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## Action Committee on Access to Justice in Civil and Family Matters: Colloquium Report

Action Committee on Access to Justice in Civil and Family Matters

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ACTION COMMITTEE ON ACCESS TO  
JUSTICE IN CIVIL & FAMILY MATTERS

# Colloquium Report



Action Committee on  
Access to Justice in  
Civil and Family Matters

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Comments on this report can be sent to the Action Committee through the Canadian Forum on Civil Justice, online at: <[communications@cfcj-fcj.org](mailto:communications@cfcj-fcj.org)>.



Action Committee on  
Access to Justice in  
Civil and Family Matters

# FOREWORD

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**The Action Committee on Access to Justice in Civil and Family Matters released its report in October of 2013.** The Committee knew that releasing a report was only a first step on the road to tangible improvement to access to justice. As the Report noted, there have been many good reports, but relatively little real change for the better. The Committee therefore identified a number of strategies, including holding a national colloquium of leaders in the civil and family justice field, to try to bridge the gap between ideas and action.

Our dynamic colloquium chair, Chief Judge Élizabeth Crote (aided until his appointment to the bench by her co-chair and (then) Deputy Minister Ray Bodnarek) led their planning committee team to develop a program and invitation list designed to energize the civil and family justice community in Canada. The colloquium, held in Toronto in January of 2014, delivered marvellously. The sense of momentum and optimism was palpable throughout the meeting. More important, however, was the high level of commitment of those in attendance to turn good ideas into practical improvements in the civil and family justice system.

As it has throughout the work of the Committee, the Canadian Forum on Civil Justice played a key role in making the colloquium possible. We are deeply grateful to Dean Lorne Sossin, Professor Trevor Farrow, Nicole Aylwin and their team for dedicated and effective commitment to this work.

We hope that this report of the colloquium discussions will continue to fuel momentum for action. I believe that we have a window of opportunity that is not likely to open again for many years. May we seize the opportunity with enthusiasm, perseverance and skill.

**Thomas A. Cromwell**  
**Ottawa, Ontario**

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# EXECUTIVE SUMMARY

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**Following the release of the Action Committee’s final report**, *Access to Civil & Family Justice: A Roadmap for Change (Final Report)*, a series of locally organized access to justice events were held across Canada to introduce the *Final Report* to local stakeholders and justice leaders, encourage action-oriented responses for reform, and provide focus and encouragement for local access to justice initiatives. Held primarily throughout the Fall of 2013, these local events culminated in the national Action Committee Colloquium, which took place on January 27-28, 2014 in Toronto. The purpose of the colloquium was to bring together leaders in the field of access to justice from across Canada to share “best practices”, showcase examples of successful and innovative programs and reforms, discuss common challenges, and begin developing action-oriented access to justice initiatives. Over the course of two days, delegates worked together in plenary and small breakout sessions to workshop strategies for reaching the goals laid out in the *Final Report*.

This report on the Colloquium provides an overview of the Colloquium discussions and a summary of the key messages of those who participated in the two-day event. It attempts to capture the comments, suggestions and major points of dialogue. In addition to providing an overview and summary of the major discussion threads, it also highlights examples provided by participants of initiatives, programs and innovations that are currently working in various jurisdictions.

Our hope is that the ideas and collaborations born at this Colloquium and recorded in this report will serve as the first of many future collaborations and projects that bring together justice stakeholders at all levels, from across multiple jurisdictions, to move forward a Canada-wide discussion on innovation and action in access to justice.

# INTRODUCTION

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**It is with great pleasure** that I write these few words of introduction to the Action Committee Colloquium Report.

The Colloquium planning committee prepared a program that it hoped would be a thought-provoking framework for discussion. It painstakingly hammered out a list of 100 participants from across the country representing key stakeholders in the justice community. The objective: to give wings to the recommendations of the Cromwell report and enable us to bring home a *Roadmap for Change*.

For a day and a half in January, we heard speakers from Canada, the United States and England who uplifted and motivated us. We actively shared experiences and discussed access to justice issues which, we realised, were often similar across the country and agreed in many cases on the best avenues for sustainable change. At the end of the Colloquium we needed to be able to refer to the discussions, suggestions and solutions and to share them. The Colloquium Report does just that: it writes the story of our meeting, creates a collective memory, and gives us the means to inspire and nourish all those who could not attend.

During the planning, I came to realize what a huge number of people are engaged in bettering access to justice not only conceptually but also in their everyday actions. I understood how important it is to link our efforts and how necessary this is in maintaining our hard earned momentum. It became very clear that the Colloquium Report would go a long way in fuelling our energy and setting concrete goals. For this I sincerely thank Professor Farrow, Nicole Aylwin and their team of note takers.

I wish to thank the members of the planning committee: Ray Bodnarek, Esther deVos, Melina Buckley, Ab Currie, Karen Fulham, Sarah McCoubrey, Adam Wilson, Sarah Dafoe, Barb Turner and Annie-Claude Bergeron – their contribution was remarkable.

I am privileged to have been able to contribute in a very tangible way and to have met with leaders in the field of access to justice who, I am quite sure, will make all the difference. It gives me hope that this time is the right time, finally.

**Élizabeth Corte**  
**Montréal, Québec**

# PART 1

## Background

“ The most advanced justice system in the world is a failure if it does not serve the people it is meant to serve. ”

– Rt. Hon. Beverley McLachlin

**It is now widely recognized** that we face a serious access to justice problem in Canada. As the Action Committee on Access to Justice in Civil and Family Matter’s final report, *Access to Civil & Family Justice: A Roadmap for Change (Final Report)* notes, “the civil and family justice system is too complex, too slow and too expensive”, it is “inaccessible to many”, and it is often unable to respond adequately to the everyday legal problems of Canadians.<sup>1</sup> While the problem of access to justice is not a new one, in 2008 the recognition that we were increasingly failing to provide a justice system that is “accessible, responsive and citizen focused”<sup>2</sup> led the Rt. Honourable Chief Justice Beverley McLachlin to convene the Action Committee. Placed under the leadership of the Honourable Justice Thomas A. Cromwell, and composed of leaders in the civil and family justice communities and the public, the Action Committee was tasked with the mandate to develop consensus and priorities around improving access to justice and to encourage cooperation and collaboration between all stakeholders in the justice system. The Action Committee quickly established four priority areas: court processes simplification, access to legal services, prevention triage and referral, and family justice. By 2012, each working group had produced a report outlining the main access to justice challenges facing each area and providing innovative ideas on how to address and overcome those challenges.<sup>3</sup>

Drawing together and building on the conclusions of the working group reports, the Action Committee released its *Final Report* in October 2013. The *Final Report* has three parts. Part 1 provides a shared understanding of access to justice and a clear statement and framing of the access to justice problem in Canada. Part 2 offers six guiding principles that are designed to help lead us towards a “culture shift” – a new approach to thinking through civil and family justice reform. Part 3 offers a nine-point access to justice “roadmap” meant to bridge the gap between ideas and action.



# ACCESS TO JUSTICE ROADMAP

## A. INNOVATION GOALS

1. Refocus the Justice System to Reflect and Address Everyday Legal Problems
2. Make Essential Legal Services Available to Everyone
3. Make Courts and Tribunals Fully Accessible Multi-Service Centres for Public Dispute Resolution
4. Make Coordinated and Appropriate Multidisciplinary Family Services Easily Accessible

## B. INSTITUTIONAL AND STRUCTURAL GOALS

5. Create Local and National Access to Justice Implementation Mechanisms
6. Promote a Sustainable, Accessible and Integrated Justice Agenda through Legal Education
7. Enhance the Innovation Capacity of the Civil and Family Justice System

## C. RESEARCH AND FUNDING GOALS

8. Support Access to Justice Research to Promote Evidence-Based Policy Making
9. Promote Coherent, Integrated and Sustained Funding Strategies

Ultimately, the *Final Report* supplies a multi-sector national plan for civil and family justice reform. Yet, as the *Final Report* notes, there is no single “repair manual”<sup>4</sup> — there is no one program, plan or solution — that will meet the diverse needs of Canada’s multiple and unique communities and jurisdictions. What the report can offer is leadership through recommended goals that can be adapted to local conditions and problems through locally tailored approaches and solutions. It is in this spirit of combining national leadership with local participation, collaboration and coordination that the first Action Committee Colloquium on access to justice was convened.

## THE ACTION COMMITTEE COLLOQUIUM

Following the release of the *Final Report*, a series of locally organized access to justice events was held across Canada<sup>5</sup> to introduce the *Final Report* to local stakeholders and justice leaders, encourage action-oriented responses for reform, and provide focus and encouragement for local access to justice initiatives. Held primarily throughout the Fall of 2013, these local events culminated in the Action Committee Colloquium, which took place on January 27-28, 2014 in Toronto. The purpose of the Colloquium was to bring together leaders in the field of access to justice from across Canada to share “best practices”, showcase examples of successful and innovative programs and reforms, discuss common challenges, and begin developing action-oriented access to justice initiatives. Over the course of two

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**This report provides an overview of the Colloquium** and a summary of the key messages of those who participated in the two-day event.

