Canadian Forum on Civil Justice

Research Centres & Programs

Some Facts and Figures from the Civil Justice System and the Public

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Some Facts and Figures
from the
Civil Justice System and the Public

November 2010

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Who We Are

The Canadian Forum on Civil justice
The Canadian Forum on Civil justice is an independent organization working to improve the way the civil justice system in Canada meets the needs of the people it is intended to serve. The purpose of the civil justice system is to help people determine rights and peacefully resolve disagreements in non-criminal issues. We believe that the system can be improved and access to justice can be increased for all Canadians. Making positive changes in the way the system communicates with the people that use it, is one way to work towards this goal. Details of our work and access to our publications are provided on our web site at www.cfcj-fcjc.org.

Action for Change
We have many supportive partners in justice community organizations across Canada and we are working with these people to make sure our research findings are known and acted upon. All the details about the *Civil Justice System and the Public* research, and our many other activities to encourage effective reforms are available on our website.

Acknowledgements
The *Civil Justice System and the Public* was a national collaborative action project made possible by the contributions of many individuals. Approximately 400 people contributed via interviews and focus groups. We wish to thank everyone who talked with us about their views and experiences of civil justice in Canada and of collaborating to bring about systemic change. We thank our Research Partners for their ongoing support and for input into the development of this document. We also thank the project Research Directors Lois Gander, Diana Lowe, Teresa Rose and Barbara Billingsley and each of the Research Assistants who has contributed to the team. We are grateful to the Alberta Law Foundation, the Social Science and Humanities Research Council of Canada, and the Law Foundation of British Columbia who have provided the funding for this project.

Collaboration in Action

Our research approach is an action-oriented, collaborative partnership for an exchange of knowledge among those involved in the civil court process. The wheel below illustrates the project goals and partners at the commencement of the project in 2001.

The Civil Justice System in the Social World

Is vital to Canada's democratic society.

Provides a mechanism for the peaceful resolution of disputes among citizens.

Assists in establishing our rights and obligations and ensuring these are respected and enforced.

Touches our lives in many ways.

Requires research, reflection and reform to ensure it works as it should.

Access to Civil Justice: Improving Communication

The Civil Justice System and the Public focuses on understanding and improving communication within the civil justice system, and between the civil justice system and the public. The goal of the research is to make specific and clear recommendations about improving access to the civil justice system by increasing the ability of the system to hear, involve and respond to the public.
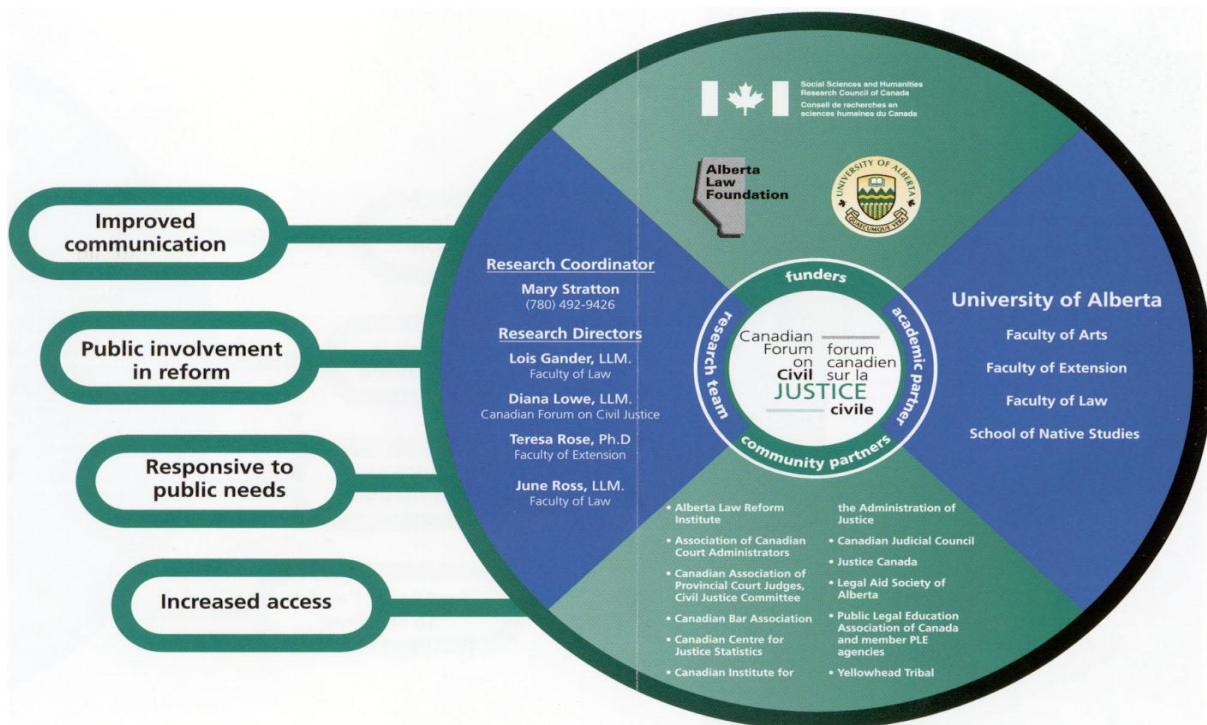
1. Some Facts and Figures: The Background

