

JDG 8

ANALYZE AND LEARN

8.1 DEVELOP METRICS

Establish benchmarks and standardized metrics to build a shared understanding of legal services, models and needs.

8.2 WORK WITH RESEARCHERS IN ALL FIELDS

Coordinate research between institutions and universities, and between social scientists, economists, system users, and legal institutions to better understand the issues.

Events focusing on on A2J



28

Publications in Canada on A2J



26

Projects advancing this goal



44

Organizations identifying this goal as their primary focus



2

HIGHLIGHTS

986 people

logged into the Action Committee's annual Summit keynote event

80% of cases

sent to ADR at the Social Security Tribunal of Canada were resolved

35% of respondents

to Legal Aid BC's Everyday Legal Needs Survey reported that legal problems were caused or made worse by the pandemic

The Law Society of Nunavut

and Pauktuit Inuit Women of Canada studied the needs of Inuit women experiencing intimate partner violence

What is JDG#8 About?

Understanding the access to justice challenges people face is critical to making meaningful system changes. Viewing the problem from within the system provides only one perspective. Efforts to make user-centred and evidence-based decisions rely on learning from many perspectives and collecting robust data.

Justice sector organizations have long collected statistics about their own operations. PLE organizations know how many people use or download their resources. Courts know how many cases are heard. Legal Aid tracks its clients' and lawyers' time and case work. Law Societies and Pro Bono organizations know about the activities of their members and volunteers.

In 2020, research focused on hearing the voices of the users of the system, gathering experiential data to build a greater understanding of the impact of legal problems and resolution options on real people. A person-centred approach to access to justice featured predominantly in new research and initiatives. Of course, research and data collection about the impact of the COVID-19 pandemic was also begun in 2020, starting with developing an understanding of how the pandemic changed both the nature of legal problems and the available avenues for resolution.

Digging Deeper into Access to Justice

Legal Aid BC concluded the Community Dialogues project, receiving the views of more than 260 people from across BC on service needs, barriers and gaps, and possible solutions. The final report identified the following themes: a need for greater awareness and increased exposure to legal aid services; demand for more client-centric services that adapt to clients' needs; service navigation, guidance and step-by-step assistance; a balanced approach to online and in-person help; and more guidance on holistic services to help clients address issues related to their legal problems.

The "Measuring the Impact of Legal Service Interventions" project at the **Canadian Forum on Civil Justice** aims to assess the effectiveness of different types of legal service interventions on the outcome of legal disputes and the long-term effects on the health of clients and the costs and benefits over time of access to legal help when resolving disputes. The first phase of the project was completed in 2020, producing a methodology report and a literature review.

Legal Aid BC's Everyday Legal Needs 2020 Survey surveyed 1207 people to identify the types of legal problems that low-income British Columbians face and how they deal with them, as well as barriers and challenges people encounter. It also looked at how these legal problems affect respondents' perceptions of the justice system in BC and their everyday lives. The 2020 survey also investigated whether legal problems resulted from the pandemic and whether it affected problem outcome or resolution. 36% of respondents reported that legal problems were caused or made worse by the pandemic.

The **Canadian Forum on Civil Justice** published a book entitled "The Justice Crisis", based on the research gathered through the Forum's 7-year Cost of Justice study. The book collection explores years of research and critical thinking on the costs of meaningful access to civil and family justice in Canada and the value associated with the provision of an effective justice system. It is the first book to provide an in-depth overview based on new empirical research of what is working and not working to improve access to civil and family justice in Canada.

The **Action Committee** took its annual Summit online this year, opening the keynote event to anyone interested in access to justice. 986 people logged on from across the country to listen to Duncan McCue moderate a discussion between Bob Rae, Beverley McLachlin and Megan Longley. Their conversation centered around vignettes from 4 Canadians who shared their A2J challenges in housing, employment and child custody issues. The panelists addressed their questions about immediate strategies to make the system more accessible and about a long term view for Canada's leadership globally to advance access to justice as part of its commitment to the UN Agenda 2030 and SDG16.