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days, delegates worked together in plenary and small breakout sessions to workshop strategies for reaching the goals laid out in the *Final Report*. Each session addressed one of the *Final Report's* four Innovation Goals (found in Part 3.A of the *Final Report*):

- Refocus the Justice System to Reflect and Address Everyday Legal Problems (Goal 1);
- Make Essential Legal Services Available to Everyone (Goal 2);
- Make Courts and Tribunals Fully Accessible Multi-Service Centres for Public Dispute Resolution (Goal 3); and
- Make Coordinated and Appropriate Multidisciplinary Family Services Easily Accessible (Goal 4).

The Colloquium also featured three keynote speakers who spoke generally to the Institutional and Structural goals outlined in the *Final Report* (found in Part 3.B of the *Final Report*):

- Steven Grumm, Director of the Resource Centre for Access to Justice Initiatives;
- Bonnie Rose Hough, Managing Attorney, Centre for Families, Children and the Courts, Judicial and Court Operations Services Division, California; and
- Dame Hazel Genn, Dean, Faculty of Law, University College London.

In his talk, “Building Effective Local Access to Justice Implementation Committees”, Steven Grumm spoke to Goal 5 of the *Final Report* — “Create Local and National Access to Justice Implementation Mechanisms”, while Bonnie Rose Hough addressed Goal 7 — “Enhance the Innovation Capacity of the Civil and Family Justice System” — in her talk, “Building the Capacity for Justice System Innovation”. Dame Hazel Genn provided an overview of the access to justice discussions currently underway in the UK and placed this discussion within the larger field of international research on access to justice.

## **THIS COLLOQUIUM REPORT**

This report provides an overview of the Colloquium and a summary of the key messages of those who participated in the two-day event. It attempts to capture the comments, suggestions and major points of discussion. The structure of this report closely follows the Colloquium program. It begins with the opening remarks provided by the Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada, and then moves to provide summary discussions of the four major breakout sessions, each of which addressed one of the Innovation Goals listed above. It then proceeds to summarize the keynote presentations of Steven Grumm and Bonnie Rose Hough, which spoke to the Institutional and Structural Goals of the *Final Report*.

In addition to providing an overview and summary of the major discussion threads, this report also highlights examples provided by participants of initiatives and programs that are currently working in various jurisdictions. These can be found in the “Green Light” boxes located throughout the report.<sup>6</sup> Alternatively, items or issues that were identified by participants as having blocked, or have the potential to slow or block innovation in civil and family justice reform, can be found in the “Red Light” boxes.

Like all good and productive discussions, not everyone at the Colloquium, including members of the Action Committee itself, agreed with all of the points, comments and suggestions made. Nonetheless, a broad consensus emerged around one particular point: there is an urgent need for increased resources and support, including but not limited to financial resources, in all sectors. There was an equally strong recognition, however, that in these fiscally difficult times we will also have to find creative ways to collaborate and look for innovative means to leverage the resources that are currently available.

Beyond the need for additional support, Colloquium participants appeared to agree on several further issues, many of which were first identified in the Action Committee's *Final Report*.

- The need to provide more and better resources for self-represented litigants (SRLs).
- The importance of encouraging a “culture-shift” as defined in the *Final Report*. The “culture-shift” was seen as imperative for rallying political and financial support for new access to justice programs, improving service and user satisfaction, and increasing efficiency and effectiveness of the justice system generally.
- The importance of developing a robust Early Resolution Services Sector (ERSS).
- The need for more quantitative and qualitative research that can provide a strong foundation for evidence-based policy-making.
- The need for increased collaboration and cooperation.
- The need for strong national and local leadership that will assist in the coordination of access to justice efforts and ensure the continuation and growth of national discussions on access to justice.

While how best to address these issues was often up for debate, participants generally agreed on their importance. Thus, readers will find these issues addressed several times in this report, in several different contexts.

Finally, we have endeavoured to provide an accurate and fair representation of a lively two days of discussion and debate. As far as possible, we have attempted to ‘report’ rather than to ‘editorialize’ the discussions. Our hope is that the ideas and collaborations born at this Colloquium will serve as the first of many future collaborations and projects that bring together justice stakeholders at all levels, from across multiple jurisdictions, to move forward a Canada-wide discussion on innovation and action in access to justice.

# PART 2

## The Colloquium

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**“Justice is a basic good**  
in our society to which every woman, man and child should have access, regardless of how much money they have or who they know.”

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- Rt. Hon. Beverley McLachlin

### REMARKS OF THE RIGHT HONOURABLE BEVERLEY McLACHLIN, P.C., CHIEF JUSTICE OF CANADA

Action Committee on Access to Justice Colloquium

Toronto, January 27, 2014

It is a pleasure and an honour to join you today to open the Colloquium of the national Action Committee on Access to Justice in Civil and Family Matters. On behalf of the Action Committee, let me welcome you. We have much important work to do together. Au nom du Comité d'action, permettez-moi de vous souhaiter la bienvenue. Nous avons beaucoup de choses importantes à faire ensemble.

In my role as Chief Justice, I have the opportunity to travel across the country and meet with a broad range of people. Often, they will tell me about their involvement with our justice system. Some of these stories are positive, but many are not.

I hear stories of people who have legal problems, but do not know where to turn for legal help, or whether they can afford a lawyer. These problems may start out as defined legal issues — a tenant being evicted from his apartment without notice, a spouse trying to achieve a just settlement of financial issues in a failed marriage — but if they are not resolved, they can turn into bigger problems. Without legal help, people may face months, if not years, of personal difficulty as they attempt to navigate the sometimes complex demands of law and procedure. This can lead to frustration and loss of confidence in the justice system. In some cases, people give up entirely.

What these people are telling me is that they have been denied access to justice — more accurately, access to the justice system. They are upset about it. They are often angry. Should they be? In my view, they should.

Underlying all the debates about pro bono services, legal aid and the high costs of justice is a simple question — a question we need to face as individuals and as a society. The question is this: what is our view of justice? Is it a basic good which a civilized society should provide to its members? Or is it a luxury, like a Ferrari car or a Dior dress, available to those who can afford it but denied to those who cannot?

I know that many of us here share the view that justice is a basic good in our society to which every woman, man and child should have access, regardless of how much money they have or who they know. Justice is a basic social good, like food, shelter and medical care.

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**“Our challenge is to work together to ensure that the public we serve receives the access to justice that they deserve and need. ”**

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- Rt. Hon. Beverley McLachlin

As many of you know, the Action Committee comprises stakeholders in the civil and family justice community, each representing a different part of the justice system and the public. The aim of the Action Committee has been to develop consensus priorities for reform and to encourage leaders to collaborate to improve access to justice. Le Comité d'action s'est appliqué à établir, par voie de consensus, les réformes prioritaires, et à encourager les leaders au sein des groupes concernés à collaborer ensemble afin d'améliorer l'accès à la justice.

In the course of the last few years, the Action Committee identified four priorities: access to legal services; court processes simplification; family law; and prevention, triage and referral. Working groups were formed to tackle each of these priorities and to identify specific ways to improve access to justice.

Under the superb leadership of my colleague Justice Cromwell and each working group's chair, these working groups each produced reports that identified the challenges and map out a way forward so that we can improve the status quo.

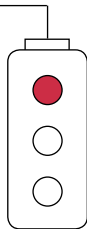
The Action Committee bridged the work of these groups through its *Final Report*, which provides us with principles for change and national goals for access to justice.

The principles set out in the report should guide us here today. Let me focus on three in the context of the colloquium. Les principes énoncés dans le rapport devraient guider nos travaux aujourd'hui. J'aimerais insister sur trois d'entre eux dans le contexte du présent colloque.

First, we must collaborate and coordinate. Premièrement, nous devons collaborer et coordonner nos efforts. Those of us assembled in this room are leaders in the justice community. We are the change makers. Yet, many of us are not new to access to justice reforms. We have witnessed — and participated in — previous initiatives aimed at improving access to justice. Some have enjoyed moderate success, but if the problem of access to justice continues to grow, it is because too often, these initiatives proceeded in isolation from one another. Work was duplicated, knowledge was not shared, and mistakes were repeated.

In order to develop a coherent, collaborative and coordinated solution, the report calls for the creation of access to justice implementation commissions. This concept could play out in different ways in each jurisdiction, tailored to the local context. But the central idea is that each jurisdiction should find a way to bring a broad-based group together to focus on action-oriented initiatives, and that these groups would be supported by a permanent national organization that provides a coordinated voice to the access to justice agenda in Canada.

Our challenge is to work together to ensure that the public we serve receives the access to justice that they deserve and need. We are all in this together. And it is only by working together that we can hope to find the solutions. This brings me to the second principle. We must put the public



## Red Light

All stakeholders need to recognize better the economic value of working with social and economically disadvantaged groups and providing them with adequate resources and processes. This needs to be part of the “culture shift.”

first. Ce qui m’amène au second principe. Le public doit [sans cesse] rester au premier plan de nos préoccupations. This may appear obvious, but occasionally those invested in the justice system — lawyers, judges, and court administrators — forget that our role is to serve the public. It will therefore be critical to seek out the views of the public when we are developing specific reforms.

