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## Investing in Justice: A Literature Review in Support of the Case for Improved Access

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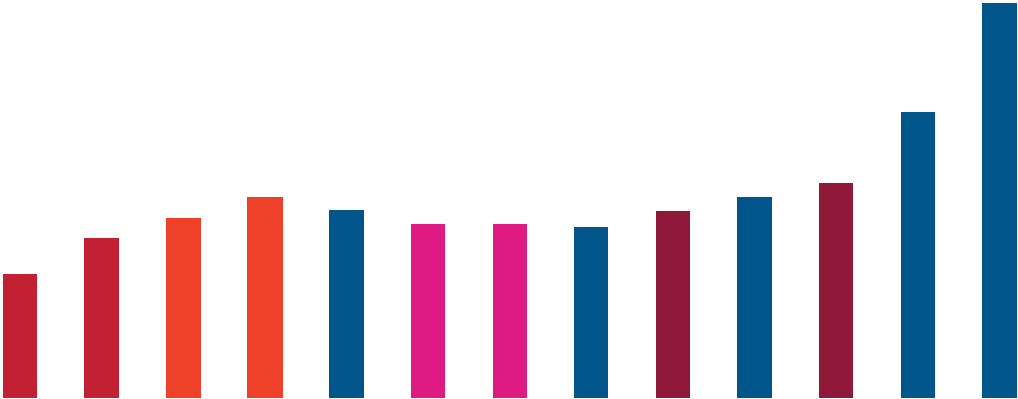
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# Investing in Justice:

## A Literature Review in Support of the Case for Improved Access



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By Lisa Moore\* and Trevor C.W. Farrow, Ph.D.\*\*

A Report prepared for the Task Force on Justice

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## Overview

The focus of this report is return on investment (ROI) and social return on investment (SROI) research in justice.

There is a growing access to justice crisis around the world. Notwithstanding the prevalence of legal problems in everyday life, people do not have adequate access to the justice information, resources and mechanisms that they need to navigate the complexities of law. This gap in access to justice negatively impacts everyone. It also comes with significant costs – to individuals and societies.

Complicating this global crisis is a lack of understanding of the nature, extent, costs and potential solutions of and for the access to justice problem.

In this report, we examine research on return on investment and social return on investment in justice, two particularly promising areas of study that offer insights on the monetary and non-monetary benefits to individuals, investors and the state of making justice more accessible.

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## Part 1

# Introduction

Access to the tools of justice, as well as a lack of access to law and justice have profound impacts on individuals and societies.



## 1.1

# Importance of Law

Law plays a foundational role in every society. It guarantees rights and freedoms and outlines rules of conduct. It offers resources that are intended to be fairly and broadly accessible and applied. Law seeks to prevent disputes, it provides tools to settle disputes, it helps people navigate complex relationships, and it seeks to empower people – particularly the most vulnerable – to address issues of inequality and exclusion. Law is a necessary part of a just and inclusive society. Given the vast array of everyday legal problems that exist and the numerous circumstances under which they arise, no one is exempt from exposure to law. As such, access to the tools of justice, as well as a lack of access to law and justice, have profound impacts on individuals and societies.

## 1.2

# Justice Gap

Despite the importance of law and the assertion of protection and accountability through law,<sup>1</sup> an estimated 5 billion people around the world live outside the protection of the law.<sup>2</sup> This means a number of things. Billions of people do not have the safety or security that they are entitled to under the law; many people are not equipped with the knowledge or tools to recognize a legal problem; and large numbers of people in developed and developing countries alike do not have access to the resources required to sufficiently engage the law to address their legal problems. Poor and marginalized peoples throughout the world are especially vulnerable to violations under the law. This far-reaching problem of unmet legal need is at the root of an ongoing, global crisis in access to justice.

## 1.3

# Lack of Adequate Support

How are individual states and the global community responding to this crisis? What is being done and what more can be done to bring about equal access to justice? The argument that governments and funders should support accessible and affordable avenues for legal problem resolution on principle because they greatly benefit those who are otherwise handicapped by an inability to access the law continues to fail to generate adequate funding and resources. Also missing is a necessary sense of urgency that is needed for real progress towards better access to justice for all. Throughout the world, funding for legal programs and services, particularly for low-income and vulnerable people<sup>3</sup> is declining and in jeopardy, while income inequality,

**Missing is a necessary sense of urgency that is needed for real progress towards better access to justice for all.**

distribution of wealth and the cost of living all continue to grow.<sup>4</sup> In some courts and in some areas of law, pro se litigants<sup>5</sup> who are unable to afford the cost of legal representation have become the norm, with some studies revealing that the number of cases where at least one party appears without

representation outnumbers the number of cases where litigants are represented.<sup>6</sup> Miscarriages of justice stemming from a lack of knowledge of the law or an inability to exercise basic rights are all too common. In our “law-thick” world, there is no expectation that the demand for legal information and legal help will subside.

## 1.4 Signs of Change

The magnitude of the problem of unmet justice needs has not gone unnoticed. In 2015, United Nations (UN) member nations identified inadequate access to justice as a threat to well-being, advancement and safety of people and communities worldwide. For the first time, equal access to justice was included as a goal in the UN’s global agenda. Goal 16 of the 2030 UN Sustainable Development Goals (SDGs) is a call to action for governments, civil society organizations and others to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.<sup>7</sup> This is significant for several reasons. It identifies inadequate access to justice as a pervasive, global problem. That this acknowledgement comes from a representative, global body serves to underscore the seriousness of this issue. Further, UN SDG 16 situates the threat of inadequate access to justice as an issue that is equal in importance to poverty reduction, access to clean air, hunger reduction, good health and well-being, access to quality education and other goals that are consistently recognized as necessary for a better, more just world. Access to justice generally, and access to civil and family justice more specifically have not customarily been regarded as pressing societal issues in the same way that education, healthcare and other social issues typically are.<sup>8</sup> This spotlight that the UN has shone on access to justice is a meaningful one.

## 1.5 Making the Case for Access to Justice

The fundamental role that law and access to law play in societies, the state of access to justice globally, and the call to action by the United Nations to address the crisis of unmet legal needs forms the contextual backdrop for this report’s examination of the economic and socio-economic case for investing in justice. A growing body of empirical research reveals that investing in

accessible and affordable justice results in monetary, personal, social and other benefits that outweigh the costs of the investment. This body of work supports the case for investing in justice as smart, transformative and rewarding for governments, communities, not-for-profits, grassroots organizations and individuals. This report looks at the existing research and data on return on investment for justice services provided by civil society organizations, governments and private sector groups to communities and diverse populations worldwide.

## 1.6 Data Deficit

The value of this body of research notwithstanding, the worldwide access to justice crisis is not a problem that is easy to solve. Actors within the justice community, including courts, lawyers, legal service providers, law schools, not-for-profits, and others each have a role to play in helping to improve access to criminal, civil, family and indigenous justice.<sup>9</sup> Complicating this issue is the dearth of justice data available worldwide.

Much has been written about this data deficit.<sup>10</sup> Many of the studies examined in this report also note the challenges faced in deriving return on investment and economic impact values given a lack of available data. Similarly this report is limited in scope by existing examples of studies that have been conducted worldwide on the return on investment and the social return on investment in justice organizations and services. While a comprehensive and representative examination of empirical research worldwide on return on investment and social return on investment in justice was not possible in this report, we nonetheless aim to present an overview of representative and promising research and data on these topics. In the absence of an exhaustive, region by region review of return on investment research, we instead curate a selection of studies that have been chosen specifically with the goal of offering a diversity of perspectives, methodologies, themes, and challenges, all connected by a common objective to explore costs and benefits of justice sector investments. What may be missed from a discussion of justice sector investments explored within the framework of particular geographical, cultural and historical contexts is balanced with an array of studies that each contributes a nuanced view of the types of justice sector interventions for which returns on investment are possible.

## 1.7 This Report

In several instances, this report goes beyond an assessment of costs and benefits in purely transactional terms to a discussion of the social and personal impacts that result from funding justice system programs and initiatives. The complexity of the access to justice issue lies in part in this intersection of the economics of justice on the one hand and the fact that access to justice is a fundamentally human problem. Every addition and subtraction in the access to justice equation that is determined in boardrooms, government offices, or NGO meeting rooms – whether intentional, coordinated or involuntary – has an impact on individuals, families, communities, and societies. This examination of the benefits derived from funding justice in ways that improve access to legal services, legal information and justice initiatives also includes an examination of the financial, health, social and personal impacts of access to justice.

**Every addition and subtraction in the access to justice equation whether intentional, coordinated or involuntary has an impact on individuals, families, communities, and societies.**

This report organizes the discussion of the return on investment in justice around the monetary and non-monetary benefits realized by governments, communities, individuals, not-for-profits and grassroots organizations relative to funding and the input costs of justice services and programs. Studies that present findings based primarily in terms of financial

investments and the monetary returns gained from supporting justice delivery mechanisms are largely discussed in this report under the banner of ‘return on investment’. The reason for doing so is based primarily in the definition of return on investment adopted from the literature on this topic (discussed further below). An examination of empirical studies and literature on the financial value of non-monetary benefits that result from investments in justice mechanisms are largely referenced in terms of their ‘social return on investment’. A definition of this term has also been included in subsequent sections. Further, while there is some discussion in later sections on the return on investment in programs related to criminal law, the focus of this report is primarily on civil justice, including family law matters. Where pertinent to the research being discussed, a distinction is made between civil and family justice issues. The sections of this report that speak to the return on investment in justice for matters related to criminal law begin with a discussion of youth justice and rehabilitative justice programs and conclude with a summary discussion of research on the return on investment in programs for incarcerated adults. These assessments have been included in support of the central theme of this literature review – that across a diversity of justice programs, services and mechanisms around the world, spending on justice results in significant economic and other benefits that generally far exceed the value of the investment. Further, we note that despite the focus on civil justice in this review over other areas of law, efforts that facilitate access to law in any form and that help people to access even basic rights require more urgent attention.

We acknowledge that there are other, non-monetary investments that impact access to justice and that are proportional to the increase in benefits that can be derived from access to law within communities and societies. Technology and justice sector innovations that aid accessible, cost-effective and efficient justice delivery are perhaps chief among these. In countries like Uganda, for example, where more than 80 percent of the nation's lawyers reside and offer legal services in the capital city of Kampala and a few areas within the immediate vicinity of Kampala, the growing availability of technology-aided justice services plays an increasingly important role in improving access to justice outside of the capital city.<sup>11</sup> Despite the undeniable value of investing in technology and innovation to facilitate justice delivery, a review of the literature on the benefits of their contribution to access to justice is beyond the scope of our discussion.

This report develops as follows. Following this introductory section, Part 2 offers an overview of terms that are relevant to the examination of return on investment in justice research, and that appear frequently in the studies examined in this report. Following this, we present a selection of return on investment studies that progress with the following themes: Economic Impacts of Access to Civil Legal Aid Services, Economic Impacts of Privately-Funded Justice Services, Investing in Community-Based Justice, Investing in Rehabilitative Justice and, a brief discussion on the Monetary and Social Benefits of Legal Empowerment. For academic integrity and consistency, most monetary values presented in this report are reported as indicated in the source material as well as in US dollars.

Lastly, before beginning our summary review of various studies and reports from different countries around the world, we do acknowledge our limitations in terms of local legal expertise and local research knowledge. Although we have endeavoured to source the leading and most up-to-date return on investment and related research, gaps may exist in our knowledge and awareness of different projects, reports and studies. As such, we welcome feedback and updates from local experts in the spirit of ongoing dialogue and international collaboration. Further, to the extent that inconsistencies exist between our reporting and local or regional data and statistics on the ground, please rely on the locally sourced data.



Part 2  
**Defining Key**  
**Terms**

## 2.1

# Return on Investment

**Return on investment (ROI)** is a measurement of profit. It is an indicator of financial gains relative to input costs. Return on investment analyses offer insight that is deemed to be particularly valuable because of this consideration of the input necessary to generate profit.<sup>12</sup> In much of the business world, ROI is a key factor driving investment decisions, growth and signalling a company's sustainability. Its usefulness also extends to the guidance it provides on how well a business, program, or initiative is being managed. Throughout the world, ROI is applied as a tool to highlight overall success.

Several factors are typically considered to derive an ROI valuation. Chief among these are productivity, operating, administrative and material input costs and revenue. Using reliable, consistent data is encouraged for ROI assessments. Notwithstanding these elements that are common to ROI analyses, methodologies used to calculate return on investment may differ based on what is being assessed and the types of outcomes that are possible from a given project. For example, an ROI assessment may include consideration of a specific type of financial result or, may more broadly weigh all the financial impacts of a given program or initiative.<sup>13</sup> To determine a value for profit in either scenario may require different variables to be evaluated.

Similar to ROI assessments, cost-benefit analyses offer a method to measure inputs proportionate to the net benefits derived as a result of those inputs. While the term 'return on investment' more strictly weighs financial benefits, cost-benefit analyses may consider a broader range of positive outcomes (monetary or other) relative to the financial input required to generate those benefits. What qualifies as a benefit may be subjective and may be based on what the assessor deems to be advantageous for a given population. The *Handbook of Public Economics* explains that "the aim of cost-benefit analysis is to provide a consistent procedure for evaluating decisions in terms of their consequences."<sup>14</sup> Cost-benefit analyses are common tools used in decision-making and are discussed in reference to several studies examined in this report.

## 2.2

# Social Return on Investment

**Social return on investment (SROI)** is a measurement of value. The focus on value in place of profit makes SROI a useful tool for civil society organizations, governments, funders and others for whom favourable outcomes from a program, service, project or activity may not be tied solely to monetary earnings but may be based in other deliverables or impacts.

Conceptually, SROI bears similarities with aspects of both return on investment and cost-benefit analysis as discussed above. Like return on investment, some social return on investment appraisals are concerned with monetary returns. However, monetary gains are simply one of the ways that investment in a program, service, initiative or activity can be evaluated as part of a social return on investment assessment. Social return on investment is more accurately described as being concerned with social, environmental and economic impacts and benefits.

SROI methodology derives from both social accounting and cost-benefit analysis and is used for various purposes including, planning, communicating impact, attracting investment, or making investment decisions.<sup>15</sup> To calculate SROI requires attaching financial values to one or more indicators. These financial proxies allow for comparison among outcomes to determine their value proportionate to input costs and input activities.

Where helpful, this report offers details on the methodology and variables used for calculations of return on investment, cost-benefit analysis and social return on investment data being discussed. An understanding of the methods used to determine the monetary, economic, social and other benefits of access to justice, and an examination of the extent of those benefits, lay the framework for a broader discussion of equal access to justice that includes the benefits that access to justice offers justice system users as well as the benefits to investors and facilitators of justice.

## 2.3

### A Note about ‘Justice’ and ‘Access to Justice’

In a 2014 study on “What is Access to Justice?” conducted in Canada, members of the general public were asked 10 general questions about justice and access to justice.<sup>16</sup>

#### **2014 Study on “What is Access to Justice?”**

In a 2014 study on “What is Access to Justice?” conducted in Canada, members of the general public were asked 10 general questions about justice and access to justice,<sup>16</sup> including:

How do you define justice?

What does access to justice mean?

Should citizens have a right to justice?

Do you think justice is of fundamental importance?



Several topics of opinion emerged that highlight recurring ideas about justice by the public, including improved legal awareness, the ability to afford lawyer services, physical access to legal help and fair outcomes. The literature reviewed for this report also offers a range of connotations for the terms ‘justice’ and ‘access to justice’ that mirror those identified in the “What is Access to Justice?” study. ‘Justice’ and ‘access to justice’ denote equality, morality, fairness, rights, procedural justice, understanding the language of the legal system, inclusion and participation in society, being able to afford legal help and rule of law, access to better, substantive outcomes, and ultimately access to the “good life”.<sup>17</sup> While access to justice may generally be understood, more procedurally, as access to the law and access to dispute resolution mechanisms, some of the research examined in this report identifies with specific connotations of access to justice that are based in morality, equal rights and legal empowerment. Where required, these specific meanings will be highlighted in the discussion of the relevant study or article.

## 2.4 Measurement Frameworks

There are various ways to measure access to justice. The evaluative framework used to measure access to justice mechanisms depends in part on what is being measured. Gramatikov, Barendrecht and Verdonshot reference a number of areas for which research has been undertaken to measure justice system performance and processes including: rule of law, paths to justice, judicial independence, property rights protection, equal treatment, accountability under the law, views of justice system users and justice system investments.<sup>18</sup> They further highlight three indicators used in access to justice measurements: cost, quality of procedure and quality of outcome.<sup>19</sup> The research presented in this report offers assessments that are primarily concerned with justice investments and that mostly use cost as an indicator. There is also some consideration of the quality of outcomes for people, communities and systems.

### **Measurements are integral to a better understanding of access to justice and informing effective policies and strategies for improvement.**

Measurements of the type discussed in this report are integral to a better understanding of access to justice and informing effective policies and strategies for improvement. **The data gathered for these assessments is through one or more qualitative and quantitative research methods, including surveys, focus groups, interviews, observation, and secondary data analysis.** In recent years, there has been a welcomed increase in attention being paid to metrics in the justice system and how to measure justice.<sup>20</sup> There are similarities that will be evident among the measurement frameworks employed in different studies examined in this research. Mostly however, the research approach is a reflection of what is being measured, methods that can best capture and communicate insights as well as, in some instances, what is possible given available resources and access to data.

To that end, there is no universal standard that is applicable to the measurement of the return on investment in justice and no universal benchmarks have been identified. Some research features methodologies and measurement techniques that have been adopted from earlier studies and adapted to the specific circumstances of the research carried out. Studies that have been carried out by the same group may have some similarities in their methodologies; there are also clear differences.

## 2.5 Legal Empowerment

Legal empowerment features prominently in literature and discussions as critically important to prevent and manage legal problems and to address issues of inequality and social exclusion.<sup>21</sup> **Stephen Golub characterizes legal empowerment as “the use of law specifically to strengthen the disadvantaged.”**<sup>22</sup> The Commission on Legal Empowerment of the Poor, a geographically diverse consortium of more than 20 commissioners, including former heads of state and government, cabinet ministers, jurists, economic researchers, and other senior policymakers, advanced a notion of legal empowerment as “a process of systemic change through which the poor and excluded become able to use the law, the legal system, and legal services to protect and advance their rights and interests as citizens and economic actors.”<sup>23</sup>

The Commission on Legal Empowerment also notably highlights the work of grassroots organizations and community-based actors as agents to build legal consciousness, facilitate dispute resolution and bridge the justice gap. In jurisdictions where cost or transportation barriers, distrust of formal systems and other factors act as impediments to the enforcement of rights through formal means, the information and support provided by these justice players may be the only accessible connection to the justice system. It is worth noting as well that these organizations and local mechanisms are often uniquely equipped to work within local areas and with vulnerable and disenfranchised groups in ways that conform to the culture, language, gender dynamics and other characteristics of specific populations. As relates to research that explores efforts by not-for-profits, grassroots organizations and communities to facilitate access to justice, legal empowerment is one of the key benefits derived.

## 2.6

# Traditional Justice Mechanisms

In some jurisdictions, elders, chiefs and other traditional leaders play a key role in conflict resolution. Epistemologies and customs are important considerations in addressing disputes. Restorative justice features prominently in the literature on conflict resolution in Indigenous communities. Though there is some discussion in this report of restorative justice, an examination of return on investment on traditional forms of dispute resolution and conflict resolution within Indigenous communities is beyond the scope of this report.



**Part 3**

# **Economic Impacts of Access to Civil Legal Aid Services**

### 3.1

## Civil Justice Problems

Civil justice problems are the most widely experienced category of justice problems worldwide. Research from the Canadian Forum on Civil Justice (CFCJ) reveals that within a given three-year period, 48.4% of the adult Canadian population will experience at least one civil or family justice problem that they consider to be serious or difficult to resolve.<sup>24</sup> Virtually every adult in Canada will experience a civil justice problem within their lifetime. In a national survey in the UK, 33% of respondents ages 16 years of age and older reported having experienced a civil justice problem.<sup>25</sup> A U.S. report puts the number of Americans living with civil justice problems at over 100 million.<sup>26</sup> Every year, one in four Australians will experience a legal problem that is significant enough to require a lawyer,<sup>27</sup> and of 1,364 people surveyed about 16 civil justice problem types for a 2017-18 Scottish civil justice survey, three in ten (or 31%) reported experiencing at least one problem within the previous three years.<sup>28</sup>

Incidences of civil justice problems are equally prolific in other countries. The World Justice Project's 2018 *Global Insights on Access to Justice* report reveals that within the two years prior to the report, 74% of people in Ethiopia experienced a civil justice problem, and 70% of people in Senegal experienced civil justice problems. Occurrences of legal problems within a two-year period were also over 50% in Austria (75%), the Czech Republic (79%), Finland (69%), Italy (75%), Portugal (81%), Pakistan (84%), Brazil (69%), as well as other countries included among the 45 nations that were canvassed for the World Justice Project study.<sup>29</sup>

**The adverse consequences of experiencing civil justice problems disproportionately affect the poor, ethnic and religious minorities, women and other vulnerable populations.**

It is worth noting that despite the ubiquitous presence of civil justice problems in societies around the world, as Professor Rebecca Sandefur notes, “the weight of [civil justice problems] does not fall equally.”<sup>30</sup> The adverse consequences of experiencing civil justice problems disproportionately affect the poor, ethnic and religious minorities, women<sup>31</sup> and other vulnerable populations.

### 3.2

## The Gap in Access to Civil Justice – The U.S. Context

Our discussion of the monetary return on civil legal aid begins with an examination of select economic impact studies carried out in the United States. Research from the United States highlights a civil justice system that is, like many others across the globe, underfunded. In the United States, legal representation is available from the state for criminal matters. In terms of civil justice matters – the most commonly experienced category of legal problems – low- and moderate- income Americans face ongoing struggles to engage legal help for any number of

life-changing civil justice problems, ranging from wrongful evictions to child custody matters, domestic violence problems, problems obtaining health care, veterans' or disability benefits, and other problems. The cost of legal representation, which in 2018 averaged \$245 per hour in law firms across the United States, is partly to blame.<sup>32</sup> This problem has persisted for decades and can be compounded by factors such as age, geographical impediments in rural and remote areas,<sup>33</sup> and legal problem clustering.<sup>34</sup> In addition, when justiciable problems go unresolved they lead to additional legal, personal, social and health problems that place further financial demands on individuals, their families and governments.<sup>35</sup>

Almost every U.S. state has conducted some sort of assessment of the value received for providing civil legal aid or access to civil justice services to low-income individuals. While it is beyond the scope of this report to discuss the details of every U.S. study available,<sup>36</sup> there is a clear theme that emerges among this collection of U.S. based studies: investing in civil justice for low- and moderate- income individuals in the U.S. provides positive returns on the investment. The studies discussed below are explored in terms of the methodologies applied to determine the return on investment (and social return on investment), quantifiable measures that were included in each evaluation, benefits that could not be easily quantified, and non-monetary benefits to individuals, communities and the state that are acknowledged in a given study as part of the overall cost savings or indirect economic impacts resulting from financial investments.

In 2017, an estimated 1 in 4 low-income households in America experienced 6 or more civil legal problems.<sup>37</sup> Further, approximately 86% of the civil legal problems reported by low-income Americans in the same year received no legal help or insufficient legal help.<sup>38</sup> The convergence of economic and social adversity and civil justice problems is not new, and it is a recurring theme in much of the research examined in this report. A significant portion of the funding for programs in the United States that offer legal help to low-income Americans experiencing civil justice problems is furnished or subsidized by the federally funded Legal Services Corporation (LSC). LSC is an independent, not-for-profit organization in the U.S. that provides grants to support civil legal aid programs and services in every state, the District of Columbia and the territories. In 2019, LSC's \$564,800,000 budget supports 133 local legal aid organizations throughout the United States.<sup>39</sup> Funding for legal aid programs across the U.S. also comes from state-wide Interest on Lawyer Trust Accounts (IOLTA). IOLTA-funded civil justice programs exist in every state and in the District of Columbia.<sup>40</sup> To be eligible for LSC and IOLTA funded civil legal aid programs, clients must earn an income that is at or below 125% of the federal poverty level.<sup>41</sup> Many civil legal aid programs also receive funding from donations and other state and local funding sources.

Much of the discussion that follows on the return on investment on civil legal aid programs that assist low-income earners and vulnerable people in the United States involves funding received from LSC and/or IOLTA. In some cases LSC is the primary source of funding for the programs discussed or, as is the case with civil legal aid programs examined from North Carolina, Florida and Pennsylvania, they are 1 of 3 or more sources of funding. Research conducted on the return

on investment in LSC grantee programs in several U.S. states reveals a pattern of significant financial gains compared to the amounts invested. Data from the LSC reveals a direct correlation in most years between the amounts disbursed to states for civil legal aid and the number of cases closed. In 2010, funding amounting to \$394 million resulted in a total of 932,000 cases closed by LSC grant recipient organizations. Comparatively, in 2013, LSC's budget was \$316 million and the number of cases closed fell to 759,000. In the previous year, in 2012, LSC allocated \$322 million to civil legal aid programs and initiatives for low-income Americans. LSC grantees saw a total of 810,000 civil justice cases closed during that year.<sup>42</sup>

LSC estimates that for every low-income person who receives legal assistance through an LSC-funded program, there is at least one person who is turned away due to insufficient resources. A 2009 LSC report put the number of low-income persons seeking legal help that LSC programs are unable to help at 944,376.<sup>43</sup> Less than a decade later, the number of problems that receive limited or no legal help as a result of inadequate LSC resources has climbed to 1.7 million.<sup>44</sup> The 2009 and 2017 figures do not include estimates of the number of low-income Americans who need legal help who do not approach LSC-funded services. As such, the actual number of people requiring access to civil legal aid is believed to be considerably higher.