The *Civil Justice System and the Public* (CJSP) was a collaborative research program founded on the belief that a lack of effective communication, both within the system and between the system and the public, is a significant barrier interfering with access to justice. The research involved both the public and the justice community in identifying changes in communication practice that will improve the system. The project goal was to make specific and clear recommendations for effective change that will ultimately improve access to the civil justice system by increasing the ability of the system to hear, involve, and respond to the public.

Interviews took place in Alberta, Nova Scotia, Ontario, Quebec, Nunavut, and British Columbia between 2002 and 2006. Follow-up focus groups or Community Workshops were held in Alberta, British Columbia, and Nunavut. In all, more than 400 participants have contributed to the wealth of data gathered by this initiative. A detailed description of the project including an overview of the research methodology is available at http://cfcj-fcjc.org/research/cjsp-en.php. *Getting the Word Out* documents the many forms of mobilizing knowledge about this project and its findings. *A Working Document* presents an in-depth explanation of the CJSP purpose and approach. *Learning from Experiences to Find Practices that Work* provides a detailed overview of the project and the nine principles of good communication identified from the research findings. *Some Facts and Figures* is the 25th CJSP publication. It conveys information collected on short questionnaires completed by 293 CJSP participants.[1] The questionnaires (one designed for use with the public and one for the justice community) collected basic demographics about participants. Also captured was information helpful to better understanding public legal information and education (PLEI) needs. Examples of these questionnaires are provided in Appendix A.

As an addition to the main CJSP research, one of the project partners, the Canadian Institute for the Administration of Justice (CIAJ), requested that we send an adapted version of the interview questions to all of their members, the majority of whom are members of the judiciary. This contributed 121 completed surveys to the overall data. Responses were received from every province and two territories.[2] *Some Facts and Figures* also draws on the CIAJ surveys and CJSP interviews for numerical findings and qualitative illustrations that provide context.[3]

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[1] Some basic information was collected for every interview participant. The sample was not random and cannot be generalized beyond the participating group and we make no claim to statistical significance. See Section 3 for details on the limitations of the findings.

[2] The survey mailed to all CIAJ members was anonymous. It contained no identifying number or contact information. There are limitations in using a self-response survey, especially one originally designed for face-to-face interviewing. However, the resulting data provide a helpful addition to the main research.

[3] As noted, there are 24 other reports based on these very rich data and this report can only touch briefly on the many issues in the research. All publications are available at http://cfcj-fcjc.org/publications/cjsp-en.php

2. A Focus on Communication

 In 1996 the *Report of the Canadian Bar Association Task Force on the Systems of Civil Justice* was one of many studies in Canada and internationally, acknowledging a need for reform. This report identified cost, delay and lack of public understanding as major barriers to accessing justice. It also called for increased involvement of the Canadian public in shaping effective change.

The CJSP took the position that good communication practices are essential to public understanding of the justice system, and that effective lines of communication must be present within the system as well as with the public. The four main research questions reflected this approach.