Just as importantly, the public must be understood in its broadest form. It must include all people, no matter their income level or their cultural origin. Particular effort must be made to ensure that vulnerable groups have equal access to the justice system. Similarly, self-represented litigants cannot be seen as a burden on the justice system. Too often, it is our justice system that fails them.

Finally, we must take action. Enfin, le temps est venu pour nous de passer à l’action. For much too long, we have researched, written and theorized about the problem of access to justice. While this is undoubtedly necessary, I believe we have reached the point when thoughts and ideas must translate into concrete actions. J’estime que nous avons atteint le stade où les idées et la réflexion doivent se traduire par des actions concrètes.

If we don’t take steps now, my fear is that in a few years, our sole contribution will have been to add another layer to what is already a mountain of research and reports crying out for positive change. Unfortunately, I don’t think our justice system can cope with further inaction. I urge you to follow the roadmap outlined in the Action Committee’s *Final Report* and to implement meaningful reforms. The cost of failure is too high.

Together, I am hopeful that we can achieve the goals we have set. Doing so will certainly not be easy, but as American author and orator Booker T. Washington once stated, “nothing ever comes to one, that is worth having, except as a result of hard work.”

This colloquium is intended to give us a space to discuss openly the recommendations in the Action Committee’s reports and to discuss implementation. I look forward to the sessions over the next two days. I wish you all a productive colloquium. J’envisage avec intérêt les séances des deux prochains jours. Je vous souhaite à toutes et à tous un colloque des plus fructueux.

## INNOVATION GOALS — TURNING IDEAS INTO ACTION

### Refocus the Justice System to Reflect and Address Everyday Legal Problems

A growing body of work on legal needs<sup>7</sup> has led to a deeper understanding of how people experience and deal with most everyday legal problems. We now know, for example, that only a small proportion of those experiencing legal problems will use the formal system and many will turn to non-legal sources, such as faith leaders, or trusted community workers, for advice.<sup>8</sup> Recognizing that the justice system must widen its focus to include education and dispute prevention, this breakout session

focused on how to build legal capabilities so that people can not only prevent legal problems, but manage them effectively when they arise.

How do we increase legal capability among the public so that they can prevent legal problems?

- **Widen the system to involve education and dispute prevention.**<sup>9</sup> Traditional paradigms of access to justice have primarily focused on access to courts and lawyers, yet the everyday legal problems experienced by the public often occur outside of the formal justice system.<sup>10</sup> Helping people prevent problems before they occur or providing them with the resources to resolve them early is “generally cheaper and less disruptive than...using the courts.”<sup>11</sup>
- **Focus on skills.** Knowledge is important, but people need “life skills” in order to know what to do with that knowledge. They need to build the skills that allow them to collaborate and solve problems.
- **Understand the problem.** In addition to overall systemic barriers and social conditions (which are of course important and often determinative), several factors impact people’s legal capability including literacy levels, educational background, and previous interactions with the legal system. Consequently, strategies that aim to improve capability must be tailored to address the needs of specific communities, not just “the public” in general.

Not all legal problems are avoidable. One way to ensure that when problems do arise people can manage them effectively and efficiently is to build a robust ERSS.<sup>12</sup> The following suggestions on developing an ERSS were made by workshop participants.

- **Develop Partnerships.** Develop partnerships with ministries of education, school boards and other community sector organizations. A basic understanding of the rule of law, the legal system and conflict avoidance and management should become part of the standard education curriculum.
- **Think beyond the courthouse.** Focus more on the development and support of multi-service hubs that offer various forms of dispute resolution as well as other social and community services.<sup>13</sup> Courts should be a last resort. However, having said that, court partnerships, collaboration and communication will be very important to a successful ERSS.
- **Support intermediaries.** People often turn to community or “trusted” intermediaries (e.g. faith leaders, social workers, etc.) for advice and counsel before they seek legal assistance (if they ever do). Provide “on-the-ground” community workers and service providers with basic legal knowledge that allows them better to recognize legal problems and assist those who come to them for help.
- **Create friendly spaces - “meet people where they are”.** If people are too afraid to enter justice spaces, they are more likely to ignore their problem until it becomes a crisis. Spaces (including courthouses) should be welcoming, accessible and friendly – not intimidating – and people should feel comfortable bringing their children with them when they need help. Friendly spaces may help lessen feelings of alienation and stigmatization and improve the justice system’s relationship with the public.

It was recognized, however, that building an efficient ERSS is not without its challenges. In particular, participants raised concerns over how to prioritize resources – that is, how can we ensure that resources are not diverted from those people and organizations that assist clients who are in a crisis? People in crisis often need resources the most, and need them immediately. Additionally, many felt that it is difficult to rally political support for front-end service providers due to the lack of solid evidence of their cost-saving benefits. More research demonstrating the social return on investment is needed.<sup>14</sup>

### **Make Essential Legal Services Available to Everyone**

Several recent reports, including the *Final Report*, have highlighted the barriers that people face when requiring essential legal services.<sup>15</sup> These can include, but are not limited to, inadequate or no access to legal aid, the unaffordable cost of legal services and the unavailability and inaccessibility of legal information.<sup>16</sup> It is clear that improving access to services is key for helping people solve their everyday legal problems. Recognizing that when people have legal problems, they want them resolved cheaply, quickly and fairly, this breakout session focused on innovation in the delivery of legal services.

How can we innovate in order to overcome these barriers and make services accessible and affordable for everyone?

- **Introduce alternative fee arrangements (unbundling, flat-fees, etc.).**<sup>17</sup> Not only would this help to reduce cost, but new fee arrangements may also serve to reduce client uncertainty around what their total legal bill will be. Alternative fee arrangements can also provide additional and more affordable legal services to SRLs, many of whom currently represent themselves out of financial need.<sup>18</sup>
- **Encourage a more widespread use of legal insurance.** Legal insurance may offer the middle class – who are often ineligible for legal aid – a measure of affordable protection against high legal costs that can arise from an attempt to deal with everyday legal problems such as consumer disputes, property disputes and automobile disputes, etc.<sup>19</sup>
- **Further Promote alternative dispute resolution (ADR).** For this to be an effective solution, however, ADR must also be effective, affordable and just.<sup>20</sup>
- **Maximize efficiency through the use of technology.** The justice system generally, and courts in particular, lag far behind other public services in their use of technology. Docket management, e-filing, electronically generated, real-time court orders, and electronically accessible court records, are only a few examples of possible technology innovations that could be implemented to help improve the efficiency and administration of justice.<sup>21</sup>
- **Simplify rules, forms and procedures.** Simplification would open the door for multiple other improvements in service, including helping lawyers better to predict the number of days that will be spent in court, thus allowing them to feel more confident charging flat fees.
- **Increase the use of paralegals and regulate other “navigators”.** In appropriate matters, paralegals and other navigators can represent people in court (on limited matters), often for a lower cost, recognizing, however, that for some matters, lawyers are essential.



### **Red Light**

Moving more information online has the potential to create additional access to justice barriers for those with low levels of computer literacy and literacy issues, more generally. We need to be sensitive to these and other issues that may impact people’s ability to access information online.



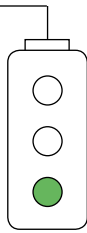
- **Train and authorize staff in pro bono clinics to assist clients with preparing documents.** Doing so would help reduce the amount of time lawyers have to spend fixing, or alternatively, sending clients away to fix, documents with mistakes. If trained correctly, front-end staff could help reduce simple and common errors, thereby reducing the time, cost and frustration of all parties involved. Law students working in pro bono clinics could also be trained to help clients complete forms.
- **Provide more accessible and effective self-help support.** This kind of support can include offering more accessible, straightforward and streamlined legal information online.
- **Find ways to support, encourage and bolster legal aid.** Many people do need and want legal representation. Ensuring that the public has access to legal services, provided by trained legal service providers, is essential to a healthy legal system.
- **Improve public investment in the justice system and work collaboratively to solve legal problems.** This requires, however, a better understanding of the multifaceted nature of legal problems and their costs.<sup>22</sup> In particular, there is a serious need to understand how socio-economic issues affect how people engage with the legal system. Legal service providers need to work collaboratively with community groups and organizations, as well as other public service agencies and workers such as healthcare professionals, parenting coordinators, financial counsellors, etc., to develop a holistic understanding of legal needs and to increase resources and improve service delivery.

To ensure that the innovations chosen for implementation truly improve access to justice, we need a way to evaluate their success. How can we measure success?

- **Measure resolution time.** Measure time to resolution, not just time to trial. If we have reduced the time to resolution, it indicates that we have simplified procedures and made the system more effective and efficient.
- **Measure judicial time.** Compare the amount of time judges are spending in court to the amount of time they are spending on ADR. A goal will likely be to reduce the former and raise the latter.
- **SRLs.** Measure the number of SRLs who remain in the system due to financial need. A decrease in this number would represent improvement.
- **Ask people.** Use periodic qualitative surveys to measure user experience and satisfaction with the system. A truly successful system will be evident through an increase in public confidence in the justice system.<sup>23</sup>

### **Make Courts and Tribunals Fully Accessible Multi-Service Centres for Public Dispute Resolution**

Despite a growing number of reports and recommendations that focus on improving the justice services that lie outside of formal court and tribunal dispute resolution processes, efficient and effective courts and tribunals still very much remain a central part of a healthy and accessible justice system.<sup>24</sup> In this breakout session, participants discussed how courts and tribunals could be reformed in ways that “put the public first.” In particular, the session focused on how courts and tribunals could better meet the needs of the public through a multi-service dispute resolution model.