To the extent that more spending on civil legal aid might increase the number of cases closed and a greater number of cases closed translates to a state-wide 'economic stimulus' effect,<sup>45</sup> and community and personal benefits, arguably, increases in the federal government's investment in LSC significantly benefits states, communities, individuals and helps the economy.<sup>46</sup>

Many of the U.S. based civil legal aid studies discussed below explore significant financial benefits and savings of access to justice and, as evidenced, for example, by studies cited from New York and Florida, also make the case that, rather than saving the state money, reducing amounts invested in civil legal aid programs costs states and the federal government significantly more.

### **3.2.1**

## **Return on Investment from Access to Civil Legal Aid for Housing, Family, Consumer, Benefits and Health Problems**

### **A Case Study from Florida**

A 2015 study conducted into a network of legal aid programs working in different parts of Florida to provide day-to-day legal assistance to low-income and vulnerable persons with civil justice problems found total economic impacts of the 33 programs examined to be 7.19 times the funds invested.<sup>47</sup> The "Economic Impacts of Civil Legal Aid Organizations" study was carried out over the course of one year and evaluated the return on \$83 million invested by the Florida Bar Foundation, LSC, local governments and donors in civil legal aid organizations and projects across the state.

For this study, the monetary value of the return on investment in civil legal aid programs was derived from an assessment of the following factors: the number of cases closed, the type of outcome achieved for each case, the financial value of the amounts clients received after resolving their legal problem, the duration of the benefits that clients would receive and retroactive sums received.<sup>48</sup>

The study was not limited to a single civil justice problem type and explored the return on investment in programs that provide assistance for housing, family, consumer, benefits, and health problems. This study produced several notable findings, of which the most striking is perhaps the return of an estimated \$600 million in total monetary savings and benefits for people who accessed the civil legal aid programs during the period of the study, as well as for local communities where the programs are located. It is also worth noting that a portion of the monetary gains received from investing in these civil legal aid programs in Florida is based on an economic multiplier effect that found that government benefits received by clients who successfully resolved related civil justice problems were spent within the state, generating local revenue. The reported total of \$274.8 million in economic multiplier revenue dollars brought into Florida supports the case for local government and federal government investments to be made in state and local civil legal aid programs.

The balance of the \$600 million in total economic returns is made up of \$264.3 million in direct monetary benefits received by clients whose civil justice problems were resolved successfully, and \$60.4 in savings to clients and stakeholders from not having to access government assistance and other services following an eviction, foreclosure or other destabilizing legal problem. Beyond the financial impacts generated, the study also notes that the investment in these civil legal aid programs eased the demand for court services and supported the work of pro bono lawyers in the state.

### The “Economic Impacts of Civil Legal Aid Organizations” Study

US \$83 million invested in 33 civil legal aid programs yielded US \$600 million in total monetary savings and benefits.





### 3.2.2

## Cost Savings and Financial Gains from Access to Civil Legal Aid

### Case Studies from New York

Data from a 2011 paper on the economic impacts on civil justice programs in New York State offers equally compelling evidence of the reach and significant financial returns gained from supporting initiatives that provide access to civil justice for low-income Americans. Interestingly, the impetus for the case studies reviewed in the paper was to stave off funding cuts and build a case for government funding by highlighting the economic value of investing in civil legal aid programs. Previous arguments for supporting civil legal aid programs were predominantly based in the need to address the justice gap in the state.<sup>49</sup>

The paper discusses three case studies that highlight the cumulative monetary benefits and cost savings to taxpayers, legal aid clients and the government created by access to civil legal aid. By providing accessible avenues to resolve housing, benefits, healthcare and other common civil justice problems faced by low-income New Yorkers, these programs cut down on the number of self-represented litigants appearing in courts, easing the burden on courts (and on

**Accessible avenues to resolve civil justice problems contributed to fewer self-represented litigants, put money back into the pockets of litigants, lessened the demand for state-funded and local welfare programs and created money within the local economy.**

the individuals representing themselves); they put money back into the pockets of litigants and potential litigants by resolving issues that would take time and money away from income-earning activities; they lessened the demand for state-funded and local welfare programs that would otherwise be accessed to curb the effects from an eviction, job loss or other serious problem; and they created money within the local economy when issues surrounding Social Security Disability, Supplemental Security Income, Earned-Income Tax Credits and Supplemental Nutrition Assistance were successfully

resolved. Health care providers within the state also saw significant benefits, including Medicaid reimbursements that would otherwise need to be written off.

To determine the total cost savings and financial gains generated in the first case study, outcomes of cases that benefited from grant funding were assessed and the resulting savings and monetary benefits for different outcomes were ascertained. In addition, similar to the previously mentioned study conducted in Florida, the “economic stimulus” effect of access to civil legal aid among low-income earners was determined. For this first case study, that amounted to an evaluation of Supplemental Security Income and Medicaid reimbursements coming into New York as a result of the successful resolution of cases within the study’s reference year. In total, the resulting financial gains and savings were determined to be \$476 million in economic stimulus dollars, an estimated \$98 million in savings to taxpayers from evictions and foreclosures that were averted, and \$6.2 million saved by protecting families from domestic violence.<sup>50</sup> The study also found that the funding protected 5,000 jobs for New Yorkers.

These savings and benefits compare to a funding amount for civil legal aid programs that year of approximately \$8 million.<sup>51</sup>

The second case study, conducted in Westchester County in New York, found a return of \$4.48 for every \$1 in funding that was put into local civil legal aid programs supported by funding from Legal Services of the Hudson Valley. The study also found an 11:1 return on \$1.7 million invested by the county and an estimated \$19.3 million in economic stimulus effect dollars generated from \$13 million in federal dollars coming into the county. The data analysed was for 2009, with a significant portion of funding at the time being allocated to eviction cases.

The findings from the third New York case study in the 2012 collection of studies is rooted in a case for more spending on civil justice services in order to reduce the burden on the courts, help address the justice gap and improve the lives of everyone living in the State. The financial benefits gained, including money saved, benefits awarded, and income generated, over the duration of the study in 2010 totalled approximately \$900 million. This is the equivalent of a return of almost \$5 for every \$1 that was spent to facilitate dispute resolution for civil justice problems through the programs examined. The study, which was spearheaded by New York State's then Chief Judge, also conservatively estimates that failing to address the civil justice needs of low-income New Yorkers costs taxpayers approximately \$400 million per annum. These costs result from an increase in demand for government services caused by evictions, job losses and other serious civil justice problems that adversely impact the security and livelihood of low-income New Yorkers.

### Third New York Case Study (2012)

The financial benefits, including money saved, benefits awarded, and income generated totalled approximately

**\$900 million**

That is equivalent to almost US \$5 generated for every US \$1 invested



In terms of legal need and the justice gap, LSC data reveals a similar pattern throughout much of the continental United States. In 2016, the most recent year for which data is available, LSC-funded programs supported legal services for less than 4% of eligible people in Florida and New York as well as in states like Pennsylvania and North Carolina. Family law problems and housing-related legal problems were among the two most common problem types for which cases were closed through LSC-funded programs in the aforementioned states. In Pennsylvania, 31.8% of case closures through LSC programs in 2016 related to housing problems. In North Carolina, the corresponding percentage is 28.4%.<sup>52</sup> The cost of evictions and foreclosures to the state, communities and to individuals is a common focus of discussions on the economic impacts of

civil justice and the return on investment in civil legal aid. Matthew Desmond notes that “[l]osing a home sends families to shelters, abandoned houses, and the street. It invites depression and illness, compels families to move into degrading housing in dangerous neighbourhoods, uproots communities, and harms children.”<sup>53</sup> Desmond further identifies evictions and foreclosures as both contributors to poverty and a consequence of poverty.

### 3.2.3 Investing in Civil Justice to Reduce Poverty, Evictions, Domestic Violence and Homelessness

#### Case Studies from Pennsylvania

Housing problems result in significant monetary costs and health costs and exacerbate the lives and circumstances of people in the U.S. (as well as in other parts of the world). In 2016, an estimated 2.3 million people were evicted in the United States.<sup>54</sup> There are a number of factors that can lead to an eviction or foreclosure; however, as the problem relates to low- and moderate- income Americans, the crisis in affordable housing is perhaps the main culprit.<sup>55</sup> Philadelphia, Pennsylvania provides an especially compelling site for a case study on the economic return on investment for legal assistance provided to low- and moderate- income persons facing housing-related legal problems. In 2016, the rate of evictions in Philadelphia was 3.48%, which was approximately 150% the national eviction rate.<sup>56</sup> During that year there were over 10,000 evictions in Philadelphia, a figure that is equivalent to approximately 28 households being evicted per day. A 2018 study on the *Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants* explored the potential for significant cost savings to the city if investments are made in providing legal assistance to low-income people involved in eviction cases.<sup>57</sup> The study revealed several important findings that merit further discussion.

On the issue of return on investment, the study found that by providing legal representation to low-income tenants in eviction cases, Philadelphia could save an estimated \$45,189,458 annually. The cost of providing representation is estimated to be \$3,546,180. The return on investment for providing legal representation to low-income tenants is \$12.74 for every \$1 spent.<sup>58</sup> It should be noted that these figures, though significant, are nonetheless conservative estimates that were calculated based on an evaluation of quantifiable measures. Additional outcomes that resulted from providing low-income earners with access to civil legal aid that were difficult to quantify include: the economic benefits of job stability, reduced number of court filings, improved court efficiency, and improved tenant living conditions.<sup>59</sup> The input costs that were considered in this evaluation include: the cost of providing legal representation, the cost per case, and the estimated per person per day costs to use a shelter. The costs that were considered for the savings to the city for providing legal representation to low-income tenants in eviction cases include: avoided shelter costs, avoided inpatient hospital costs, avoided mental health costs, avoided future representation costs per case, and avoided total costs per case.

## “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants”

Providing legal representation to low-income tenants in eviction cases in Philadelphia cost an estimated US \$3,546,180 and saved the city approximately US \$45,189,458 annually.



Using data from the Municipal Court docket, the study also assessed the direct impact that legal representation has on the outcome of an eviction case in Philadelphia, and the extent to which lawyers assisting low-income tenants in eviction cases contribute to preventing future displacements or other problems that could result from an eviction. The direct impact analysis portion of the study included an evaluation of over 100,000 cases over a 5-year period beginning in January, 2012. Elements in the dockets being reviewed were codified to assist with the evaluation. The outcomes of cases and the distribution of the outcomes of cases where tenants were represented versus cases where tenants were not represented were assessed to determine the impact of legal representation.

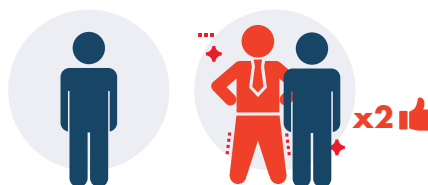
The findings are significant. While the city sees considerable financial gains from investing in legal representation for low-income earners in eviction cases, the study also reveals that low-income earners benefit in marked ways from better outcomes in eviction cases that involved

**While there are considerable financial gains from investing in legal representation for low-income earners in eviction cases, low-income earners also benefit from better outcomes in eviction cases that involved assistance from counsel.**

assistance from counsel. As relates to these legal cases, low-income tenants with legal representation were more than two times as likely to receive a judgement in their favour than litigants without legal representation. In addition, even in cases where judgement was not in the litigant’s favour, represented parties were found to experience fewer negative impacts from a forcible displacement or disruption and face better overall outcomes than unrepresented parties. In addition, litigants who were represented were roughly 90% less likely to

lose by default than unrepresented tenants. In 78% of non-default cases, low-income tenants without representation faced a disruptive displacement as a result of an eviction. This compares with 5% of low-income tenants with counsel.<sup>60</sup> Despite these impressive research findings, as recently as April, 2019, an article published online by the executive director of the Philadelphia Bar Association drew attention to an ongoing crisis of self-representation among low-income individuals in civil legal aid cases in the major U.S. city. Specifically, the article notes that “[e]ighty percent of Philadelphians facing economic hardship navigate high-stakes legal situations without a lawyer”.<sup>61</sup>

Low-income tenants with legal representation were more than twice as likely to receive a judgement in their favour than litigants without legal representation.



Outside of the justice landscape, the impacts of access to legal representation in the lives of low-income tenants who received legal help to resolve their housing disputes are equally remarkable. The study in Philadelphia discusses, for example, the negative effect that evictions have on credit scores, approval for future rental units and the ability to access subsidized housing. By

**Investing in legal representation to assist low-income tenants to resolve housing problems and avoid evictions or disruptive displacements reduces education costs, juvenile justice costs, welfare costs, public benefit costs, law enforcement costs and incarceration costs.**

avoiding disruptive displacements and evictions, the study identifies a range of positive consequences for individuals and families. Among them are: less disruption in children’s education, reduced rates of juvenile delinquency, fewer physical and mental health problems, lower rates of job loss, and less incidences of childhood neglect and of children being placed in foster care. Many of these benefits experienced by low-income tenants extend to the communities where they reside as well as to the city as a whole. To that end, investing in legal representation to assist low-income tenants to resolve housing problems

and to potentially avoid evictions or disruptive displacements reduces education costs, juvenile justice costs, welfare costs tied to incidences of homelessness, and public benefit costs connected to increased access to public resources to support homelessness and unemployed persons. There are also additional law enforcement and incarceration costs that cities incur as a result of homelessness that diminish when evictions are avoided.

This Philadelphia-based economic impacts research also notably points a finger at the issue of the overrepresentation of self-represented, low-income litigants and the disproportionate number of cases that are won by opposing parties with access to counsel. This topic warrants further discussion and is raised at several other junctures in this report, where applicable to the research being discussed. However, on the topic of eviction cases that stand to have profound and long-term effects for individuals, children and others, the disadvantage that is at once created when a self-represented tenant appears without legal representation against his or her represented landlord should not be ignored. It is worth underscoring that, in addition to being destabilizing problems with profound consequences, they are problems that predominantly affect people living in poverty or who are otherwise unable to afford the cost of legal representation. It is one of many examples in this report of the intersection of poverty and justice.

Before shifting completely from a discussion of legal need and civil justice in Pennsylvania, there is another, earlier study on civil legal services in Pennsylvania that is pertinent to our examination of the economic impacts of access to civil legal aid in the state. The findings from the 2011 *Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania* study are equally staggering. The study found that an investment of \$53.6 million in providing civil justice services to low-income persons in Pennsylvania resulted in \$594 million in income and savings for communities in the state and for residents and supported 2,643 jobs.<sup>62</sup>

### **“Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania” Study (2011)**

A study from Pennsylvania found that investing US \$53.6 million in providing civil justice services to low-income persons resulted in US \$594 million in income and savings for communities in the state and for residents and supported 2,643 jobs.

#### **Invested**

**\$53.6 million**

#### **Resulted**

**\$594 million return in income and savings**

+2,643 jobs

92% of this return is the result of benefits-related civil legal problem resolution which boosted spending in the state’s economy.

The methodology used to derive the return on investment in civil legal aid in the 2011 study in Pennsylvania parallels the approach used in the studies in New York and Florida, discussed above. During the 2011 fiscal year, Pennsylvania received funding totalling \$53.6 million to support civil legal aid for low-income persons in the state. The sources of this funding included state IOLTA revenue, state block grants, general state funding, and state Access to Justice Act filing fee funds.<sup>63</sup> The services provided through Pennsylvania civil legal aid programs include assistance to address housing problems, employment problems, health related legal problems, education problems, individual rights and other types of legal problems.<sup>64</sup> The \$594 million return on the state’s investment in civil legal aid is based in two categories of financial impact: direct economic activity and cost savings.

The vast majority of the \$594 million return – 92 percent – is the result of direct economic activity. The \$546 million economic activity sum is owing to federal benefits received through benefits-related civil legal problem resolution which boosted spending in the state’s economy through \$118 million in Social Security and Supplemental Security Income benefits received for low-income persons and \$59 million in Medicaid benefits obtained. In addition, \$14 million in federal grant funds were acquired through the LSC. Lastly, the remaining \$355 million in

economic activity resulted from federal benefits received by legal aid clients that was put back into Pennsylvania’s economy.

The other factor contributing to the significant return on investment sum in this study is the balance of \$48 million in cost savings. The extensive savings to local communities and the state was, in part, the result of \$23 million that taxpayers did not have to spend because of prevented incidences of domestic violence. There was an additional \$25 million in savings that resulted from stopping evictions and foreclosures, a problem which creates a demand for shelters, and subsequently increases emergency shelter costs. There were several other benefits that were identified in this study that were not included in the calculation of the return on investment in civil legal aid. These include: revenue from Medicaid reimbursements for hospitals and healthcare providers in the state, increased efficiencies in Pennsylvania courts as a result of legal aid provided to clients and pro se litigants, tax revenue from jobs that were not lost as a result of successful Legal Aid employment case resolutions, savings connected to crime prevention, and savings resulting from keeping children in school through avoided eviction and violence issues.<sup>65</sup>

### 3.2.4 Direct and Indirect Benefits of Cost Awards Received from Access to Civil Legal Aid

#### A Case Study from North Carolina

North Carolina, like Florida, New York and Pennsylvania, has assessed the economic impacts of access to civil legal aid for low-income residents in its state. In North Carolina, a study on *The Economic Impact to the State of North Carolina of Civil Legal Services* in 2012 reveals that, despite a demand that far exceeds available funding, the investment that is made in providing free access to civil justice services for low-income earners in North Carolina yields tremendous benefits for the state, individuals and local communities.<sup>66</sup> These benefits surpass the cost of the investment at a rate of \$10 in economic impact for every \$1 that North Carolina spends on civil justice services. The return on legal services is 108%.

#### “The Economic Impact to the State of North Carolina of Civil Legal Services” (2012)

Benefits surpass the cost of the investment at a rate of US \$10 in economic impact for every US \$1 that North Carolina spends on civil justice services.

\$1 Investment

\$10

Return

As with other studies, the monetary value of the economic impacts produced in North Carolina reflects an assessment of quantifiable benefits. Other benefits were also identified for which the financial value could not be readily determined.<sup>67</sup> As such, there are benefits that positively contribute to individuals' lives, as well as the local and state economies that are not accounted for in the amount of the return generated relative to the investment. Consequently, the 108% rate of return, while impressive, does not fully reflect the total value of what is gained by investing in accessible civil justice support mechanisms and services for low-income North Carolinians.

The amount of return on investment in the North Carolina study was derived by assessing the indirect and direct economic impacts of the cost awards that were won for low-income clients who received access to counsel during the 2012 calendar year. The types of financial awards received by clients included Social Security Income and Social Security Disability Insurance (SSI and SSDI), tax-related recovery, child support, housing-related awards, Supplemental Nutritional Assistance Program (SNAP) awards, and Temporary Assistance to Needy Families (TANF).<sup>68</sup> The cost savings from preventing foreclosures, evictions, and domestic violence related problems were also included in the evaluation. The study found the direct economic benefit during the 1-year assessment period to be \$18,024,411. The indirect economic benefit was determined to be \$13,893,362 and the cost savings amounted to \$16,857,503. The resulting \$48,775,276 return on investment compares with LSC funding to legal aid programs in North Carolina during the period of the study amounting to \$10,053,803. That translates to \$10 that flows into North Carolina's local and state economies for every \$1 in federal funding provided for civil legal aid.<sup>69</sup>

### **“The Economic Impact to the State of North Carolina of Civil Legal Services” (2012)**

The resulting US \$48,775,276 return on investment during 1 year compares with funding amounting to US \$10,053,803.



In addition to the monetary impacts, the study also notes that 293,408 people in North Carolina were kept out of poverty as a result of the federal benefits received during the period of the study and 4,709 domestic violence cases were closed, collectively affecting 12,036 people in those households. Further, 488 foreclosures were prevented across the state, which directly impacted 1,264 people, and 895 evictions were avoided which directly benefitted 2,506 household members.



### 3.2.5 A High Rate of Return from Access to Civil Legal Aid Services

#### A Case Study from Tennessee

Moving westward from North Carolina to Tennessee, a study published in 2015 reveals that for every \$1 invested in funding civil justice programs, there is a return of \$11.21 in the state.<sup>70</sup> This finding is in spite of the funding constraints that civil legal aid programs face in Tennessee. As in North Carolina, LSC funding in Tennessee is only sufficient to support access to civil justice services for about 2% of state residents who are eligible to access LSC-funded civil legal aid programs.<sup>71</sup> The total dollar amount of the return on civil justice investment during the 1-year duration of the study was found to be \$188.6 million. More specifically, by providing low-income individuals with access to legal aid services to resolve their civil justice problems, clients and their families received \$64.3 million in benefits; there was \$42.6 million in cost savings to the community, and \$81.7 million was generated in economic multiplier effects.<sup>72</sup> These estimates are based on case outcomes and data for 2013. In addition to case statistics, evaluations for the return on investment were informed by data gathered through related studies that offer estimates for cost savings that are produced when homelessness is averted and individuals are protected from incidences of domestic violence.<sup>73</sup> Assessments were based on an examination of cases that were handled by nine civil legal aid organizations in Tennessee, of which four are federally-funded. In addition to the impacts on the economy and the extensive cost savings, this study, like those from Pennsylvania, North Carolina and Florida, also found that there were significant benefits to low-income individuals served and to their families. For the study in Tennessee those benefits included an estimated \$2.7 million in child and spousal support related to 160 cases, \$26 million in Social Security Disability/Supplemental Security Income related to 377 successful cases, \$17.2 million in Medicare/Medicaid benefits related to 558 cases for which benefits were received, \$3 million in income maintenance benefits (excluding aforementioned benefits) obtained through 138 successful cases, \$1.9 million in wage impacts of immigrant authorization owing to 143 employed women and men who received authorization, and \$13.5 million in other benefits.<sup>74</sup>

#### Tennessee Case Study (2015)

For every US \$1 invested in funding civil justice programs, there is a return of US \$11.21 in the state.

\$1 Investment

\$11.21

Return

**Cost awards and other monetary benefits, positive economic impacts and cost savings generated by providing civil legal aid to low-income clients are experienced in states of different sizes, and that differ demographically and geographically.**

The significant economic benefits of providing accessible civil legal aid are consistently evidenced in the existing body of U.S.-based return on investment research. Cost awards and other monetary benefits, positive economic impacts and cost savings generated by providing civil legal aid to low-income clients are experienced in states of different sizes, and that differ demographically and geographically. The two remaining U.S.-based return on investment studies that will be examined in this section of the report, though economically and

geographically quite different, can be linked in this context through the extent of unmet civil legal need among their populations and the demonstrable value of investing in civil legal aid in each state. We begin with a discussion of a 2009 study in Texas and then turn our attention north to a 2012 study from Alaska.

### **3.2.6 The Economic Benefits of Adequate Funding for Civil Legal Aid**

#### **A Case Study from Texas**

At the time of the 2009 report on *The Impact of Legal Aid Services on Economic Activity in Texas*, Texas ranked 43<sup>rd</sup> in the U.S. in per-capita funding provided for civil legal aid.<sup>75</sup> The 2009 study further notes that there is one legal aid lawyer in Texas for every 11,512 people in the state who are eligible for legal aid services.<sup>76</sup> Demographically, Texas's diversity is reflected in the study's findings related to the population who accessed civil legal aid services in 2007, the year for which data was reviewed for the 2009 study.<sup>77</sup>

Of the 107,270 civil law cases closed in 2007 that were assessed for the study, 49% were family law cases. Data from a 2016 report by the LSC also highlights the prevalence of family law cases in Texas: of the civil law cases closed through LSC-funded programs and services in Texas in 2016, 43.1% related to family law. The next most prevalent type of civil justice problem for which cases were closed was housing problems at 14.5%.<sup>78</sup>

The economic impact study from Texas offers a number of important insights. In addition to carrying out an assessment on the return on investment in civil legal aid in 2007, the study also sought to measure the impact of a possible increase in investment in civil legal aid within the state.

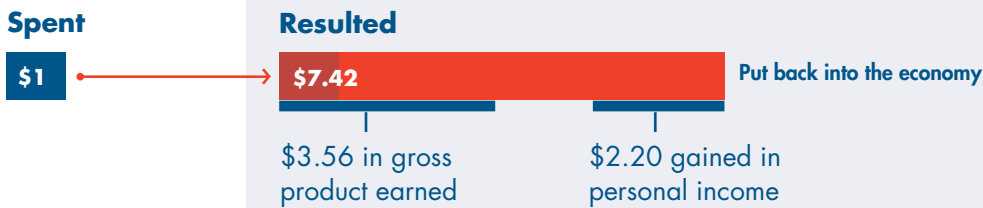
The methodology used for the economic impact objective included an assessment of existing U.S. Department of Commerce data on the economic value created by positive civil legal aid case outcomes as well as an evaluation of the income earned by providing the requisite legal services. The second research objective, which explored the potential economic impact of an increase in resources to access civil legal aid, was measured through two possible case scenarios.

The first scenario is based on an increase in resources proportional to the percentage of low-income Texans; in the second scenario, the increase is estimated as a reflection of what would be required for Texas to achieve “a level of market penetration for legal aid cases” that is equivalent to the national average.<sup>79</sup>

The study found that for every \$1 that was spent on civil justice cases closed in the 2007 data pool, \$7.42 was put back into the economy in dollars spent; \$3.56 in output dollars or gross product was earned, and \$2.20 was gained in personal income. Based on total spending on civil legal aid during the reference period of the study, these amounts translate to \$457.6 million being put back into the economy in spending through business activities, \$219.7 million in output or gross product dollars, and 3,171 jobs. Direct benefits to state and local government businesses and services were separately determined to amount to \$30.5 million annually. This compares with the \$4.8 million in funding that was dispensed by the government for justice services.