The **Action Committee's** Regional Colloquia brought the A2J community together to strengthen coordination and share resources. 60 people working in justice and Indigenous organizations across BC and the Yukon spent four hours listening to Indigenous leaders and then imagining ways to transform the family justice to better meet the needs of Indigenous children, families and communities. In Ontario sector leaders met at the end of A2J Week to strategize about to use the JDGs to align projects across the province and make sure that system changes are driven by data about what people need. The Sask / Alberta / Manitoba colloquium brought together over 100 people from the

Prairies, as well as from Nunavut and NWT to focus on family law transformation. Profiles of local projects spurred small group discussion and seeded collaboration across jurisdictions. The A2J community in Quebec focused on how their activities feed into and amplify national momentum, examining new strategies for coordination. The Atlantic colloquium focused on the use of restorative justice in the civil and family contexts with presentations about restorative practices in human rights tribunals, in federal cases and in addressing system racism. The experimental model of the new Restorative Justice Lab was the focus of breakout discussions.

Access to Justice Week events took place in the fall of 2020 in BC, Alberta, Saskatchewan and Quebec. The week-long focus on access to justice saw events for intermediaries, librarians, lawyers, justice professionals, law students and the public. Conducted online, this year's events drew attendees from across the country, cross pollinating ideas and project models.

Understanding the Needs of Vulnerable Communities

The **Law Society of Nunavut** and **Pauktuutit Inuit Women of Canada** are partnering on a project involving research study and an awareness campaign on the Family Abuse Intervention Act. The research study component of the project was carried out in 2020, examining how the implementation of the Act is or is not meeting the needs of Inuit women experiencing intimate partner violence. Research findings were validated by the project's advisory community and key stakeholders in order to engage in discussions on how collaborations between cross-sector community-based organizations in Nunavut can be strengthened to deal with the issue of family violence in a holistic manner. The next phase of the project will involve developing public legal education resources with key messages informed by the research, in collaboration with project partners and guided by Inuit societal values.

CALIBRATE and **OJEN** conducted research into the impact of serious legal problems in the lives of 16 – 30 year olds in the Black community. This was one of 14 qualitative research projects commissioned by **Justice Canada** to develop a better understanding of how civil legal issues affect people's health, well-being, finances and sense of security and belonging.

The "Access to Justice for Refugee Claimants" project was launched as a collaborative research initiative between the **United Nations High Commissioner for Refugees, York University's Centre for Refugee Studies, the Canada Excellence Research Chair in Migration and Integration and the Canadian Forum on Civil Justice**. This project seeks to offer a timely and important investigation into the impact of access to justice for refugee claimants in Canada.

A research team at **UBC's Allard Law** began working with the **British Columbia Court of Appeal** in spring 2020 to examine the court's Fee Waiver application process and its implications for access to justice. The team examined a data sample of the Court's cases, conducted cross-jurisdictional research and conducted interviews with key stakeholders including judges, self-represented litigants and community legal advocates.

OP Lab, led by the **ARCH Disability Law Centre**, aims to develop awareness of the UN Convention on the Rights of People with Disabilities, its Optional Protocol and other UN disability rights tools. Participants from across Canada participated in training, online discussion forums, accessing materials and building an advocacy network across Canada.

Increasing Our Responsiveness

The **Social Security Tribunal of Canada** introduced an alternative dispute resolution (ADR) pilot at its Appeal Division, in which approximately 10% of its cases (84 cases) were sent to ADR for a settlement or case conference. 2020 results indicated that 80% of the cases sent to ADR were resolved without the need for a hearing, required half of the usual processing time for Appeal Division Cases and received a high level of satisfaction from parties and representatives. Given the proven benefits, the Appeal Division will continue to offer ADR.

In 2020, the **Social Security Tribunal of Canada** also evaluated a 15 month pilot of the readability of Tribunal decisions based on plain language training received by members. The evaluation, which focused on structure, style, clarity and comprehension, showed gradual but clear progress in plain-language decision-writing. 32% of decisions met the grade 9 reading level target, while 33% met a grade 10 level.