## Green Light

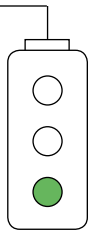
The Family Law Information Centre in the Yukon provides free information on family law issues and court procedures to the public. See online: [www.yukonflic.ca](http://www.yukonflic.ca).

How can courts and tribunals better meet the needs of the public?

- **Provide multiple points of entry and exit.** As noted in the *Final Report*, courts and tribunals need to offer a range of dispute resolution options, including negotiation, conciliation and mediation, and judicial dispute resolution.<sup>25</sup> People need to be provided with opportunities to resolve their problems at different points in a conflict and to enter and exit the system in many different ways.
- **Emphasize “service.”** Making the “culture-shift” will require us better to recognize that providing access to justice means providing “good service.” Although we may be hesitant to frame justice in terms of “consumers” and “service”, doing so may help us to think more carefully about what it is that courts and the judiciary provide and how they can better provide it.
- **Empower front-line staff.** Members of front-line staff need to be given the knowledge and authority to assist those they come into contact with. Often the first point of contact, front-line staff should be able to provide some early and basic triage and referral services, know how to ask the right questions, and feel comfortable making decisions on their own. Often the knowledge for doing so already exists.<sup>26</sup>
- **Engage in community outreach and encourage community partnerships.** Courts should not be afraid to partner with community groups (e.g. anti-poverty groups, tenants associations, aboriginal cultural centres, mental health organizations, faith-based organizations, etc.) to better meet the needs of citizens. This may mean that courts move beyond their traditional focus on dispute resolution to partner with organizations that address the many “non-legal” needs that can be the precursor to legal conflict, including mental health issues, poverty, literacy, etc.
- **Clarify needs and work collaboratively on strategies.** Bring together various stakeholders (e.g. bar associations, legal aid, pro bono, lawyers, community groups, members of the judiciary, SRLs, the government, etc.) to discuss strategies and share best practices. This will ensure that changes to courts and tribunals address the real (as opposed to perceived) needs of those they serve and those who serve them.
- **Reimagine courthouses as “justice houses.”** Currently, courthouses can be intimidating and alienating. For this reason, some participants agreed that courthouses should not be locations of multi-service “hubs.” However, a number of participants noted that having multiple services available “on site” would increase their use since often people fail to follow-up with other service agencies once they leave the courthouse. Why not attempt to make courthouses more user friendly and less threatening? Additionally, courthouses may need to be located not just in physical locations but in virtual spaces as well.

In this session, particular attention was paid to how courts could better address the needs of SRLs. Generally, participants agreed that courts need to build systems and processes with SRLs specifically in mind. Participants provided the following suggestions on how to improve the court experience for SRLs.

- Find ways of shifting responsibilities from users (SRLs) to providers (courts, tribunals, etc.). Courts could work toward better facilitating access to documents, automatically generating orders, etc.



## Green Light

The Nova Scotia Family Law Initiative provides information and tools for the public to understand and navigate family law issues. See online: [www.nsfamilylaw.ca](http://www.nsfamilylaw.ca).

- Simplify forms and make them available both online and in person (and share best practices of existing materials and resources).
- Further develop plain language “fact-sheets” that describe court procedures and translate “legal-jargon.”<sup>27</sup>
- Further train the judiciary and lawyers better to deal with SRLs in the courtroom.

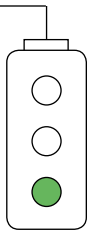
### **Make Coordinated and Appropriate Multidisciplinary Family Services Easily Accessible**

There have been many constructive changes and improvements made to the family justice sector over the last twenty-five years. While these changes should be praised and welcomed, it still remains that “the fundamental systemic shifts that have been called for have not been achieved.”<sup>28</sup> This is not for lack of ideas. Over the last several years, multiple reports identifying the problems plaguing the family justice sector have been released,<sup>29</sup> and many recommend good solutions. However, there continues to be a gap between the identification of problems and the implementation of solutions. In this breakout session, participants discussed how to close this gap in order to make multidisciplinary family services more accessible. Participants identified several issues that often hinder the effective implementation of recommended family services.

- **Maintenance of silos and complex procedures.** Many recommendations for improvement are hampered by rules and regulations in court services, rules of court, and dated and complex procedures. Influential family justice representatives and key change makers need to work together to break these silos and make procedures more straightforward.
- **Adoption of an access to justice “culture-shift” necessary for reform.** As was recognized in numerous sessions at the Colloquium, judges and lawyers — and all stakeholders — need to embrace the access to justice crisis reality and fully adapt to an access to justice “culture shift” (in all aspects of their work).<sup>30</sup> Family law involves many more problems than simply “law problems.” A wider recognition of, and more evidence-based research on the multifaceted nature of family disputes is needed.<sup>31</sup>
- **Lack of information regarding alternative and consensual dispute resolution options.** Families are often unaware of alternatives to court (and their value). Better education about the options and services available for families needs to be made accessible. More front-line triage and early intervention is also needed.
- **Lack of resources.** Financial and leadership resources and supports are critical. Overall it was felt that there is a general misconception about the family law process and a lack of resources that could bring about meaningful change. More collaboration is required to avoid duplication of work and to ensure the erosion of thinking in silos.

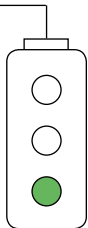
Participants provided a wide range of suggestions and ideas on what is needed in order to build a fully accessible, non-adversarial and consensual family justice service sector.

- Provide more resources for SRLs.<sup>32</sup>
- Establish unified family courts. In jurisdictions where this is undesirable, one judge should be assigned to preside over all pre-trial motions, conferences and hearings in family cases.<sup>33</sup>



### Green Light

The “Raising the Bar Campaign” ([www.dcccesstojustice.org/raising-the-bar](http://www.dcccesstojustice.org/raising-the-bar)), launched by the Washington, DC ATJ Commission aims to substantially increase financial support to the District’s legal services community by establishing benchmarks for annual law firm giving. In 2012, thirty-six firms participated in the Campaign, donating nearly \$3.6 million to local legal services.



### Green Light

The Maine ATJ Commission has established a lawyers-in-libraries project, which co-purposes libraries to act as legal information centres where librarians are trained to assist the public with finding legal information.

- Improve case management.
- Impose mandatory mediation.
- Train and use more designated divorce coaches.
- Provide more financial support for mediation and other alternative resolution options including judicial mediation.
- Partner more closely with social workers and other important service providers.
- Modernize family law so as to better reflect non-adversarial approaches to dispute resolution.

## INSTITUTIONAL AND STRUCTURAL GOALS — LAYING A STRONG FOUNDATION

### Create Local and National Access to Justice Implementation Mechanisms

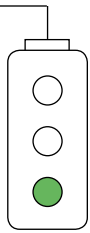
Throughout the Colloquium, the need for sustained leadership at both the local and national levels was discussed (see *Final Report*, Goal 5). Addressing this issue, Steven Grumm, Director, Resource Centre for Access to Justice Initiatives,<sup>34</sup> provided Colloquium participants with an overview of the successful Access to Justice (ATJ) Commission movement in the United States. The main highlights of his overview are set out below, framed around specific Colloquium questions and issues.

What are access to justice commissions and how are they formed?

- They are state-based leadership bodies in the U.S. The court, the organized bar and legal aid are the three primary stakeholders. They are not the only actors, but they are often the stakeholders responsible for getting local commissions off the ground.
- Commissions are typically created by the high court and the court order serves as the by-law document.
- Commissions vary in size. Currently they range from nine to forty-five commissioners. The average commission has seventeen to twenty commissioners.
- Commissioners can be appointed by the courts alone or by the courts with recommendations from legal aid and the local bar association. The courts maintain a leadership role throughout the life of the commission, often acting as the chair or co-chair of the commission.
- Each commission has a leadership body that typically includes several high-level justice system actors (this is often what affords a level of influence). However, an important strength of the commission structure is that it draws together diverse stakeholders from across different sectors in order to provide system wide solutions.

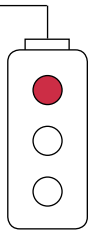
How do commissions work and how are they funded?

- Once established, commissions often divide into committees and volunteers are brought in to do a significant portion of the committee work. The benefit of this model is that it extends the influence of the commission and creates the impression of consensus.
- Staffing arrangements vary widely depending on the size of the commission, its resources, etc.



## Green Light

Collaborate – don't duplicate work, and don't squeeze important resources from existing organizations.



## Red Light

Many participants felt it will be difficult to generate political will and “buy-in” from those with the resources.

