduced scope of programs.

The civil justice system is under-researched and under-theorized with civil justice procedure a poor second cousin in comparison with criminal law. Chambliss et al. (2016) note that we know little about the civil justice landscape and lack systematic efforts or institutions to collect data on the health of the civil justice system. Although statistics are collected regularly on criminal law, even basically simple questions such as, “who is using the courts, for what kinds of cases, with what value, at what cost and at what rate of success” are usually unanswerable for the civil justice system. Genn believes that this lack of knowledge about the civil justice system has contributed to indifference at the wider political and social level.

Contributing to these challenges is the vast scope and complexity of the civil justice system. Although the term “litigants” may seem to be a unifying concept, in fact there is a “ragbag of matters and participants” including disputes related to contracts, claims for compensation from accidental injury,

attempts by citizens to sue governments, and a huge scope of issues involving immigration, housing, mental health, child welfare as well as family breakdown disputes involving both property division and parenting orders. The civil justice system is comprised of an enormous range of “litigators” including the courts, tribunals, forms of dispute resolution and the whole range of legal information/advice services provided through the non-profit sector.

Genn notes that,

The fact that researchers have had limited success in theorizing behaviour across the boundaries of different legal fields is unsurprising. It may be less a failure of imagination than too much imagination, too clear an appreciation of the enormity of the difficulties. (161)

The author concludes that, until we understand more about the “drives, needs and decision-making processes” of users or potential users of the civil justice system and how these interact with civil justice procedures, structures and the law, we will not understand what the civil justice system is or should be doing.

4.0 Limitations of the Project

The project involved eighteen respondents and seventeen organizations (comments by two staff in one organization were consolidated into one interview). Attempts were made to include areas of civil justice where potential litigants have multiple or accumulating civil legal problems or where A2J issues are well documented. Not all areas where civil justice issues are common could be included such as those related to debt, employment or human rights. However, several respondents worked in organizations with a broad mandate and were able to speak to the diverse client experiences and needs.

The categorization of research question priorities into the broad topic areas (Table 1) was sometimes complex because some questions identified by respondents were applicable to several topic areas. In these cases, the research question was included in both research areas and may be reported multiple times in Section 5.0.

5.0 Findings

5.1 Prioritization of Broad Research Areas

All of the research questions that respondents identified were categorized into the twenty-nine broad research areas listed in Table 1. Most of the categories were defined prior to the interview and were based on information from the literature review. New research categories that emerged during the interviews were added.

The broad research area that was identified most frequently by over 80% of the respondents was the need for more research on the needs of clients with civil justice problems. This was followed by closely by the need for research to measure the most effective service models to solve legal justice problems, for example, by comparing the modes of service delivery such as legal representation, ADR, legal information/self-help, tribunals etc.).

The third priority area was for more research on the case and client characteristics that affect A2J. Other priority areas, identified by the majority of respondents, included research related to the effectiveness, outcomes, eligibility, and costs of legal representation and legal aid, access to and appropriateness of PLEI to address civil justice issues, the pathways clients use to solve their legal problems, including where they “get stuck,” and the need for systematic and standardized data to measure A2J.

Table 1: Prioritization of Broad Research Areas

Broad Research Areas	N=17
1. The Needs of Clients with Civil Justice Problems	15
2. Outcomes and Effectiveness of Different Methods of Service Delivery	14
3. Case and Client Characteristics that Impact on A2J	13
4. Legal Representation and Legal Aid	9
5. PLEI and Technology used to Provide Legal Information	9
6. Pathways to Justice Clients Use to Try to Solve Their Legal Problems	9
7. The Collection of Systematic and Standardized Data on A2J/Metrics	9
8. Service Networking, Availability and Eligibility	8
9. Measuring Case and Client Outcomes	8
10. Costs of the Civil Justice System for Individuals (Including Financial, Personal, Health Costs)	6
11. Procedural Justice, Consistency, Fairness and Transparency	6
12. Dispute Resolution	6
13. The Duration/Timeliness of the Civil Justice System Response	6
14. Justice Policy Reform	5
15. Change Implementation/Action Research	5
16. Civil Justice Workers: Training and Credentials	5
17. Public Awareness of Civil Justice/ Justice Literacy	5
18. Self-Represented Litigants	5
19. Engaging People in the Civil Justice System	5
20. Tribunals	4
21. Values and Operating Definitions Related to A2J	4

22. The Use of Legal Advocacy and Other Community-Based Civil Justice Services	4
23. Prevention of Legal Problems	3
24. High Conflict Family Cases	3
25. Capacity/Funding of the Civil Justice System	3
26. Access to and Distribution of A2J Research	2
27. Emerging Civil Justice Issues	1
28. Public Confidence in the Justice System	1
29. Pro Bono Services	1

5.2 Broad Research Areas that Were Least Frequently Noted

There were some broad research areas where only a few respondents identified research questions. These included research on pro bono services, public confidence in the justice system, and on emerging civil justice issues. Despite the lack of research questions in these areas, it should not be concluded that these research areas are not important, just that they were not considered as priorities among this particular group of respondents.

5.3 Specific Question Priorities

Section 5.3 provides information about the specific research questions most frequently identified by at least 6/17 respondents in Table 1. Examples of questions deemed as relevant/unique to the overall broad topic area are included in the discussion of each topic area. There was a wide variety of types of questions identified in topic area – some narrowly and others broadly focused. Where there was consensus about the types of specific questions to address, this is noted.

5.3.1 Research Questions Related to the Needs of Clients with Civil Justice Problems

The importance of prioritizing research examining in more detail the needs of clients with civil justice problems was identified by 15/17 respondents. Three broad types of research questions were noted within this category. Examples of specific questions are in italics.

Five respondents spoke about the need for research to determine more precisely what the general gaps in civil justice needs are, how needs can change and how services can address what citizens really want and need.

What are the gaps in understanding of the most critical needs of individuals that would support A2J?

How do litigant goals, needs, assessment of needs, change as they proceed through the justice process?

How do we design and implement services that reflect what people want and need, rather than the expectations of those in the legal system (e.g. judges and lawyers)?

Seven respondents identified research questions related to the legal needs of clients with family justice problems. These questions related to having a clearer understanding of the particular dynamics and stresses of family breakdown and how these can affect access to justice and the use of legal services. Some respondents noted that there needs to be more research on how family justice legal services can support a clear understanding of parental rights and responsibilities.

What do we need to know about both the legal and personal/social needs that result from family breakdown? How can these needs be incorporated into service planning and implementation?

What happens to people in the family justice system? How do isolated and poor single parents survive? How do we get high conflict couples out of court?

How can family law processes support parental understanding of the needs of children rather than the self-interest of parties?

Seven respondents also identified research questions related to the civil justice needs of clients with specific characteristics, for example those who are the most vulnerable and marginalized.