### “The Impact of Legal Aid Services on Economic Activity in Texas” Study (2009)

For every US \$1 that was spent on civil justice cases closed in 2007, US \$7.42 was put back into the economy in dollars spent; US \$3.56 in gross product was earned, and US \$2.20 was gained in personal income.



US \$4.8 million in funding resulted in US \$457.6 million being put back into the economy, US \$219.7 million in gross product dollars, and 3,171 jobs.

**Funding**  
\$4.8 million



In the case of the first scenario in which an evaluation was carried out on the assumption that civil legal aid funding in Texas increased to a level that was sufficient to address the needs of eligible, low-income individuals in the state, the study found the annual return increased by an additional \$325.9 million that was put back into the economy in dollars spent; \$156.5 million in Texas's gross product, \$96.7 million in personal income, and 2,259 permanent jobs. The second scenario, which evaluated the potential economic impact of an increase in funding that allowed Texas to address a portion of civil justice needs that is comparable to overall civil justice needs in the U.S., found an increase to \$816.6 million in total spending dollars put back into the economy, \$392.1 million in output or gross product dollars, \$242.2 million in income earnings, and 5,659 permanent jobs. It should be noted that the study cautions that, although the estimates deduced in both scenarios are significant, the approximate increases in both scenarios are much lower than levels that would be expected in other states, and even more so in comparison to addressing access to justice need in terms of overall levels of support provided across the U.S. population as a whole. The importance of social and personal benefits notwithstanding, the total return on investment derived from the 2007 civil legal aid data, and the return on potential investments based on the two scenarios evaluated, offer strong support for spending on civil justice in Texas for the extensive economic returns that it yields.

### 3.2.7

## Unmet Justice Needs and the Benefits of Access to Civil Legal Aid in America's Far North

### A Case Study from Alaska

Research from Alaska presents an equally impactful case for investing in civil legal aid specifically and civil justice generally. Alaska's per capita differences in housing, compared to previously mentioned states, and the contrasts with its economy, population size and terrain have not excluded Alaskans from experiences with the justice gap, or mitigated the problem of unmet justice needs in the northernmost U.S. state.<sup>80</sup> Poverty is prevalent in both urban and rural Alaska and appears frequently in discussions of the extent of civil justice needs in the state.

The discussion that follows on the economic and social benefits of providing access to civil justice services in Alaska focuses on services that were funded by the Alaska Legal Services Corporation (ALSC) in 2011. The ALSC has been supporting free legal help to low-income Alaskans for more than 50 years. The eligibility income threshold to access ALSC-funded services is approximately \$28,000 per annum for an individual and \$48,000 per annum for a family of up to three, with priority given to cases involving people in especially precarious situations.<sup>81</sup> Based on this criteria, 1 in 4 Alaskans is eligible for ALSC-funded services.

ALSC receives funding from federal, state and local programs, grants and donations to support 11 offices state-wide. Its budget in 2011 was \$3.6 million, of which 54% (\$1,899,335) was received

from federal funding, 14% (\$504,960) was obtained through competitive grants and contracts, and 10% (\$350,000) was obtained through state funding. The balance of 22% (\$796,298) was from tribal funding (6%), municipal funding (8%) and donations (8%).<sup>82</sup> At this level of funding, ALSC takes on roughly 2,000 cases annually, with an estimated 600 eligible cases being rejected due to insufficient funding.<sup>83</sup> In the face of a program that lacks adequate funding to meet the civil justice needs of the population it serves, in February 2019, the governor of Alaska submitted a 2020 budget proposal for Alaska in which all funding to ALSC would be eliminated. ALSC notes that this budget cut would result in an additional 1,363 applicants for legal help being turned away, and would have a direct impact on 2,809 Alaskans.<sup>84</sup>

Many of the problems addressed through ALSC services relate to family matters, housing issues and health and consumer protection. In 2011, ALSC handled 2,478 cases dealing with these and other civil justice problems. The economic impacts assessment carried out on cases taken on with support from ALSC funding in 2011 found that every \$1 invested in ALSC generates a return of \$5 in economic benefits to low-income clients and their families, local communities and the state. Put differently, \$3.6 million in ALSC funding in 2011 yielded \$17.8 million in benefits to clients, families, jobs, the local economy and in other areas in the state.

### **An Analysis of the Economic Impacts and Social Benefits of Assistance Provided by Alaska Legal Services Corporation (2012)**

US \$3.6 million in funding yielded US \$17.8 million in benefits to clients, families, jobs, the local economy and in other areas in Alaska.



The \$17.8 million return, based on 2011 funding amounts for ALSC, is the result of \$14.5 million in direct economic gains locally in Alaska and \$3.25 million in cost savings. More specifically, as relates to direct economic benefits, \$1.2 million was generated in Social Security Disability and Supplemental Security Income benefits obtained for low-income clients, \$1.9 million in federal funding was received by ALSC, \$2.8 million in federal Medicaid benefits was obtained, and \$8.6 million was generated as a result of the “economic multiplier effect”, which, among other impacts, significantly boosted spending in Alaska during the year in question. The preservation and/or creation of 70 jobs, though not monetized, is counted among the direct economic benefits produced through ALSC-funded civil legal aid assistance during 2011. The \$3.25 million in cost savings is the sum of \$640,000 (or approximately \$19,202 per family) in savings on emergency shelter costs and \$2.6 million (or approximately \$6,557 per family) in cost savings related to domestic abuse cases.<sup>85</sup> Similar to the study in Pennsylvania (discussed above), the study that was conducted using data from Alaska cited extensive, non-quantifiable benefits from investing in civil legal aid, including cost savings connected to reduced demands on law enforcement, services to address homelessness, healthcare services, and resources in the education system.

Other noteworthy details from this study that are pertinent to our discussion of the reach of civil legal aid and the value of investing in justice focus on the ways that legal help allows for more efficiently run and cost-effective judicial services. For example, 83 percent of cases that were

**Legal help allows for more efficiently run and cost-effective judicial services.**

closed over the course of the study were completed without clients having to appear in court or attend an administrative hearing. Further, in 2011, legal education information and resources dispensed through ALSC assisted more than 1,600

individuals who otherwise may have had to appear in court without counsel. More generally, this study also reveals that, in securing these benefits for Alaskans, ALSC-funded programs and services help to reduce the ‘justice gap’. The estimated monetary value of reducing the ‘justice gap’ in this way amounts to \$500,000 in economic benefits, where every \$100,000 invested in funding ALSC programs and services positively impacts 182 more people in Alaska.<sup>86</sup>

### 3.2.8 The Value of Investing in Civil Legal Aid

Examples from Other U.S. States

Studies that highlight the economic benefits of investing in civil legal aid in the United States are not limited to those in Alaska, New York, Florida, North Carolina, Tennessee and Pennsylvania. Nebraska, Louisiana, Arizona, Montana, Arkansas and other states have conducted empirical studies that explore funding for civil legal aid and the monetary and other benefits that these funding investments yield for low-income individuals within the respective states, as well as for communities and states as a whole. The table below presents a summary of the findings from some of these studies.

**Table 1**

State	Year assessed for Study	Funding investment	Net value of Benefits*	SROI	ROI
Arizona <sup>87</sup>	2011	\$ 13,191,509	\$84,328,327	<b>\$6.39</b> for every \$1.00 invested in Legal Aid services	
Arkansas <sup>88</sup>	2013	\$5,976,406	\$32,550,860.44	<b>\$5.45</b> for every \$1.00 invested in legal aid services	
Louisiana <sup>89</sup>	2016	\$10,761,000	\$93,977, 000	<b>\$8.73</b> for every \$1.00 invested in legal aid services	
Montana <sup>90</sup>	2013	\$3,061,531	\$9,645,345		<b>\$3.15</b> for every \$1.00 invested in civil legal aid services
Nebraska <sup>91</sup>	2007	\$3,403,538	\$13,511,817		<b>\$3.97</b> for every \$1.00 invested in Legal Aid services

\*Monetary and/or other benefits

While differences exist in the amount of return generated and the extent of the benefits produced, the findings from this collection of empirical research expose a clear pattern of documented economic benefits that significantly outweigh the amounts spent on civil legal aid programs and services.

### 3.3

## Austerity, Civil Legal Aid Cuts and Impacts of Not Investing in Justice

Studies from England and Wales

The United States is not unique among developed nations in its treatment of access to legal assistance for criminal matters experienced by low-income individuals relative to access to legal aid for civil justice matters. In the United States, legal aid and legal representation are available for persons under criminal prosecution who cannot afford to hire counsel. Many other developed nations offer similar assurances to low-income individuals facing criminal charges. In England and Wales, legal advice is available at no cost to eligible persons who are charged with a crime. Legal aid is available for some civil justice matters to those who meet the financial requirements.<sup>92</sup> In the UK, the range of non-criminal matters for which legal advice or assistance may be available for free to those who meet financial threshold requirements includes:

- Family matters involving child welfare, abuse of children, forced marriages and domestic violence;
- Housing problems related to evictions, homelessness, serious disrepair and harassment injunctions;
- Asylum and immigration matters including or related to detention, human trafficking, domestic violence, and terrorism prevention and investigation.

For those who qualify, legal aid may also be available for debt-related legal problems, including the loss of a home and bankruptcy, legal problems related to the special education needs of a child, welfare benefits and council tax reduction, discrimination, childhood disabilities that arise during pregnancy, childbirth or up to 8 weeks after childbirth, some inquest issues, disabled facilities grants, and limited human rights cases.<sup>93</sup>

In recent years, the legal aid system in the UK has been the subject of much scrutiny. This is largely owing to sweeping funding changes that were introduced under the *Legal Aid, Sentencing and Punishment of Offenders Act, 2012* (LASPO), a statute intended to reduce the cost of the justice system generally and, more specifically, the cost of legal aid. Extensive funding cuts to civil justice programs and services have provoked researchers, stakeholders and government bodies

to assess the magnitude of the impacts of diminished investments in justice. A brief discussion of the justice landscape in the UK follows as well as an overview of some key learnings from these funding cuts.

LASPO resulted in a number of changes that had direct impacts on access to justice services in England and Wales. As relates specifically to civil legal aid, through LASPO, government funding was eliminated for most family law cases (with the exception of cases involving domestic violence) as well as most housing, welfare, medical negligence, employment, debt, and immigration cases. In addition, through LASPO, the Legal Services Commission, a non-departmental, public body was replaced with the Legal Aid Agency, operating under the Ministry of Justice.<sup>94</sup>

An interim report produced by the Bach Commission in 2016 reveals that LASPO's enactment has led to a marked decline in the number of people who can access civil legal aid services, exacerbating an existing access to justice crisis in the UK.<sup>95</sup> Between the 1980s and 2008, the number of households in the UK that were eligible for civil legal aid fell from 80 percent to less than 30 percent. Following LASPO and the elimination of a range of civil justice problem types that qualify for civil legal aid, the number of cases for which civil legal aid assistance was provided fell by approximately 25 percent in one year.<sup>96</sup> A 2018 news report found that since 2011-12, roughly 1 million fewer legal aid claims were being processed annually, more than 1,000 fewer legal aid service providers were being paid for civil legal aid work and a majority of service providers were now located in London, with as many as 15 million people in England and Wales residing in areas with only 1 provider.<sup>97</sup>

What is the impact of these changes? Research suggests that the costs of the widening justice gap in the UK may greatly outweigh the costs of investing in civil legal aid, not solely because of the economic benefits that are generated through the provision of civil legal aid, but also

**The costs of the widening justice gap may greatly outweigh the costs of investing in civil legal aid.**

because unresolved problems and self-representation result in significant economic, psychological and physical health, personal, social and temporal costs. As noted throughout this report, these negative consequences are experienced at

higher rates by low income and vulnerable populations and place additional demands on judicial services and public services.<sup>98</sup> 2010 pre-LASPO estimates assessed the impact of civil legal aid budget cuts to public services to be in excess of £1.5 billion (approximately US \$1.92 billion) annually, and the impacts resulting from loss of income to be roughly £2 billion (approximately US \$2.56 billion) annually.<sup>99</sup> In addition to these monetary costs, assessments carried out during the same period revealed that over a million people seek help annually for stress-related illnesses connected to their legal problems, and that there are an estimated 250,000 relationship breakdowns related to the civil justice problems that people face each year. It should be noted that these figures, although significant, are likely lower than actual totals (given the specific indicators on which they are based).



Delving further into the findings related to the costs of not investing in civil legal aid in the UK, analysis of data from the 2007 *English and Wales Civil and Social Justice Survey* offers a problem-by-problem comparison of the costs of civil legal aid versus the costs of the negative impacts resulting from an absence of available civil legal aid and from unresolved problems.<sup>100</sup>

The negative impacts of not investing in civil legal aid and of unresolved legal problems result in significant monetary costs for a majority of the 17 problem types canvassed. The total civil legal aid expenditure for divorce amounts to £19,716,245 (approximately US \$25,235,512), while the cost incurred in the absence of legal aid during the period in question was estimated to be £86,516,597 (approximately US \$110,735,621); civil legal aid investments that support legal issues related to homelessness were assessed to be £5,808,765 (approximately US \$7,475,880) while the cost resulting from a lack of access to legal aid was estimated to be approximately

**The negative impacts of not investing in civil legal aid and of unresolved legal problems result in significant monetary costs.**

£37,752,982 (approximately US \$48,321,363). Justiciable employment problems that cost approximately £2,600,682 (approximately US \$3,328,704) in civil legal aid result in an estimated £39,148,133 (approximately US \$50,107,065) in costs without support from civil legal aid. With an investment

in civil legal aid of £13,093,267 (approximately US \$16,758,531), issues related to rented housing result in £39,878,675 (approximately US \$51,042,112) in costs without that monetary investment. At a cost to civil legal aid of £16,184,188 (approximately US \$20,714,709), problems related to welfare benefits result in an estimated £33,163,399 (approximately US \$42,446,995) in costs when there is no financial support made to civil legal aid; and an investment of £5,797,917 (approximately US \$7,420,957) in civil legal aid to address domestic violence problems translates to approximately £24,629,651 (approximately US \$31,524,352) in costs in the absence of access to civil legal aid. Other legal problem types with knock-on costs that exceed the costs of investment include, discrimination problems, debt problems, relationship breakdown problems (separate from divorce), personal injury problems, and legal problems related to clinical negligence.<sup>101</sup>

Another interpretation of the value of the investment in civil legal aid observed through this research reveals that for every £1 (approximately US \$1.28) that is spent on legal aid to provide housing advice, there is a saving of approximately £2.34 (approximately US \$3). Further, for every £1 spent on legal aid to facilitate legal advice for debt-related problems, the government potentially saves £2.98 (approximately US \$3.81); every £1 of legal aid that is spent on providing benefits advice, results in £8.80 (approximately US \$11.26) in savings to the government; and for every £1 that is spent on legal aid in support of advice for employment-related legal problems, there are potential cost savings to the state of approximately £7.13 (approximately US \$9.13).<sup>102</sup>

## Value of the investment in civil legal aid

Every US \$1.28 spent saves: approximately US \$3 on housing problems, approximately US \$3.81 on debt problems, approximately US \$11.26 on benefits problems and approximately US \$9.13 on employment problems.



Some ten years later, findings from the Bach Commission confirm that the consequences of significantly reducing or, in some instances, eliminating funding to civil legal aid results in a range of negative consequences for the justice system, the state and individuals. Between 2009-10 and 2016-17, there was a 36 percent decline in the number of civil legal aid certificates that were granted for legal representation, a statistic that is even more jarring in consideration of the 84 percent drop from 933,815 in 2009-2010 to 146,618 in 2016-17 in the number of civil legal aid cases that were initiated,<sup>103</sup> suggesting that, in addition to several hundred thousand fewer low-income people attempting to get help for their legal problems through legal aid services, legal aid also is operating with a much more limited scope. The Bach Commission's interim and final reports also indicate that the exceptional case funding (ECF) scheme, which was created to help offset some of the negative impacts of funding cuts through LASPO, has also been inadequate.

**The cuts to legal aid in the UK have also impacted courts, including a 30% increase in the number of litigants appearing without counsel across all family court cases and an increase in cases where children represent themselves.**

Exceptional case funding was introduced as a source of funding to persons who do not qualify to receive legal aid funding, and who were experiencing one or more serious legal problems related to a violation of their human rights or other serious issue. Of the projected 4,888 young adults and 847 children that the ECF program would help annually, only 8 children and 28 young adults received legal funding assistance through the program between October 2013 and June 2015. As evidenced in the examination of the 2010 UK study, as well as through

other studies discussed in this report, if the hundreds of thousands of cases that no longer qualify for assistance through legal aid or supplemental funding programs, or for which people no longer seek help through legal aid go unresolved they potentially result in even greater monetary and non-monetary costs to individuals and the state.

The cuts to legal aid in the UK have also impacted courts. There have been noteworthy increases in the number of pro se litigants appearing in courts, including a 30% increase in the number of litigants appearing without counsel across all family court cases,<sup>104</sup> as well as an increase in cases where children represent themselves on a range of matters, including clinical negligence and

immigration.<sup>105</sup> In tandem with these ‘miscarriages of justice’<sup>106</sup> due to funding cuts, 146 courts were closed between May 2010 and July 2015, with another 86 court and tribunal buildings that were slated to close in early 2016. Further complicating this problem is the increase in a number of court and tribunal fees, including a 60 percent increase in divorce fees and a 600 percent increase in court fees related to claims of £200,000 (approximately US \$257,400) or more in civil courts. These changes have created, and continue to create tremendous and often insurmountable access to justice barriers for low and middle income earners.

The Bach Commission’s report, as well as other assessments and commentaries on LASPO and the civil justice system in the UK make a range of practical and policy recommendations to address problems caused by cuts to legal aid, problems that have been exacerbated by legal aid cuts and problems that are, at least to-date, inherent in the justice system.

The purpose of a detailed examination of civil legal aid funding in England and Wales here is not to point a finger at any shortcomings of a plan to lower the costs of the UK justice system by reducing expenditure on civil legal aid. Rather, in the context of a conversation on the benefits

**It is helpful to understand what is lost economically, socially and personally when civil justice is not adequately funded.**

of investing in justice, these findings are presented to elucidate the role of cost at both ends of the return on investment equation. It is helpful to understand what is lost economically, socially and personally when civil justice is not adequately funded. This juxtaposition is especially important in the context of civil legal aid, which seldom receives sufficient attention in

government budgets or otherwise. Access to justice is an undeniably ‘wicked problem’<sup>107</sup> that requires jurisdictions to do more, not less, to curb the wide-ranging, adverse impacts. The up side is that, as the research discussed so far generally shows, greater financial investments spell greater monetary returns and greater societal and individual benefits.<sup>108</sup>

### 3.4

## Economic Benefits of Legal Aid Commissions and Community Legal Centres

### Case Studies from Australia

As we continue our examination of existing empirical research on investing in justice, we note that there are numerous other examples of underfunding for civil legal aid. *The Shrinking Public Purse*, which was published in Australia in the early 1990s, highlights that it had already been several years that jurisdictions around the globe were being urged to reduce government spending, with many calls for austerity or reduced spending targeting government-funded civil legal aid programs.<sup>109</sup> Since the 1990s, government funding for legal aid in Australia has declined

significantly, falling from \$11.22 (approximately US \$ 7.73) per capita in 1997 to roughly \$8 (approximately US \$5.51) per capita in 2017.<sup>110</sup> On the heels of an examination of legal aid in England and Wales, it may be worth stating that Australia spends approximately 3.6 times less per capita on legal aid than England and Wales.<sup>111</sup> Some two decades ago, approximately 55% of funding for legal aid in Australia was provided by the Australian Commonwealth Government; at present, the allocation is 35%.<sup>112</sup> These funding cuts have been identified as a major factor contributing to the crisis in access to justice in Australia, with calls for an additional \$350 million (approximately US \$241 million) in funding to address the problem.<sup>113</sup> Facing these budgetary cuts, Australia's legal aid programs have sought alternate sources of funding in recent years, including interest-generating lawyer trust accounts similar to those referenced in the U.S.-based literature (discussed above).<sup>114</sup>

As in other countries, eligibility for legal aid and legal assistance in Australia is largely based in financial need. Economically disadvantaged and vulnerable populations who meet specific criterion can access legal advice, representation and services through legal aid commissions, present in every Australian state and territory, and through over 200 community legal centres located in states and territories across Australia. Aboriginal and Torres Strait Islander peoples can also access culturally relevant legal assistance through Aboriginal and Torres Strait Islander Legal Services. Limited financial assistance to help pay for legal services may also be available through other government programs. Federal and state governments provide funding to legal aid commissions, community legal centres and Aboriginal and Torres Strait Islander Legal Services in order to address family, criminal and civil justice matters. It should be noted however, that legal aid commissions operate independently of the private legal profession and the government. Similarly community legal centres and Aboriginal and Torres Strait Islander Legal Services are community-managed, not-for-profits. Set out below is a summary examination of return on investment in access to justice services in the Australian context, which explores the economic benefits of legal aid commissions, followed by the economic benefits of community legal centres.

We acknowledge that the research summarized in these next sections is not particularly recent. However, it is still instructive, not just for its findings, but also for modelling the kind of cost-benefit analyses that are possible.

### 3.4.1 Legal aid commissions

Legal aid commissions provide a range of services, including legal information via telephone, online, in print and in person, information seminars, workshops and training, family dispute resolution services, legal advice in criminal law, human rights law, family law and civil law, self-help guides as well as other services.<sup>115</sup> Although approximately 2.5 million Australians live below the poverty line, fewer than 3 percent (less than 74,000 people) qualify for legal aid certificates.<sup>116</sup> As in other jurisdictions, a decline in funding to legal aid, a rise in the cost of legal services, and an increase in the demand for legal help have led to a growing problem of unmet legal need, and has made access to justice services out of reach for many.

A report commissioned by Legal Aid Queensland in 2009 assessed the benefits of access to legal aid as provided by legal aid commissions in the Australian state. The study's focus is on the measurable impacts that legal interventions have on efficiency within the courts and, more

**A decline in funding to legal aid, a rise in the cost of legal services, and an increase in the demand for legal help have led to a growing problem of unmet legal need, and has made access to justice services out of reach for many.**

broadly in the justice system. The report explores outcomes related to early legal problem resolution and appropriate triaging of problems through the justice system, increased problem resolution outside of the courts, and the effects of fewer pro se litigants in courts. The findings from this research offer insights on direct, cost-saving benefits to courts derived from investments in legal aid. The costs associated

with improved efficiency in the legal system are an important variable in the discussion of the economic benefits of investing in justice.

Navigating complex legal systems unassisted is taxing for self-represented litigants and leads to any number of health and other adverse consequences. Specific to our discussion of cost and benefits, however, self-representation also inversely impacts efficiency within the justice system, which directly affects monetary costs. To that end, avoided cost is as important a consideration as incurred cost. In order to determine the total amounts in avoided costs that result from access to legal aid, the Legal Aid Queensland report assesses the costs of multiple scenarios that include varying degrees of access to legal aid and legal representation. The assessments do not consider the quality of legal assistance received or the outcome of cases, and instead focus on impacts to the court system.

Four different scenarios are assessed in terms of their costs to the court system: cases in which there is no access to legal aid; cases in which clients have access solely to services that are available from duty lawyers; cases in which clients have access to services provided by duty lawyers as well as to legal representation; and cases in which clients have access to the continuum of services available through legal aid commissions, including legal representation,

services provided by duty lawyers and other dispute resolution services. The study, which uses data from Legal Aid Queensland and the Family Court of Australia, focuses on costs incurred in family law cases.<sup>117</sup>

**This study assesses the monetary and temporal impacts of four legal aid funding scenarios:**

Defunding legal aid

Providing funding solely for duty lawyers

Providing funding for duty lawyers and legal representation

Maintaining legal aid funding

To determine avoided cost values, the four scenarios were assessed based on projected front-end monetary impacts to the courts when different legal aid service offerings are defunded. For example, in the absence of legal aid funded dispute resolution services that facilitate early problem resolution, it was anticipated that many cases that would otherwise have been resolved outside of the courts would end up in the courts. The avoided costs, and the costs incurred by the courts in this scenario were determined. For each scenario that was assessed, a number of additional logic-based assumptions were applied to the calculation of avoided costs. To the extent that legal problems do not cease to exist in the absence of access to legal aid, where applicable to the evaluation of court costs, the study also included alternative legal problem resolution methods and their impacts on the courts. It was surmised for example that, without access to various legal aid services, there would be a significant increase in the number of low-income persons entering the court system as self-represented litigants. Self-represented litigants who lack the legal knowledge and expertise of trained legal professionals make greater demands on court resources and time. To that end, the computation of avoided costs in this instance also considers the specific effects for judges who may spend more time on legal cases where one or more party is unrepresented, and the costs to represented parties who may also face delays or longer cases when opposing an unrepresented litigant. The Family Court of Australia has specific protocols for cases involving self-represented litigants. Many of these steps add to the time spent on those cases and, by extension, the cost of those cases within the justice system.<sup>118</sup> Overall, the additional time spent on cases involving self-represented parties is estimated to be 20 percent.<sup>119</sup> It should be noted as well that, in some scenarios, cuts to legal aid funding would eliminate access to duty lawyers at courts for self-represented litigants. The result would be that these litigants would also not be able to take advantage of advice, information or assistance provided by lawyers at the courts, a denied benefit which results in an estimated 5 percent decline in efficiency per related case.<sup>120</sup>

The approximate number of cases for which avoided legal aid costs were considered for this study derives from a calculation of the percentage of overall family law court cases in Australia that were heard in Queensland during 2007-08. The number of cases included in the assessment was further narrowed based on type of outcome. Family law cases during 2007-08 that resulted in interim orders, mediated agreements and final orders were considered for this study. Cases that resulted in a divorce, appeals or consent order were excluded.<sup>121</sup> Data on the average cost per outcome derives from 2007-08 attorney general budget reports and was used where applicable to assist in determining avoided costs.