The **BC Family Justice Innovation Lab** launched an initiative to create a user-friendly system to collect and report the experiences of lawyers and clients on an ongoing basis, with the hopes of providing both point-in-time effectiveness

snapshots and continuous, evidence-based progress information to stimulate innovation.

The Action Group on Access to Justice (TAG) launched Research and Technology Communities of Practice in July 2020 to facilitate knowledge, collaborative research and data sharing within the justice sector.

In response to increasing public confusion about whether the Legal Services Society was the same as legal aid, the name was officially changed to **Legal Aid BC**. The goal of the rebranding initiative was to make it easier for clients to find services, making the organization more recognizable and welcoming.

In July 2020, **Community Legal Education Ontario** published a report: *Community Justice Help: Advancing Community-Based Access to Justice*, authored by CLEO's Executive Director Julie Mathews and UOttawa Faculty of Law professor David Wiseman. The report calls for increased recognition

and support for the vital role played by community workers in helping people access meaningful access to justice. The report was downloaded over 1300 times.

A research team at **UBC's Allard Law** conducted cross-jurisdictional analysis into credibility assessments in trial courts, both in person and virtual. The team identified the specific challenges associated with virtual credibility determinations, concluding that assessing credibility online is not actually less effective than assessing it in person; that credibility determinations in both contexts are imperfect but that different considerations influence virtual credibility determinations. The work is intended to be the foundation for future work directed toward increasing courts' accessibility and efficiency, as well as addressing the kinds of unconscious bias that affect credibility determinations in different contexts.

Expanding the Dialogue

In 2020, despite the pandemic, research publications on A2J continued to inform the evolution of our understanding in key areas and we gathered virtually to discuss issues and opportunities. Canadian A2J research published in 2020 included (article titles are listed in the language they were published):

Someone Out There Helping: Final Report of the WellCoMs Mobile Van Project

Ab Currie

Restoring Court Operations in Northern, Remote and Indigenous Communities

Action Committee on Court Operations in Response to COVID-19

Tracking Client Outcomes: A Qualitative Assessment of Civil Legal Aid's Use of Outcomes Data, With Recommendations

Amy Widman and David Udell

Les cliniques juridiques communautaires de l'Ontario et l'accès à la justice en français

Anne Levesque (La Revue Du Barreau Canadien)

Expanding Our Vision: Cultural Equality & Indigenous Peoples' Human Rights

Ardith Walpetko We'dalx Walkem

Here There Be Dragons - The Likely Interaction of Judges with the Artificial Intelligence Ecosystem

Frederic I. Lederer

Predictive Coding: Adopting and Adapting Artificial Intelligence in Civil Litigation

Gideon Christian

Erga Omnes or Inter Partes? The Legal Effects of Federal Courts' Constitutional Judgements

Han-Ru Zhou

Seniors on the Stand: Accommodating Older Witnesses in Adversarial Trials

Helene Love

The Challenges of Algorithmic Bias

Jacquelyn Burkell

The Role of Data in Organizing an Access to Justice Movement

James Gamble and Amy Widman

The Good, The Bad, and The Ugly: A Preliminary Assessment of Whether the Vavilov Framework Adequately Addresses Concerns of Marginalized Communities in the Immigration Law Context

Jamie Chai Yun Liew

Judging by Numbers: How Will Judicial Analytics Impact the Justice System and Its Stakeholders?