What is the scope of non-family civil justice needs of youth in BC?

How many tenants are being evicted but don't come to legal services such as TRAC for help?

What types of legal needs accumulate for poor and marginalized people and what are their impacts?

What are the primary obstacles to A2J among those in the immigrant/refugee community and how they are affected by issues such as language/culture/complexity and understanding of the law?

What is the best way of providing low cost legal representation to disabled clients who have multiple barriers and needs related to poverty, job discrimination and inadequate housing?

5.3.2 Research Questions Related to Measuring the Outcomes and Effectiveness of Different Methods of Service Delivery

The need for more research on the comparative effectiveness, outcomes, duration, and costs of different modes of addressing the civil justice needs of clients was the second most frequently mentioned research priority and noted by 14/17 respondents. There was a strong level of consensus among respondents on this research question although the views on the types of services to be compared or the outcomes varied.

What is the best model for service delivery in terms of access to justice, timeliness and effectiveness of services, client outcomes and costs: this would mean a direct comparison of full representation services with clinic and non-profit community based services.

What type of service delivery mechanism (litigation, collaborative law, mediation) lead to longer term, more durable outcomes? What types of empirical longitudinal research will answer this question and how can it be funded and supported?

Respondents described a range of outcomes that could be measured in this type of research.

What types of services are most helpful in helping people resolve their legal issues, leading to long-term durable outcomes, empowerment of clients, and have the least impact on health and other aspects of a client's life?

In some cases, respondents recommended research comparing a narrower view of services, using adapted models of service delivery or focusing on innovative approaches.

What kinds of service models best direct clients to the services they need, saving them from needing to approach multiple services?

To what degree is collaborative law better at dealing with entrenched parent conflict in family cases? What models work best for these problems?

To what degree could new models of service delivery be included in this type of analysis – for example, what are the benefits and costs of a one- hour free legal consultation with clients?

How effective are design-based approaches like the CRT in terms of resolving litigant problems? What works and doesn't work?

5.3.3 Research Questions Related to the Measurement of Case and Client Characteristics that Impact on A2J

Thirteen of the seventeen respondents identified research questions related to the measurement of client and case characteristics that impact on A2J. Questions centered on the need to understand more about how the characteristics of specific citizen groups affect their access to and use of legal services. Examples of groups cited as having specific challenges are those who don't speak English well, the disabled, immigrants/refugees/migrant workers, the poor and marginalized and single parents undergoing a family breakdown. Questions also focused on the need to understand how legal needs can accumulate and how obstacles and impacts can be addressed.

What types of clients face the most obstacles in accessing civil justice? What are these obstacles?

What kinds of civil legal needs accumulate and cluster together and what are the outcomes of cases with accumulated needs? Why aren't we addressing the issues related to the accumulated legal needs of clients more effectively?

What are the primary obstacles to A2J among those in the immigrant/refugee community and how are they affected by issues such as language, culture, and their understanding of Canadian law?

How many seniors can't access justice because they don't have access to a computer or know how to use one? (This was also mentioned in relation to poor and marginalized clients).

To what degree are barriers to A2J considered when providing services to clients who have multiple barriers, for example, those with disabilities?

5.3.4 Research Questions Related to Legal Representation and Legal Aid

Nine respondents identified research questions specifically related to the use of legal representation and legal services to increase A2J. Many these questions focused on ways of increasing access to legal representation or legal aid, particularly for specific groups.

To what degree do seniors need full representation when dealing with their legal problems?

Where are children's rights to legal counsel (e.g. in child protection matters) not being met?

What would the impact be of increasing LSS eligibility guidelines by \$500.00 on the demands for legal services and use by clients?

Several respondents proposed research questions exploring the potential limitations of legal representation in terms of addressing A2J.

How can we overcome sector bias (for example, whether improving A2J should be managed primarily by increased legal representation or services provided by community-based non-profits) in our search for solutions? How can we avoid our practice "silos" in order to develop a common language for the best ways to address A2J?

How can we expand the solution to A2J to make it not just include access to lawyers?

To what degree are litigation processes destructive to the long-term functioning of the family? To what degree do legal processes build the capacity of parents to resolve their future parenting/family problems?

5.3.5 Research Questions Related to the Use of PLEI and Technology

Nine respondents identified research questions related to the use of PLEI and online technology to assist clients to access justice. The most commonly identified questions focused on understanding more about who was "left out" of access to PLEI, and the ways to improve its use, especially for vulnerable and marginalized clients.

What are the strengths and limitations of online tools to handle family matters?

How can online and face-to-face options be integrated to meet client needs?

How many seniors can't access justice because they don't have access to a computer or lack the facility to use one?

How many people with disabilities cannot access online information because of barriers such as poverty, literacy or problems accessing and using technology?

To what degree do services with a predominantly online presence (e.g. CRT) take into account the needs of people to have verbal assistance in filling in paper forms?

Several respondents had questions related to helping clients understand and navigate the PLEI landscape.

How do we help people effectively navigate the PLEI landscape?

How aware is the public of PLEI that could be useful in solving legal problems?

Several respondents also raised research questions germane to the most effective distribution of PLEI so it reached potential target groups. One respondent wanted to know more about the degree to which lawyers used PLEI to inform and empower their clients and how this use could be encouraged.

Where are the points of contact where PLEI should be placed to reach migrant workers (e.g. settlement agencies, border agencies, other government agencies)?

How often do lawyers use PLEI in their own practices to help explain things to their clients? How can lawyers be encouraged to use PLEI tools more frequently?

5.3.6 Research Questions Related to the Pathways to Justice Clients Use When Trying to Solve Their Civil Justice Problems

Nine respondents identified research questions related primarily to understanding more about the pathways to justice clients used when trying to solve their legal problems, how pathways relate to outcomes, where people “get stuck” along their pathways to justice and how these obstacles can be addressed.

What are the experiences of clients with their justice problems? What interventions do they use when?

What are the critical junctures that block A2J and what action do people take then?

How many services do people use, on average, to solve their legal problems?

How do people navigate through the justice system? What pathways lead to better outcomes?

What kinds of civil justice problems cluster together and how do they accumulate?

5.3.7 Research Questions Related to the Collection of Systematic Data to Measure A2J

Nine respondents also prioritized questions related to the collection of systematic data that would measure A2J, both in general terms and in specific areas of the civil law. Several respondents noted the importance of developing common metrics to measure A2J or client experiences.

What consensus exists in terms of how to define the units of analysis that comprise A2J? What is an agreed-upon definition of a case? What kinds of data should be routinely collected when measuring A2J?

How do we continue the work of the A2J BC Measurement Working Group to see that it is fully implemented in order to provide a standard system of measuring different outcomes of key civil justice programs?