### 3.4.1.1 Scenario One

As regards the first of the four potential scenarios – a scenario in which legal aid is completely defunded – during the period under discussion, it is estimated that the government would have saved \$26.39 million (approximately US \$18.19 million) as a result of the funding cuts to legal aid. The study found that, in the absence of access to legal aid services for family law matters, an estimated 4,519 litigants in Queensland would be deprived of access to legal representation in the courts. Dealing instead with unrepresented litigants would result in a 20 percent increase in court costs. In addition, 2,476 legal problems that would have benefitted from access to dispute resolution services and be resolved outside of the courts would instead be resolved through litigation, also resulting in a 20 percent increase in costs to the courts. Further, 995 litigants would be denied access to duty lawyers at courts, which would increase court costs by 5 percent.

Assuming in this scenario that 75 percent of these matters were then resolved during the mediation stage in court and 25 percent were resolved by final order, the resulting cost to the

**In Scenario 1: The government saves approximately US \$18.19 million from cutting funding to legal aid. The resulting cost to the courts is estimated to be between US \$29.12 million and US \$40.87 million. The resulting estimated savings to the government in this scenario are US -\$10.93 million to US -\$22.68 million.**

courts would be \$42.24 million (approximately US \$29.12 million). The net benefit of defunding legal aid in this instance (the cost savings from defunding legal aid plus the avoided costs to the courts) amounts to -\$15.86 million (approximately US -\$10.93 million). The shortfall is even greater if, rather than 75 percent of cases being resolved through mediated agreements, 50 percent are assumed to be resolved through mediated agreements and 50 percent are resolved through final orders. The total avoided costs to the courts then

becomes -\$59.29 million (approximately US -\$40.87 million) with a net benefit of -\$32.9 million (approximately US -\$22.68 million).



### 3.4.1.2 Scenario Two

In the second of the four potential scenarios envisaged, legal aid funding is made available solely to facilitate access to duty lawyers to assist the 995 eligible unrepresented litigants who would have had access to duty lawyers through 2007-08 legal aid funding levels. In this scenario, it is also assumed that the roughly 4,519 clients who would no longer have access to legal representation would consequently become unrepresented litigants who would engage duty lawyers for help at the courts. Further, the more than 2,000 legal matters that would have been kept out of the courts as a result of legal aid funded dispute resolution services would now be handled by the courts, with assistance from duty lawyers. With each of these circumstances, these litigants would have access to some free legal advice to assist in the early stages of their court proceedings, which would have direct impacts on efficiency and time spent in the courts.

The study found that government spending on legal aid in support of duty lawyers for eligible legal aid recipients at 2007-08 levels amounted to \$4.91 million (approximately US \$3.38 million). With access only to duty lawyers and no access to legal aid supported legal representation or other dispute resolution services, there would be an additional 4,519 self-represented litigants accessing the courts (with some assistance available from duty lawyers). It is estimated that this would affect efficiency levels by 15 percent per case; the 2,476 cases that would otherwise have been resolved outside of the courts by other dispute resolution processes (and would also now engage duty lawyers) would also decrease efficiency by an estimated 15 percent; while the 995 unrepresented litigants who originally would have received help from a duty lawyer would still be able to engage their services, which would improve court efficiency by 5 percent (compared to not having any assistance at all). As with scenario one, other scenarios evaluate net benefits based on case outcome ratios where there is an even split between cases resolved through final order and those that are resolved during the mediation stage, as well as situations in which 75 percent of cases are resolved during the mediation stage and 25 percent are resolved by final order.

With government spending on duty lawyers in this scenario totalling \$4.91 million (approximately US \$3.38 million), if 50 percent of cases are resolved through final order and the remaining cases are resolved through mediation agreements, the avoided costs to the

**In Scenario 2: The government spends approximately US \$3.38 million to provide duty lawyers for unrepresented litigants who are eligible for legal aid. The resulting savings to the government are estimated to be US \$0.61 million to US -\$2.96 million.**

courts when duty lawyers are made available to self-represented litigants is \$6.03 million (approximately US \$4.16 million). The net benefit amounts to \$1.12 million (approximately US \$0.77 million). This is the only case and scenario dynamic that limits access to legal aid in some form that was found to generate a positive value. If it were assumed that 75 percent of

cases resolved through mediation agreements and 25 percent were resolved by final order, the total in avoided costs to the courts equals \$4.3 million (approximately US \$2.96 million). The resulting net benefit amounts to -\$0.61 million (approximately US -\$0.42 million).



### 3.4.1.3 Scenario Three

In the third possible scenario assessed, government funded legal aid is made available to support duty lawyer services and legal representation in courts. In this scenario, dispute resolution services that would typically be available through legal aid are excluded; however, monetary impact assessments were made assuming that the full government funding investment in legal aid remained the same. It was found that when the 4,519 litigants who were entitled to legal representation through legal aid at 2007-08 funding levels are represented in courts, courts are 20 percent more efficient. The 995 litigants receiving assistance from duty lawyers would assist the courts to be 5 percent more efficient. It was also determined that, with the allocation of all 2007-08 legal aid funding available in this scenario, more eligible low-income earners could be represented in courts or allowed access to duty lawyers. As a result, an estimated 1,702 litigants would now be able to benefit from legal assistance. This would increase efficiency in the courts by 20 percent. The balance of 1,625 litigants who would not be able to access dispute resolution services, legal representation or access duty lawyers would appear unassisted and

**In Scenario 3: The government spends approximately US \$18.19 million to provide duty lawyer services and legal representation in courts. Dispute resolution outside the courts is not available. The resulting estimated savings to the government are US -\$6.49 million to US -\$9.85 million.**

unrepresented in courts. This would negatively impact both efficiency in the courts and increase demand on court resources.

The funding investment from the government to provide access to legal representation and duty lawyers in this scenario is \$26.39 million (approximately US \$18.19 million). Applying the 75 to 25 percent formula, the avoided costs to the courts would amount to \$12.1 million (approximately US \$8.34 million). The

net benefit in this case is -\$14.29 million (approximately US -\$9.85 million). In the second projected balance of outcomes in which half of cases are resolved by final order and half are resolved through mediation agreements, the avoided costs to the courts totals \$16.98 million (approximately US \$11.7 million), resulting in a net benefit of -\$9.41 million (or approximately US -\$6.49 million).

### 3.4.1.4 Scenario Four

The final scenario in this study considers an investment of government funded legal aid at 2007-08 levels, which facilitates the provision of a mix of legal aid services – legal representation, dispute resolution services and duty lawyers – to litigants who meet Legal Aid Queensland’s eligibility requirements. In this scenario, 4,519 eligible legal aid recipients would have legal representation in court, allowing for 20 percent more efficiency in those cases than if they

had been unrepresented. Further, 2,476 problems are resolved through dispute resolution services that might have otherwise ended up in the courts in cases where the litigants were

**In Scenario 4: The government maintains full funding for legal aid, spending approximately US \$18.19 million to provide legal representation, access to duty lawyers and other dispute resolution services. The resulting estimated savings to the government are US \$29.11 million to US \$40.86 million.**

unrepresented, and 995 litigants receive legal help from duty lawyers, which contributes to those cases being dealt with 5 percent more efficiently than had they not received any assistance.

In terms of avoided costs and benefits, the net gains from scenario four significantly outpace those of previously discussed scenarios. When 75 percent of cases are resolved by mediation agreements and 25 percent are resolved by final order, avoided costs

amount to \$42.24 million (approximately US \$29.11 million). Assuming a 50-50 split between the number of cases resolved by final order and those resolved in the mediation stage, the avoided costs are even higher: \$59.29 million (approximately US \$40.86 million). Compared with the government funding investment of \$26.39 million (approximately US \$18.19 million), the net benefit is \$32.90 million (or approximately US \$22.67 million).

That this study evaluates the monetary impacts of avoided legal aid spending costs on

government funded judicial services is significant. It offers insights into an often overlooked question in the discussion of the economic impacts of investing in justice, one that is presented in this study through an examination of what it costs governments when they do not invest in access to justice. Put differently, in terms of government spending, it compares funding investments in legal aid with government spending on justice services in the absence of legal aid. On

the surface, it may seem that by not investing in programs that facilitate access to justice, governments are saving money that can be reallocated and arguably 'better spent' elsewhere, but at what economic cost? This study reveals through scenarios that explore the impacts of different legal aid funding allocations that, across the board, the monetary impacts of not investing in legal aid exceed the costs to the government of investing in legal aid.

**On the surface, it may seem that by not investing in programs that facilitate access to justice, governments are saving money that can be reallocated. This study reveals that the monetary impacts of not investing in legal aid exceed the costs to the government of investing in legal aid.**

### **3.4.2 Community legal centres**

The second part of our discussion of Australian-based research on the return on investment in justice mechanisms explores the benefits of community legal centres (CLCs). Community legal centres, like legal aid commissions, offer legal information and justice services to those

who qualify. As their name suggests, geography is an important factor in their value added within the continuum of services available for dispute resolution – they are largely based in communities across Australia and their services are conveniently accessible to eligible persons within commuting distance of their location. CLCs are independent, community-based, not-for-profit organizations that obtain funding from a number of sources, including Commonwealth and state government. In addition to broad-based community legal centres that offer a range of legal services, there are also specialist CLCs that facilitate legal problem resolution for specific groups or specific types of legal problems.<sup>122</sup> Our summary discussion includes both the broader category of CLCs and specialist CLCs.

The research paper that forms the focus of our analysis of community legal centres is based in a more expansive research framework than the study on legal aid commissions. The 2012 study to which we shift our discussion evaluates a range of legal problem types that were addressed through 4 community legal centres, representing different geographic locations – 2 urban, 1 remote (and regional), and 1 regional.<sup>123</sup> Various elements were assessed to determine the benefits of the CLCs, including operating costs and quantifiable outcomes. A range of qualitative benefits were also determined for this study. To determine the monetary benefits provided by the CLCs' advice and legal services, the general methodological approach entailed a review of each file and the derived benefit was determined based on reported costs, avoided costs, and willingness to pay. It should be noted that each CLC's methodology differs slightly and precise values were determined based on a combination of steps. The cost-benefit ratio was calculated by comparing each centre's operating costs with the benefits generated from the CLC.<sup>124</sup>

The four CLCs assessed for this study present somewhat varied profiles, geographically as well as with respect to the services that they provide. The first of the four CLCs operates in an inner regional location, offering free legal advice, referrals and assistance on a range of civil and criminal justice issues to economically disadvantaged Central Victorians. Their efforts are also centred on advancing human rights and promoting social justice issues. The second CLC that was assessed in this study operates with a broader scope, and houses a generalist program that facilitates access to the legal system for people who are not otherwise able to access justice services, as well as an Indigenous Women's program. Additionally, they work to assist vulnerable persons to address matters that have the potential to become legal problems before they escalate to the level of requiring assistance through the justice system. This includes, facilitating financial counselling services and homelessness services.

The third of the four community legal centres that was included as a case study for this research is a specialist legal centre in an urban setting that provides legal assistance on matters related to consumer credit and compliance. They also work to ensure that creditors and insurance companies respect the codes of their practice and do not overreach. In addition, they seek to facilitate problem resolution for financial matters that have the potential to become legal problems.

The last of the four CLCs is similarly based in an urban location. It offers a range of legal services to economically disadvantaged persons who are not otherwise able to access legal help. In addition to the general legal services that they provide, they offer programs that are tailored to youths and that support tenancy and domestic violence matters.

**There is immense economic and social value generated by community legal centres – across locations, irrespective of how broad or specialized their service offerings are, and over a range of legal problem types.**

The differences in service offerings and location among the four CLCs included in this study serve to strengthen the 2012 research study’s conclusion that there is immense economic (and social) value generated by community legal centres – across locations, irrespective of how broad or specialized their service offerings are, and over a range of legal problem types. As in other studies discussed, the findings presented regarding

the financial benefits relative to operational input costs includes caveats that suggest that the monetary returns may be underestimated, owing to an evaluative framework that includes only readily quantifiable components.

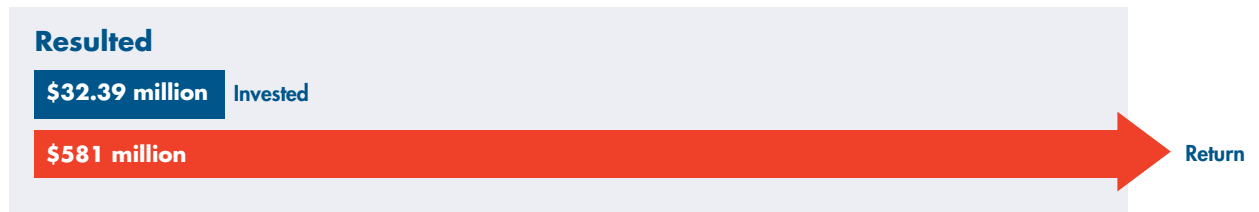
The data related to the economic gains produced from the four community legal centres are noteworthy when viewed both collectively as well as individually. Following an assessment of more than 160 legal matters among the four CLCs, the study found an average cost benefit ratio of 1:18. That is, for every \$1 (approximately US \$0.69) invested in a community legal centre, the monetary return is \$18 (approximately US \$12.43). The total average monetary benefit on advice provided across all four legal centres is \$2,084 (approximately US \$1,431) and the average benefit generated from assisting with cases is \$3,405 (approximately US \$2,338). If extrapolated and assumed to be consistent across CLCs in Australia, the resulting return is estimated to be \$846 million (approximately US \$581 million) in financial benefits generated relative to \$47 million (approximately US \$32.39 million) in funding invested in CLCs in Australia in 2009-2010.

**Economic Gains Produced From The Four Community Legal Centres**

An assessment of more than 160 legal matters among four community legal centres found that for every US \$0.69 invested in a community legal centre, the monetary return is approximately US \$12.43.



If assumed to be consistent across community legal centres in Australia, the resulting return is estimated to be approximately US \$581 million in financial benefits generated relative to approximately US \$32.39 million in funding invested.



For each of the four community legal centres assessed, the study also offers the average monetary benefits for advice provided through the CLCs and the average monetary benefit for cases handled through the CLC. The individual findings for each community legal centre reveals cost-benefit ratios that vary, but are nonetheless positive reflections of the economic benefits associated with community legal centres. For the first CLC, which offers a broad range of general legal services in a regional location, the study found a cost benefit ratio of 1:30. The average cost benefit produced from legal advice dispensed at this CLC was determined to be \$3,999 (approximately US \$2,746) and the average benefit on cases is \$6,634 (approximately US \$4,572). The second CLC, which handles general legal matters that arise in its remote location (as well as within its region) was found to generate an average return of \$173 (approximately US \$119) on advice provided and \$4,241 (approximately US \$2,923) on cases, leading to a cost benefit ratio of 1:6. The specialist CLC that assists with resolving consumer and credit based legal problems in a larger city was found to produce an average monetary return of \$3,595 (approximately US \$2,478) on advice dispensed and \$2,379 (approximately US \$1,639) on average for cases. The cost-benefit ratio is the highest of the four: 1:33. The second urban-based CLC (the final CLC evaluated in this study) produced an average benefit of \$567 (approximately US \$391) on the range of legal advice that it offered and \$365 (or approximately US \$251) on average for cases. The cost benefit ratio for this CLC is 1:4.

While the focus in the 2012 paper is on a valuation of economic returns, the study also envisages significant qualitative benefits that were not measured and consequently were not included as part of the assessments discussed. These include legal empowerment, legal problem prevention and the avoidance of extraneous public and private costs.

**There are also significant qualitative benefits produced including:**

Legal empowerment

Legal problem prevention

Avoidance of extraneous public and private costs

This research on the returns generated from funding community-based legal centres in Australia contributes another compelling perspective from which to further understand the interplay among costs, benefits and funding for justice system programs and services.



**Part 4**

# **Economic Impacts of Privately- Funded Justice Services**

## 4.1

# Economic impacts of privately-funded justice services

### Case Studies from Canada

We transition from a discussion of the returns produced from investing in broad-based, predominantly government-funded justice programs and services to focus on the merits of investing in justice initiatives that are smaller in scope and that present different funding models. While reviews have been conducted on legal aid programs in Canada,<sup>125</sup> the existing body of empirical research has tended towards assessments of specific programs and interventions.

As a general matter, like other countries examined in this report, there is a lack of significant civil and family justice data in Canada. A 2012 note on the *Economic Value of Legal Aid* in the province of British Columbia, for example, acknowledged that a dearth of available data has impeded the measurability of the spectrum of benefits produced by legal aid in the province.<sup>126</sup> This rings true across much of the justice sector as well as in other sectors.<sup>127</sup> Nonetheless, a range of studies on various types of access to justice initiatives have been conducted. A discussion of several of these studies follows.

### 4.1.1 Pro Bono

Canada's most populous province is home to a provincial pro bono legal program that connects volunteer lawyers with people who cannot afford the services of lawyers.<sup>128</sup> Pro Bono Ontario offers free, front-line legal services in courthouses, schools, hospitals and other sites where people commonly experience legal problems that might benefit from prompt, onsite legal attention. They also manage and support projects and programs throughout the province that serve to strengthen local communities in various ways.<sup>129</sup>

**The demands on courts resulting from a rise in self-represented litigants are contributing factors in court resources being stretched, an increase in judges' time spent on cases where one or more party is unrepresented, and a direct cause of an increase in the cost of judicial services.**

The impetus to conduct an assessment of Pro Bono Ontario's services in 2017 is owed in part to the rise of self-representation in Ontario's courts. To that end, one of the goals of the study was to determine the extent to which Pro Bono Ontario's services might mitigate the impacts on courts of the growing number of self-represented litigants in Ontario. The demands on courts resulting from a rise in self-represented litigants are, as discussed in the Australian study on avoided costs, contributing factors in court resources being stretched, an increase in judges' time spent on cases where one or more party is unrepresented, and a direct cause of an increase in the cost of judicial services. In addition

to establishing the return on investment on the funding that Pro Bono Ontario allocates to supporting legal assistance for self-represented litigants, the study also sought to evaluate the cost of inefficiencies in the courts brought about by increased self-representation, the cost savings generated through Pro Bono Ontario's services and the economic value of other Pro Bono Ontario services. Pro Bono Ontario assists thousands of self-represented litigants in Ontario annually. In 2017, they helped more than 25,400 unrepresented clients with a range of legal problems.<sup>130</sup>

The data collected for this study included a random sample of files from the 2013-14 fiscal year, including online records that detailed whether the litigant went on to file a claim and the outcome of further actions taken. In addition, the study included 3 weeks of in-court observations in August, 2017 during which time data was recorded on cases involving self-represented litigants. The study's methodology also included in-person data collection on interactions between litigants and court-appointed Pro Bono Ontario staff, 30 to 45 minute telephone interviews with judges to gather data on their accounts of courtroom experiences with self-represented litigants, and an assessment of court data on services provided from 2013 to 2016, including the type of service provided and the timeline of the case's progress. Data was also gathered on the range of legal services for which Pro Bono Ontario provided assistance during the same period, including information on the year that the service was provided and the volume of services made available through Pro Bono Ontario during the period in question. As relates specifically to the ways that unrepresented litigants can access Pro Bono Ontario's services, the report categorizes the pathways from which data was collected for the study as follows: Help Centres in Courthouses in Toronto and Ottawa, Pro Bono Duty Counsel available for particular proceedings on specific days and Pro Bono amicus counsel available to help facilitate dispute resolution in the courts.<sup>131</sup> The court services provided by Pro Bono Ontario pertain to small claims and civil courts.

Pro Bono Ontario generates funding from a combination of sources, which includes (non-governmental) operating grants, donations, fundraising, projects, subsidies and events.<sup>132</sup> The study's data analysis yielded findings that reflect considerable return on monies received by Pro Bono Ontario that support its services for self-represented litigants. For every \$1 (approximately US \$0.74) invested in Pro Bono Ontario services that assist self-represented litigants, the program generates \$10 (approximately US \$7.43) of return, most of which benefits the province. Further, the study found that for the 2015-16 fiscal year, Pro Bono Ontario's services produced \$5.76 million (approximately US \$4.28 million) in cost savings and economic benefits from funding amounting to less than \$600,000 (approximately US \$445,533).



## Pro Bono Ontario returns

For every US \$0.74 invested in pro bono services that assist self-represented litigants, the program generates approximately US \$7.43 of return.



Pro Bono services produced approximately US \$4.28 million in cost savings and economic benefits from funding amounting to less than approximately US \$445,533.

This \$5.76 million in benefits and savings is the combined result of \$5.16 million (approximately US \$3.83 million) in savings and benefits to governments and \$0.6 million (approximately US \$0.45 million) in total savings and benefits to clients. Of the \$5.16 million (approximately US \$3.83 million) return in 2015-16, \$2.29 million (approximately US \$1.7 million) came from Pro Bono Ontario successfully reducing the number of unmeritorious claims heard in courts, \$0.76 million (approximately US \$0.56 million) is the result of savings generated by increasing the efficiency of the courts, and \$2.11 million (approximately US \$1.57 million) is the amount of private sector legal cost savings provided by Pro Bono Ontario's free legal services offerings during the 2015-16 study reference period.<sup>133</sup>

**Court staff observed that litigants who benefitted from pro bono services had higher levels of satisfaction with their court experience and were more likely to believe that they had been treated fairly. Judges and court staff affirmed that these services assisted with making the court system function better.**

The \$0.6 million (approximately US \$0.45 million) in savings to clients breaks down as follows. The estimated value of pro bono assistance provided to self-represented litigants during the reference period is \$0.2 million (approximately US \$0.15 million). A further \$0.33 million (approximately US \$0.25 million) in legal costs savings was generated for opposing parties involved in litigation and, as a result of legal advice and assistance received, clients spent less time away from work, which produced total cost savings in the amount of \$0.07 million (approximately US \$0.052 million).

As with previously discussed return on investment research, the evaluation of Pro Bono Ontario's services determined that, beyond monetary benefits, there were several non-monetary benefits. Court staff observed that litigants who benefitted from Pro Bono Ontario's services had higher levels of satisfaction with

their court experience and were more likely to believe that they had been treated fairly. Judges and court staff also affirmed that Pro Bono Ontario's services assisted with making the court system function better.<sup>134</sup>

This first foray into research on the return generated from private sector and non-governmental investments in justice offers a number of important takeaways. Foremost, the Pro Bono Ontario study echoes a key finding from return on legal aid investment studies and other research examined in earlier sections – there are significant and far-reaching economic benefits to governments when funding investments are made in access to civil justice. We note here the benefits to governments in particular in the Pro Bono Ontario study, despite the fact that Pro Bono Ontario operates without government funding and with limited government support. Secondly, drawing on the examination of the range of applications for the term 'access to justice' explored earlier in this report, the methodology used in the Pro Bono Ontario study highlights the merits of facilitating access to justice in at least two important ways: physical access and financial access. Pro Bono Ontario offers legal services and advice at courthouses as well as at other public locations where people commonly encounter legal issues, a benefit that promotes easier physical access to justice services. That their services are available for free facilitates access to justice for thousands of Ontarians for whom legal help would otherwise be out of reach because of cost.

## 4.1.2 Data Gap

Lastly, we acknowledge the importance of data in the Pro Bono Ontario study and the difficulties experienced in obtaining court data for the 2013 to 2016 reference period of the research. In particular, the study comments on the difficulty gaining access to court data on the volume of

**The importance of data to inform analyses of what is working, what is not working, and how justice services can be improved cannot be overstated. Data is a pillar for understanding the economic benefits of justice system interventions.**

court services provided, the types of services provided and when the services were provided during that period.<sup>135</sup> There appear to have been fewer challenges with investigative research methods employed for primary data collection. The methodology executed in the study includes data gathered using various research tools – structured interviews, collection of secondary data, observation and other methods. The challenge obtaining secondary court data mirrors a challenge observed throughout access to justice literature – the

unavailability of data, and the lack of consistent data collection within the justice sector. The importance of data to inform analyses of what is working, what is not working, and how justice services can be improved cannot be overstated. Data is a pillar for understanding the economic benefits of justice system interventions, and it is also a critical tool to inform evidence-based

pathways to address the global crisis in access to justice. To borrow wording from a 2018 report on “The Role of Data in the Access to Justice Movement”, we “can and must know much more than we currently do [about the access to justice crisis]”.<sup>136</sup>

### 4.1.3 Funding Challenges

As a further note on the Pro Bono Ontario study, despite evidence of annual savings and benefits to the Ontario justice system amounting to almost \$6 million (approximately US \$4.46 million), the free legal service continues to face funding challenges, to the extent that in 2018 it was almost forced to shutter its services.<sup>137</sup> Despite recommendations to the contrary there was also no funding allocated to Pro Bono Ontario in the provincial government’s 2019-20 budget, released in April, 2019. In light of the evidence highlighting immense cost savings and other monetary benefits to the provincial government generated by the pro bono legal service, this omission from the budget, which significantly complicates the short-term sustainability of Pro Bono Ontario, forces further reflection on the precise components that are necessary to build an economic case for investing in justice and, beyond the evidence, what steps can be taken to encourage buy-in from governments and other funders.<sup>138</sup>

### 4.1.4 Dispute Resolution Methods in Family Law

Research that compares and contrasts the costs and benefits of four methods for resolving family law disputes in Canada may offer further inspiration. A 2017 study conducted by the Canadian Research Institute for Law and the Family (CRILF) for the Canadian Forum on Civil Justice (CFCJ) evaluated the return on investment on different dispute resolution processes.