2.1 Four Main Research Questions

1. *What is the current state of communication between the civil justice system (broadly defined) and the public about being involved in a case in the civil court system?*

2. *How is that communication experienced by: a) people within the system (among each other? with the public?) and b) the public?*

3. *What can be done to improve communication between the civil justice system and the public?*

4. *In the process of answering these questions, do other issues emerge that have import for other components (including agencies, systems, outcomes) of the civil justice system?*

3. Limitations of the Findings

Although a good range of justice system and public perspectives were captured, the findings from the CJSP short questionnaires and CIAJ surveys cannot be generalized to all justice community members or the public in general.[4] The facts and figures reported describe only the group of people who took part in this project. Findings should be regarded as indicators of trends and factors that are present within the civil justice process for at least some of the stakeholders. The CJSP was the first Canadian study of such issues and more research is needed.[5] The following limitations on the reported data should be kept in mind:

- All CIAJ members received the survey but only a minority completed and returned it.

- Justice community members took part in the CJSP interviews voluntarily. They were invited to do so based on their geographic location, their role within the system, and their availability within certain dates. Both researcher and self selection bias are therefore present.

- Public participation was confined to people involved in a legal matter that could potentially come before a judge in civil or family court. Only a small minority of people experiencing a legal problem ever commence legal action (Currie, 2007) whereas most participants were already involved in a court case.

- The short questionnaires were considered secondary to the in-depth interviews. If time was limited, the interviews were completed first. Most justice community participants were able to complete the questionnaires before or after the interview, but if public questionnaires were not completed at the interview, they were generally not returned later. Consequently, the numbers of participants completing questions varies.

- Questionnaires and interviews were available in French and English. Basic information about the project was also available in Inuktitut. Informal interpretation was arranged for some interviews in Inuktitut and other languages, but researchers had very limited ability to initially connect with people who did not speak French or English.

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[4] Only surveys that include a sufficient number of the general population to produce statistically reliable and valid results can be generalized. These must either take the form of a census (include everyone in a particular population), or have a random sample that can reasonably be assumed to have included a representative portion of all population groups. In practice, this is very difficult to actually achieve.

[5] Since the commencement of the CJSP in 2001, there has been an increase in empirical research about access to justice issues in Canada, some of which is listed in the bibliography of this report. Notably, three rounds of population-based surveying concerning the incidence of legal problems in Canada has been undertaken (Currie, 2006, 2007, 2009). Community-based research (or 'environmental scanning') to 'map' existing services and identify gaps has also been undertaken in various jurisdictions (Stratton, 2007, 2009; and the *Alberta Legal Services Mapping Project* at http://cfcj-fcjc.org/research/mapping-en.php .

- Many different social groups with varying individual circumstances make up 'the public'. The presence of legal services and sources of information differs from place to place so the possibilities to be considered also fluctuates for both public and justice community participants. The sample is not large enough to allow analysis of such differences.

- The development and application of electronic technology during and since the CJSP research has been rapid and would likely have an effect on some answers if the questions were to be re-administered today.[6]

Despite the above cautions, when combined with the findings from the in-depth interviews, the questionnaires provide some insight into communication issues among justice stakeholders and how people look for assistance when they have a legal problem.

4. How We Define Communication

A basic point that the overall CJSP data establishes is that most people working within the civil justice community are involved, either directly or indirectly, in communications between that civil justice system and the public.

> *We define communication to mean every way in which justice system members and members of the public discuss, receive, or convey information. This may include the following:*
> - *direct meetings and conversations*
> - *telephone, e-mail, memos, and letters*
> - *handing out or sending of brochures and other materials*
>   a) *which were created by members of justice community or the public*
>   b) *were not personally created by members of the justice community or the public*
> - *providing or interpreting judicial orders, directions, or decisions*
> - *information placed on websites*
> - *referrals to or from other services*
> - *the posting of directions around the court house*

Even given this encompassing definition, justice community participants nevertheless held differing perspectives on the degree to which they communicated with the public and each other.

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[6] Some comments about this are offered in relation to specific findings throughout the report.