Jena McGill and Amy Salyzyn

Mapping Domestic Violence Law and Policy in Alberta: Intersections and Access to Justice

Jennifer Koshan

Juries, Miscarriages of Justice and the Bill C-75 Reforms
Kent Roach

Defamation Law in the Internet Age
Law Commission of Ontario

Measuring Impacts of Legal Services - Literature Review
Lisa Moore, Trevor C.W. Farrow and Ab Currie

Measuring Impacts of Legal Services - Methodology Report
Lisa Moore, Trevor C.W. Farrow and Ab Currie

*Self-Represented Litigants & Legal Doctrines of
"Vexatiousness": An Interim Report from the National Self-
Represented Litigants Project*
Megan Campbell & Julie Macfarlane

*Digital Justice: HMCTS Data Strategy and Delivering Access
to Justice: Report and Recommendations*
Natalie Byrom

*Reconciliation and Ethical Lawyering: Some Thoughts on
Cultural Competence*
Pooja Parmar

*Access to Digital Justice: Fair and Efficient Processes for
the Modern Age*
Rabinovich-Einy and Ethan Katsh

*Judging Sexual Assault: The Shifting Landscape of Judicial
Education in Canada*

Rosemary Cairns-Way and Donna Martinson

Court Innovations and Access to Justice in Times of Crisis
Tania Sourdin, Bin Li, and Donna Marie McNamara

*Legal Needs of Individuals in England and Wales – Summary
Report 2019/20*

The Law Society, YouGov and the Legal Services Board

*The Law Handbook: Your Practical Guide to the Law in NSW
(15th edition)*

Thomson Reuters, Australia

*Changing Direction: Mental Health Needs of Justice-
Involved Young People in Australia*

UNSW Sydney, Kirby Institute, et al.

World Justice Project Rule of Law Index 2020

World Justice Project

Events (events listed in the language they were held)

Date	Event	Organization
Jan 23	Cuts to Legal Aid: How can the legal profession help?	Women's Legal Education Action Fund (LEAF)
Feb 05	Courts Without Cases: The Law and Politics of Advisory Opinions	Carissima Mathen
Feb 19	CBA Annual Meeting	Canadian Bar Association
Mar 13	CBA-FLSC Ethics Forum	Canadian Bar Association
Apr 2-4	CBA Immigration Law Conference	Canadian Bar Association
Apr 25	CBA Criminal Justice Conference	Canadian Bar Association
May 22	CBA Charity Law Symposium	Canadian Bar Association
Jun 24-26	CBA Aboriginal Law Conference	Canadian Bar Association
Oct 25-29	A2J Week ONtario	The Action Group on Access to Justice (TAG)
Oct 20	Facing resistance Speaker Series: A2J and its Effects on marginalized youth	Level Justice
Oct 20	Global Dialogue of Justice Leaders	Justice Canada
Oct 22	Investing in and Financing Justice	Justice Canada
Oct 22	Justice Data Priorities and the pandemic	Justice Canada
Oct 26	Intersectionality and Gender Justice	Women's Legal Education Action Fund (LEAF)
Oct 27	The Legal System and Justice for Indigenous Women, Girls and 2SLGBTQQIA Persons	Women's Legal Education Action Fund (LEAF)

Date	Event	Organization
Oct 29	Justice For All	Legal Innovation Zone: Ryerson University
Oct 29	Reimagining Justice: Ontario Colloquium	Action Committee on Access to Justice in Civil and Family Matters
Oct 30	Towards a Grand Assembly of Justice	Éducaloi, Institut québécois de réforme du droit et de la justice (Quebec Law and Justice Reform Institute)
Nov 2-6	A2J Week Saskatchewan	CREATE Justice
Nov 2-6	A2J Week Alberta	University of Alberta
Nov 18	Reimagining Justice: BC / Yukon Colloquium	Action Committee on Access to Justice in Civil and Family Matters
Nov 23	Reimagining Justice: SK/AB/MB Colloquium	Action Committee on Access to Justice in Civil and Family Matters
Nov 25	Reimagining Justice: Atlantic Colloquium	Action Committee on Access to Justice in Civil and Family Matters
Dec 09	Frontiers of Digital Enforceable Contracts (FDEC) Workshop	Cyberjustice Laboratory, Chaire Lexum Information Juridique and Autonomy Through Cyberjustice Technologies (AJC)
Dec - Jan	A2J Week BC	A2JBC
Dec	Reimagining Justice: Quebec Colloquium	Action Committee on Access to Justice in Civil and Family Matters