This type of research could prove to be a valuable, evidence-based strategy to promote funding

**The importance of data to inform analyses of what is working, what is not working, and how justice services can be improved cannot be overstated. Data is a pillar for understanding the economic benefits of justice system interventions.**

that is targeted towards improving access to justice processes in ways that are shown to be the most effective for a given population and that also provide the most benefit and value for money for funders.

Data for the 2017 study was collected through a survey of family law lawyers practicing in four Canadian provinces: Ontario, British Columbia, Alberta and Nova Scotia.<sup>139</sup> The dispute resolution processes canvassed for the study were

litigation, arbitration, mediation and collaborative processes. The survey that informs the final report for this study includes a range of questions related to the costs of these four processes, the length of time to resolution for each process, the efficacy of the processes, and the suitability

of the processes to address different low and high conflict family law problems<sup>140</sup> and in cases involving children. Lastly, the study applies a social return on investment evaluative model as a final analytical step.

The results of the survey confirm a number of important findings. Among a majority of respondents, litigation was agreed to be the least cost-effective of the four processes and the

**To achieve a standard for family justice services that is affordable, fair, accessible, tailored to the needs of a given population and that caters to the demands of a particular type of family law problem requires actionable data on what works, in what ways, at what cost and to whose benefit.**

least likely to produce outcomes that are in the interest of the client. Nonetheless, it was agreed among respondents to be the most suitable of the four methods for resolving high-conflict disputes. In comparison, collaboration was agreed to have a considerably lower cost range for resolving disputes than the other three methods and it was also agreed by almost 100% of respondents to achieve results that are in the interest of children impacted by decisions made in family law cases. 90% of lawyers who participated in the survey were also in consensus that mediation produces outcomes that benefit the client while 85% agreed that it produces outcomes that are in

the interest of clients' children. Conversely less than 40% of respondents agreed that arbitration achieved results that are in the interest of the client or their children.

These findings are valuable for the potential benefits that they can provide in helping people to choose the best pathway to address their family problems. They are also helpful as a way to inform strategies to improve access to family justice in Canada. Canada's Action Committee on Access to Justice in Civil and Family Matters, a national, broad-based organization that represents leading voices from Canada's justice community, signalled in a widely publicized 2013 report that the family justice system is in urgent need of reform. The 2013 report recommends improvements that are guided by modern values. It calls for an expansion of consensual approaches to dispute resolution, advancing a broader range of affordable and accessible family justice services, restructuring the courts to better handle family law cases, and introducing innovative procedures that can improve the functioning of the system.<sup>141</sup> Many of these recommendations could also serve as a guide for improvements in family law systems in other countries. To achieve a standard for family justice services that is affordable, fair, accessible, tailored to the needs of a given population and that caters to the demands of a particular type of family law problem requires actionable data on what works, in what ways, at what cost and to whose benefit. Insights such as those produced from the CRILF-CFCJ family law study can serve as a useful, evidence-based brief to understanding the advantages and limitations of various dispute resolution processes. Further, pairing learnings from this type of targeted research with research on the returns produced

**Pairing learnings from this type of targeted research with research on the returns produced from investing in access to these specific justice mechanisms could prove to be a compelling and informative guide on how to effectively invest in strategies to improve access to family justice.**

for governments and other funders of investing in access to these specific justice mechanisms could prove to be a compelling and informative guide on how to effectively invest in strategies to improve access to family justice.

#### **4.1.5 Social Return on Investment**

The social return on investment component included in the CRILF-CFCJ study identifies the financial value produced by each of the four dispute resolution processes relative to the input cost of providing access to each method. The SROI terminology and methodology applied in this study conform precisely to the description of SROI provided earlier in this report. The framework for calculating the SROI values is based on a consistent application of financial proxies that allow for a comparison of the four dispute resolution processes using identical parameters. A key distinction with the ratios produced in SROI analyses compared with return on investment analyses is that the monetary values in SROI ratios include considerations of the value of qualitative, quantitative and financial benefits and not only quantitative and financial elements.

The 2017 study notes that the input totals used to determine final SROI values consider the average cost of lawyers' professional services and the average cost to clients of auxiliary dispute resolution services such as financial consultants and child specialists.<sup>142</sup> The findings were presented in terms of the benefits derived in low-conflict and high-conflict disputes. As relates to low-conflict family law disputes, the study found that every \$1 (approximately US \$0.74) spent on collaborative processes was found to yield \$2.06 (approximately US \$1.53) in social return on investment value. Conversely, for high-conflict disputes, every \$1 spent on collaboration results in \$1.12 (approximately US \$0.83) in social return on investment value. Every \$1 input into mediation to resolve low-conflict disputes results in a social return of \$2.78 (approximately US \$2.06). High-conflict cases that are resolved using mediation yield \$1 in social return for every \$1 spent. On the opposite end of the spectrum, every \$1 spent on arbitration in low-conflict disputes was found to yield \$0.57 (approximately US \$0.42) in social return, while every \$1 input into resolving high-conflict disputes using arbitration yields \$0.38 (approximately US \$0.28) in social return. The monetary social return value that results from every \$1 spent on resolving low-conflict disputes through litigation is \$0.39 (approximately US \$0.29) while every \$1 spent in litigation costs to resolve high-conflict disputes yields a social return on investment value of \$0.04 (or approximately US \$0.03).

## Diagram 1

Every US \$0.74 spent on collaborative processes

### Low-conflict

**\$0.74** Investment

**\$1.53** Return

### High-conflict

**\$0.74** Investment

**\$0.83** Return

Every US \$0.74 spent on mediation

### Low-conflict

**\$0.74** Investment

**\$2.06** Return

### High-conflict

**\$0.74** Investment

**\$0.74** Return

Every US \$0.74 spent on arbitration

### Low-conflict

**\$0.74** Investment

**\$0.42** Return

### High-conflict

**\$0.74** Investment

**\$0.28** Return

Every US \$0.74 spent on litigation

### Low-conflict

**\$0.74** Investment

**\$0.29** Return

### High-conflict

**\$0.74** Investment

**\$0.03** Return

In terms of absolute costs, average spending of \$16,092 (approximately US \$11,949) to resolve a low-conflict family law dispute through collaborative processes results in \$33,142 (approximately US \$24,609) in social return value, while an average input cost of \$34,933 (approximately US \$25,940) to resolve a high-conflict dispute through collaborative processes results in an estimated \$39,092 (approximately US \$29,028) in social return on investment value. By comparison, \$10,678 (approximately US \$7,929) on average spent to resolve a low-conflict family law problem through mediation creates an estimated \$29,716 (approximately US \$22,066) in social return on investment value where \$35,563 (approximately US \$26,407) in average spending to address a high-conflict family law problem through mediation yields an almost identical return in social return on investment value of \$35,666 (or approximately US \$26,484). An estimated \$23,843 (approximately US \$17,705) in average input costs to resolve

a low-conflict family law dispute yields roughly \$13,609 (approximately US \$10,105) in social returns and an estimated \$51,622 (approximately US \$38,332) spent to address a high-conflict family law problem using the same process returns a value of \$19,559 (approximately US \$14,523). As relates to the most costly of the four dispute resolution methods assessed, \$21,748 (approximately US \$16,149) in spending to resolve a low-conflict family law problem through litigation returns a value estimated at \$8,424 (approximately US \$6,255) while a high-conflict family law problem that costs on average \$63,743 (approximately US \$47,333) yields \$2,474 (approximately US \$1,837) in social investment returns.

Beyond the merits of this data to inform strategy and directions for targeted improvements in access to family justice, the findings from this research offer additional value for individuals facing family law disputes who are able to afford at least some of the costs associated with getting help through the justice system. To the extent that this study outlines the costs of various dispute resolution processes, the average time to resolution using the four methods, perceived levels of satisfaction among clients, the suitability of each process to address different types of problems, as well as other variables that are important considerations when choosing a dispute resolution method, this research offers a helpful commentary that could assist clients shopping for a dispute resolution method to address their family justice problem.

This research on the return on dispute resolution methods in family law presents one model that can contribute to a better understanding of the costs and benefits to individuals of different pathways to access justice. Another area of research that stands to offer insight into the returns on spending by individuals on justice services relates to legal expense insurance.

#### **4.1.6 Legal Expense Insurance**

A report produced by the Canadian Bar Association in 2014 highlights the potential value of legal expense insurance to individuals and small businesses facing a legal issue. For people who earn too much to qualify for legal aid or for whom legal aid is not available to address their legal

**Many people go into debt, lose their home and experience other problems as a direct result of one or more serious civil or family justice problems.**

problem, the cost of legal assistance can be onerous. Average spending on everyday legal problems in Canada amounts to \$6,100 (approximately US \$4,530),<sup>143</sup> while the cost of a two-day civil trial is estimated to be \$37,000 (approximately US \$27,474) and the cost of a seven-day civil trial is estimated to be upwards of \$124,000 (approximately US \$92,077).<sup>144</sup>

Canadians who do not have the financial means to address their legal problems report resorting to a number of potentially problematic options to pay their legal fees. These include using their savings (39%), taking out a line of credit or putting their legal fees on a credit card (37%), liquidating investments or assets including withdrawing from an RRSP (29%) and cutting back on expenses (16%).<sup>145</sup> Many people go into debt, lose their home and experience other problems



as a direct result of one or more serious civil or family justice problem.<sup>146</sup> For middle income earners, broader access to legal expense insurance may offer a viable option that also helps to address the gap in unmet justice needs. It has shown immense promise in Québec, where it has

**For middle income earners, broader access to legal expense insurance may offer a viable option that also helps to address the gap in unmet justice needs.**

been available since the 1990s as well as in various European countries.

Legal expense insurance policies cover policyholders against various legal costs incurred in the event of a legal problem.<sup>147</sup>

The range of costs that might be covered by legal expense

insurance often begins from the initial stages of soliciting legal advice about a problem and continues through the investigative stage of the litigation process up to settlement.<sup>148</sup>

With an average annual starting cost of legal expense insurance premiums at approximately \$360 (approximately US \$267) for access to a hotline where policyholders can get advice on frequently asked legal questions, and a lawyer for court appearances up to a limit of \$100,000 (approximately US \$74,255) per claim and \$500,000 (approximately US \$371,277) in total for the year, the return on investment for individuals and small businesses with access to legal expense insurance in Canada could be considerable.<sup>149</sup> Legal expense insurance could be especially significant given that almost half of adults in Canada experience an everyday legal problem that they find difficult to resolve within a given 3-year period, amounting to an estimated 35,745,000 separate everyday legal problems in Canada every 3 years. Consumer, debt and employment problems rank highest among the types of legal problems experienced by Canadians.<sup>150</sup> Given the connection of these particular problem types to business operations and management, business owners would likely be keen to take advantage of legal expense insurance if it were more widely available and generally if they were made more aware of legal expense insurance as an option to mitigate against the costs of one or more possible legal problems.

The Canadian Bar Association's 2014 report states that "legal expense insurance empowers people faced with legal issues, so that they don't have to go into debt to get access to justice".<sup>151</sup> If an underlying goal in improving access to justice is to develop comprehensive justice systems that offer a continuum of pathways and access points to address legal problems in cost-effective and timely ways, legal expense insurance shows particular potential promise. A thorough evaluation of legal expense insurance models globally and the returns that they produce for individuals (and small businesses), while beyond the scope of this report, merit further assessment. The issue of legal empowerment as highlighted in the Canadian Bar Association's discussion of legal expense insurance is an important one that will be expanded on in the discussion in subsequent sections of the non-monetary returns derived from investing in justice.

The reference to empowerment in the context of legal expense insurance (above) speaks to a critical benefit derived from legal empowerment – it precludes individuals from being fully at the mercy of a justiciable event. This will be a central, recurring theme in the broader conversation on social justice and in the review of research in this section of the report that more distinctly focuses on the social return on investment for justice services, cost-benefit analyses and resulting social, environmental, health, personal and economic benefits of investing in justice.





**Part 5**  
**Investing in**  
**Community Based**  
**Justice**

For people with limited financial means who are living in locations that are equally deprived of resources, everyday legal problems stand to have especially egregious consequences.

Many legal needs are concentrated around exchanges and changes that take place in daily life — in business, family or work life, with land transfers, buying and selling items, or other ordinary occurrences.<sup>152</sup> For people with limited financial means who are living in locations that are equally deprived of resources, everyday legal problems stand to have especially egregious consequences. The second volume of the UNDP Commission on Legal Empowerment’s final report observes that, “[t]he paths to justice available to the poor in order to cope with these problems and for accessing their rights often develop spontaneously”.<sup>153</sup> Many community-based justice initiatives are grassroots responses to unmet legal needs in areas that are underserved by social services, where many are mistrustful of formal justice services or are unable to pay for physical or financial access to those formal justice services.<sup>154</sup> Community-based justice services are also often the result of efforts simply to provide local mechanisms for dispute resolution in areas where there are no state-based services available.

## 5.1 Community Justice Research

Community-based justice mechanisms exist in developing and developed countries alike as both official and quasi-official methods of dispute resolution, information, and advice.<sup>155</sup> In South Africa, for example, community-based paralegals operate unregulated and in an informal space, though efforts are underway to formalize the Community Advice Office sector through which many work.<sup>156</sup> Community-based paralegals offer a number of unique benefits to the populations that they serve, including the ability to communicate with clients in local languages, being connected to other local services that can help facilitate holistic strategies to resolve overlapping legal and social problems, an understanding of the specific cultural and social challenges of the populations that they serve, as well as an ability to work one-on-one with clients towards acceptable outcomes. Community-based paralegals are typically attentive to cultural practices, restorative justice and other traditional approaches to dispute resolution. Through the services that they provide and the ways in which they provide them, community-based paralegals are also enablers of legal empowerment. In South Africa, for example, community-based paralegals host community meetings, community presentations, meetings with public officials, focus groups that are led and moderated by paralegals, engage in home visits, school visits as well as hold regular support group meetings.<sup>157</sup> Their extensive efforts in support of individuals and groups for whom it may otherwise be impossible to learn about or exercise their rights, contributes significantly to their ability to facilitate active engagement in society in order to resolve legal problems. Services provided through the Community Advice Office sector in South Africa are free.

**Community-based paralegals offer benefits to the populations that they serve, including:**

Ability to work one-on-one with clients towards acceptable outcomes

Understanding of the specific cultural and social challenges of the populations that they serve

Connection to other local services that can help facilitate holistic strategies to resolve overlapping legal and social problems

Ability to communicate in local languages

## 5.2

# Economic and Social Benefits of Access to Community-Based Paralegals

### A Case Study from South Africa

As the importance of Community Advice Offices as local conduits for access to justice in South Africa has become increasingly evident, organizations have endeavoured to conduct empirical research that highlights the cost savings and value of these services. One such study uses administrative case management data curated through the Centre for Community Justice and Development (CCJD)<sup>158</sup> to explore the costs and benefits of paralegal assistance provided through Community Advice Offices that are supported by CCJD.<sup>159</sup> The data in the CCJD case management database is input by the CCJD's community-based paralegals in the course of their work. All of the paralegals who work for Community Advice Offices that are supported by CCJD are certified legal professionals.

The study's primary objectives were to evaluate the direct and indirect costs of the access to justice work carried out by community-based paralegals operating through Community Advice Offices and to determine the direct and indirect benefits of Community Advice Offices. In order to do this, researchers reviewed four years of case intake and case outcome data – for the years 2014, 2015, 2016 and 2017 – and annual Community Advice Office reports. CCJD and Community Advice Office financial records and reports on Community Advice Office outreach activities were also reviewed. In addition, the study included several qualitative research

components that helped both to support the quantitative research elements and provide a broader scope of understanding of the range of benefits provided by community-based paralegals and Community Advice Offices. To that end, paralegals were interviewed, seven focus groups were held with justice service recipients and notes and other details that had been jointly created by CCJD-supported paralegals and clients and subsequently recorded in the CCJD database were also reviewed.

The study reveals a number of noteworthy findings. An assessment of the time spent by community-based paralegals on activities, beginning from the initial meeting with the client(s)

**Across all four years approximately one-third of paralegals' time was spent listening to and recording client's stories.**

to the resolution or closing of a file, indicates that across all four years approximately one-third of paralegals' time, ranging from 31% in 2014 to 38% in 2017, was spent listening to and recording client's stories. Time spent providing mediation services ranked second in each of the four years. Other types of activities that were captured in the time-series analyses

include making referrals, providing legal advice, providing counselling, following up with clients, accompanying clients and case management. On the issue of time spent listening to clients, several studies have noted the value of this particular exercise to justice seekers and the positive impact it has on perceptions of fairness of outcomes.<sup>160</sup>

The monetary amounts derived from the cost benefit analysis in this research found that a monetary investment of R19,266,580.29 (approximately US \$1,332,509.82) over the 4-year reference period of the study resulted in a net benefit of R115,758,280.96 (approximately US \$8,004,823.40). The net value was determined to be R96,491,700.00 (approximately US \$6,672,085.96). The resulting benefit cost ratio is 6.01, which means that for every R1 (approximately US \$0.07) that is invested in Community Advice Offices R6.01 (approximately US \$ 0.42) in benefits are gained. As in other studies discussed, the monetary benefits derived are acknowledged to likely be an underestimation of the total financial benefits derived from direct, upfront financial investments. In this study, the reason offered for the undervaluation of the financial return derived from Community Advice Offices includes the limitations of the data available through the CCJD database which, for example, does not consider cost savings to the government from clients engaging Community Advice Offices and consequently avoiding dispute resolution through the courts. On the broader issue of institutionalizing the Community Advice Office sector, the CCJD study estimates that an annual investment of R350,000 (roughly US \$24,226.07) in government funding per community advice office would be necessary to ensure the sustainability of the service.

### Study in South Africa

The cost benefit analysis found that an investment of approximately US \$1.3 million over 4 years resulted in a net benefit of approximately US \$8.0 million.



## **5.2.1**

### **Client satisfaction**

Beyond the significant monetary returns that they provide, the work of community-based paralegals and the Community Advice Office sector results in a range of intangible benefits. Most conspicuous among them is perhaps the level of satisfaction among clients with respect to the quality of services provided by community-based paralegals. Clients in the CCJD study highlighted the dedication of community-based paralegals to finding just solutions to their problem(s) as well as the accessibility of community-based paralegals. Further, they urged an adherence to the current model of operation within Community Advice Offices if the appeal for sustained government funding were successful. Summarizing the views of clients served through CCJD-funded Community Advice Offices from 2014-2017, the report notes that “[community-based paralegals] must not be co-opted by government but continue to provide independent services of the quality currently rendered.”<sup>161</sup>

## **5.2.2**

### **Community-Based Justice Research Project**

This feedback by service recipients, noting the value and standard of work carried out through Community Advice Offices and the need for the service to remain unchanged is significant. In the larger context of the global access to justice crisis, this assessment of an expansive,<sup>162</sup> people-centred model for dispute resolution and legal empowerment as effective, convenient, cost-effective, accessible and worthwhile is important. It warrants more study and discussion. Initiatives such as the International Development Research Centre-funded Community Based Justice Research (CBJR) project has responded to this challenge with a multi-country, multi-year research initiative on scaling access to community-based justice.<sup>163</sup> More of this type of research on ‘what works’ for recipients of justice services, and how to expand popular and effective programs to benefit more people while also generating returns for investors and purveyors of justice is warranted. It holds promise as a way to more emphatically inform and drive efforts towards equal access to justice for all.



**Part 6**

# **Investing in Rehabilitative Justice**

## 6.1

# The Economic Benefits of People-Centered Approaches to Dispute Resolution for Youths

### Case Studies from Canada and Australia

A study on the return generated from investing in a local, restorative justice initiative for youths in Canada offers another compelling case study that highlights the coalescing of themes on access to justice, costs and benefits, people-centred strategies and community-based justice. A brief discussion of that study follows.

For some crimes committed in Canada by a young person between the ages of 12 and 18, that individual may be referred to a Youth Justice Committee in lieu of the court system. This practice applies to crimes that are considered to be ‘minor’, including for example stealing items valued at under CAD \$5,000 (approximately US \$ 3,711), mischief, property damage, some types of assault and other offences. This system takes into consideration that, “due to their age, young people are more vulnerable, less mature and may have a lower capacity for moral judgment than adults.”<sup>164</sup>

Youth Justice Committees exist as an option through the *Youth Criminal Justice Act* to address youth crime in jurisdictions throughout Canada. These committees typically involve the young offender, their parent(s) or other family member(s) and volunteers from within the local area. All work together to help young offenders understand the seriousness of their actions and to embrace alternatives for a different, improved future. Volunteers are at the core of the work that Youth Justice Committees do. The *Young Offenders Act* (1984-2003), which preceded the *Youth Criminal Justice Act*, included a clause prohibiting volunteers from receiving compensation for their participation on a Youth Justice Committee. That stipulation was not included in the more recent *Youth Criminal Justice Act*.<sup>165</sup> As such, in some areas, an honorarium is paid to volunteers for each meeting that they attend. These monies are part of the annual provincial or territorial funding received by Youth Justice Committees. The funding amounts allocated to Youth Justice Committees vary considerably and are based on factors such as caseload, out-of-pocket expenses and volunteer efforts. In some jurisdictions, no funding is provided.<sup>166</sup>

Over the course of 12 years, more than 25 Youth Justice Committees, serving 140 communities were operating in the Canadian city of Calgary. As a result of these committees, 8,000 fewer youths accessed the formal court system. Annually, over 300 volunteers contributed more than 12,000 hours to these Youth Justice Committees. A study on the social return on investment on Calgary’s Youth Justice Committees found that for every CAD \$1 (approximately US \$0.87) spent on Youth Justice Committees in communities in Calgary in 2007, there was a return of CAD \$5.52 (approximately US \$4.80). This value is based on an assessment of 701 young people in

Calgary accessing Youth Justice Committees rather than the formal justice system during 2007. During that year in Calgary, total spending on Youth Justice Committees was CAD \$162,000 (approximately US \$120,269), and the total social value created was determined to be \$893,775 (approximately US \$663,539). In addition to these significant monetary values, an estimated \$15,000 (approximately US \$11,136) was collected as restitution to victims during 2007. Over the course of three years, every CAD \$1 invested in community-based Youth Justice Committees in Calgary was determined to yield an estimated return in economic and social value of CAD \$10.13 (approximately US \$7.52). Avoided costs in a number of areas were assessed as part of a one-year and three-year social return on investment evaluations. These included avoided costs related to police calls, police investigations, police attendance at court, youth court processes and the cost of incarceration, as well as the cost of a probation supervisor.

### Youth Justice Committee Investment Return

A social return on investment study on Youth Justice Committees found that for every US \$0.87 spent on Youth Justice Committees in 1 year, there was a return of approximately US \$4.80. Over the course of 3 years, the estimated return in economic and social value was determined to yield a value of approximately US \$7.52.



Similar to the South African study discussed previously, the community-based approach used by Youth Justice Committees has been lauded by service recipients as appropriate, effective and preferable to the courts. Volunteers and parents have also cited the “extreme value” of the program and the importance of having a “group of adults who actually listened”.<sup>167</sup>

The benefits of this community-based approach for tackling youth crime are also reflected in other ways in the social return on investment study. A majority – 90 percent – of youths who participated in the program successfully adhered to and completed the terms put forth by the committee. Further, this initiative has also been successful in preventing future crimes, with more than 80% of program participants not reoffending within 3 years following their participation in the program.<sup>168</sup>



## 6.1.1 Youth Bail and Release Studies

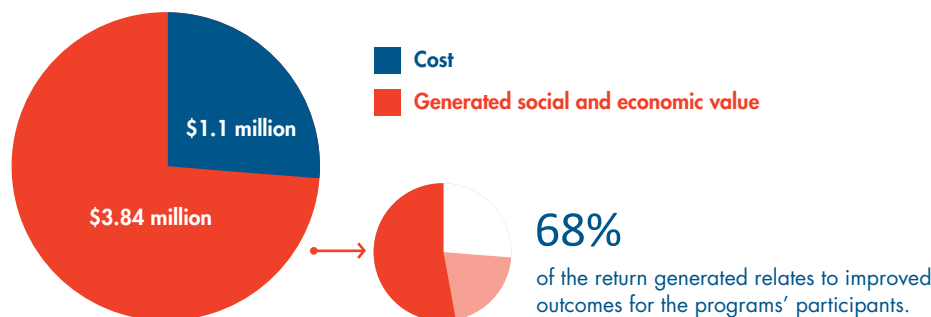
A report from Tasmania that quantifies the benefits of investing in two justice initiatives for youths presents another exemplary case study of the value of rehabilitative justice programs for young offenders, communities and investors. Save the Children Australia, an arm of the international, non-governmental Save the Children organization supports two youth justice programs in Tasmania.<sup>169</sup> Supporting Young People on Bail is an initiative for youths ages 10 - 17 for whom sentencing is pending. Young people who access this program have been released on bail following their first court appearance. The program helps young people in a number of ways, including with alcohol and drug counselling, returning to school, with accessing a lawyer, and with housing.