Table 1: Amount of Communication Contact – CIAJ Survey

Amount of Contact N = 121[7]	With Public %	With Justice Community %
A Lot	44	53
A Little	23	18
A Fair Amount	9	12
None	2	2
Other	21	14

As Table 1 illustrates, most participants recognized at least some communication contact with the public and with other justice community members. Perceptions about the degree of contact varied considerably, especially concerning members of the public, where almost one quarter of the CIAJ participants gave complex responses (21%) that could not be readily coded. The quotes below describe some of the different views expressed.

> *I would say very little [communication] except when dealing with the self represented, when they are parties to litigation. So I have no direct dealings with the public.*
>
> *I am a family court judge. The litigants with whom I communicate are, almost without exception, in the courtroom. These litigants are, I would gather, the "public".*
>
> *As a judge, my communication with the public is through my statements in court and at settlement conferences, my decisions, the occasional letter, and the occasional public speaking engagement. I don't think further communication would be appropriate (aside from doing more speaking engagements or sitting on committees).*
>
> *I participate in the PLE project with high school students in the Toronto area. I have normal contact with courthouse staff; I maintain membership in many lawyer organizations and attend frequently at meetings and seminars and conferences.*
>
> [All quotes taken from CIAJ Survey responses]

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[7] Percentages in all tables in this report are rounded to the nearest whole number. Therefore, totals may not equal exactly 100%.

When researchers encouraged interview participants to explore their initial perceptions about communication, it usually resulted in expanded recognition of the amount of communicating that actually occurred. Interestingly, and in contrast to the quotes above, rather than a focus on *types* of communication, participants providing front-line services were more concerned with the context, impact, and value of their communications.

I always feel that it would be better if I knew the whole story .... All I know is the events that are occurring at the time in front of me .... I would like to know more about the process and how people ultimately arrive in the courthouse. And that probably would help me do my job providing ... more informed information for the public when they come ... just a better understanding of the system and how it works. [Sheriff, Supreme Court, Family]

It can vary depending on whether you're speaking to children, speaking to adults, if you're talking about what you can do to solve a problem related to your Will, or if it's simply general information. The important thing is that your method of communication be adapted to your target group. So it can vary greatly. [Supreme Court Manager]

5. Facts about the CJSP Interview Participants[8]

The Justice Community	The Public
• 185 people took part representing many different justice community roles.	• 108 people involved as litigants or witnesses in civil and family cases of all kinds took part.
• 55% were male; 45% female.	• 48% were male; 52% female.
• 78% worked in an urban centre.	• 72% lived in an urban centre.
• 46% had annual family incomes of $100,000 or more.	• 46% had annual family incomes of less than $25,000; 8% reported $100,000 or more.
• Highly educated: 55% have a graduate or professional degree; all but 9% have at least some post secondary; all completed high school.	• Complete range of educational attainment: 14% have a graduate or professional degree; 38% have a bachelor of college degree/diploma; 9% have less than high school.
• An aging Community: 30% are over 55; only 14% are under 35	• Involvement in the middle-years: 70% were between 34-54; less than 3% were between 18-24; none were over 65.
• English was the first language for 80% and French for 12%; seven other languages were reported.	• English was the first language for 61% and French for 17%; ten other languages were reported.
• 8% identified as First Nation, Métis or Inuit.	• 10% identified as First Nation, Métis or Inuit.
• 7% identified with an ethnic group or other minority; 20% were born outside of Canada.	• 20% identified with an ethnic group or other minority; 15% were born outside of Canada.

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[8] A broad comparative overview is provided. Not all participants answered the personal questions about income or education. Percentages provided are based on the number that did respond. The CIAJ participants were not asked for demographic details but all necessarily held professional degrees and likely had above average family incomes.

The CIAJ Participants
• 121 people completed surveys.
• 75% were members of the judiciary; 11% were practicing lawyers.
• 14% were employed in various roles: government; police services; law schools; dispute resolution; law commissions.
• 91% were based in urban centres; 3% indicated a suburban town; 6% were located in rural areas and a further 6% visited such areas as part of their work; 4% served remote areas.[9]
• On average, participants had 30 years of experience in the justice system.[10]
• 45% reported having a lot of contact with members of the public; only 2% said they had no contact; 53% reported a lot of contact with others working in the justice system and 2% indicated no contact.

