

## JDG 3

# MAKE COURTS WORK BETTER

### 3.1 ENSURE ACCESS TO COURTS

Courts must be adequately staffed and located where people live to make sure people can get access to a judge when needed, especially when fundamental and constitutional rights are at stake.

### 3.2 PROMOTE MULTI SERVICE CENTRES

Courthouses should offer mediation, dispute resolution, and informal or non-legal services to make it easy for people to access cheaper and simpler options at any stage of the process.

### 3.3 HELP PEOPLE WHO ARE REPRESENTING THEMSELVES

Courts should offer services, including early resolution and information services, for people who are navigating the legal system alone.

### 3.4 MANAGE CASES EFFECTIVELY

Timelines, simplified procedures, shared experts, and limited number of witness should be agreed to, or insisted on by judges, to make better use of court time and encourage early settlement.

### 3.5 BE ACCESSIBLE AND USER-FOCUSED

Courts and procedures need to be modernized to reflect people's needs, including better use of technology where it can make the process faster or easier without ignoring the needs of vulnerable people.

### 3.6 PROTECT JUDICIAL INDEPENDENCE

Ensure system improvements do not interfere with a judge's ability to make independent, ethical decisions to protect people's rights.

#### Projects advancing this goal



87

#### Organizations identifying this goal as their primary focus



35

## HIGHLIGHTS

7th

Indigenous Court opened by the Provincial Court of BC in Williams Lake

95

Lawyers attended virtual open house held by NS Courts

14.9%

of small claims cases were mediated by lawyers from the Barreau du Québec

Free parenting resource on childminding options offered by the Justice Sector Constellation in Alberta

## What is JDG#3 About?

While many access to justice efforts focus on preventative approaches or alternatives to court processes, courthouses remain critical in the continuum of legal services. Courts are where many people turn first for legal information or resolution, speaking with court staff, judges and lawyers. Direct and ancillary services that help people during periods of crisis are often based at or near courthouses. Continuing to improve court-based legal services is critical to improving access to justice.

Programs in the courthouse, including legal information centres, pro bono services, and duty counsel programs help people understand legal processes and provide immediate assistance. Court staff provide frontline services to litigants and judges manage cases in their courtrooms.

In 2020, the work to improve the court process focused heavily on increasing the use of virtual tools and providing self-empowerment resources to litigants, to ensure that as many people as possible could access the courts. Early resolution and case management programs increased, helping support litigants to decrease cost, participate in resolution and reduce conflict.

## Supporting Court Users

In 2020, the **Provincial Court of BC** became the first court in Canada to modify the protocol for courtroom introductions to include non-binary titles and pronouns.

The **Justice Sector Constellation** in Alberta commissioned research that concluded that a lack of childminding services presents an impediment for individual seeking to access the justice system. The research noted the personal safety issues and potential for trauma for children who attend court, as well as the potential for distraction and additional stress placed on the parent, as key factors supporting the conclusion. The Constellation developed a resource outlining childminding options available on a drop-in basis within reasonable walking or transit access of the Calgary Courts Centre. The free resource is available for clients and has been shared with service providers for distribution.

The **Canadian Bar Association** made a number of submissions aimed at improving access to justice in courts and tribunals. The French Speaking Members section advocated for bankruptcy and insolvency proceedings being available in both official languages. The Child and Youth Law Section made a submission to the United Nations Committee on the Rights of the Child, which

included comments on measures needed to enhance access to justice for children in Canada.

The seventh Indigenous Court was opened by the **Provincial Court of BC** in Williams Lake, BC.

In the early phase of the pandemic, the **Law Society of Manitoba** worked with the provincial government to issue an Emergency Order to allow for remote or virtual execution of documents. The Law Society prepared checklists and a webinar to support lawyers using remote execution. While this was initially a pandemic-related initiative, the changes will be made permanent to realize ongoing benefits to members of the public who reside in remote, rural and northern Manitoba.

## Increasing Access and Efficiency

The new **Abbotsford Law Courts** in BC, opened in 2020, will serve the needs of one of the province's fastest growing regions. The 14-courtroom facility includes three Supreme Court courtrooms, eight Provincial Court courtrooms, three judicial conference rooms and space for ancillary programs that support the provision of justice. The facility includes state-of-the-art technology systems to support the delivery of justice services now and well into the future.