The second program – Transition from Detention – provides support for young people from the ages of 10 to 18 with their transition from the Ashley Youth Detention Centre, located outside of Deloraine, Tasmania, back to their local communities. Through this initiative, youth workers from Save the Children Australia connect with young offenders while in detention and offer support that extends to the challenges that young offenders may face following their release. As with Supporting Young People on Bail, the avenues of support are varied and include connecting young people with educational programs, and introducing program participants to positive activities and employment opportunities post detention. Some youths participate in both programs.

Research was conducted to determine the social and economic value created by the programs since they opened in 2011 up to 2014. During this period, the programs helped 140 youths – 87 through Supporting Young People on Bail and 53 through Transition from Detention. Data reviewed for the assessment included primary survey data from young people who had been, or continued to be participants of the programs, a review of the service delivery model being used by the programs, and qualitative data from program stakeholders, including Save the Children Australia youth workers, young offenders and affiliated youth justice agencies in the region.<sup>170</sup> The calculation of the social return on investment also demanded an assessment of input costs, revenue generated, and the overall costs of delivering the two youth justice initiatives. This translated to the review of a combination of program expenses and earnings such as salaries, management fees, general operating costs, travel expenses and training for Save the Children youth workers, and grants and funding received between 2011 and 2014.

## “Supporting Young People on Bail” and “Transition from Detention” Returns

Jointly, both youth justice programs generated approximately US \$3.84 million in social and economic value over 3 years, where the total cost of the two programs was approximately US \$1.10 million.



Jointly, both programs generated approximately AUS \$5.5 million (roughly US \$3.84 million) in social and economic value between 2011 and 2014 or AUS \$1.45 million annually (roughly US \$1.01 million), where the total cost of the two programs over the period being examined was AUS \$1.57 million (approximately US \$ 1.10 million). The resulting social return on investment ratio is 1:3.5, which means that, for every AUS \$1 (approximately US \$0.70) spent on these two justice initiatives, there is a return of AUS \$3.50 (approximately US \$2.45).

A closer look at these figures reveals even more promising findings. Sixty-eight percent of the total value of the return generated (AUS \$3.7 million or an estimated US \$2.74 million) relates to improved outcomes for the programs' participants. As in the previous study discussed (and several other studies examined in this report) there is something to be said here not just about the monetary value of the benefits derived but also of the type of value created. Outside of our focus on the economics of justice investments, there is a broader and arguably more

**Outside of the focus on the economics of justice investments, there is a broader and arguably more significant case for investing in these programs—to go beyond simply creating value for money to creating 'good' value for money.**

significant case for investing in programs such as Save the Children Australia's two justice initiatives – to go beyond simply creating value for money to creating 'good' value for money. The flip side of the monetary investment in access to justice is that, in investing in these programs, there are financial savings and gains but also marked long-term benefits for program

participants and communities. Many studies discussed quite reasonably explore the immediate and short-term future benefits of investing in justice to investors, service and program recipients and society. These evaluations consider returns over a finite period of time. It is important to recognize, however, that for young people, as well as for adults who may be exposed to similar types of restorative justice programs and support mechanisms, these programs can be life-altering. In steering people towards a positive path, the potential benefits and savings to individuals, families and communities are exponential, benefiting societies and generating cost savings through reduced criminal activity, reduced demand on police and social services, and

other benefits experienced over months and years. The learnings from these programs may also be shared to the benefit of family members, youths or adults in similar situations and others within the community, further contributing to long-term, positive impacts and change.

As relates to the specific positive outcomes that were considered and referenced in this research, the report lists improvements to participants' physical health, better social connections

**In steering young people towards a positive path, the potential benefits and savings to individuals, families and communities are exponential, benefiting societies and generating cost savings over months and years.**

that support constructive, ethical behaviour and independence, improvements to communication, interaction and relationships with family members, and better employment opportunities. Reduced sentencing costs to youth justice agencies accounts for the balance of 32% of the social return on investment (approximately AUS \$1.8 million or roughly US \$1.34 million) produced by these initiatives.

An examination of the impact of each program and their respective contribution to the economic and social value created reveals that the Supporting Young People on Bail program's social return on investment ratio is 1:3.4. The social return on investment ratio produced by the Transition from Detention program was determined to be 1:3.6. Proactive interventions, voluntary participation, the commitment, expertise and professionalism of Save the Children youth workers and immediate responses to young people in the program are listed among the many strengths of these programs in Tasmania, and are at the core of the programs' success as worthy investments.<sup>171</sup>

## **6.1.2 Youth Empowerment**

The OECD's 2018 "Youth Stocktaking" report identifies a disconnect between youths in OECD countries and the decision-making behind policies and practices that directly affect them.<sup>172</sup> The report highlights five key areas where additional effort is needed. Included among these are: participation by and representation of young people, and the integration of youth perspectives. These elements of empowerment are key not only for everyday application to issues that routinely affect young people but, also as they pertain more specifically to youth justice. The review of the Calgary Youth Justice Committee program and the Save the Children Australia initiatives offer proof of the merits of these endeavours. Rather than being spectators of a system that determines their fate, young people involved in the youth justice programs discussed are active participants, first acknowledging their actions and attesting to their role in their circumstances, and then engaging with others, their community or society to pursue a positive path forward. Though these youth justice studies offer a somewhat different conversation than presented through much of the other research examined thus far, the underlying approach and thinking around resolving justice problems and the benefits

of investing in justice are nonetheless similar. Notwithstanding the focus on criminal justice as opposed to civil justice, on youth issues as opposed to legal problems experienced by adults, these programs and studies highlight the noteworthy returns created from investing in alternatives to problem resolution outside of the formal justice system and in local instruments of empowerment. In so doing these studies offer further proof that investing in justice provides value for time and money.

### **6.1.3 Comparing the Return on Investment on Rehabilitative Justice Programs for Incarcerated Adults**

We take another, brief foray into the subject of return on investment in criminal justice matters to balance the perspectives presented on youth justice with a discussion that now momentarily shifts to the merits of investing in rehabilitative justice programs for incarcerated adults. The methodologies and overall findings from studies on these criminal justice programs – the two youth justice studies and a subsequent study from the U.S. – offer insights that are useful for understanding the range of investment opportunities in justice and the resulting economic and social benefits to individuals and societies. We stay on our current course to draw a parallel between the Calgary program, the Save the Children justice initiatives in Tasmania and research produced by the Council of Economic Advisors for the Office of the President of the United States of America in 2018.

An evaluation of programs in the U.S. aimed at curbing the rate of recidivism following release from prison estimates that every US \$1 invested in programs that address mental health and substance abuse issues among incarcerated adults facing eventual release results in a return of up to \$5.27. As in the Youth Justice Committee study from Calgary that assessed avoided costs when offenders do not re-offend, the report on the return on investments in recidivism-reducing programs in the U.S. also suggests that, owing largely to avoided costs from lower levels of engagement in criminal activities after participation in recidivism-reducing programs, the rate of return is higher over longer periods.<sup>173</sup> The report goes on to suggest that, while similar levels of success may be possible with programs that are based in therapy and education among incarcerated adults, additional research would be needed to draw concrete conclusions. In order for an educational program to be a worthwhile investment, it is estimated that the program need only result in, at minimum, 2% lower rates of recidivism. With spending on criminal justice in the U.S. estimated to be upwards of \$180 billion annually,<sup>174</sup> investing in programs that are shown to reduce rates of recidivism, and further investing in empirical research that can offer evidence of the extent to which spending on other justice initiatives will lower crime rates while providing high economic and social returns, are smart and effective strategies to help cut costs and provide long-term solutions for individuals and communities.


It should be reiterated that a primary aspect of the Youth Committee Justice program and the programs in Tasmania that has been credited for their success is their community-based approach and the handling of each youth's case one-on-one. Youths, volunteers and family members noted their appreciation of the exchanges between young people and volunteers and the appropriateness of the recommended courses of action through the programs that are based on learnings from interactions with young people. With an overarching focus on improving lives and communities, interestingly, the return generated from these programs read almost as a welcomed consequence of the work being done rather than a primary objective. Recidivism-reducing programs may equally benefit from strategies that, at their core, are concerned with the betterment of individuals and strengthening of communities and societies rather than a focus based solely on profits or cost savings.

The discussion of the return on investment in rehabilitative youth and adult criminal justice programs is included as an important, albeit summary testimonial in the broader conversation of the types of justice sector interventions for which there is return on investment. In the context of

**In the context of the larger access to justice conversation, these initiatives further suggest that investing in justice contributes to cost-effectiveness and improved efficiency in justice systems while simultaneously benefitting investors, service recipients and communities.**

the larger access to justice conversation, these initiatives further suggest that investing in justice contributes to cost-effectiveness and improved efficiency in justice systems while simultaneously benefitting investors, service recipients and communities. It is also important to re-state that, underlying the machinations of arguing the monetary benefits of investing in justice, there are individuals and families whose lives are profoundly impacted by these programs and funding decisions. By facilitating legal problem resolution through civil legal aid, privately-funded not-for-profits, pro bono services, community legal centres

and community advice offices, restorative justice programs, mental health programs or targeted dispute resolution processes, this collection of empirical research shows that there are significant benefits generated from investing in the prevention, treatment and, to the extent possible, remedying of the justice problems that are 'ailing' societies, individuals and justice systems.



**Part 7**  
**Legal**  
**Empowerment**  
**- Monetary and**  
**Social Benefits**

Education and assistance in the form of legal empowerment offers one avenue to help address the current composite of justice sector challenges. Legal empowerment is a multi-pronged tool that works to improve access to justice by ensuring that rights and protections are enforced for people who may themselves be unaware that these rights exist. There is no universal formula for legal empowerment. Rather, volunteers, activists, legal professionals and others engage community-based networks, the formal justice system, informal dispute resolution systems, and alternative dispute resolution processes to facilitate access to justice for the poor, marginalized, vulnerable and others.<sup>175</sup> In many respects, the overarching value of legal empowerment lies in the awareness it fosters about legal rights and the engagement that it promotes between individuals, disenfranchised populations and the law.

## 7.1 Economic and Social Impacts of Investing in Legal Empowerment

A Case Study from Bangladesh

Using a cost-benefit analysis approach, a report on *Legal Empowerment as a Pathway out of Poverty* advocates for the benefits produced by non-governmental-led legal empowerment programs in Bangladesh.<sup>176</sup> As in other jurisdictions, in Bangladesh there are limited options available to poor litigants who are unable to access the formal justice system. Some turn to customary systems as a way to resolve their disputes. The report reveals, however, that these systems often experience problems and are not without bias, often leading to outcomes that are outside of what are deemed acceptable by national or international human rights laws.<sup>177</sup>

The Bangladesh Rural Advancement Committee (BRAC) is a nongovernmental organization that has operated in Bangladesh since the 1970s to provide legal assistance and other social services to poor and vulnerable people in most of Bangladesh's 64 districts. With 517 legal aid clinics as at April 2012, BRAC's Human Rights and Legal Aid Services programs operate as hubs for legal advice and legal empowerment in communities throughout Bangladesh. There are, of course,

**A challenge for many community-based legal empowerment and legal aid programs is steady funding.**

costs attached to operating an extensive network of legal aid programs, community-based legal education programs and legal empowerment initiatives, as well as BRAC's other development programs. In this area as well, BRAC presents

a noteworthy model. BRAC is self-sustaining and generates funding primarily through its own investments and businesses, which include a roster of enterprises in areas ranging from dairy and retail clothing to birthing and delivery kits. This is significant since it allows BRAC to operate hundreds of programs and services throughout Bangladesh and elsewhere, at its own expense and behest. A challenge for many community-based legal empowerment and legal aid programs

is steady funding. BRAC does not face a similar obstacle. In 2012, BRAC's annual income from its 18 social enterprises totalled \$521 million.<sup>178</sup> In addition, BRAC's legal aid services benefit from some pro bono support provided by locally based lawyers. BRAC also receives limited funding through other projects that it takes on. With the exception of a nominal fee of 10 Bangladeshi taka (approximately US \$0.12),<sup>179</sup> which is the same regardless of the type of dispute resolution method pursued – local shalish<sup>180</sup> or the formal justice system – BRAC's services are free. Further, legal services are integrated with other services and, as such, clients can address their legal needs in conjunction with health problems, social problems and other issues that may exist in parallel with their legal problems or else are persistent within populations that BRAC serves.

At the core of BRAC and its Human Rights and Legal Aid Services programs are connected, community-based, grassroots efforts. Gender equity is also a strong focus of BRAC's community-based programs and initiatives. Insights into the efficacy of community-based approaches for resolving justice issues appear in our earlier discussions of studies in South Africa, Canada and Australia. The achievements presented in this legal empowerment study appear to be equally impressive.

The BRAC-supported Human Rights and Legal Aid Services programs in Bangladesh have three main objectives: legal education, legal aid and community mobilization.<sup>181</sup> As part of their legal education and community outreach approach, community-based legal aid educators teach courses locally on topical legal issues, while also working to connect members of the community with local sites for legal help and advice. Members of the community can readily access BRAC courses to learn about specific laws and other issues that are relevant to their community. Workshops are also regularly hosted in communities and feature individuals from a variety of specializations, with the goal of presenting various perspectives and unpacking laws and legal issues in comprehensible, engaging formats.

With respect to legal aid services, of a total of 175,205 complaints received at BRAC's Human Rights and Legal Aid Services programs as at April 2012, 94,804 were resolved through local alternative dispute resolution processes. Of 31,601 cases that were filed in courts, a majority – 20,798 or 66 percent – received judgements, of which 15,734 decisions were favourable to BRAC clients. Compensation received for clients up to April 2012 amounts to 757,304,207 Bangladeshi taka (US \$9 million).<sup>182</sup>

**There are additional benefits being derived from an expansive, community-driven, legal empowerment and legal aid approach, including the remarkable, systematic harnessing of community-based resources to enhance program delivery, educate, empower and facilitate access to justice.**

There are additional benefits being derived from this expansive, community-driven, legal empowerment and legal aid approach. Arguably, the most significant among them is the remarkable, systematic harnessing of community-based

resources to enhance program delivery, educate, empower and facilitate access to justice. Programs that educate community members in turn support efforts for those members to teach



others from the community about laws, legal problems and their rights. Training is provided to women from the community to facilitate their participation on shalish panels and drive efforts for gender balance and better outcomes. Community service providers also work to connect fellow members of the community with locally available legal services.

The results from these endeavours are significant. A greater proportion of legal needs are being met. There are higher rates of satisfaction with decisions handed down from reformed shalish panels than traditional panels. Women appearing before these panels also reportedly receive better treatment. Community members and legal aid educators, who do not receive compensation for reporting human rights abuses, have also notably taken on the onus of

**There is immense value in having people from within a community, who are aware of the particular issues that exist within their community and who may have personally experienced similar problems, in a position to support, empathize with and guide fellow community members on paths to resolving their legal problems.**

communicating information of offences that they observe – with an estimated 63% reporting on violations and abuses.<sup>183</sup>

The study also acknowledges the immense value of having people from within a community, who are aware of the particular issues that exist within their community and who may have personally experienced similar problems, now in a position to support, empathize with and guide fellow community members on paths to resolving their legal problems. There is a clear sense in the evaluation of these efforts, and others that are discussed in the report, that the results of these community-based endeavours lead to an unmistakable and marked increase in levels of active

engagement with the law and legal processes, fairer dispute resolution processes and more satisfactory outcomes for litigants, and overall, better access to justice fuelled by grassroots legal empowerment.

The desire for people to resolve their legal problems is an important point to note. Some studies reveal varying levels of engagement with both informal and formal systems based on gender, anticipated outcomes and other factors.<sup>184</sup> People experiencing legal problems often want to resolve them using any feasible, fair options that exist. For this reason, legal empowerment is vital for improving access to justice – in order to fight injustices or take action to enforce rights, people need to be aware that there are protections that exist and that legal tools are available. Research from Chile and Colombia that explores access to justice among historically marginalized groups reveals that, “[d]espite low levels of trust in the justice system, citizens...still make legal claims.”<sup>185</sup> The fundamental reason for doing so is rooted in the purpose of law, and what it represents.



## Part 8

# Conclusion

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## 8 Conclusion

When gathered in one place, this research begins to make a compelling case for why investing in access to justice is not simply “a good thing to do” — it has measurable economic and social returns.

A lack of access to justice in any form and in any corner of the world has profound consequences. It impacts individuals, families, communities and societies. There are financial barriers to accessing legal systems for those with limited resources as well as longstanding gender, ethnic and class-based prejudices that prevent the underprivileged from equitable access to justice. Further, obstacles rooted in a lack of understanding of justiciable problems and legal rights inhibit many of the world’s poor and marginalized from taking action to enforce their rights and freedoms. As the access to justice crisis grows and the cost of access to legal services in jurisdictions throughout the world becomes more out of reach, these challenges increasingly extend beyond the poor to middle income earners as well. Access to justice has become an issue for everyone to be concerned about.<sup>186</sup>

Many of the programs discussed in this report as well as other entry points to justice systems are accessible only to those at either extreme of the financial ladder — the very poor and the wealthy. Many who, by definitions or standards in place in their jurisdiction, should qualify for legal assistance are denied help due to a lack of available resources or an inability to physically access justice mechanisms in their geographic region. For these and other reasons, those with lower incomes have less access to services. This is true in justice as well as for other social services. In his report on the *Delivery of Justice Sector Services to the Poor*, Paul Prettitore posits that the challenges faced by poor people experiencing legal problems are similar to those that they experience in other sectors, including “a considerable lack of awareness of available services, and a lack of understanding about the often complicated procedures needed to access them.”<sup>187</sup> With this point, we return to where we began — the premise that law is a necessary part of just and inclusive societies. The April 2019 *Justice for All* report identifies justice as a theme that runs through all 17 UN sustainable development goals.<sup>188</sup> With the progression of our discussion on the return on investment in access to justice mechanisms, a number of other important topics emerged — poverty, homelessness, community development, unemployment, health, security, among others. To understand what we gain from investing in justice, it is important to consider what we lose when we do not invest in justice; or, put differently, to the extent that law matters, what is sacrificed when people cannot access it? To evaluate the return on investments in justice in isolation, without consideration of the people, communities, societies and economies that are profoundly impacted by access to justice services would be to miss the key reason for why justice matters, and why justice investments are so important.

In this report, we have identified and discussed several different studies in different justice sectors and different countries. All of them have an access to justice focus, and all of them – in different ways and with different methodologies – point to benefits derived from investing in justice. There are clearly perceptions (and policies) in many jurisdictions that budgets need to be tightened and costs need to be saved. However, through the studies discussed in this report, there is typically a false economy produced when trying to cut already stretched – and typically insufficient – justice budgets. Money spent on justice programs typically yields significant benefits for individuals and communities. These investments pay off in terms of economic gains and efficiencies. They also pay off in terms of individual and collective wellbeing. The various studies discussed in this report clearly make that case. Additionally, the studies also provide examples of the kinds of research that can be done, in different sectors and different regions, to help provide further evidence to support better informed justice policy.

Making the business case for access to justice is an important goal that is gaining traction in the international community.<sup>189</sup> It is a goal that fits with, and promotes Goal 16 of the UN’s Sustainable Development Goals,<sup>190</sup> as well as other regional<sup>191</sup> and country specific justice related goals.<sup>192</sup> Developing a strong business case will provide service providers and policy makers with the necessary research to make solid evidence-based policy decisions. Doing so, ultimately, will also help to animate a broad public discussion on everyday legal problems, and the legal supports and legal services that everyone needs. We hope that this report can help in the critical effort to support and promote these important justice goals and awareness efforts.

## Part 1: Introduction

- 1 The United Nations offers the following definition of rule of law: “The ‘rule of law’... refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.” See United Nations Security Council, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies - Report of the Secretary-General, S/2004/616*, August 2004 at 4, online: <<https://www.un.org/ruleoflaw/files/2004%20report.pdf>>. For a general discussion, see Trevor CW Farrow, *Civil Justice, Privatization, and Democracy* (Toronto: University of Toronto Press, 2014) at 13.
- 2 World Justice Project & Task Force on Justice, “Measuring the Justice Gap” (6 February 2019) at 1, online (pdf): *World Justice Project* <[https://worldjusticeproject.org/sites/default/files/documents/Measuring%20the%20Justice%20Gap\\_WJP%20Update\\_Feb2019\\_Final-updated\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/Measuring%20the%20Justice%20Gap_WJP%20Update_Feb2019_Final-updated_0.pdf)>.
- 3 See for example, Dominic Gilbert, “Legal aid advice network ‘decimated’ by funding cuts”, *BBC News* (10 December 2018), online: <<https://www.bbc.com/news/uk-46357169>>; Owen Bowcott, “Legal aid: how has it changed in 70 years?”, *The Guardian* (26 December 2018), online: <<https://www.theguardian.com/law/2018/dec/26/legal-aid-how-has-it-changed-in-70-years>>; Corallina Lopez Curzi, “Cuts to Legal Aid are Threatening Our 800 Year-Old Principle of ‘Justice for All’”, *Human Rights News, Views & Info* (22 October 2018), online: <<https://rightsinfo.org/legal-aid-cuts-threaten-justice-for-all/>>; Canadian Bar Association British Columbia Branch, “We Need Legal Aid”, online: *Canadian Bar Association British Columbia Branch* <<https://www.cbabc.org/Our-Work/Advocacy/We-Need-Legal-Aid>>; Sarah Buhler & Leif Jensen, “Opinion: Legal Aid should be expanded, not cut”, *Regina Leader-Post* (1 August 2018), online: <<https://leaderpost.com/opinion/columnists/opinion-legal-aid-should-be-expanded-not-cut>>; Deborah L Rhode, “Legal Services Corporation: One of the Worst Cuts in Trump’s Budget” (31 May 2017), online: <<https://law.stanford.edu/2017/05/31/six-of-the-worst-cuts-in-trumps-budget/>>.
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- 5 The terms “pro se litigant”, “self-represented litigant”, “unrepresented litigant” and “litigant in person” are used throughout this report to refer to an individual who engages in a legal proceeding without representation from a lawyer or paralegal.
- 6 See for example, *The Justice Gap 2017* report by the Legal Services Corporation, which indicates for example that 98% of tenants in eviction cases and 95% of parents in child support cases in the U.S. were unrepresented in courts in 2013. Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* (Washington, DC: NORC, University of Chicago for Legal Services Corporation, 2017) at 9, online: LSC <<https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>> [The Justice Gap].
- 7 SDG 16 is among nine new objectives in the UN 2030 SDGs that were not a part of the UN’s 2000-2015 Millennium Development Goals. For the complete list of UN Sustainable Development Goals, see United Nations, “Sustainable Development Goals”, online: *United Nations* <<https://sustainabledevelopment.un.org/?menu=1300>> [UN Sustainable Development Goals].
- 8 Notably, an April 2019 Task Force on Justice report found that, in addition to access to justice not receiving attention and funding globally that is equivalent to funding for other social services, or that reflects the seriousness of the crisis happening in access to justice, it is also cheaper to provide universal access to justice than universal healthcare or education. See Task Force on Justice, *Justice for All – The report of the Task Force on Justice* (New York: Center on International Cooperation, 2019) at 14, online: Pathfinders for Peaceful, Just and Inclusive Societies <<https://www.justice.sdg16.plus/report>>.

- 9 Several major reports have emerged in recent years that discuss the contributions that members of the justice community and other stakeholders can make to improve access to justice. In Canada, for example, the 2013 *Roadmap for Change* report by the national Action Committee on Access to Justice in Civil and Family Matters, and the Canadian Bar Association's 2013 *Reaching Equal Justice* report identify ways that justice organizations and stakeholders can work to bridge the justice gap. See, Action Committee on Access to Justice in Civil and Family Matters, *Access to Civil & Family Justice: A Roadmap for Change* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2013), online: CFCJ <[http://www.cfcj-fcj.org/sites/default/files/docs/2013/AC\\_Report\\_English\\_Final.pdf](http://www.cfcj-fcj.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf)> [Access to Civil & Family Justice]; Canadian Bar Association, *Reaching Equal Justice Report: An Invitation to Envision and Act* (Ottawa: Canadian Bar Association, 2013), online: CBA <[http://www.cba.org/CBAMediaLibrary/cba\\_na/images/Equal%20Justice%20-%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf](http://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20-%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf)> [Reaching Equal Justice]. The final report of the Bach Commission published in the UK in September 2017 includes policy, administration, governmental and other recommendations for curbing the crisis in access to justice in England and Wales. See *The Right to Justice - the Final Report of the Bach Commission* (London: The Fabian Society, 2017), online: Fabian Society <[http://www.fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission\\_Right-to-Justice-Report-WEB.pdf](http://www.fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission_Right-to-Justice-Report-WEB.pdf)> [The Right to Justice]. The Hague Institute for Innovation of Law (Hiil) has published a collection of studies on justice needs and contributions that can be made towards facilitating improvements in access to justice in the following countries: Lebanon, Uganda, Morocco, Fiji, Nigeria, Mali, Bangladesh, Mali, Kenya, Tunisia, United Arab Emirates, and Jordan. See Hague Institute for Innovation of Law, "Projects", online: *Hiil* <<https://www.hiil.org/projects/>>.
- 10 As relates to Canadian legal research, see for example, Tavia Grant & Eric Andrew-Gee, "Experts urge Ottawa to fix Canada's data deficit", *The Globe and Mail* (27 January 2019), online: <<https://www.theglobeandmail.com/canada/article-experts-make-recommendations-about-how-canada-can-fix-its-data-deficit/>>. See also, Eric Andrew-Gee & Tavia Grant, "In the dark: The cost of Canada's data deficit", *The Globe and Mail* (26 January 2019), online: <<https://www.theglobeandmail.com/canada/article-in-the-dark-the-cost-of-canadas-data-deficit/>>. See further Reaching Equal Justice, *supra* note 9 at 147.
- 11 Kate Hodal, "Poor Bear the Brunt as Global Justice System Fails 5.1 Billion People – study", *The Guardian* (29 April 2019), online: <<https://www.theguardian.com/global-development/2019/apr/29/global-justice-system-fails-5-billion-people-study>>.