5.1 Conclusions about the CJSP Participants

✚ The CJSP sample was based on a deliberate attempt to include a wide range of people with direct, but different experiences of the civil and family court system and this was achieved.

✚ Justice community participants contributed many different perspectives: from organization front-lines to management; from judiciary to court security; from corporate law firms to small non-profit legal services.

✚ Public participants were recruited wherever the researchers could find them: in legal aid offices and courthouses; via newspaper and radio advertisements; through community groups; by starting conversations in buses, taxis and restaurants. Those who took part ranged from legal aid clients to representatives of corporations. Collectively they had

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[9] While we received responses from all provinces and two territories, responses were not evenly distributed. As might have been expected, Ontario accounted for the largest percentage (28%), however, Alberta contributed 20% of the replies and Quebec 18%. All other regions contributed less than 10% each. We do not know why members in some areas were more inclined than others to respond, although we note that responses were higher from areas already visited as part of the CJSP research.
[10] 30 years was both median and modal average. The range was 2 to 57 years.

experience spanning a wide range of legal matters, as plaintiffs, defendants and witnesses in provincial, superior and appeal courts.

- Overall, public participants came from many social backgrounds.

- While the CIAJ survey participants did not have the opportunity to interact directly with the researchers, they did have the advantage of complete anonymity. Their responses broadened the range of overall input and allowed the inclusion of justice community perspectives from provinces and territories the researchers were unable to visit in-person.

6. Communicating about Family and Civil Justice
The State of Communication: How People Begin

Most people do not give much thought to family or civil justice laws and procedures until they have a problem, and then they seldom know where to begin looking for the information and help they need. As Table 2 illustrates, once a potential legal need is recognized, people tend to seek information and help via every means they can think of.

Public participants were asked what sources they had used to gain information about their legal matter. They answered based on sources they actually accessed. For the justice workers, this was a hypothetical question which they answered based on what they expected people would use if such a service is available. Even so, public and justice community participants identified the same top seven sources of information, highlighted in Figure 1 (below table 2).

> *I had no clue how things were set up before I actually got into trouble and had to do something. I initially asked my friends … then asked people … who had been involved. …. Then there was a service in town called "Dial-a-Lawyer" or something and there were three people I talked to who were helpful. … And I went to the police station. They agreed it wasn't my fault but laughed and said, "good luck getting your money' … If you don't know where to start, you don't know what questions to ask, and if no one is giving you the answers to the questions you don't ask, you are not going to learn new stuff.*
> [Public, Small Claim]

**Table 2: Sources of Information Used by the Public Participants
Compared to what the Justice Community Anticipates**

Sources of Information Total N: Public = 108; Justice = 185 Valid N used for reported percentages[11]	Used by Public Participants %	Justice Community "Very Likely"[12] %
A lawyer	92	71
Personal contacts	77	81
Court administrative staff	64	78
Legal Aid Society (including youth/family law offices)	60	70
The Internet (world wide web)	49	46
Court information desk or kiosk	49	60
Public legal education pamphlets and booklets	46	39
Newspaper articles	42	22
Public legal advice telephone line	37	37
Television information (news/documentaries)	36	22
Radio news/documentaries/information programs	25	24
Notice boards in the courthouse	32	32
Police Services	31	20
Public library	29	09
Television dramas	25	34
An elected government representative (MP, MPP, MLA, municipal councillor etc.)	24	18
A community centre or shelter	23	23
Public legal information sessions/workshops	23	21
Law library	22	18
A paralegal	22	26
Court security staff	21	31
A school class or program	22	12
Public legal education video (public n=5)	6	17
Band council office (public n=3)	4	34

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[11] Not all participants answer every question. Answering some questions depends on a previous answer. For example, only people who used or knew about a source of information can subsequently rate how useful it was. The 'valid' percent is those people who actually answered the specific question. When this number is five or less this is indicated at the reported item in the Tables.

[12] Justice community participants were asked to rate public use of each source as 'not at all likely'; somewhat likely'; or, 'very likely'. The 'very likely' responses are used as the closest comparison to what public participants actually reported doing. Where it appears relevant, the range of justice community answers are noted in the discussion of findings.