In 2020, the **BC Ministry of Attorney General and Housing** advanced its Court Digital Transformation Strategy focusing on Online Divorce, Protection Orders and initial development of new forms under the Family Law Act.

In 2020, the Executive Office of the Judiciary livestreamed six hearings in the **Court of Appeal and the Supreme Court** of Nova Scotia. All were matters with broad public and media interest that dealt with fundamental principles of law, important Charter rights and social justice issues. The archived video of the webcasts is also available for viewing on the Courts' website.

In order to support counsel to effectively participate in virtual hearings, the **Nova Scotia Supreme Court** held virtual open houses to welcome counsel to the virtual court initiative, provide basic training and an overview of future plans. 95 counsel and parties attended the sessions. The sessions are posted on the Virtual Court page of the Courts of Nova Scotia website, along with tip sheets and virtual court self-help videos.

The **Nova Scotia Department of Justice** introduced an innovative alternative to traditional in-person court for single

family matters using an online platform for judicial case management, settlement conferencing and adjudication. The platform allows electronic filing, exchange of motions, affidavits and court documents, online exchange between Judge and counsel, online caucusing and the creation of an electronic record of all online proceedings.

As part of a pilot project the **Court of Appeal of Quebec** launched the first phase of its future digital court office. The electronic platform rolled out in April 2020 for appeals as of right in civil matters. The project will be expanded to include other e-filings.

The **Court of Appeal of Alberta** opened the public portal of its digital case management system to allow counsel and litigants to file documents electronically and access their case materials and information about their appeals online.

The first virtual court hearing in Nova Scotia took place on April 30, 2020. Virtual court hearings now occur daily across the province, including for selected **Supreme Court** (General and Family Division) hearings and specialty court programs in Provincial Court, such as the Domestic Violence Court Programs and the Dartmouth Wellness Court.

The BC **Better Justice Lab** created a proof-of-concept demonstration of a methodology for prototyping and solving problems in the justice system. The demonstration involved reducing the number of steps in the interlocutory bench order process from five steps to one. The new approach is expected to be implemented for interlocutory bench orders across BC in 2021.

## A Focus on Early Resolution

The **Court of Queen's Bench** for Saskatchewan amended its rules to provide an option for parties in civil and family disputes to resolve their case without going to trial. Binding pre-trial conferences all parties that cannot reach an agreement during their settlement pre-trial conference to leave the decision in the hands of the pre-trial judge.

Québec introduced the **Coordination Parentale** program, a non-adversarial dispute resolution process, ordered by the Court or accepted by divorced and separated parents who have a continuous pattern of conflict and/or litigation about their children. The CP is designed to help parents implement and comply with court orders or parenting plans and to make timely decisions in a manner consistent with the developmental and psychological needs of children.

The Court of Queen's Bench of Alberta extended the enforcement of its Mandatory Alternative Dispute Resolution

Rules, requiring parties to participate in at least one dispute resolution process to be completed prior to trial.

The **Provincial Court of BC** introduced new Provincial Court Family Rules to encourage early resolution and case management, and introduce new approaches that support self-represented litigants through guidebooks, interactive forms. In 2020, both Surrey and Victoria became designated Early Resolution and Case Management Model registries, adopting and implementing the new rules.

Online dispute resolution was leveraged in 8 boards/tribunals across 3 different ministries in BC in 2020. The approach included a Solution Explorer with a free, online question and answer application that provides free legal information and a range of tools to help citizens resolve legal problems and a Dispute Resolution Suite, which is the **Civil Resolution Tribunal's** case management system that provides the web-based interfaces that support online dispute resolution.

BC introduced a new Arbitration Act in 2020, supporting party autonomy to efficiently resolve disputes out of court. Party and court resources have been freed up through a streamlined, simplified appeal process: four rounds of appeal hearings in court under the previous legislation have been condensed to a maximum of two. Parties may now agree to opt out of appeals altogether. Arbitration provisions for family law disputes were modernized and moved to the Family Law Act.

The Small Claims section of the **Barreau du Québec** offered information sessions to the public on preparing cases for Small Claims Court. Lawyers from the section also offered on-site mediation on the day of the hearing. As a result, in 2020 14.9% of all small claims cases were mediated on site.

The **Court of Appeal of Alberta** continued its efforts to encourage early resolution of appeal matters by expanding the existing Judicial Dispute Resolution program.