- Funding typically comes from a combination of sources including the courts, the interest on lawyers' trust accounts, the bar, legal aid, etc.

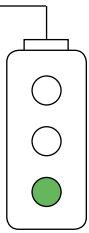
One of the strengths of the ATJ commission structure and the multi-pronged approach to access to justice is that each local commission has the ability to pursue initiatives that best serve the needs of its own jurisdiction. As a result, commissions have garnered a range of accomplishments.

- **Changes to practice rules.** For example, in the past it has been difficult for corporate counsel licensed in other jurisdictions to do pro bono work, but the bar is now making limited exceptions for them.<sup>35</sup>
- **Increased legal aid funding.** Commissions have utilized a variety of methods to increase funding for legal aid, including corporate partnerships and campaigns that promote more lawyer and law firm giving.
- **Support for SRLs.** This support has come in many forms including the development of cross-sector strategic plans for assisting SRLs, the creation of simplified forms (both in hardcopy and electronic), the establishment of new self-help centres and kiosks, and providing court staff and the judiciary with education and training on how to best deal with SRLs.
- **Increased and improved relationship with the private bar.** Many commissions have found ways to offer prestigious awards to lawyers and firms actively participating in the access to justice legal community. This encourages more lawyers and members of the judiciary to get involved.

Generally, commissions have been shown to be efficient and effective in making state level changes. They have eliminated communication problems and silos by working collaboratively together on similar issues, and have been able to improve client experience and outreach by integrating community organizations into their initiatives. For example, to address the reality that many people go to faith leaders with their legal problems prior to seeking actual legal support or advice, the Tennessee ATJ Commission now provides legal education to faith leaders in local faith based centres. This helps faith leaders to direct congregants to the appropriate resources, if and when necessary, and connects lawyers to these congregations.

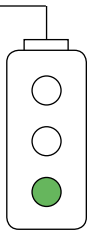
Many lessons have been learned since the first ATJ commissions were established in 2000.

- **Involve all key stakeholders from the outset.** Don't exclude social services and other “non-legal” stakeholders and don't forget about law schools. Having students involved is important for training the next generation of access to justice leaders. Being inclusive and “getting it right” from the outset have been key factors in the success of the current commissions.
- **Don't be concerned about diverting resources.** ATJ commissions are typically net generators – they often help find new revenue streams.
- **Commissions struggle without strong leadership.** Courts must be involved in moving commissions forward.
- **Start strong.** Get the membership right from the outset. Start with a well-defined structure and strategic action plan and be inclusive – exclusivity prevents depth and breadth, which hinders the work of commissions.



### Green Light Use “legal prescription” pads.

Have judges fill out a “prescription” that instructs litigants to fill out certain forms or take particular actions. The prescription can then be taken back to the self-help centre where colour coding makes the judge’s instructions easy to address.



Green Light  
Run workshops where SRLs can actually get their paperwork completed. Have staff on-hand for language and translation assistance, provide enlarged forms and offer specialized workshops for vulnerable and marginalized communities.

### Enhance the Innovation Capacity of the Civil and Family Justice System

Bonnie Rose Hough, Managing Attorney for the Centre for Families, Children and the Courts, Judicial and Court Operations Services Division, California, spoke to Goal 7 of the Action Committee’s *Final Report* in her keynote presentation on building capacity for innovation in the justice system. In particular, Hough discussed how the court system in California has begun innovating in response to the increasing number of SRLs navigating the system and the overall shift in the way that the public engages with courts. Her thoughts are set out in the following quoted and paraphrased passages from her presentation.

The impetus for innovation in California was the realization that for many people their first stop was court – not an attorney’s office. Recognizing the need to respond to this “paradigm shift” California began to look for solutions. Between 1997 – 2001, four regional conferences on self-represented litigants were held, and by 2001, a statewide task force on self-represented litigants had been established. In 2003, the task force released a report detailing a statewide action plan for serving self-represented litigants. One of its key findings suggested that fully staffed, court-based self-help centres, supervised by attorneys, were the best way for courts to “facilitate the timely and cost-effective processing of cases involving self-represented litigants, to increase access to the courts and improve delivery of justice to the public.”<sup>36</sup>

Self-help centres have now been established in all of the courts in California and since the advent of the program state funding for the self-help centres has increased by \$40 million dollars. All of the funding comes through the court budget so that it can’t be vetoed as a line item when political winds shift.

The implementation of the self-help centres has resulted in a number of positive outcomes.

- Significant shifts in court culture; self-help is now considered to be a core function of the court.
- Improved partnerships and collaboration between front-line help and the court system.
- An increasing judicial comfort level with handling SRLs.
- A general increase with the satisfaction of the court system.

Many important lessons about how to innovate have been learned over the past 15 years.

- **Capitalize on the unity of interest.** Both the public and the courts share an interest in, and benefit from, improved assistance.
- **It is easier to change the system than the public.** It is easier and more efficient to provide extensive education and training for judges and lawyers than for over 38,000,000 litigants.
- **Real people care more about how they are treated by the court than the outcome of their case.** Most people want to feel respected, heard, and understood. “The smartest person in court is the one who helps people address their legal needs – not the one that can find the most errors.”

- **Educate judges.** Provide judges with resources for referrals and develop bench guides for judges dealing with SRLs. The research indicates that body language and non-verbal cues matter – so it is important to offer training sessions that incorporate role-play scenarios. Litigants can tell when judges are listening and not listening. A judge that can interact diplomatically with SRLs, and can refer them to appropriate services, can do a lot of good.
- **Provide staff support.** Make organizing initiatives, developing programs, and garnering support someone’s full-time job. Carve out some money from direct service to provide coordination, education and support for volunteer leadership.
- **Provide seed money.** A little money can go a long way. Many of the self-help centres in California came together for \$10,000 – \$15,000.
- **Use students (and not just law students).** The JusticeCorps program recruits, trains and places approximately 300 undergraduates and recent graduates in court-based self-help centres.<sup>37</sup> Each student commits to 300 hours of volunteer time over the course of one year. Working under the supervision of a self-help centre attorney, the students assist SRLs in filling out forms, provide language translation and assist court staff with organizing and running legal workshops, etc. One program in Australia uses law students to help people solve uncomplicated legal issues online – for cheap!
- **Use technology (sometimes).** Online resources can’t help everyone, but they can reach a lot of people. Use “live chats”, have law librarians answer questions online, and add video resources to self-help sites. Use video conferencing in rural jurisdictions. Consider developing user-friendly software that can help people fill out forms quickly and correctly – good software can remember facts and apply rules consistently. However, technology isn’t always the answer. Kiosks, for example, have not been successful in California. To properly use them they require repeated exposure and most people will only use them infrequently.
- **Let a thousand flowers bloom.** There are multiple ways to improve access to justice — don’t get fixated on only one solution or approach.
- **Continue to evolve.** Leadership, vision and continuity are needed. Provide regular system “check-ups” and continue to look for ways to improve.

# CONCLUSION

“ We have a window of opportunity that is not likely to open again for many years. May we seize the opportunity...” ”

- Hon. Justice  
Thomas A. Cromwell

**As mentioned at the outset of this Colloquium Report**, we hope this report provides a flavour of the enthusiasm, good ideas, best-practices, innovations and possibilities for reform that were shared by the participants of the Colloquium. While many new initiatives were discussed, we are also aware that there are a number of promising initiatives that predate this Colloquium and it will be important, going forward, to collaborate, cooperate and learn what we can from these other programs and practices as well as to develop new and creative initiatives. It will also be important to maintain the strong national and local leadership inspired by the work of the Action Committee, which was further strengthened during the Colloquium. As Justice Cromwell noted in his Foreword to this Colloquium Report, “we have a window of opportunity that is not likely to open again for many years. May we seize the opportunity...”.



# ACKNOWLEDGMENTS

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This Colloquium Report is the summary report of the Action Committee on Access to Justice in Civil and Family Matters Colloquium held on January 27-28, 2014.

The Action Committee is grateful for the efforts of Nicole Aylwin, Executive Officer of the Canadian Forum on Civil Justice and Professor Trevor C.W. Farrow, Osgoode Hall Law School and Chair of the Canadian Forum on Civil Justice, both of whom “held the pen” for this Colloquium Report.