Other respondents had specific recommendations for research on the data that needs be collected on a regular basis to measure A2J and methods for funding systematic data collection.

We need much more current information on the functioning of the family justice system. For example, systematic data needs to be collected on the number of claims commenced, applications before and after trial and that proceed to trial, numbers of Judicial and Family Case Conferences, cases commenced and concluded by counsel, trends in high conflict cases, trends in length of trials, number of trials adjourned and rescheduled.

What are the trends in family justice “hot button” issues, for example, claims of sexual abuse, relocation of parents, parental alienation that affect civil justice processes and outcomes?

What data do we need to collect about limited scope services and PLEI (e.g. use of tribunals, services such as dial-a-law, or the activities of the Justice Education Society)? What needs to be collected, for example, prevalence of use, how and when used by clients, outcomes, and satisfaction?

What public data do we need to collect from the BC Residential Tenancy Branch to access A2J, for example, wait times, time for deposit return, number of tenants who do not meet RTB eligibility requirements, number of cases excluded.

Who is available to partner with and help fund the collection of systematic data required to measure A2J?

5.3.8 Research Questions Related to Service Networking, Availability and Eligibility

Research questions related to service provider networking, referral, availability and eligibility were identified by eight respondents. There was a strong consensus that research was needed on ways to assess or improve the system of referrals for clients so that they can access the services they need in a timely way without their needing to contact multiple services. Service providers also said they found it stressful and time-consuming to tell clients they could not help them or to refer them on to others.

A focus of questions was on determining how fully service providers are informed about the services that exist so that they can make effective referrals.

What is the best way of ensuring that referrals are effective, timely and focused?

To what degree are those working in the family justice system and assisting clients informed of the services that exist and what they do so that they can make effective referrals?

What kinds of models would direct clients to the services and help they need more accurately, saving clients from needing to approach multiple services? Is there a need for an initial triage system that would review client needs and direct them to the most relevant services?

What is the impact on clients when they have to run around to multiple services to find the services that can help them?

How can justice programs develop and sustain a reliable and extensive network of referral services to improve service delivery for poor and marginalized clients?

Several respondents identified questions related to the impact of specific types of eligibility requirements on A2J.

How many tenants are not eligible to participate in the dispute resolution processes of the Residential Tenancy Branch due to certain characteristics of their tenancy?

How many people lack access to justice services because they are located outside the lower mainland?

5.3.9 Research Questions Related to Measuring Case and Client Outcomes

Eight respondents identified research questions related to measuring case and client outcomes. In most cases these questions related to assessing different models of service delivery in terms of achieving client outcomes such as sustained agreements, satisfaction and other outcomes such as those related to health.

What types of legal services are most effective in helping people resolve their legal issues, reach durable and sustained agreements/outcomes, empower clients and have the least impact on health and other aspects of a client's life?

After undergoing a dispute resolution process do people have fewer disputes? Do they handle subsequent disputes better?

5.3.10 Research Questions Related to the Costs of the Civil Justice System

Six respondents identified broad and more narrowly focused research questions related to the costs to citizens of not achieving A2J. Costs were interpreted more broadly than financial. Others raised cost-related questions related to specific civil justice initiatives and how funding to legal needs could be apportioned in different ways.

What are the psycho-social/health costs of unresolved legal problems for individuals?

*What are the broader impacts to society of a failure to provide a responsive family justice system?
What types of services (mediation, litigation, self-help) have the least cost and impacts for families?*

How can costs be reduced in the family justice system by the funding of specific services to help parents, e.g. family coordination services?

How can funding be distributed more fairly in the family justice system to support all parents, not disproportionately, high conflict parents?

How much is the government, through the courts and infrastructure, subsidizing corporate clients at the expense of the poor who cannot afford legal help?

5.3.11 Research Related to Procedural Justice – Consistency, Fairness, and Transparency

Research on the degree to which procedural justice, including fairness, transparency and consistency, is being achieved in the civil justice system was a priority for six respondents. Two respondents focused on the need for more research related to the quality and transparency of procedural justice at the Residential Tenancy Branch and the Civil Resolution Tribunal (CRT).

How do we maintain high procedural standards (fairness, congruency, transparency) within all civil legal resolution processes? How do we find a balance between fairness, independence and congruency without becoming overly procedural?

To what degree does the court view of procedural fairness act as an obstacle to the timely and pragmatic resolution of litigant problems?

What court rules are most likely to impede A2J?

To what degree does the lack of consistency in dispute resolution processes at the Residential Tenancy Branch (including a lack of recordings of sessions) affect client outcomes and perceptions of fairness?

How can procedural fairness (for example at the Residential Tenancy Branch or the CRT) be monitored and measured?

5.3.12 Research Related to Alternative Dispute Resolution

Six respondents identified research questions related to ADR. These included the degree to which citizens know about and use ADR to address civil justice problems and as well as the need to measure the outcomes of ADR more effectively.

To what degree are ADR and collaborative law better at dealing with entrenched parental conflict related to issues such as parent alienation?

How can dispute resolution processes respond better to the emerging needs of client groups such as tenants?

After undergoing ADR, are people able to handle future disputes better?

5.3.13 Research Related to the Duration and Timeliness of Civil Justice Procedures

Six respondents raised a variety of research questions related to the duration and timing of civil justice procedures. Questions were raised about the length of trials, the effects of civil procedures in

slowing cases down, how client characteristics affect the timeliness of legal processes and ways that delays in family court proceedings could be addressed.

Are trials getting longer? If so, what are the factors associated with increasing duration at the Supreme Court?

To what degree and how is the timeliness of court processes associated with the characteristics of the client group/needs, for example, in family cases and those involving immigration issues? How can legal services address these obstacles?

To what degree do procedural fairness measures act as obstacles to the pragmatic and timely resolution of litigant problems?

How can judicial scheduling be addressed to reduce long delays in family court proceedings?

6.0 Summary of Research Questions Noted as Lower Priorities

Section 6 provides a summary of key research questions identified by five or fewer respondents.