## Part 2: Defining Key Terms

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- 13 For an in-depth discussion of methodological frameworks for return on investment evaluations, see Patricia Pulliam Phillips & Jack J Phillips, *Return on Investment (ROI) Basics* (Association for Talent Development, 2005) at ch 1.
- 14 Jean Drèze & Nicholas Stern, "The Theory of Cost-Benefit Analysis" in Alan J Auerbach & Martin Feldstein, ed, *Handbook of Public Economics*, vol 2 (North Holland, 1987) at ch 14, online: <<https://www.sciencedirect.com/science/article/pii/S1573442087800095?via%3Dihub>>.
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- 16 Trevor CW Farrow, "What is Access to Justice?" (2014) 51:3 Osgoode Hall LJ 957.
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- 19 See *ibid* at 359.
- 20 See for example, Organisation for Economic Co-Operation and Development, *Building a Business Case for Access to Justice* [forthcoming] [Building a Business Case].
- 21 See e.g. Commission on Legal Empowerment of the Poor & United Nations Development Programme, *Making the Law Work for Everyone - Volume I Report of the Commission on Legal Empowerment of the Poor* (New York: United Nations Development Programme, 2008), online: UN <[https://www.un.org/ruleoflaw/files/Making\\_the\\_Law\\_Work\\_for\\_Everyone.pdf](https://www.un.org/ruleoflaw/files/Making_the_Law_Work_for_Everyone.pdf)> [Making the Law Work For Everyone – Vol I]. For a recent discussion, see Patrick Keuleers, "Access to justice for all", *United Nations Development Programme* (13 November 2018), online: <<https://www.undp.org/content/undp/en/home/blog/2018/access-to-justice-for-all.html>>.

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### Part 3: Economic Impacts of Access to Civil Legal Aid Services

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- 25 Pleasence et al, *English and Welsh Civil and Social Justice Panel Survey: Waves 1-2, 2010-2012* (UK Data Service, 2015) at ii, online: <[http://doc.ukdataservice.ac.uk/doc/7643/mrdoc/pdf/7643\\_csjps\\_wave\\_one\\_report.pdf](http://doc.ukdataservice.ac.uk/doc/7643/mrdoc/pdf/7643_csjps_wave_one_report.pdf)>.
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- 27 See “The Facts – What is Legal Aid?”, online: *Legal Aid Matters* <<http://www.legallaidmatters.org.au/facts>>.
- 28 Scottish Government, *Civil Justice Statistics in Scotland 2017-18* (Government of Scotland, 2019) at 14-16, online: Government of Scotland <<https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2019/04/civil-justice-statistics-scotland-2017-18/documents/civil-justice-statistics-scotland-2017-18/civil-justice-statistics-scotland-2017-18/govscot%3Adocument/civil-justice-statistics-scotland-2017-18.pdf>>.
- 29 World Justice Project, *Global Insights on Access to Justice: Findings from the World Justice Project General Population Poll in 45 Countries* (Washington, DC: World Justice Project, 2018), online: World Justice Project <[https://worldjusticeproject.org/sites/default/files/documents/WJP\\_Access-Justice\\_April\\_2018\\_Online.pdf](https://worldjusticeproject.org/sites/default/files/documents/WJP_Access-Justice_April_2018_Online.pdf)>. See also Nicole Aylwin & Mandi Gray, *Selected Annotated Bibliography of National and Regional Legal Needs Surveys* (Toronto: Canadian Forum on Civil Justice, 2015), online: <<http://www.cfcj-fcjc.org/sites/default/files/CFCJ%20Cost%20of%20Justice%20Project%20-%20Selected%20Annotated%20Bibliography.pdf>>; Pascoe Pleasence, ‘Legal Need’ and Legal Needs Surveys: A Background Paper (East Sussex, England: Open Society Foundation, 2016), online: <[https://namati.org/wp-content/uploads/2016/11/OSJI-Legal-Needs-Surveys-Background-Materials-1-An-Introduction-to-Legal-Needs-Surveys-1-v3.6-2016-06-22-web\\_Pascoe.pdf](https://namati.org/wp-content/uploads/2016/11/OSJI-Legal-Needs-Surveys-Background-Materials-1-An-Introduction-to-Legal-Needs-Surveys-1-v3.6-2016-06-22-web_Pascoe.pdf)>.
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- 37 The Justice Gap, *supra* note 6 at 7.
- 38 *Ibid* at 6.
- 39 See Legal Services Corporation, *Fiscal Year 2019 Budget Request* (Legal Services Corporation) at 1, online: LSC <<https://lsc-live.app.box.com/s/9gw0ua9dayg0peh1jd710yce072820q5>> [Fiscal Year 2019].
- 40 For more information on IOLTA, see Interest on Lawyers Trust Accounts (IOLTA), online: *IOLTA.ORG* <<http://www.iolta.org/>>.
- 41 2017 survey data from the U.S. indicates 39.7 million people in the U.S. live in poverty. That is 12.3 % of the population. See U.S. Census Bureau, “Income, Poverty and Health Insurance Coverage in the United States: 2017” *United States Census Bureau* (12 September 2018), online: United States Census Bureau <<https://www.census.gov/newsroom/press-releases/2018/income-poverty.html>>. LSC estimated that in 2017 18.0% of the U.S. population was eligible for LSC funded civil justice services. In 2019, the eligible population is estimated to be 56,359,876 or 17.5% of the population. See Fiscal Year 2019, *supra* note 39 at 4.
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- 43 Legal Services Corporation, *Documenting the Gap In America: The Current Unmet Civil Legal Needs of Low-Income Americans - An Updated Report of the Legal Services Corporation* (Washington, DC: Legal Services Corporation, 2009) at 9, online: LSC <[https://www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](https://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf)>.
- 44 The Justice Gap, *supra* note 6 at 6.
- 45 In the context of the research being discussed in this report, the economic stimulus effect or economic multiplier effect refers to an increase in spending that contributes to an increase in local and state economic activity. When clients receive health, veterans or other benefits and other compensation as a result of the successful resolution of their legal problem(s), that compensation is put back into the economy, often times contributing to the income of the service provider and benefitting the economy in other ways. See Economics Online, “The multiplier effect”, online: *Economics Online* <[https://www.economicsonline.co.uk/Managing\\_the\\_economy/The\\_multiplier\\_effect.html](https://www.economicsonline.co.uk/Managing_the_economy/The_multiplier_effect.html)>.
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- 48 *Ibid* at 18.
- 49 Specifically, it is noted in the paper that the case for funding civil legal aid programs “had not been a major theme in legislative campaigns seeking state appropriations for legal aid” and emphasis was placed instead on the ‘Justice Gap’ and the impact that the unmet need for legal assistance was having on low-income families in the state. See Ken Smith, Barbara Finkelstein & Christopher O’Malley, *Economic Impacts of Legal Aid: Civil Justice for Low-Income People Creates Ripple Effects That Benefit Every Segment of the Communities We Serve* (Management Information Exchange, 2011) at 14, online: The Resource for Great Programs <[http://www.greatprograms.org/mie\\_article/pdfs/Economic%20Impacts%20of%20Legal%20Aid\\_MIE%20Journal\\_Fall%202011.pdf](http://www.greatprograms.org/mie_article/pdfs/Economic%20Impacts%20of%20Legal%20Aid_MIE%20Journal_Fall%202011.pdf)>.



- 50 Every year, incidences of domestic violence in the U.S. result in an estimated \$9.05 billion in costs related to medical and mental health services costs, lost productivity, and lost lifetime earnings. See Jennifer S Rosenberg & Denise A Grab, *Supporting Survivors - The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence* (New York: Institute for Policy Integrity, 2015) at 11, online: Institute for Policy Integrity <<https://policyintegrity.org/files/publications/SupportingSurvivors.pdf>>. One of the ways that access to legal assistance, and civil legal aid in particular helps to reduce domestic violence is by increasing the likelihood that women will be able to get a protective order and/or access additional legal remedies that can lead to reductions in violence. See Rosenberg & Grab at 7-9.
- 51 The study indicates that funding for civil legal aid services in New York State was provided through grants by the New York State Interest on Lawyer Account (IOLA) fund. IOLA was established in 1983 to provide financial support to low-income people in New York who experience serious civil legal problems. In 2009 IOLA saw its funding reduced from \$32 million in the previous year to \$8 million.
- 52 Fiscal Year 2019, *supra* note 39.
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- 56 See “Top Evicting Large Cities in the United States”, online: *Eviction Lab* <<https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en>>.
- 57 Stout Risius Ross, *Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants* (Philadelphia, PA: Philadelphia Bar Association, 2018), online: Philadelphia Bar Association <<https://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/PhiladelphiaEvictionsReport.pdf>>.
- 58 *Ibid* at Exhibit A – Economic Return on Investment Summary.
- 59 *Ibid* at 9.
- 60 *Ibid* at 35.
- 61 Jessica Hilburn-Holmes, “Want to help low-income Philadelphians? Ensure their access to justice” *Generocity* (3 April 2019), online: <<https://generocity.org/philly/2019/04/03/want-to-help-low-income-philadelphians-ensure-their-access-to-justice/>>.
- 62 For the complete assessment of the return on investment in civil legal aid in Pennsylvania in 2011, including a further breakdown of the amounts that contributed to the sums derived for the financial impact, see Pennsylvania Interest on Lawyers’ Trust Accounts Board, *The Economic Impact of Outcomes Obtained for Legal Aid Client Benefits Everyone in Pennsylvania* (Pennsylvania: Pennsylvania IOLTA, 2012), online: PA IOLTA <<https://www.paiolta.org/wp-content/uploads/2014/05/Economic-Impact-of-Legal-Aid.pdf>> [Economic Impact of Outcomes].
- 63 In 2002 the Pennsylvania state legislature enacted the Access to Justice Act (AJA), which established a \$2 surcharge on filings in state courts, with the resulting revenue allocated to providing free civil legal assistance to low-income Pennsylvanians. See the Resource for Great Programs, *A Report on Pennsylvania’s Access to Justice Act, FY 2004-2011* (Harrisburg, PA: Pennsylvania Interest on Lawyers Trust Account Board, 2012) at 1, online: PA IOLTA <<https://www.paiolta.org/wp-content/uploads/2014/05/Report-on-Pennsylvanias-Access-to-Justice-Act.pdf>>.
- 64 In 2016, the top 3 types of cases closed in Pennsylvania through programs receiving LSC funding were family law (37.4%), housing (31.8%) and Income (11.2%). For the complete list of cases closed in Pennsylvania by type, see Fiscal Year 2019, *supra* note 39 at A40.
- 65 Economic Impact of Outcomes, *supra* note 62.

- 66 In North Carolina in 2016, out of 2,032,054 eligible for civil justice services funded by LSC, 43,939 were served. See Fiscal Year 2019, *supra* note 39 at A35.
- 67 The study points out, for example, that securing expunctions for people with criminal records remove a barrier that would have made it difficult for them to be gainfully employed. This has a direct effect on the economy but is difficult to measure. See Mary L Irvine, *A 108% Return on Investment: The Economic Impact to the State of North Carolina of Civil Legal Services in 2012* (North Carolina: North Carolina Equal Access to Justice Commission & UNC Center on Poverty, Work and Opportunity, 2014) at 7, online: <<http://www.law.unc.edu/documents/poverty/justice/economicbenefits2012fullreport.pdf>>.
- 68 *Ibid* at 7.
- 69 The study notes that findings from two non-LSC funded programs – Pisgah Legal Services and Legal Services of Southern Piedmont— that work to address the civil legal needs of low-income North Carolinians were also evaluated. Based on investments from the two non-LSC organizations and LSC, the return on investment is \$2.08 for every \$1 that was spent on civil justice services in North Carolina in 2012. See *Ibid* at 8.
- 70 Kenneth A Smith & Kelly Thayer, *Economic Impact of Civil Legal Aid Organizations in Tennessee - Civil Justice for Low-Income People Produces Ripple Effects That Benefit Every Segment of the Community* (Tennessee: Tennessee Bar Association, 2015), at 2 online: TBA <[https://www.tba.org/sites/default/files/2015-TN-Final+Report+Package\\_Consolidated+Statewide\\_3-18-2015.pdf](https://www.tba.org/sites/default/files/2015-TN-Final+Report+Package_Consolidated+Statewide_3-18-2015.pdf)>.
- 71 In 2016 in North Carolina, out of 2,032,054 people who were eligible to access LSC-funded services, 43,939 were served. During the same year in Tennessee, of an eligible population of 1,350,202 people, 28,361 people were served. See Fiscal Year 2019, *supra* note 39 at A-35 and A-44.
- 72 The description of the ‘economic multiplier effect’ as detailed in reference to the study in Florida applies to the study in Tennessee. Tennessee assessed that investments in civil legal aid yielded \$81.7 million for local economies and the state through federal benefits that were awarded to civil law clients that were spent within the state.
- 73 For the calculations for avoidance of emergency shelter, prevention of foreclosure and prevention of domestic violence and the factors that were evaluated to derive the amounts saved used in the Tennessee study, see Smith & Thayer, *supra* note 70 at 10-12.
- 74 *Ibid* at 3-8. Other benefits derive from successful consumer cases, education cases, family cases, health cases, juvenile cases, income maintenance cases (other than those included as part of other benefits), individual rights cases (other than those included in immigration or other types of successful cases) and other types of cases.
- 75 See The Perryman Group, *The Impact of Legal Aid Services on Economic Activity in Texas: An Analysis of Current Efforts and Expansion Potential* (Waco, Texas: The Perryman Group, 2009) at 3, online: LegalAidResearch.org <<http://legalaidresearch.org/wp-content/uploads/texas-perryman-report-2009.pdf>> [The Impact of Legal Aid]. In 2016, out of an eligible population of 5,645,277 people, 146,301 were able to access civil legal aid through LSC funded programs. See Fiscal Year 2019, *supra* note 39 at A45.
- 76 See The Impact of Legal Aid, *supra* at 6.
- 77 A majority of legal aid recipients with cases that closed during that year identified as Hispanic – 47,934 out of 107,270 legal aid recipients in total; 28,924 people identified as white, and 26,343 indicated that they are black. Further, 459 Native American people and 1,701 people who identified as Asian also accessed civil legal aid services during the reference year for the study. The final ethnic group, totalling 1,909 people, is listed as “other”. In terms of age, a majority of legal aid recipients during the period under review – a total of 90,721 people – fall into the 18 to 59 year old age category. Within this group, the majority were represented by people who identified as Hispanic, numbering 40,820 people in all. There were 12,794 legal aid recipients who were 60 years old and older and 3,755 people under the age of 18. See *Ibid* at 7.
- 78 See Fiscal Year 2019, *supra* note 39 at A45.
- 79 For a more in-depth discussion of the methodologies used in this study, see The Impact of Legal Aid, *supra* note 75 at 21.

- 80 The United States Census Bureau indicates that Alaska’s population in 2018 was 737,438 people. See United States Census Bureau, “Alaska: Vintage 2018 Population Estimates”, online: *US Census Bureau* <[https://www.census.gov/search-results.html?q=alaska+population&page=1&stateGeo=none&searchtype=web&cssp=SERP&\\_charset=UTF-8](https://www.census.gov/search-results.html?q=alaska+population&page=1&stateGeo=none&searchtype=web&cssp=SERP&_charset=UTF-8)>. The most recent U.S. Census Bureau data available indicates that the total number of housing units in Alaska is 313,937. See United States Census Bureau, “Alaska: Total Housing Units: 2013-2017 American Community Survey 5-Year Estimates”, online: *American FactFinder* <[https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml?src=bkmk](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk)>. By comparison, Florida, for example had a population of 21,299,325 people in 2018 and Texas had a population of 28,701,845 people in the same year. See United States Census Bureau, “Florida: Vintage 2018 Population Estimates”, online: *US Census Bureau* <[https://www.census.gov/search-results.html?q=florida+2018+population&page=1&stateGeo=none&searchtype=web&cssp=SERP&\\_charset=UTF-8](https://www.census.gov/search-results.html?q=florida+2018+population&page=1&stateGeo=none&searchtype=web&cssp=SERP&_charset=UTF-8)>; United States Census Bureau, “Texas: Vintage 2018 Population Estimates”, online: *US Census Bureau* <[https://www.census.gov/search-results.html?q=texas+2018+population&page=1&stateGeo=none&searchtype=web&cssp=SERP&\\_charset=UTF-8](https://www.census.gov/search-results.html?q=texas+2018+population&page=1&stateGeo=none&searchtype=web&cssp=SERP&_charset=UTF-8)>. The total number of housing units in Florida was 9,259,684 in the most recent data available, and the total number of housing units in Texas was indicated to be 10,611,386. See United States Census Bureau, “Florida: Total Housing Units: 2013-2017 American Community Survey 5-Year Estimates”, online: *American FactFinder* <[https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml?src=bkmk](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk)>. See United States Census Bureau, “Texas: Total Housing Units: 2013-2017 American Community Survey 5-Year Estimates”, online: *American FactFinder* <[https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml?src=bkmk](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml?src=bkmk)>.
- 81 The Resource for Great Programs, *An Analysis of the Economic Impacts and Social Benefits of Assistance Provided by Alaska Legal Services Corporation* (Anchorage, Alaska: Alaska Legal Services Corporation, 2012) at 2, online: ALSC <<https://www.alsc-law.org/wp-content/uploads/2013/11/Economic-Impacts-and-Social-Benefits-of-Legal-Assistance-Provided-by-ALSC.pdf>> [An Analysis of the Economic Impacts].
- 82 *Ibid* at 10.
- 83 The most recent data available from the LSC indicates that in Alaska, 120,581 people are eligible for services through LSC-funded programs, of which 3,722 people were served in 2016. See Fiscal Year 2019, *supra* note 39 at A3.
- 84 See Scott Gross, “Budget cuts could mean lack of legal services for low-income Alaskans” *KTVA* (21 February 2019), online: <<https://www.ktva.com/story/39999275/budget-cuts-could-mean-lack-of-legal-services-for-low-income-alaskans>>.
- 85 For a more detailed discussion of the cost and other impacts of legal assistance on domestic violence cases, see Rosenberg & Grab, *supra* note 50.
- 86 An Analysis of the Economic Impacts, *supra* note 81 at 2.
- 87 The Social Return on Investment in this study was derived from an assessment of civil legal aid services provided in 7 areas of legal assistance in Arizona during 2011. Funding from all sources – federal, state, local and community-based – was considered for this assessment. John Byrnes, *State of Arizona Legal Aid Services: Social Return on Investment Analysis* (Community Services Analysis, 2013) at 3, 7, online: Arizona Foundation for Legal Services and Education <<https://www.azflse.org/download.cfm?filename=CSACO%20SROI%20Report%20reduced&type=pdf&loc=azflse>>.
- 88 This study assesses the economic benefits derived from two legal services organizations – the Center for Arkansas Legal Services and Legal Aid of Arkansas – that received funding from the Legal Services Corporation in 2013. Paola Cavallari, Matthew D Devlin, & Rebekah A Tucci, *Justice Measured: An Assessment of the Economic Impact of Civil Legal Aid in Arkansas* (Arkansas Access to Justice Commission, 2014) at 20, 22, online: Arkansas Access to Justice Commission <[https://arkansasjustice.org/wp-content/uploads/2017/04/AR-Economic-Impact-Study-2014\\_combined-1.pdf](https://arkansasjustice.org/wp-content/uploads/2017/04/AR-Economic-Impact-Study-2014_combined-1.pdf)>.
- 89 Some 39 organizations that provide legal aid services in Louisiana contributed to the analysis of the social return on investment in legal aid services in the state. John Byrnes, *The Economic Impact and Social Return on Investment of Civil Legal Aid Services in the State of Louisiana* (Community Services Analysis, 2016) at 4-11, online: Louisiana Bar Association <<http://files.lsba.org/documents/ATJ/EIS2017.pdf>>.
- 90 This study explores the return on investment in the Montana Legal Services Association. In addition to the \$3.15 return for every \$1 invested in civil legal aid services in the state, the study found a return of \$10.61 for every \$1 spent by funders and donors in Montana in support of providing legal aid within the state. *The Economic Impact of Civil Legal Aid to the State of Montana* (Montana Legal Services Association, 2015) at 4, online: Montana Judicial Branch <<https://courts.mt.gov/portals/189/supreme/boards/a2j/docs/Economic%20Impact%20Civil%20Legal%20Aid%20Final.pdf>>.

- 91 This study estimates that for every \$1 of in-state funding allocated to legal aid in Nebraska, \$1.53 in out-of-state dollars is produced. The total direct and indirect monetary benefits of providing legal aid in Nebraska are valued at \$3,110,364 for 2007. Only revenue and income that could be quantified was included in the analysis. For example, although better quality of life, economic development and tax savings are all considered to be indirect benefits, the analysis only considers tax savings. Rod Feelhaver & Jerome A Deichert, *The Economic Impact of Legal Aid of Nebraska: 2007* (Center for Public Affairs Research, University of Nebraska at Omaha; Legal Aid of Nebraska, 2008) at 6-7, online: LegalAidResearch.org <<http://legalaidresearch.org/wp-content/uploads/Research-The-Economic-Impact-of-Legal-Aid-of-Nebraska.pdf>>.
- 92 In most cases, eligibility for legal aid is determined based on applicants' income and assets. Based on April 2019 guidelines, persons whose gross income is over £2,657 per month (approximately US \$ 3400) or disposable income is over £733 per month (approximately US \$938) are ineligible for all forms of civil legal aid. There are some exceptions, including for families with more than 4 children. For persons whose gross income amounts to less than £2,657 per month, the disposable income is determined based on fixed rate deductions for employment expenses, dependents and housing. For additional information, see Legal Aid Agency, *KEYCARD 55–Issued April 2019* (Legal Aid Agency, 2019), online: Government of UK <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/793514/Eligibility-keycard\\_55.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793514/Eligibility-keycard_55.pdf)>.
- 93 For additional information on the types of civil justice issues in England and Wales for which legal advice or assistance may be available for free to persons who meet eligibility requirements, see The Law Society, "Legal Aid", online: *Law Society UK* <<https://www.lawsociety.org.uk/for-the-public/paying-for-legal-services/legal-aid/#two>>.
- 94 Another significant change that resulted from the 2012 statute included making squatting in residential buildings a new offence, punishable with up to 51 weeks in prison, a fine of up to £5,000 (or approximately US \$ 6,399) or both.
- 95 The Bach Commission on Access to Justice published *The Crisis in the Justice System in England & Wales - Interim Report* in 2016; the final report was published in September 2017. The Commission was created to undertake an independent review of the legal aid system in England and Wales. See The Bach Commission on Access to Justice, *The Crisis in the Justice System in England & Wales - Interim Report* (London: Fabian Society, 2016) at 7, online: Fabian Society <[http://www.fabians.org.uk/wp-content/uploads/2016/11/Access-to-Justice\\_final\\_web.pdf](http://www.fabians.org.uk/wp-content/uploads/2016/11/Access-to-Justice_final_web.pdf)> [The Crisis in the Justice System - Interim Report].
- 96 The estimated decline is based on the decrease reflected in the Ministry of Justice's "Total Number of Acts of Legal Aid Assistance" graph included in *The Crisis in the Justice System*, *ibid* at 9.
- 97 Gilbert, *supra* note 3.
- 98 Citizens Advice Bureau, *Towards a Business Case for Legal Aid - Paper to the Legal Services Research Centre's Eighth International Research Conference* (London: Citizens Advice, 2010) at 4, online Access to Justice <[https://www.accesstojusticeactiongroup.co.uk/wp-content/uploads/2011/07/towards\\_a\\_business\\_case\\_for\\_legal\\_aid.pdf](https://www.accesstojusticeactiongroup.co.uk/wp-content/uploads/2011/07/towards_a_business_case_for_legal_aid.pdf)>.
- 99 *Ibid* at 6.
- 100 *See ibid* at 9.
- 101 Of the 17 problem types, there are however 6 instances where the cost of investing in legal aid is projected to be higher than the cost of resulting adverse consequences. These include unfair treatment by the police, where the cost of legal aid is £2,687,657 (approximately US \$3,440,026) and the total estimated cost of the adverse consequences of not providing access to resolve these problems by accessing legal aid is £496,214 (approximately US \$ 602,324); problems with children, where the cost of legal aid is indicated to be £2,260,770 (approximately US \$2,893,639) and the total estimated cost of adverse consequences amounts to £256,295 (approximately US \$328,041); consumer problems for which the cost to legal aid is £1,624,458 (approximately US \$2,079,201) and the estimated costs resulting from adverse consequences is £213,006 (approximately US \$272,633); and owner-occupied housing problems where the cost of civil legal aid is £3,193,367 (approximately US \$4,087,302) and the estimated costs of adverse consequences is £2,437,366 (or approximately US \$3,119,670). *See ibid*.
- 102 *Ibid* at 2.
- 103 The Right to Justice, *supra* note 9 at 11.
- 104 Gabrielle Garton Grimwood, *Litigants in Person: The Rise of the Self-Represented Litigant in Civil and Family Cases in England and Wales - Briefing Paper Number 07113* (UK Parliament House of Commons, 2016) at 3.