## ACTION COMMITTEE

The Action Committee was convened in late 2008 at the invitation of the Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada as a catalyst for meaningful access to justice reform. The Action Committee, which is a collaborative, consultative and stakeholder-driven initiative, includes:

- The Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada (honourary chair)
- The Honourable Mr. Justice Thomas A. Cromwell, Supreme Court of Canada (chair)
- Alberta Justice
- Association of Legal Aid Plans
- Canadian Association of Provincial Court Judges
- Canadian Bar Association
- Canadian Council of Chief Judges
- Canadian Forum on Civil Justice
- Canadian Institute for the Administration of Justice
- Canadian Judicial Council
- Canadian Superior Court Judges Association
- Canadian Public (represented by Mary Ellen Hodgins)
- Council of Canadian Law Deans
- Department of Justice Canada
- Federation of Law Societies of Canada
- Heads of Court Administration
- British Columbia Ministry of Justice

- Pro Bono Law Ontario
- Public Legal Education Association of Canada

## STEERING COMMITTEE, WORKING GROUPS AND SECRETARIAT

The individual members of the Steering Committee of the Action Committee include:

- The Honourable Mr. Justice Thomas A. Cromwell (chair)
- Mark Benton, Q.C. (Association of Legal Aid Plans)
- Deputy Minister of Justice Raymond Bodnarek, Q.C. (Alberta Justice) (as he then was prior to his judicial appointment)
- Melina Buckley, Ph.D. (Canadian Bar Association)
- The Honourable juge en chef Élizabéth Corté (Canadian Council of Chief Judges)
- Rick Craig (Public Legal Education Association of Canada)
- Professor Trevor C.W. Farrow, Ph.D. (Canadian Forum on Civil Justice)
- Jeff Hirsch (Federation of Law Societies of Canada)
- M. Jerry McHale, Q.C. (British Columbia Ministry of Justice, now at the University of Victoria, Faculty of Law)

The Action Committee is extremely grateful to all members of the Steering Committee for their constant leadership and guidance throughout the work of the Action Committee. Much of the work of the Action Committee, designed to look at four key priority areas, was done by four working groups: the Court Processes Simplification Working Group, the Access to Legal Services Working Group, the Prevention, Triage and Referral Working Group, and the Family Justice Working Group. Reports from those working groups (which include lists of their members) were released as a collection of final working group reports in April 2013. The Action Committee is very grateful to the members of these working groups for their significant efforts. The working group reports can be found on the

website of the Canadian Forum on Civil Justice (<http://www.cfcj-fcjc.org/action-committee>).

The Action Committee would also like to thank members of its effective and efficient secretariat at the Department of Justice for Canada who have worked tirelessly to support the work of the Action Committee, the Steering Committee and the working groups.

## COLLOQUIUM PLANNING COMMITTEE

The individual members of the Colloquium Planning Committee include:

- The Honourable juge en chef Élizabéth Corté (Canadian Council of Chief Judges)
- Ray Bodnarek, Q.C. (Deputy Minister of Justice, Alberta, as he then was)
- Esther deVos (Alberta Justice)
- Melina Buckley, Ph.D. (Canadian Bar Association)
- Ab Currie, Ph.D. (Canadian Forum on Civil Justice)
- Karen Fulham (Manitoba Department of Justice)
- Sarah McCoubrey (Ontario Justice Education Network)
- Adam Wilson (Alberta Justice)
- Sarah Dafoe (Alberta Justice)
- Barb Turner (Alberta Justice)
- Annie-Claude Bergeron (Court of Québec)

The Action Committee is extremely grateful to all members of the Colloquium Planning Committee for their dedication and tireless efforts. Without them, the Colloquium would not have been possible.

The Action Committee would also like thank the Canadian Forum on Civil Justice - and in particular Nicole Aylwin - for significant assistance in support of the Colloquium.

## FUNDING AND SUPPORT

Funding and other support for the work of the Action Committee has been generously provided by its member organizations. The Action Committee would like to thank the member organizations, as well as the individual representatives of those organizations, who have worked so hard to support the work of the Action Committee. The Action Committee would like further to acknowledge with specific gratitude the significant

funding and other support from:

- Alberta Justice and Solicitor General
- Canadian Council of Chief Judges (Provincial Court Chiefs)
- Canadian Forum on Civil Justice
- Canadian Judicial Council
- Department of Justice Canada
- Justice Education Society of BC
- Law Foundation of British Columbia
- Federation of Law Societies of Canada
- Osgoode Hall Law School
- Osgoode Professional Development

## RESEARCH ASSISTANCE AND PUBLICATION INFORMATION

Research and publication assistance was provided by the Canadian Forum on Civil Justice. The Action Committee would like also specifically to thank the dedicated team of Osgoode Hall Law School student note-takers whose notes provided the foundation for this report. The individual note-takers include: Kimberley Byers, Jesse-Ross Cohen, Hilary Fender, Markus Lilk, Weston Powell, Darielle Teitelbaum, Katarina Zoricic, and Hartlee Zucker.

Comments on this report can be sent to the Action Committee through the Canadian Forum on Civil Justice, online at: <[communications@cfcj-fcjc.org](mailto:communications@cfcj-fcjc.org)>.

The Action Committee consists of senior representatives from many organizations in the justice system and a representative of the Canadian public, who share a commitment to working together to improve access to justice for the Canadian public. This report offers a general consensus on the issues discussed, but does not necessarily reflect the formal position of each of the respective organizations represented.

This Colloquium Report is published by the Action Committee on Access to Justice in Civil and Family Matters, Ottawa, Canada, June 2014.

## **INNOVATION: COAST-TO-COAST-TO-COAST EXAMPLES, ACCESS TO JUSTICE COLLOQUIUM, JANUARY 27-28, 2014**

- The Justice Education Society of BC is using Avatar technology to provide an intuitive virtual person to help people navigate self-help sites. Rick Craig, Executive Director, Justice Education Society of BC.
- PovNet's training of advocates is being used to support people living in poverty. Penny Goldsmith, Executive Coordinator, PovNet (BC).
- BC's Courthouse Libraries have developed Clicklaw.ca – a website that helps BC citizens navigate the law and legal system in a variety of ways. Johanne Blenkin, Chief Executive Officer, Courthouse Libraries (BC).
- In the Yukon, the courts are looking to partner with First Nations to bring information to remote communities. Lesley McCullough, Assistant Deputy Minister, Courts and Regulatory Services, Justice (Yukon).
- Alberta is working to reform the family justice system using a collaborative model. Lynn Varty, Assistant Deputy Minister, Court Services Division (AB).
- In the Northwest Territories, the legal aid clinic focuses on wills and family law when it is in remote communities. Paul Parker, Legal Services Board (NWT).
- Saskatchewan has a Child and Youth Pro Bono Roster for child protection issues. Kara-Dawn Jordan, Executive Director, Pro Bono Law Saskatchewan.
- Manitoba has a number of new innovations including: user/printer friendly court forms; use of automated family court orders/court orders generated in courtrooms; and improvement to family case management processes. Acting Associate Chief Justice Marianne Rivoalen, Manitoba Court of Queen's Bench (Family Division).
- Pro Bono Law Ontario has projects based at the Hospital for Sick Children (SickKids), providing legal services in a non-legal setting. Lynn Burns, Executive Director, Pro Bono Law Ontario.
- The Ontario Justice Education Network (OJEN) integrates legal content into public education to prepare kids as early as 10 years old to manage legal conflicts in their lives. Sarah McCoubrey, Executive Director, OJEN.
- The Connecting Communities Project in Ontario is addressing access to justice by connecting non-legal community leaders and organizations with legal agencies. Julie Mathews, Executive Director, Community Legal Education Ontario (CLEO).
- In Nunavut, a new access to knowledge initiative aims to connect people to legal information in order to prevent legal issues before they arise. Nalini Vaddapalli, Chief Executive Officer, Law Society of Nunavut.
- Québec's Justice Access Plan promotes access to family justice. Its Access to Justice Fund offers project funding to support innovation. Nathalie Drouin, Deputy Minister, Justice Québec.
- In Nova Scotia, the newly established collaborative family law website is a comprehensive central source of information on family law for Nova Scotians, which has a wide range of partners. Maria Franks, Executive Director, Legal Information Society of Nova Scotia; Darrel Pink, Executive Director, Nova Scotia Barristers Society.
- The Public Legal Education and Information Service of New Brunswick has offered workshops for SRLs and evaluated the experience from the perspective of the litigant, the lawyers, and the court staff. Deborah Doherty, Executive Director, Public Legal Education and Information Service of New Brunswick.
- Prince Edward Island offers an innovative in-school project for children experiencing separation and divorce. Barrie Grandy, Director of Court Services, Province of Prince Edward Island.

- In Newfoundland, the Trial Readiness Inquiry project addresses many of the obstacles to effective resolution in the courts. Justice Richard LeBlanc, Supreme Court of Newfoundland and Labrador.
- The Cost of Justice project, through the Canadian Forum on Civil Justice, is partnering with justice sector institutions to do costing research on justice. Professor Trevor Farrow, Osgoode Hall Law School, York University (ON).

# ENDNOTES

<sup>1</sup>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, October 2013), online: CFCJ <[http://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC\\_Report\\_English\\_Final.pdf](http://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf)> [*Final Report*].

<sup>2</sup>The Rt. Hon. Beverly McLachlin, P.C., in *Final Report*, *ibid.* at i.

<sup>3</sup>Action Committee on Access to Justice in Civil and Family Matters, Working Group Reports: (1) Report of the Court Processes Simplification Working Group (May 2012), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/2013/Report%20of%20the%20Court%20Processes%20Simplification%20Working%20Group.pdf>> [*Court Processes Simplification Working Group Report*]; (2) Report of the Access to Legal Services Working Group (May 2012), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/2013/Report%20of%20the%20Access%20to%20Legal%20Services%20Working%20Group.pdf>>; (3) Report of the Prevention, Triage and Referral Working Group, “Responding Early, Responding Well: Access to Justice through the Early Resolution Services Sector” (May 2012), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/2013/Report%20of%20the%20Prevention%20Triage%20and%20Referral%20WG%20.pdf>> [*PTR Working Group Report*]; (4) Report of the Family Justice Working Group, “Meaningful Change for Family Justice: Beyond Wise Words” (April 2013), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/2013/Report%20of%20the%20Family%20Law%20WG%20Meaningful%20Change%20April%202013.pdf>> [*Family Justice Working Group Report*].