Table 2: Summary of Additional Research Questions by Category

A2J Research Category	N	Question Summaries
Justice Policy Reform	5	Questions related to the need to understand more about the policy reform needed to address A2J. This included policies related to the protection and rights of migrant workers, youth/children and tenants.
Change Implementation/Action Research	5	Questions related to the need to know more about the obstacles standing in the way of improving A2J and suggestions for testing new strategies such as the costs and benefits of implementing a pilot one-hour free consultation approach for clients with family justice problems.
Civil Justice Workers: Training and Credentials	5	Questions related to the need to improve the training of those working in civil justice system, so that they could be better informed about the obstacles to A2J for specific clients in order to facilitate more timely and effective referrals. One respondent recommended research on ways to provide more recognition and authority to community-based civil justice advocates and paralegals, for example, by their being brought under the authority of the Law Society.
Public Awareness of Civil Justice/ Justice Literacy	5	There was consensus that the most important research need in this area was how to help people become aware that their problems could be legal in

A2J Research Category	N	Question Summaries
		nature.
Self-Represented Litigants	5	Questions centered around measuring the outcomes/impacts of services on SRLs, including the effectiveness of PLEI, the most useful ways of supporting SRLs in the family justice system and the development of resources (e.g. guided pathways of information) that could best assist decision-making for this group.
Engaging People in the Civil Justice System	4	Questions focused on determining how many people do not engage in the civil justice system even when they have legal problems and the best ways of engaging people or creating trust.
Tribunals	4	Research questions addressed the need to measure the degree of fairness, congruency and transparency of tribunal processes.
Values and Operating Definitions Related to A2J	4	Questions focused on determining the definition of the civil justice system, how units of measurement can be defined and what the unifying values are on which to base real change including improved affordability, outcomes and timeliness.
The Use of Legal Advocacy and Other Community-Based Civil Justice Services	4	Questions focused on exploring the feasibility of expanding the roles/authority of community legal advocates, such as law students, and paralegals in order to expand services and address emerging needs.
Prevention of Legal Problems	3	Questions addressed needing to know the best approaches for intervening early to prevent more complex legal problems
High Conflict Family Cases	3	Respondents were focused on research questions that would examine the trends in hot button issues (e.g. sexual abuse, parental alienation) that occur in high conflict cases, the models that work best to address the high conflict issues that affect A2J and the apportioning of resources fairly within the family justice system to address all family needs (e.g. poor and isolated single parents) not primarily the needs of high conflict parents.

A2J Research Category	N	Question Summaries
Capacity/Funding of the Civil Justice System	3	Respondents recommended research questions related to approaches to ensure funding levels for services that take into account the level of client need and the fair apportioning of resources (for example, out-of-court solutions such as dispute resolution) or research analyzing the degree to which legal/court services subsidize corporate clients at the expense of the poor.
Access to and Distribution of A2J Research	2	The two respondents wanted to see the increased funding and disseminating of research on specific ways the civil justice system could be made more accessible and understandable to practitioners, researchers and the public.
Emerging Civil Justice Issues	1	The respondent was interested in exploring ways services could address emerging civil justice issues among their clients when these were typically unfunded
Public Confidence in the Justice System	1	The respondent recommended research on the approaches that would create trust in the justice system among the immigrant/refugee/settlement community where distrust was often related to negative or traumatic experiences prior to coming to Canada.
Pro Bono Services	1	One respondent, working with vulnerable and marginalized clients, recommended research on the reasons why there appeared to be a drop in the number of lawyers providing pro bono services and the best methods for increasing commitment in the law profession to this work.

7.0 Concluding Comments

The results of these interviews with key respondents working in the civil justice system indicate that there is a strong interest in prioritizing research to improve A2J among those with civil justice problems in BC. The research questions respondents identified were diverse, thoughtful, informed, relevant and grounded in direct work and experiences with clients. Respondents identified a wide range of both narrow and broadly focused research questions.

There was consensus among more than 75% of the respondents on three research priority areas. These include more research on the specific needs of those with civil justice problems, including the needs of vulnerable and marginalized groups and in family justice, what the gaps in addressing these needs are and how needs change as people move through the justice process.

There was a strong consensus about the second research priority: the need to conduct research comparing different types of service delivery on the degree to which each achieves specific client outcomes such as settlements/satisfaction, lower costs and the timeliness of services. Respondents varied somewhat on the services they thought should be included in this research and on the types of outcomes to be assessed.

The third most noted research recommendation was related to the need to understand more about how client and case characteristics affect A2J. These questions most frequently referenced the complex civil justice needs of groups like seniors, children/youth, the poor, disabled and those within the settlement community.

The goal of this project was to help answer the question, “What do we want to know about access to justice in BC” as defined by a sample of those working in the civil justice system. While research questions require further refinement and an assessment of implementation feasibility and costs, the findings provide a clear direction on which to begin planning a research agenda.

APPENDIX 1: Respondent List

	NAME	POSITION	ORGANIZATION
1	Jamie Maclaren	Executive Director	Access Pro Bono Society of BC
2	John Dube	Senior Manager, Settlement Programs	MOSAIC
3	Natalie Drolet	Executive Director	Migrant Workers Centre
4	Andrew Sakamoto	Executive Director	Tenant Resource and Advocacy Centre
5	Aleem Bharmal	Executive Director	Community Legal Assistance Society
6	Douglas King	Executive Director	Together Against Poverty Society
7	Jane Dyson	Executive Director	Disability Alliance BC
8	Suzette Narbonne Stephanie Howell	Lawyer Executive Director	Society for Child and Youth of BC
9	Sarah Khan	Staff Lawyer	Senior's First BC
10	Mark Benton	CEO	Legal Services Society
11	Wayne Robertson	Executive Director	The Law Foundation of BC
12	karima budhwani	Program Director	The Law Foundation of BC
13	Nancy Carter	ED: Family Policy Legislation and Transformation Division	Justice Services Branch, Ministry of Attorney General
14	Stephanie Melvin	Executive Director	BC Family Justice Services Division
15	Monique Steensma	CEO	Mediate BC
16	Patricia Byrne	Executive Director	People's Law School
17	Jean-Paul Boyd	Executive Director	Canadian Research Institute for Law and the Family

APPENDIX II

Annotated Bibliography of Selected Reference Documents

Access to Justice BC. *Walking the Talk about Measuring Access to Justice: Applying the Access to Justice Triple Aim and Measurement Framework: A User's Guide* (Access to Justice BC, 2017).

This report outlines a policy and measurement framework that was developed by Access to Justice BC. This framework, the Triple Aim and Measurement Framework, is intended to be used by government, organizations, and institutions to systematically conceptualize and measure access to justice in British Columbia. It provides justice system stakeholders with a shared frame of reference that can be used to monitor, evaluate, and learn from the impacts of various programs, initiatives, and strategies. Having a common measurement approach has several benefits, including breaking down silos between organizations and improving program and sector analyses, efficiency, and benchmarking.

The Triple Aim was developed originally for use in the health sector. It involves the pursuit of three elements for improving access to justice in British Columbia: improved user experiences; improved population access to justice; and improved costs. This report details the dimensions involved in these broad elements and considers how they could be measured. Advice is provided on how the Triple Aim and Measurement Framework could be systematically applied in program planning, collaborating with other institutions and organizations, and monitoring measures.

Alberta Civil Liberties Research Centre. "Access to Justice and Canadian Elders" (ND), online: <<http://www.aclrc.com/new-page-30/>>.