- 105 The Right to Justice, *supra* note 9 at 31.
- 106 The Bach Commission's Interim Report cites the "Transform Justice" report which evaluates some of the effects of LASPO and links the rise in self-representation to a likely increase in miscarriages of justice. See *The Crisis in the Justice System - Interim Report*, *supra* note 95 at 10.
- 107 'Wicked' in this context denotes an issue that is resistant to resolution. See Australian Public Service Commission, "Tackling Wicked Problems: A Public Policy Perspective" (Commonwealth of Australia, Australian Public Service Commission, 2007,) online: Australian Public Service Commission <<https://www.apsc.gov.au/tackling-wicked-problems-public-policy-perspective>>. See further Currie, *supra* note 30 at 42.
- 108 For further discussions on legal needs related research in the UK, see generally the work of Hazel Genn and Pascoe Pleasence.
- 109 Mark Richardson & Steven Reynolds, "The Shrinking Public Purse: Civil Legal Aid in New South Wales, Australia" (1994) 5 *Md J Contemp Leg Issues* 349 at 349.
- 110 See *The Facts – What is Legal Aid*, *supra* note 27.
- 111 *Ibid.*
- 112 *Ibid.*
- 113 *Ibid.*
- 114 For further research on legal needs and funding related issues in Australia, see generally Law and Justice Foundation of New South Wales, online: <<http://www.lawfoundation.net.au>>.
- 115 For additional information on services available through Australia's legal aid commissions, see Liz Curran & Andrew Crockett, "Measuring the Impact, Quality and Effectiveness of Legal Assistance Services in a Climate of Reduced Funding and Increased Government Expectations: The Australian Experience" (2016) 22:3 *European Journal of Current Legal Issues*, online: <<http://webjcli.org/article/view/468/685>>.
- 116 See *The Facts – What is Legal Aid*, *supra* note 27.
- 117 A detailed discussion of the research methodology and the analysis of cost and benefit is presented in Section 5 of the report. See PricewaterhouseCoopers, *Economic Value of Legal Aid: Analysis in Relation to Commonwealth Funded Matters with a Focus on Family Law* (Sydney: PricewaterhouseCoopers, 2009) at 25-42, online: Legal Aid ACT <[http://legalaidact.org.au/sites/default/files/files/publications/economic\\_value\\_of\\_legalaid.pdf](http://legalaidact.org.au/sites/default/files/files/publications/economic_value_of_legalaid.pdf)> [Economic Value of Legal Aid].
- 118 The report notes, for example, that judges must directly consult with litigants appearing without counsel as to the way that the hearing will proceed. Details on the added costs and increased inefficiencies to the courts of self-representation are included in the report's benefit-costs section. See *ibid* at 27-29.
- 119 The estimated 20 percent in additional time derives from the *2004 Annual Review of Western Australian Courts*. See *ibid* at 29, citing The Hon David K Malcolm AC, "2004 Annual Review of Western Australian Courts" (Supreme Court of Western Australia) at 50, online: Supreme Court of Western Australia <[https://www.supremecourt.wa.gov.au/\\_files/annual\\_review\\_2004.pdf](https://www.supremecourt.wa.gov.au/_files/annual_review_2004.pdf)>.
- 120 *Economic Value of Legal Aid*, *supra* note 117 at vi.
- 121 The study indicates that consent orders were not included in the assessment because a significant number of them are low cost, non-complex cases where both parties are in agreement. The decision was made not to include cases that ended in divorce or appeals from the model in order to simplify the methodology and to ensure that the cases being modelled pertained more objectively to services and activities available through legal aid. See *Economic Value of Legal Aid*, *supra* note 117 at 31.
- 122 For more information on community legal centres and specialist community legal centres in Australia, see Catriona Mirrlees-Black, "An Indicator of Need for Community Legal Centres: Introducing NLAS (CLC)", *Law and Justice Foundation of New South Wales Justice Issues* 1834-7266:29 (January 2019) 2.
- 123 See Judith Stubbs & Associates, "Economic Cost Benefit Analysis of Community Legal Centres" (Bulli, NSW, National Association of Community Legal Centres Inc, 2012), online: Community Law Australia <[http://www.communitylawaustralia.org.au/wp-content/uploads/2012/08/Cost\\_Benefit\\_Analysis\\_Report.pdf](http://www.communitylawaustralia.org.au/wp-content/uploads/2012/08/Cost_Benefit_Analysis_Report.pdf)>.

- 124 For details on methodology used in each of the four case studies, see *ibid* at 26-74.
- 125 See for example, Michael Trebilcock, *Report of the Legal Aid Review* (Ontario: Ministry of the Attorney General, 2008), online: Ministry of the Attorney General <<http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/trebilcock/>>; and Review Steering Committee, *2009 Legal Aid Alberta Review* (Alberta: Alberta Department of Justice, 2009).
- 126 Sharon Matthews, *Making the Case for the Economic Value of Legal Aid: Supplemental Briefing Note* (British Columbia: Canadian Bar Association British Columbia Branch, 2012) at 1, online: Canadian Bar Association British Columbia Branch <[https://www.cbabc.org/CBAMediaLibrary/cba\\_bc/pdf/ForThePublic/LegalAid/ReportsResearchPapers/Economic\\_Value\\_of\\_Legal\\_Aid.pdf](https://www.cbabc.org/CBAMediaLibrary/cba_bc/pdf/ForThePublic/LegalAid/ReportsResearchPapers/Economic_Value_of_Legal_Aid.pdf)>.
- 127 See recently Grant & Andrew-Gee, *supra* note 10.
- 128 The 2019 Canadian Lawyer Magazine's Legal Fees Survey reveals that the average hourly rate for lawyers in Ontario with 1 year or less since being called to the bar is \$211.60. The average hourly rate for lawyers in Ontario with more than 20 years in practice is \$497.74. According to the same survey, the average hourly rate range for lawyers in Canada with a year or less in practice is \$212.87. For lawyers with more than 20 years in practice the average hourly rate is \$526.38. See Marg Bruineman, "Steady Optimism - 2019 Legal Fees Survey", *Canadian Lawyer Magazine* (8 April 2019), online: Canadian Lawyer <<https://www.canadianlawyermag.com/author/marg-bruineman/steady-optimism-2019-legal-fees-survey-17099/>>.
- 129 For more information about Pro Bono Ontario, see Pro Bono Ontario, "About PBO", online: *Pro Bono Ontario* <<https://www.probonoontario.org/about/>>. See also Pro Bono Canada, "Welcome to Pro Bono Canada", online: *Pro Bono Canada* <<http://probonocanada.org>>; Pro Bono Students Canada, online: *PBSC* <<https://www.probonostudents.ca>>.
- 130 Nicole Brockbank, "Free Civil Legal Service to Close, Despite Study Showing it saves Ontario \$5M a year", *CBC News* (7 November 2018), online <<https://www.cbc.ca/news/canada/toronto/free-civil-legal-service-to-close-despite-study-showing-it-saves-ontario-5m-a-year-1.4894963>>.
- 131 For a detailed description of Pro Bono Ontario's services for self-represented litigants and additional information on the study's methodology and the types of data that were collected and analysed for the study, see The Resource for Great Programs, *Return-on-Investment Analysis for Pro Bono Ontario* (Ontario: Pro Bono Ontario, 2017) at 3-7, online: Pro Bono Ontario <<https://www.probonoontario.org/wp-content/uploads/2018/10/ROI.pdf>> [Return-on-Investment Analysis].
- 132 Pro Bono Ontario does not receive funding from the provincial government to support its operating or other expenses; however, the program benefits from rent-free spaces in courthouses where it provides legal help. For more information on Pro Bono Ontario's sources of revenue, see Pro Bono Ontario's audited financial statements at "Pro Bono Ontario - Financial Statements", online: Pro Bono Ontario <<https://www.probonoontario.org/about/financial-statements/>>
- 133 During the 2015-16 fiscal year, law students and private lawyers contributed a total of 22,200 hours of free legal services to assist self-represented litigants. See Return-on-Investment Analysis, *supra* note 131 at 10.
- 134 For more on the impact of courtroom demeanour and legal assistance on perceptions of fairness and satisfaction with outcomes among self-represented litigants see, Jennifer Leitch, "Coming Off the Bench: Self-Represented Litigants, Judges and the Adversarial Process" (2017) 47:3 *Advocates Quarterly* 309.

#### **Part 4: Economic Impacts of Privately-funded Justice Services**

- 135 The study notes that court data was being sought from several Ontario courts for comparison with data from Pro Bono Ontario and to aid with the study's assessment of costs. At the time of writing the Pro Bono Ontario report, some of the court data that had been requested had not been received. See Return-on-Investment Analysis, *supra* note 131 at 5. Other access to justice research in Canada highlights similar difficulties accessing court data and has made recommendations for improving access to and consistency of data collected in the courts. See e.g. Focus Consultants, *Civil Non-Family Cases Filed in the Supreme Court of BC - Research Results and Lessons Learned* (Toronto: Canadian Forum on Civil Justice, 2015), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/Attrition%20Study%20Final%20Report.pdf>> and Yvon Dandurand & Jessica Jahn, *Measuring the Economic Impact of Family Legal Aid in British Columbia, Feasibility Review* (British Columbia: Law Society of British Columbia, 2018).
- 136 James Gamble & Amy Widman, "The Role of Data in Organizing an Access to Justice Movement", online: (2018) 87 *Fordham L R Online* 196 at 197 <<https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1048&context=fldro>>.



- 137 Brockbank, *supra* note 130.
- 138 For more on international efforts to build a business case for investing in justice, see for example Building a Business Case, *supra* note 20; International Development Research Centre, “Scaling Access to Justice Research Collaboration”, online: IDRC <<https://www.idrc.ca/en/project/scaling-access-justice-research-collaboration>>. See also Justice for All, *supra* note 8.
- 139 The study also initially sought to obtain feedback from clients about their experiences resolving disputes through collaborative processes, mediation, arbitration and/or litigation. Sufficient responses could not be obtained from clients and this element of the research methodology was subsequently abandoned. See Joanne J Paetsch, Lorne D Betrand & John-Paul E Boyd, *An Evaluation of the Cost of Family Law Disputes: Measuring the Cost Implication of Various Dispute Resolution Methods* (Toronto: Canadian Forum on Civil Justice, 2017) at 2, online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/Cost-Implication-of-Family-Law-Disputes.pdf>>.
- 140 Low-conflict problems are typically issue-focused. Parties involved in low-conflict disputes are often able to remain “psychologically differentiated and negotiate a solution to the conflict”. High-conflict family law problems typically involve a “high degree of emotional reactivity, blaming and vilification”. Domestic abuse and other forms of aggression are also common in high-conflict cases. See Shayne Anderson et al, “Defining High Conflict” (2011) 39:1 *The American Journal of Family Therapy* 11 at 13.
- 141 Access to Civil & Family Justice, *supra* note 9 at 17-19.
- 142 For the methodology and SROI analysis, including the financial proxies used for each process, in this study see Paetsch, Betrand & Boyd, *supra* note 139 at 38-41.
- 143 Farrow *et al*, *supra* note 24 at 13.
- 144 Canadian Bar Association, *Access to Justice or Exposure to Debt: Understanding a Difficult Choice for Canadians* (DAS Canada, 2014) at 6, online: DAS <[https://www.das.ca/DASCanada/media/PDFs/DAS\\_WhitePaper2014\\_web\\_vf.pdf](https://www.das.ca/DASCanada/media/PDFs/DAS_WhitePaper2014_web_vf.pdf)> [Access to Justice or Exposure to Debt]. To put these amounts into context, in 2014, the same year that data was gathered regarding the average amounts spent on everyday legal problems, Canadian households spent on average \$8,109 on food and \$17,160 on shelter. See Statistics Canada, “Survey of Household Spending, 2014” (2 December 2016), online: Government of Canada <<https://www150.statcan.gc.ca/n1/daily-quotidien/160212/dq160212a-eng.htm>>.
- 145 Access to Justice or Exposure to Debt, *supra* note 144 at 8.
- 146 See for example Lisa Moore et al, *The Cost of Experiencing Everyday Legal Problems Related to Loss of Employment and Loss of Housing* (Toronto: Canadian Forum on Civil Justice, 2017), online: CFCJ <<http://cfcj-fcjc.org/sites/default/files/docs/The%20Cost%20of%20Experiencing%20Everyday%20Legal%20Problems%20Related%20to%20Loss%20of%20Employment%20and%20Loss%20of%20Housing.pdf>>.
- 147 Legal Expense Insurance policies may limit the types of problems for which coverage is available. For example, family law problems are not covered by many legal expense insurance policies currently available in Canada. See Tasha Kheiriddin, “How to Protect the Middle Class from Whopping Legal Bills” *The Tyee* (21 August 2013), online: <<https://thetyee.ca/Opinion/2013/08/21/How-to-Protect-the-Middle-Class-From-Whopping-Legal-Bills/>>.
- 148 For more information on legal expenses insurance for civil justice problems, see “Legal Expense Insurance (LEI)”, online: *Legal Line* <<https://www.legalline.ca/legal-answers/legal-insurance/>>.
- 149 Della Rollins, “Go ahead, sue me – I have insurance”, *The Globe and Mail* (12 July 2011), online: <<https://www.theglobeandmail.com/report-on-business/industry-news/the-law-page/go-ahead-sue-me---i-have-insurance/article586639/>>.
- 150 Farrow et al, *supra* note 24 at 6-8.
- 151 Access to Justice or Exposure to Debt, *supra* note 144 at 9.

## Part 5: Investing in Community-Based Justice

- 152 See Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone- Volume II Working Group Reports* (New York: United Nations Development Programme, 2008) at 13, online: UNDP <[https://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/legal-empowerment/reports-of-the-commission-on-legal-empowerment-of-the-poor/making-the-law-work-for-everyone---vol-ii---english-only/making\\_the\\_law\\_work\\_II.pdf](https://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/legal-empowerment/reports-of-the-commission-on-legal-empowerment-of-the-poor/making-the-law-work-for-everyone---vol-ii---english-only/making_the_law_work_II.pdf)>.
- 153 See *ibid.*
- 154 For more on the unique justice challenges faced by people living in rural and remote communities, see Nicole Aylwin & Lisa Moore, *Rural & Remote Access to Justice: A Literature Review* (Toronto: Canadian Forum on Civil Justice, 2015), online: Boldness Project <[https://boldnessproject.ruralandremoteaccesstojustice.com/wp-content/uploads/2016/01/Rural-Remote-Lit-Review\\_newcoverpage.pdf](https://boldnessproject.ruralandremoteaccesstojustice.com/wp-content/uploads/2016/01/Rural-Remote-Lit-Review_newcoverpage.pdf)>.
- 155 For an overview of community-based justice services, see recently Lisa Moore, “Building a Business Case for Investing in Community-Based Justice” *Slaw* (4 October 2018), online: <<http://www.slw.ca/2018/10/04/building-a-business-case-for-investing-in-community-based-justice/>>.
- 156 Community Advice Offices are not-for-profit organizations that provide justice services and facilitate dispute resolution, particularly in South Africa’s rural communities where there is otherwise no access to the justice system. For an overview of Community Advice Offices in South Africa and the challenges they face, see Yul Derek Davids, “Community Advice Offices: Straining to Serve Poor Communities”, *Human Science Research Council Review* 12:4 (August/September 2014) 22, online: HSRC <<http://www.hsrc.ac.za/uploads/pages/1278/HSRC%20Review%20Aug%202014.pdf>>. Institutionalizing the South African Community Advice Office sector will enable access to funding, recognition and resources to better support the important work that these community-based justice services provide, which often happens in the absence of other options for dispute resolution within a given community or region. See F Ruffin, W Martins & S Mukorera, “Institutionalising the South African community-advice office sector: Is it a worthwhile investment?” *Centre for Community Justice & Development Policy Brief* (September 2018) at 1.
- 157 See Ruffin, Martins, & Mukorera, *ibid* at 6.
- 158 The Centre for Community Justice and Development is a “non-profit organisation that provides fundraising, training, research and other support services to fifteen community-based advice offices in KwaZulu-Natal, South Africa”. See Centre for Community Justice & Development, “Welcome”, online: CCJD <<http://www.ccj.org.za/>>.
- 159 South Africa’s Community Advice Offices receive financial support from various sources, including private donations, foundations, and other philanthropic and public interest bodies. The Community Advice Offices being discussed in this section are overseen and supported by the Centre for Community Justice and Development.
- 160 Research conducted in Canada on “Self-Represented Litigants, Judges and the Adversarial Process”, for example, indicates that litigants who believed that they were “listened to” by their judge viewed the outcome of their case more favourably. See Leitch, *supra* note 134 at 326.
- 161 See Ruffin, Martins & Mukorera, *supra* note 156 at 9.
- 162 Estimates from 2015 suggest that there are 312 Community Advice Offices located across the nine provinces in South Africa. See The National Alliance for the Development of Community Advice Offices, “Long-Term Sustainability of Community Advice Offices”, online: The Raith Foundation <<http://www.raith.org.za/docs/projects/Nadcao-community-advice-offices.pdf>>. Other approximations put the number of Community Advice Offices at between 320 and 367. See Ruffin, Martins & Mukorera, *ibid* at 1.
- 163 The Community-Based Justice Research initiative involves partners from the International Development Research Centre, Open Society Foundation, the Canadian Forum on Civil Justice, the Centre for Community Justice & Development (South Africa), the Centre for Alternative Policy Research and Innovation (Sierra Leone) and the Katiba Institute (Kenya), who are working to assess the costs and benefits of community based justice services and how to scale access to these justice mechanisms. For more information, see “Community-Based Justice Research”, online: CFCJ <<http://cfcj-fcjc.org/our-projects/community-based-justice-research-cbjr/>>.

## Part 6: Investing in Rehabilitative Justice

- 164 “Why don’t teenagers get ‘harsher’ sentences?” *Provincial Court of British Columbia eNews* (7 May 2019), online: Provincial Court BC <<http://www.provinciacourt.bc.ca/enews/enews-07-05-2019>>. For a further discussion of youth justice in Canada, see Brock Jones, Emma Rhodes & Mary Birdsell, *Prosecuting and Defending Youth Criminal Justice Cases*, 2nd ed (Toronto: Emond Publishing, 2019).



- 165 Hann & Associates, "A National Survey of Youth Justice Committees in Canada" (Ottawa: Department of Justice Canada, 2003) at 1, online: Department of Justice Canada <[https://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03\\_yj7-rr03\\_jj7/rr03\\_yj7.pdf](https://www.justice.gc.ca/eng/rp-pr/cj-jp/yj-jj/rr03_yj7-rr03_jj7/rr03_yj7.pdf)>.
- 166 Annual Provincial and Territorial funding per Youth Justice Committee ranges from \$0 in Saskatchewan to between \$200 and \$1,200 in Manitoba, \$800 in Newfoundland and Labrador, \$10,000 - \$34,000 in Nunavut and \$33,000 - \$57,000 in Northwest Territories and \$2,000 - \$60,000 in British Columbia. For the complete list of provincial and territorial spending on Youth Justice Committees, see *ibid* at 8.
- 167 Centre Point, *Social Return on Investment (SROI) Case Study: Calgary Youth Justice Committee Program* (Calgary: Calgary Youth Justice Society, 2009) at 2, online: City of Calgary <[https://www.calgary.ca/CSPS/CNS/Documents/fcss/sroi\\_youth\\_justice\\_committees.pdf](https://www.calgary.ca/CSPS/CNS/Documents/fcss/sroi_youth_justice_committees.pdf)>.
- 168 Reviews were not conducted beyond the three years immediately following the completion of a Youth Justice Committee program.
- 169 In addition to funding received from Save the Children, during the time of the SROI study, both Save the Children Australia youth justice programs received funding from grants through the Tasmanian Department of Health and Human Services, the Tasmanian Department of Education, the Tasmanian Community Fund, AndyInc and the Law Foundation of Tasmania. See Save the Children Australia, *Tasmanian Youth Justice Programs: Measuring Social Return on Investment - Summary of a Study Conducted by Ernst & Young* (Save the Children Australia, 2015) at 2, online: Parliament of Victoria <[https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth\\_Justice\\_System/Submissions/Submission\\_60-Save\\_the\\_Children-Att\\_5.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth_Justice_System/Submissions/Submission_60-Save_the_Children-Att_5.pdf)>.
- 170 For details on calculating SROI values for this study and for a discussion of the quantitative data collection methods used, see Ernst & Young, *Social Return on Investment of Tasmanian Youth Justice Programs* (Tasmania: Save the Children Australia, 2015) at 14-15 and 35-36, online: Social Value UK <[http://www.socialvalueuk.org/app/uploads/2016/03/SCA\\_Youth-Justice-TAS\\_SROI\\_FINAL5b25d.pdf](http://www.socialvalueuk.org/app/uploads/2016/03/SCA_Youth-Justice-TAS_SROI_FINAL5b25d.pdf)>.
- 171 For a more thorough discussion of the success factors of the programs, see *ibid* at 59-60.
- 172 See Organisation for Economic Co-operation and Development, *Youth Stocktaking Report* (2018), online: OECD <<http://www.oecd.org/gov/youth-stocktaking-report.pdf>>.
- 173 The SROI in the Youth Justice Committee study was CAD \$5.52 for year 1 and CAD \$10.13 for the 3-year SROI. Similarly, long-run incarceration costs increase the costs to the justice system. Avoiding these costs increases the return on investing in programs that facilitate rehabilitation and lower incarceration rates. See The Council of Economic Advisers, *Return on Investments in Recidivism-reducing Programs* (Washington, DC: Executive Office of the President of the United States, 2018) at 3, online: The White House <<https://www.whitehouse.gov/wp-content/uploads/2018/05>Returns-on-Investments-in-Recidivism-Reducing-Programs.pdf>>.
- 174 The *Return on Investments in Recidivism-reducing Programs* report indicates that, in 2016, spending on criminal justice was \$270 billion annually. See *ibid* at 3. A 2017 report, *Following the Money of Mass Incarceration*, notes that spending on criminal justice in the U.S., including costs to the federal government and the families of justice-involved people is approximately \$182 billion every year. See Peter Wagner & Bernadette Rabuy, "Following the Money of Mass Incarceration" *Prison Policy Initiative* (25 January 2017), online: <<https://www.prisonpolicy.org/reports/money.html>>.

## Part 7: Legal Empowerment – Monetary and Social Benefits

- 175 Kolisetty, *supra* note 22 at 10.
- 176 *Ibid* at 1.
- 177 *Ibid* at 2.
- 178 Over 70 percent of BRAC's development programs in April 2012 were funded from surplus funds generated from its businesses. BRAC's programs are not dependent on donor funding. *Ibid* at 22.
- 179 The report indicates that as of 2010, almost half – 43 percent – of the population in Bangladesh was living on less than \$1.25 per day. See *ibid* at 4, citing World Bank, "2005 World Development Indicators", online: World Bank <<http://documents.worldbank.org/curated/en/947951468140975423/pdf/343970PAPEROWDI0200501OFFICIAL0USE0ONLY1.pdf>>.

- 180 Shalish is “an informal process of resolving disputes within the community [in Bangladesh] with the help of influential local elites”. Solutions to problems may be addressed through arbitration, mediation or both. See Kolisetty, *supra* note 22 at 10-11.
- 181 The Human Rights and Legal Aid Services Program has been operational in Bangladesh since 1986 and works to “protect and promote the human rights of the poor and marginalized through legal empowerment”. It is one of the largest NGO legal empowerment programs in the world. See *ibid* at 13.
- 182 *Ibid* at 18.
- 183 *Ibid* at 14.
- 184 See for example Justin Sandefur & Bilal Siddiqi, “Delivering Justice to the Poor: Theory and Experimental Evidence from Liberia” (2013) 20 World Bank Workshop on African Political Economy 1, online: <[http://cega.berkeley.edu/assets/cega\\_events/61/5D\\_Political\\_Economy-\\_Violence.pdf](http://cega.berkeley.edu/assets/cega_events/61/5D_Political_Economy-_Violence.pdf)>.
- 185 Lisa Hilbink et al, “Engaging justice amidst inequality in Latin America”, Open Global Rights (4 April 2019), online: OpenGlobalRights <<https://www.openglobalrights.org/engaging-justice-amidst-inequality-in-latin-america/>>.

## **Part 8: Conclusion**

- 186 See e.g. Justice for All, *supra* note 8.
- 187 Paul Prettitore, *Delivery of Justice Sector Services to the Poor - How are Middle East Governments Addressing Gaps?* (Washington, DC: The World Bank, 2013) at 1, online: The World Bank <<http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/285741-1343934891414/DeliveryJusticeSectorServicesPaper.pdf>>.
- 188 See Justice for All, *supra* note 8 at 11.
- 189 *Ibid*.
- 190 See UN Sustainable Development Goals, *supra* note 7.
- 191 See e.g. Building a Business Case, *supra* note 20.
- 192 See e.g. “Canada’s Justice Development Goals”, online: Canada’s Justice Development Goals <<http://www.justicedevelopmentgoals.ca/>>.

## Appendix

USD Exchange rates as at May 1, 2019\*

### **Australia**

1 USD= 1.41850 AUD

### **Bangladesh**

1 USD= 84.41847 BDT

### **Canada**

1 USD= 1.33904 CAD

### **England and Wales**

1 USD= 0.76695 GBP

### **South Africa**

1 USD= 14.30484 ZAR

### **Tanzania**

1 USD= 2304.98564 TZS

\*All exchange rates are based on XE: <https://www.xe.com/>