<sup>4</sup>*Final Report*, *supra* note 1 at 24.

<sup>5</sup>Local events were held in Winnipeg, Toronto, Halifax, Moncton, Vancouver, Edmonton, Montréal, Regina and St. John’s.

<sup>6</sup>In addition to the examples provided during Colloquium workshop sessions, the opening session of the Colloquium highlighted select innovations from

across the country. A complete list of these innovations is included in the Appendix.

<sup>7</sup>*Final Report*, *supra* note 1 at 4. See also Hazel Genn *et al.*, *Paths to Justice: What People do and Think About Going to Law* (Oxford: Hart, 1999) at v-vi, 12, and generally c. 2; Ab Currie, *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians* (Ottawa: Department of Justice Canada, 2007); Pascoe Pleasence *et al.*, *Causes of Action: Civil Law and Social Justice* (Norwich: Legal Services Commission, 2004) at 1. For a recent Australian study, see Christine Coumarelos *et al.*, *Legal Australia-Wide Survey: Legal Need in Australia* (Sydney: Law and Justice Foundation of New South Wales, August 2012). See further Russell Engler, “Connecting Self-Representation to Civil Gideon: What Existing Data Reveal about when Counsel is Most Needed” (2010) 37 *Fordham Urban LJ* 37 at 40 (citing Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, updated report (Washington, DC: Legal Services Corporation, September 2009); Canadian Forum on Civil Justice, “Everyday Legal Problems and the Cost of Justice in Canada” (June 2014) (forthcoming), online: CFCJ <<http://www.cfcj-fcjc.org/cost-of-justice>> [“Cost of Justice in Canada”].

<sup>8</sup>*Final Report*, *supra* note 1 at 7. See further Ab Currie, “Self-Helpers Need Help Too” (2010) [unpublished], online: <<http://www.lawforlife.org.uk/data/files/self-helpers-need-help-too-ab-currie-2010-283.pdf>> at 1. See further Pleasence *et al.*, *Causes of Action*, *supra* note 7 at 96. As Australia’s Attorney-General’s Department recently acknowledged:

Courts are not the primary means by which people resolve their disputes. They never have been. Very few civil disputes reach formal justice mechanisms such as courts, and fewer reach final determination. Most disputes are resolved without recourse to formal legal institutions or dispute resolution mechanisms. To improve the quality of dispute resolution, justice must be maintained in individuals’ daily activities, and dispute resolution mechanisms situated within a community and

economic context. Reform should focus on everyday justice, not simply the mechanics of legal institutions which people may not understand or be able to afford....

Access to Justice Taskforce, *A Strategic Framework for Access to Justice in the Federal Civil Justice System* (Australia: Attorney-General's Department, September 2009) at 3. Similarly, according to Marc Galanter:

Just as health is not found primarily in hospitals or knowledge in schools, so justice is not primarily to be found in official justice-dispensing institutions. Ultimately, access to justice is not just a matter of bringing cases to a font of official justice, but of enhancing the justice quality of the relations and transactions in which people are engaged.

Marc Galanter, "Justice in Many Rooms" in Mauro Cappelletti, ed., *Access to Justice and the Welfare State* (Alphen aan den Rijn: Sijthoff; Brussels: Bruylant; Florence: Le Monnier; Stuttgart: Klett-Cotta, 1981) 147 at 161-162, cited in Access to Justice Taskforce, Attorney-General's Department, *A Strategic Framework for Access to Justice in the Federal Civil Justice System*, *ibid.* at 3. It is important to recognize, however, that even in the context of informal mechanisms, the formal justice system – through the production of precedents as well as the potential recourse to its use – plays a significant influencing role. See e.g. Robert H. Mnookin and L. Kornhauser, "Bargaining in the Shadow of the Law: The Case of Divorce" (1979) 88 Yale LJ 950.

<sup>9</sup>*Final Report*, *supra* note 1; Canadian Bar Association, *Reaching Equal Justice: An Invitation to Envision and Act* (Ottawa: Canadian Bar Association, November 2013), online: CBA <[www.cba.org](http://www.cba.org)> [CBA Report].

<sup>10</sup>*Final Report*, *supra* note 1 at 7. See also *supra* note 8 and accompanying text.

<sup>11</sup>*PTR Working Group Report*, *supra* note 3 at 9.

<sup>12</sup>*Final Report*, *supra* note 1; Action Committee Working Group Reports, *supra* note 3; Australia Government, "Access to Justice Arrangements: Draft Report" (April 2014), online: Productivity Commission <[http://www.pc.gov.au/\\_\\_data/assets/pdf\\_file/0008/135296/access-justice-draft.pdf](http://www.pc.gov.au/__data/assets/pdf_file/0008/135296/access-justice-draft.pdf)>; CBA Report, *supra* note 9; Laura Track, Shahnaz Rahman & Kasari Govender, "Putting justice back on the map: The route to equal justice and accessible family justice" (February 2014) online: West Coast LEAF <<http://www.westcoastleaf.org/userfiles/file/FINAL%20REPORT%20PDF.pdf>> ["LEAF Report"].

<sup>13</sup>*Final Report*, *supra* note 1; Action Committee Working Group Reports, *supra* note 3; CBA Report, *supra* note 9 at 72.

<sup>14</sup>See e.g. Canadian Forum on Civil Justice, "'Cost of Justice' Project Plan: Working Draft" (October, 2012), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/2012/Cost%20of%20Justice%20Project%20Plan%20-%20Working%20Draft%20%28October%202012%29.pdf>>; CBA Report, *supra* note 9 at 53.

<sup>15</sup>CBA Report, *supra* note 9; The Ontario Civil Legal Needs Project Steering Committee, "Listening to Ontarians: Report of the Ontario Civil Legal Needs Project" (Toronto: Law Society of Upper Canada: May 2010), online: LSUC <[http://www.lsuc.on.ca/media/may3110\\_oclreport\\_final.pdf](http://www.lsuc.on.ca/media/may3110_oclreport_final.pdf)>; *Final Report*, *supra* note 1 at 8 and 14. See e.g. Task Force on Systems of Civil Justice, *Systems of Civil Justice Task Force Report* (Ottawa: Canadian Bar Association, August 1996) at 16; Trevor C.W. Farrow, "What is Access to Justice?" (2014) 51:3 Osgoode Hall LJ (forthcoming). For a discussion about bridging the implementation gap, see Family Justice Working Group Report, *supra* note 3.

<sup>16</sup>*Final Report*, *supra* note 1.

<sup>17</sup>*Ibid.*

<sup>18</sup>See e.g. Julie Macfarlane, *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants* (May 2013) at 39, online: NSRLP <<http://www.representing-yourself.com/doc/report.pdf>>; Trevor C.W. Farrow, Diana Lowe, Q.C., Bradley Albrecht, Heather Manweiller & Martha E. Simmons, *Addressing the Needs of Self-Represented Litigants in the Canadian Justice System: A White Paper Prepared for the Association of Canadian Court Administrators* (Toronto & Edmonton: Association of Canadian Court Administrators, 27 March 2012), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/2013/Addressing%20the%20Needs%20of%20SRLs%20ACCA%20White%20Paper%20March%202012%20Final%20Revised%20Version.pdf>>.

<sup>19</sup>See e.g. Michael Trebilcok, Anthony Duggan & Lorne Sossin eds, *Middle Income Access to Justice* (Toronto: University of Toronto Press, 2012).

<sup>20</sup>For a recent discussion, see Trevor C.W. Farrow, *Civil Justice, Privatization, and Democracy* (Toronto: University of Toronto Press, 2014).

<sup>21</sup>*Final Report*, *supra* note 1 at 16.

<sup>22</sup>The Canadian Forum on Civil Justice is currently engaged in a 5-year multi-disciplinary study designed to provide both quantitative and qualitative data on the costs – social and economic – of justice. To learn more about the “Cost of Justice” project, see online: CFCJ <[www.cfcj-fcjc.org](http://www.cfcj-fcjc.org)>.

<sup>23</sup>See e.g. Farrow, “What is Access to Justice?”, *supra* note 15.