This article describes the situations and challenges faced by elders in accessing justice. Access to justice for elders, in a wider sense, involves understanding the particular social and systematic barriers that elders face. This means ensuring equal and fair opportunities to enforce their rights. There is not a lot of data in this area, particularly when looking at sub-groups, including senior women, LGBTQ+ seniors, immigrant and visible minority seniors, and Aboriginal seniors. Elders often face a variety of barriers, including: economic barriers (25% of single elderly Canadians live in poverty or at risk of poverty); communicative barriers (particularly immigrant seniors and Aboriginal seniors); social and cultural barriers (the majority of Aboriginal elders see the Canadian justice system as an instrument of their oppression); technological barriers (the majority of Canadians 65 years and older lack computer training); and physical and mental barriers (elders are often dependent on caregivers, which can lead to abuse and victimization). Educating elders about their rights, the legal system, and available resources and technologies is the first step in enhancing their capacity for access to justice.

Alberta Civil Liberties Research Centre. "Access to Justice – New Canadians" (ND), online: <<http://www.aclrc.com/access-to-justice-new-canadians/>>.

This article describes the challenges faced by "New Canadians": new migrants to Canada who are more vulnerable due to their disadvantaged circumstances. New Canadians often arrive with low

income and education levels, little familiarity with French or English, and physical and mental health problems. The Canadian immigration system is complex and difficult for New Canadians to navigate, particularly given their disadvantages. Migrants in different streams experience different problems and barriers. For example, temporary foreign workers are often unaware of their rights in Canada and are dependent on employers. Sponsored family members are sometimes given conditional permanent resident status and must cohabit with their sponsor for permanent status, which can lead to abuse. Negative attitudes by those implementing law and policy can lead to adverse outcomes for New Canadians.

Alberta Civil Liberties Research Centre. “Access to Justice and Persons with Disabilities” (ND), online: < <http://www.aclrc.com/access-to-justice-persons-with-disabilities/>>.

This article provides an overview of the barriers to accessing justice experienced by persons with disabilities. The article discusses the meaning of access to justice, laws affecting access to justice, and the legal needs and barriers to accessing justice among those in the disability community. It is noted that those with disabilities have multiple accumulating barriers and multiple needs. For example, those with cognitive disabilities may not be familiar with their rights or potential remedies. The article describes the complexity of laws relating to disabilities, and the potential stigma embodied in the law and direct service delivery that also have an impact on access to justice.

Chambliss, Elizabeth; Renee Newman Knake & Robert L Nelson. “Introduction: What We Know and Need to Know About the State of ‘Access to Justice’ Research” (2016) 67 SCL Rev 193.

This paper focuses on the lack of systematic ongoing research on civil legal needs and services related to ordinary citizens. The authors explain that current research focuses on the law, rather than on the public the law serves. They use as a comparison the measurement data collected within the more client-focused health care system, and the lack of key institutions that could collect data on the justice system. The authors summarize the results of the American Bar Association’s access to justice initiative. For this initiative, the American Bar Association asked the question “what do we know and what do we need to know about the state of access to justice research,” which resulted in 16 white papers.

Chapman, Peter & Sumaiya Islam. “Equal Access to Civil Justice for All: How Will We Know When We Get There?”, *International Institute for Sustainable Development* (9 April 2018), online: < <http://sdg.iisd.org/commentary/guest-articles/equal-access-to-civil-justice-for-all-how-will-we-know-when-we-get-there/>>.

This paper references an international justice project survey, Global Insights on Access to Justice. This survey looked at comparable measures of access to civil justice in 45 countries, including Canada, with different levels of development and needs. This paper identifies several areas where measurements are still inadequate, in a context where approximately half of litigants and clients found it difficult to pay the costs of justice.

Civil Justice Initiative. “Performance Measures for Civil Justice” (ND), online:
<<http://www.ncsc.org/microsites/civil-justice-initiative/home/CJI-Implementation-Tools.aspx>>.

This website provides some key performance measures for civil justice. Important data for the courts to track and analyze includes information about clearance rates, time to disposition, discovery disputes, default judgments, continuances and extensions, trial rates, and costs of litigation. Performance metrics for reforms include whether the reform is appropriate (which examines the relationship of the reform effort to its intended goal), effective (which analyzes whether the reform is working as intended, or whether there are unanticipated impacts), and sustainable (which looks at the legitimacy and perceived value of the reform).

Civil Society Consultation with White House Legal Aid Interagency Roundtable on Goal 16 Access to Justice Indicators and Data. Recommended Access to Justice Indicators for Implementation of Goal 16 of the UN 2030 Sustainable Development Agenda in the United States (New York: Columbia Law School Human Rights Institute & National Centre for Access to Justice at Fordham Law School, 2016).

This compilation of papers and reports on access to justice issues in criminal and civil contexts supports the implementation of Goal 16 of the United Nations’ 2030 Sustainable Development Agenda. In the civil realm, access to justice indicators were presented regarding disability, employment and labour issues, family law, consumer protection, gender-based violence, healthcare, housing, immigration, and indigenous matters.

Currie, Ab. *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians* (Ottawa: Department of Justice Canada, 2007).

This detailed and comprehensive report on civil justice problems, their prevalence, their characteristics, resolution pathways, and outcomes was based on a national random survey of 6665 Canadians in 2006. This report has detailed descriptions, measures, and cross-correlations of results pertaining to the following elements: case and client characteristics of civil justice problems; their degree, completeness and mode of resolution; and the health and social implications of not solving legal problems. These health and social implications include the accumulation of legal problems, social exclusion, impacts on perceptions of fairness, and impacts on attitudes towards the civil justice system.

Dandurand, Yvon & Alison MacPhail. “Using Indicators to Help Improve the Justice System” (Paper delivered at the Seventh National Criminal Justice Symposium, Montreal, 24-25 January 2015), (Vancouver: International Centre for Criminal Law Reform and Criminal Justice Policy, 2015).

This paper focuses primarily on the measurement of performance indicators in the criminal justice system. It discusses the value and components of performance indicators and the development of benchmarks, including those related to access to justice.

Dandurand, Yvon & Jessica Jahn. “Access to Justice Measurement Framework” (Access to Justice BC, 2017).

This report presents a measurement framework to support a shared approach to the monitoring and evaluation of access to justice in British Columbia. The framework draws upon the concepts in the Triple Aim measurement approach used by the health sector. The three main aims of this approach are improving the population’s access to justice, improving their experience in the justice system, and ensuring costs are sustainable. Within each of these aims, specific dimensions of measurement are defined. For example, the aim of “improving population access to justice” includes the measurement of the prevalence of legal needs, response to legal needs, fair and equitable access to justice, and the social and economic impact of access to justice. The framework intends to achieve the following goals: providing a consistent yet flexible approach to monitoring and evaluation by justice stakeholders; monitoring the experience of populations managing their everyday legal needs and accessing the justice system; and providing evidence of costs and benefits.

Family Justice Working Group. *Meaningful Change for Family Justice: Beyond Wise Words* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2013).

This paper provides an overview of the characteristics of family law cases, how they differ from other civil law concerns, and the multiple areas of reform that need to be undertaken to support meaningful change. The authors indicate that while there is a comprehensive body of family laws to provide direction to families, family law procedures are complex, unaffordable, and inaccessible. Although reform needs have been well-documented, there is an implementation gap for reforms related to the delivery and provision of services. This gap is partly a function of the culture of family law, and its incomplete adoption of non-adversarial programs. It is also a function of the fiscal limitations faced by the family justice system. Recommendations for change include training for professionals, simplification of court rules and procedures, and recognition of the needs of litigants.

Farrow, Trevor CW; Ab Currie; Nicole Aylwin; Les Jacobs; David Northrup & Lisa Moore. *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Toronto: Canadian Forum on Civil Justice, 2016).

This paper states that justice problems are common, but people cannot afford the legal system. It notes that we know very little about the specific costs of justice, including how to measure, manage, and reduce these costs. The results in this paper are based on a national legal problems survey that examined the prevalence and type of legal problems and outcomes experienced by the Canadian public between September 2013 and May 2014. 3000 randomly selected adults participated in this survey. A major focus of this survey was to collect specific data on the satisfaction and outcomes experienced by the public related to different modes of service. Another focus was on the costs

associated with everyday legal problems for the client, the justice system, and other government services, including health and social services.

Genn, Hazel. “Understanding Civil Justice” (1997) 50:1 Curr Legal Probs 155.

This paper addresses fundamental questions such as what the civil justice system is for, who it serves, and what its social functions are. The author believes that we must re-visit what the civil justice system is doing and what it should be doing in order to redefine what the appropriate role of the civil justice system should be in the future. The author indicates that long-term goals of making the civil justice system easier and less costly are somewhat ambivalent; we may not actually want a system so easy and cheap that litigation becomes the norm for solving problems.

The author states that the difficulty of understanding the civil justice system stems from three factors: an historic lack of interest about how the civil justice system operates (in comparison to the criminal justice system); the scope and variety within the civil justice field; and the difficulty disentangling cause and effect in civil justice behavior and policy. The author wonders whether the civil justice system should even be considered a “system” because of its enormous scope. She explains that the civil justice system encompasses both a variety of litigants and a variety of ways to address problems.

The author explores the practical and symbolic functions performed by the civil justice system. She suggests that these functions are maintaining social order, settling disputes, checking executive power, regulating behavior, and acting as a means of social control. However, the author indicates that civil law can also have profoundly detrimental aspects, such as creating and reinforcing inequalities. She believes that this mixed list of outcomes may have contributed to distrust in the law.

The author suggests that certain systems for providing access to justice are facing challenges because they were established at a time of collectivist provision, but are now functioning within an individually-oriented society. The policy response to increasing demands on representation through legal aid is to reduce eligibility, increase contributions, and reduce the scope of delivery.

The author considers that current concerns about the courts are driven primarily by cost issues. She states that cost concerns are based on common assumptions. One assumption is that if costs were reduced, more people would be able to engage in litigation, and there would be fewer complaints about legal aid. Another assumption is that if procedures were simpler, costs would fall, and more people would use the courts. The author questions whether litigant attitudes towards costs have been fully explored in the literature, including the evaluation of legal services.

Finally, the author discusses the promotion of alternative dispute resolution (“ADR”). She considers the criticisms of ADR, including the views that ADR is based on a critique of the courts, has been used to promote new professional interests, and has been driven in the United States by a desire to save judicial resources for commercial cases. The author raises concern that the “uncritical fervor for ADR” is increasing judicial pressure on litigants to resolve problems outside the courts, which may be a manifestation of the state withdrawing from its core functions. She suggests that many of the

justifications of mediation arise from deficiencies related to litigation, even though the courts continue to play an important role in the enforcement of agreements. The author asserts that the future role of the courts is crucial in terms of adjudicating disputes, developing the law and public policy, and reinforcing strong public values. She emphasizes that the court system is more than the provision of consumer services – it is also an essential part of a functioning democracy.

Gramatikov, Martin; Maurits Barendrecht & Jin Ho Verdonschot. “Measuring the Costs and Quality of Paths to Justice: Contours of a Methodology” (2011) 3:2 Hague J on the Rule of L 349.

This paper discusses a methodology for measuring the costs and procedural quality of paths to justice, as well as outcomes from the perspective of the justice system user. Different data collection methods are discussed. Challenges in terms of measurement of access to justice are also identified, taking into account different pathways to justice, information needs, the quality of the justice process and procedures, and the measurement of outcomes.

Gramatikov, Martin; Maurits Barendrecht; Malini Laxminarayan; Jin Ho Verdonschot; Laura Klaming & Corry van Zeeland. *A Handbook for Measuring the Costs and Quality of Access to Justice*, ed by Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems (Apeldoorn: Maklu, 2010).

This handbook provides a methodology for measuring the costs and quality of different paths to justice. Paths to justice included in this handbook relate to consumer and employment disputes, issuance of identification documents, administrative issues, and negotiations between victims of personal injury and insurance companies. This handbook describes specific approaches and instruments for measuring access, including a sampling of survey questions that reflect research needs.

Klaming, Laura & Ivo Giesen. “Access to Justice: The Quality of the Procedure” (2008) Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Working Paper No 002.

This paper discusses the different components of access to justice, their interrelationships, and their relative importance. The authors are particularly interested in three elements of procedural justice, which they consider to be a combination of informational, interactional and procedural elements. The authors discuss how procedural justice relates to satisfaction outcomes and distributive justice. They consider gender, income, and cultural influences on views of procedural justice. For example, the authors suggest that women may be more interested in process-oriented issues and men may be more interested in outcome issues.

The authors conclude that perceptions of fairness are critical in an evaluation of the quality of procedures. When fairness is perceived, the quality of procedures is considered to be high. Perceptions of fairness are also linked to views of outcomes, which suggests judgements about access

to justice are psychologically complex and cannot be completely based on the interpretation of the characteristics or outcomes of the case.

Kleiner, Sibyl; John-Paul E Boyd; Lorne D Bertrand & Joanne J Paetsch. *Analysis of Data from the Federal Justice Divorce File Review Study: Report on Findings for Alberta, 2011* (Calgary: Canadian Research Institute for Law and the Family, 2017).