<sup>24</sup>*Final Report*, *supra* note 1 at 15. For a more detailed discussion of court-based innovations, see Court Processes Simplification Working Group Report, *supra* note 3. Further, as Richard Zorza has argued: “Courts must become institutions that are easy-to-access, regardless of whether the litigant has a lawyer. This can be made possible by the reconsideration and simplification of how the court operates, and by the provision of informational access services and tools to those who must navigate its procedures.” Richard Zorza, “Access to justice: The emerging consensus and some questions and implications” (2011) 94 *Judicature* 156 at 157. See e.g. American Bar Association, Report of the American Bar Association Working Group on Civil Justice System Proposals, *ABA Blueprint for Improving the Civil Justice System* (Chicago: ABA, 1992) at 36. See further Frank E.A. Sander, “Varieties of Dispute Processing” in A. Leo Levin & Russell R. Wheeler, eds., *The Pound Conference: Perspectives on Justice in the Future* (St. Paul: West, 1979) 65; Jeffrey W. Stempel, “Reflections on Judicial ADR and the Multi-Door Courthouse at Twenty: Fait Accompli, Failed Overture, or Fledgling Adulthood?” (1996) 11 *Ohio St J Disp Resol* 297. For a recent collection of essays looking at reforms to courts and tribunals, see Trevor C.W. Farrow & Patrick Molinari, eds., *The Courts and Beyond: The Architecture of Justice in Transition* (Montréal: Canadian Institute for the Administration of Justice, 2013).

<sup>25</sup>See *Final Report*, *supra* note 1 at 15-17.

<sup>26</sup>See further *Addressing the Needs of Self-Represented Litigants in the Canadian Justice System*, *supra* note 18.

<sup>27</sup>See e.g. Hannah Bahmanpour & Julie Macfarlane, “Coping with the Courtroom: Essential Information and Tips for SRLs” (March 2014), online: NSRLP <<http://representingyourselfcanada.files.wordpress.com/2014/03/nsrlp-coping-with-the-courtroom.pdf>> [“Tips for SRLs”]; Ontario Court of Justice, “Representing Yourself at Your Family Law Trial: A Guide” (June 2013), online: Ontario Courts <<http://www.ontariocourts.ca/ocj/files/guides/guide-family.pdf>>;

Nicholas Bala & Rachel Birnbaum, “The rise of the self-represented litigant and the challenges for family lawyers”, *The Family Way Newsletter* (October 2012), online: CBA <[http://www.cba.org/CBA/sections\\_family/newsletters2012/self-representation.aspx](http://www.cba.org/CBA/sections_family/newsletters2012/self-representation.aspx)>.

<sup>28</sup>Erin Shaw, “Family Justice Reform: A Review of Reports and Initiatives”, a report prepared for the Family Justice Working Group of the Action Committee on Access to Justice in Civil and Family Matters (15 April 2012), online: CFCJ <<http://www.cfcj-fcjc.org/sites/default/files/docs/2013/Family%20Justice%20Reform%20Review%20-%20April%2015%20Final.pdf>>.

<sup>29</sup>*Final Report*, *supra* note 1; LEAF Report, *supra* note 12; Law Commission of Ontario, *Increasing Access to Family Justice Through Comprehensive Entry Points and Inclusivity*, Final Report (Toronto: Law Commission of Ontario, February 2013), online: LCO <<http://www.lco-cdo.org/family-law-reform-final-report.pdf>> [*LCO Family Report, 2013*]; Law Commission of Ontario, “Towards a More Efficient and Responsive Family Law System”, Interim Report (Toronto: Law Commission of Ontario, February 2012), online: LCO <<http://www.lco-cdo.org/family-law-reform-interim-report.pdf>>; *Family Justice Working Group Report*, *supra* note 3; *CBA Report*, *supra* note 9; J.P. Boyd, L.D. Bertrand & J.J. Paetsch, “Self-represented Litigants in Family Law Disputes: Views of Judges of the Alberta Court of Queen’s Bench” (Calgary: Canadian Research Institute for Law and the Family, April 2014), online: CRILF <<http://www.crilf.ca/Documents/Self-represented%20Litigants%20-%20Views%20of%20Judges%20-%20Apr%202014.pdf>>.

<sup>30</sup>*Final Report*, *supra* note 1.

<sup>31</sup>See e.g. Canadian Forum on Civil Justice, “Evaluating the Cost of Family Disputes: Measuring the Cost Implications of Various Dispute Resolution Methods” (forthcoming).

<sup>32</sup>A number of recent reports indicate that there is a disproportionate number of SRLs in family law, and it is unlikely that we will see a decrease in that number anytime soon. See e.g. LCO Family Report, 2013, *supra* note 29 at 25; “Tips for SRLs”, *supra* note 27; *Addressing the Needs of Self-Represented Litigants in the Canadian Justice System*, *supra* note 18. The general consensus among those participating in this breakout session was that we need to build SRL capacity. Alternatively, however, it was suggested by some that focusing on the reduction of SRLs would be a better way to improve access to justice.

<sup>33</sup>*Final Report*, *supra* note 1.

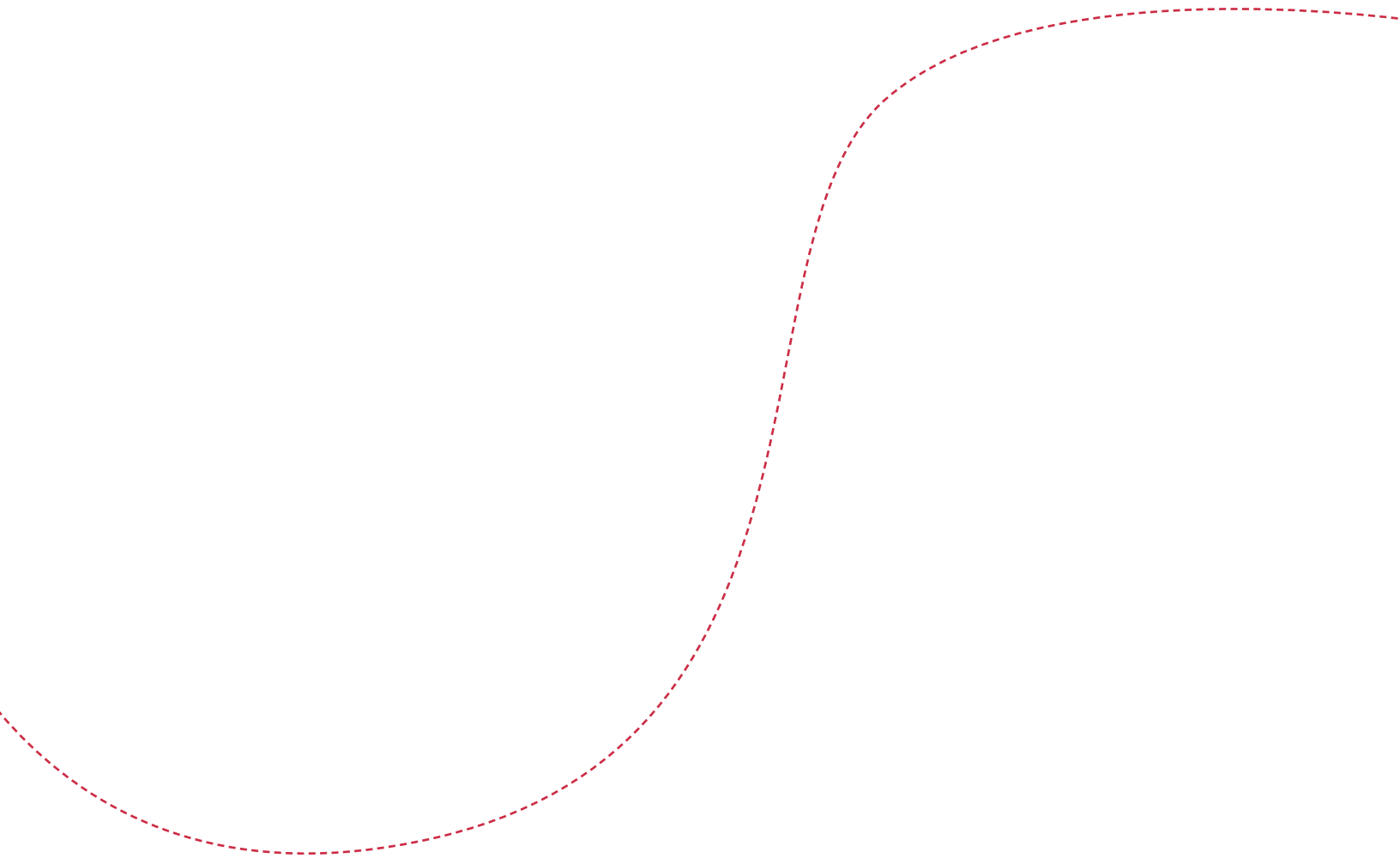
<sup>34</sup>Steven Grumm attended the Colloquium in a personal capacity and the views expressed here are his and not representative of the Resource Center for Access to Justice Initiatives.

<sup>35</sup>In Canada, see e.g. Law Society of Upper Canada, *Rules of Professional Conduct* (in effect 1 November 2000, as amended) at r. 2.04 (15)-(19), online: LSUC <<http://www.lsuc.on.ca/with.aspx?id=671>>.

<sup>36</sup>Judicial Council of California, “Statewide Action Plan for Serving Self-Represented Litigants” at 1, online: <<http://www.courts.ca.gov/documents/selfreplitsrept.pdf>>.

<sup>37</sup>California Courts, “About JusticeCorps”, online: <<http://www.courts.ca.gov/justicecorps-about.htm>>.





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