This paper presents data collected from divorce cases from the Calgary registry of the Alberta Queen's Bench. This data includes parenting arrangements, arrangements for child and spousal support, the extent of any conflict between parties (including the presence of family violence), the initial positions of the parties on the issues in dispute, and the nature of the final resolution of those issues. From this data, the authors examine sociodemographic characteristics (including patterns by gender within divorcing couples), legal milestones in the divorce process, child support and custody arrangements, and any patterns arising from the mention of family violence in a given file. The data collected focuses on oversampling cases that had multiple actions on file, and thus were considered more complex. As a result, the final data set likely included a higher proportion of complex cases than it would have if cases were selected at random.

Kutateladze, Besiki; Jim Parsons & Vera Institute of Justice. *Why, What and How to Measure? A User's Guide to Measuring Rule of Law, Justice and Security Programmes* (New York: United Nations Development Programme, 2014).

This paper provides a range of suggestions for conducting measurement in data-poor and politically challenging environments. However, the suggestions may be of use in a general sense. The authors detail a three-step model for measurement: 1) assessment, which involves generating a baseline set of data; 2) mid-term evaluation, which examines the extent to which objectives are being achieved; and 3) final evaluation, which looks at whether the project and its activities led to the desired results. Measurement can help build stakeholder support, inform project design, gauge effectiveness, increase transparency, and include the perspective of vulnerable groups. The authors note some of the challenges with measurement and ways to work around these challenges. In data-poor settings, these challenges may include time, budget, and political and cultural constraints.

Law Reform Commission of Saskatchewan. *Awards of Costs and Access to Justice: Research Paper* (Saskatoon: Law Reform Commission of Saskatchewan, 2011).

This report discusses the strengths and weaknesses of partial indemnity schemes in reimbursing legal costs of the successful party. There is no clear consensus, economic or otherwise, on this issue. Some argue that partial indemnity discourages valid, but uncertain, claims from going to court for fear of inadequate compensation after paying legal fees. Others argue that partial indemnity deters frivolous lawsuits and frees up the court system. It appears that partial indemnity encourages settlement, but it is unclear whether that settlement is fair and just. Financial imbalances may create scenarios where would-be litigants are settling for less than what they could get in court.

Legal Services Corporation. “Outcomes Toolkit” (ND), online: <<https://www.lsc.gov/grants-grantee-resources/civil-legal-outcomes/outcomes-toolkit>>.

This toolkit describes different state models for measuring outcomes of legal service programs. Both financial and non-financial measures are involved. Outcomes are developed within, and are specific to, problem areas such as consumer/debt, disability, and family law. In most cases, the data collected to measure outcomes includes financial implications, such as whether the client or litigant was better off after legal aid. The difficulties of collecting “softer” measures on client well-being are discussed. This toolkit includes specific measures that are useful in a defined context.

Macdonald, Roderick A. “Justice is a Noun, but Access isn’t a Verb” (Speech delivered at the Expanding Horizons: Rethinking Access to Justice in Canada Symposium, Ottawa, 31 March 2000), in *Expanding Horizons: Rethinking Access to Justice in Canada, Proceedings of a National Symposium* (Ottawa: Department of Justice Canada, 2000) 45.

This short speech was delivered by the President of the Law Commission of Canada at the symposium “Expanding Horizons: Rethinking Access to Justice in Canada,” which was sponsored by the Department of Justice of Canada. The central message in this speech is that a top-down approach to justice is not the solution to increasing access to justice. Instead, we must rethink our attitudes and expectations about who owns law, what it can realistically accomplish, and how can it be effectively deployed to promote a more just society. There are three main takeaways in this speech: 1) more information can be useful, but ultimately maintains the status quo; 2) exclusion from the law stems from the refusal to make space for the living law of everyday human interaction; and 3) access to courts does not equal access to justice. The speaker identifies that a significant challenge in increasing access to justice is how to get citizens participating more fully in the law-making process.

Marchiori, Teresa. *A Framework for Measuring Access to Justice Including Specific Challenges Facing Women* (New York: UN Women, 2015).

This report uses an international, rights-based approach to define the challenges and specific dimensions to accessing justice for women. The focus of this report is the proposal of indicators to measure access to justice, including specific challenges affecting women. The author emphasizes the importance of collecting gender disaggregated data to measure justice system use, attitudes, and outcomes. This report has an international development perspective, so some of the obstacles to accessing justice are not relevant to Canada.

McDonald, Susan. *Development of an Access to Justice Index for Federal Administrative Bodies* (Ottawa: Department of Justice, 2017).

This report describes an initiative of the Department of Justice to develop and pilot a quantitative tool for systematically measuring different components of access to justice in the context of Canadian administrative law. This tool, called the Access to Justice Index for Federal Administrative Bodies (the “Index”), was adapted from the Access to Civil Justice Index developed by the US National Centre for Access to Justice. The Index is intended to measure access to administrative justice at the federal level

in Canada by providing baseline data on key indicators. It aims to allow administrators to track progress in achieving access to justice over time, inspire administrative bodies to improve access to justice, and identify best practices that could be adopted by other administrative bodies.

To develop the Index, researchers selected four main measurement categories from a review of the literature on access to justice: 1) access to the administrative body (such as physical and technological access); 2) processes (including procedural justice and representation); 3) costs; and 4) administrative outcomes (including distribute, functional and transparency elements). This report includes specific measurements within each of these categories, and a scoring system to weigh the issues in terms of importance.

National Center for Access to Justice. “The Justice Index 2016” (15 May 2016), online: <<https://justiceindex.org/>>.

The Access to Civil Justice Index (the “Justice Index”) was first launched in 2014 by the National Centre for Access to Justice in the United States. The Justice Index was the first publicly available and comprehensive set of measurement indicators to measure access to justice. Specifically, it measures the extent to which state-based justice systems in the United States are adopting best practices that facilitate access to justice for all. It consists of 112 indicators that are assigned a weight, which allows progress on access to justice to be tracked and best practices to be identified.

The Justice Index includes evidence-based sources and indicators that measure access to justice outcomes in four domains: 1) access for self-represented litigants; 2) users with language needs; 3) users with disabilities; and 4) the degree to which users in each state can access civil legal aid lawyers. It draws from a variety of data sources, including existing records and a survey administered to the Chief Justice and Court Administrators in each state.

The Justice Index provides an overview of important measurement indicators, a systematic approach to existing and new data, and a consistent method of weighting access to justice measure indicators. Its management of large-scale data could be pertinent to British Columbia.

National Institute of Justice; Office for Access to Justice & National Science Foundation. *White House Legal Aid Interagency Roundtable: Civil Legal Aid Research Workshop Report* (Washington: US Department of Justice, 2016).

This report summarizes discussions that took place at a Civil Legal Aid Research Workshop, hosted by the US Department of Justice’s Office for Access to Justice and National Institute of Justice, in collaboration with the National Science Foundation. The workshop was designed to help develop a civil legal aid research agenda and identify federal priorities for civil legal aid. Experts on civil legal aid spoke about the critical need for research and evaluation in this area. The experts also engaged in discussions about how to measure access to justice, and how civil legal aid interacts with areas such as human trafficking, consumer protection, elder abuse, and domestic violence. At the end of the workshop, the experts determined that the impact of civil legal aid as a tool to empower the lives of

low-income people is significantly understudied. They called upon the federal government to help close that research gap through increased funding.

Palmer, Ellie; Tom Cornford; Yseult Marique & Audrey Guinchard, eds. *Access to Justice: Beyond the Policies and Politics of Austerity* (Oxford: Hart Publishing, 2016).

This book is a collection of papers by academics and civil justice practitioners on the meaning and state of access to justice in the United Kingdom. This discussion of access to justice is situated in the context of government austerity policies that have restricted legal aid and embraced new, cost-cutting technologies to reconfigure the provision of legal assistance and information. The authors agree that access to justice should be considered as equal access to justice, similar to the concept of socialized medicine. Models of providing equal access to justice are discussed in chapters related to specific legal problem areas (e.g. immigration).

Parliament. “Access to Justice Part 2: Legal Aid” by Standing Committee on Justice and Human Rights in *Sessional Papers No 8510-421-279* (2017).

This report provides an overview of the legal aid system in Canada, as well as recommendations on how to improve it. This report also discusses jurisdictional issues between the federal and provincial governments. It explains how greater informational sharing between governments allows for better delivery of legal aid services, with a particular focus on the roles of technology, law schools, and specialized clinics. This report recommends that the Department of Justice work with the provinces and territories to ensure official language minority communities have access to legal aid services in their language, including legal representation and public legal information services. It identifies that there is an opportunity for the Legal Aid Survey to include important questions about socio-demographic data to provide a better evidence base going forward and assist vulnerable populations in their ability to access justice.

Prevention, Triage and Referral Working Group. *Responding Early, Responding Well: Access to Justice through the Early Resolution Services Sector* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2013).

This report establishes a vision of access to justice that focuses primarily on the needs and concerns of the individual experiencing legal problems. The first and most important recommendation is to engage people as early as possible as they begin to experience a legal problem. The report discusses the Early Resolution Services Sector (“ERSS”), a new sector of the justice system. The ERSS provides people with information about the law and assistance with legal issues. It is designed to reach people as early as possible in the life cycle of their problem.

Rhode, Deborah L. “Access to Justice: An Agenda for Legal Education and Research” (2013) 62:4 J Legal Educ 531.

This paper invites the American legal academy to rethink its responsibilities and educate the legal profession about the systemic failures in legal service delivery. The author indicates that better information is needed about unmet legal problems. A research agenda must be charted, which examines the following questions: What exactly is the problem? To what should people have access? What are the unmet needs? Who has these unmet needs? What kind of services are available? Who can access these services? This paper explores these questions through existing data and identifies areas where more data is needed.

Rickard, Erika & Chris Griffin. “Evidence-Based Practices and Access to Justice” (Paper delivered at the National Association for Court Management Mid-Year Conference, Portland, 7 February 2017), online: <<http://nacmconference.org/wp-content/uploads/2014/01/A2JLab-BackgroundMaterials-20170130.pdf>>.

This paper provides examples of appropriate legal self-help materials and strategies so that others can design effective materials. The authors indicate that legal self-help materials often contain too many barriers for people to effectively engage with and deploy the legal information within. For example, self-help materials often place more emphasis on a conceptual understanding of the law, rather than a procedural understanding. Not every legal problem requires a conceptual understanding to solve. There is no need to create an unnecessary burden on individuals, particularly when they are struggling with anxiety and stress. Public legal information often neglects informing the public about the “legal mundanities” of the system, which includes matters as simple as where to sit and when to speak in court. The authors assert that if self-help materials cannot inform individuals on these simple matters, the overall legitimacy of these materials suffers.

Sandefur, Rebecca L. “What We Know and Need to Know about the Legal Needs of the Public” (2016) 67:2 SCL Rev 443.

This paper examines (primarily using US-based sources) the civil legal situations of the public, the scope of these legal situations, the degree to which these legal situations are being identified as justiciable problems, and the degree to which these legal situations receive legal or other modes of assistance. The author suggests that we do not have adequate research on how the public defines experiences as being civil legal problems, and we do not know the full scope of justiciable problems that exist. Although research suggests that vulnerable and disadvantaged groups have a higher proportion of legal needs, there is a lack of research on civil justice experiences across different groups. The author explores the factors that influence whether the public defines their needs as legal and the types of service modes they tend to use (if any). She finds that courts and lawyers are used in a minority of cases, and public surveys indicate that costs are not cited as the major barrier to their use.

A central question raised in this paper is how many people have unmet legal needs. The author defines legal needs as legal problems that people find difficult to handle correctly without legal expertise. She suggests that a common statistic, which states that 80 percent of the legal needs of the poor go unmet, has never been properly verified. The author identifies that there are gaps in research related to the most effective modes of services to handle different types of legal problems. There are

also gaps in research related to the importance of accounting for individual and group characteristics, and the complexity of legal needs. The author suggests that it is important to differentiate between needs that can be addressed by non-lawyers, lawyers, and policy reform. Finally, the author indicates that we still lack information on the range and depth of personal consequences that can arise because of unmet legal needs.

Sossin, Lorne. *Research Priorities Report: Submitted to the Board of Governors of the Law Commission of Ontario* (Toronto: Law Commission of Ontario, 2007).

This report reviews and recommends potential research projects that the Law Commission of Ontario could undertake to achieve the following goals: enhancing the legal system's relevance, effectiveness and accessibility; improving the administration of justice through the clarification and simplification of the law; and considering the effectiveness and use of technology to enhance access to justice. Of the seven projects the author recommends, three are dedicated to the following topics: studying self-help tools and resources to enhance access to justice; reviewing the coordination of multiple court responses (family, criminal, and civil courts) to family breakdowns; and studying the role and value of public participants in the justice system.

Zorza, Richard. "A Confession and a Manifesto for Client/ Litigant Driven Outcome Measures in Access to Justice" (27 November 2016), *Richard Zorza's Access to Justice Blog* (blog), online: <<https://accesstojustice.net/2016/11/27/a-confession-and-a-manifesto-for-clientlitigant-driven-outcome-measures-in-access-to-justice/>>.

The author of this blog indicates that outcome measures used in assessing access to justice should not be designed entirely by academics, courts, and legal aid. Instead, design processes should have client and litigant voices built in from the start. The author suggests that we do not know enough about the most important indicators of success as defined by clients and litigants. He offers suggestions for how to elicit these perspectives.