Figure 1: Top Sources of information (%)
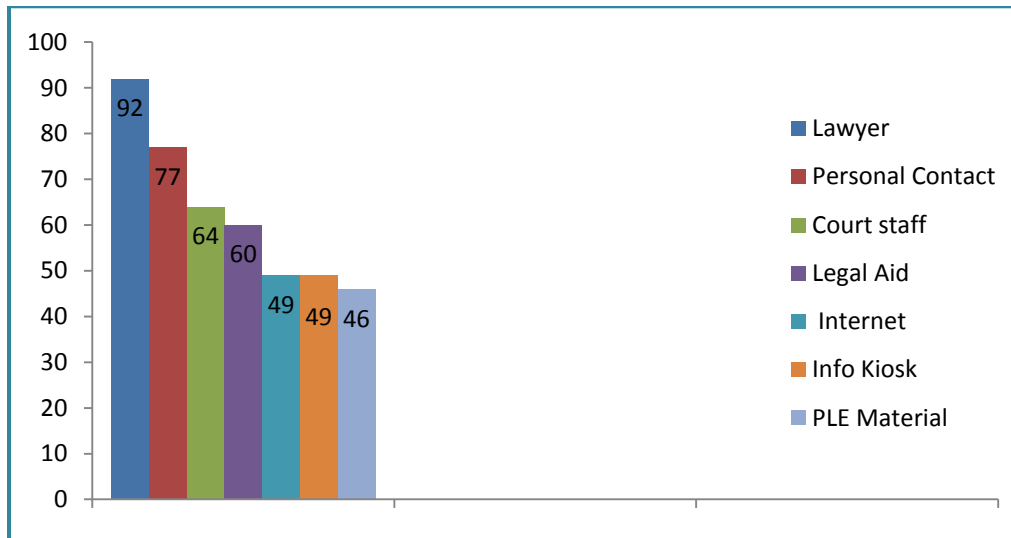
The following observations can also be made based on Table 2, the in-depth interviews, and subsequent research[13]:

- The CJSP interview data and other research show that sources of information and access patterns vary considerably according to geographic location.
  - Larger urban centres have more services, but people in smaller towns may know about and be able to locate local services more easily.
  - Courthouses are generally central access points for information and assistance, but they are especially important in small towns.
  - In small towns and rural locations, people are often concerned about sharing personal problems with service providers who may know them.
  - When there is an absence of other legal service options, people are more likely to turn to police services for family and civil information, but police have a limited capacity to help and/or do not have as much information to offer as they could use.

- People tend to try well-known sources (such as legal aid or a lawyer) first, but may not be eligible for the services available. Or, they may expect more help with their legal matter than staff can provide (such as completion of forms by court staff). These initial misconceptions negatively influence perceptions of usefulness.[14]

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[13] See the various CJSP reports at http://cfcj-fcjc.org/publications/cjsp-en.php ; the *Alberta Legal Services Mapping Project* reports at http://cfcj-fcjc.org/publications/mapping-en.php#alsmp; Cohl & Thompson, 2008; Malcolmson & Reid, 2004, 2006; Reid & Malcolmson, 2008; Stratton, 2007.

[14] As noted, this questionnaire was the first of its kind. We learned from experience that participants did not always understand clearly the differences between some services and/or different legal terminology. A particular example of this concerns lawyer and legal advice services. Participants may not have known whether they contacted a lawyer or a paralegal; they may have listed using a lawyer referral service or

- Once accessed, most sources of information provided some help, with the majority considered quite or very useful by participants.

- The most frequently used sources of information are not necessarily those rated as most helpful. Particularly notable are Law Libraries used by only 22% of participants but considered useful by 72% of those accessing that resource - the highest rating of all sources.

- When all courthouse services are considered together (court administration, security, and courthouse information desks/kiosks) the courthouse emerges as a particularly likely information access point. Over 50% of participants found such sources useful, with relatively few saying they were no use at all.

- Elected government representatives seem a logical source of information about where to turn for help with legal issues. However, 83% of participants rated this source as the least helpful of all. Overall, research now shows that government and other non-legal service representatives do not usually have any better understanding of the legal system than the public in general.

- Justice community answers suggest an expectation that only people without a lawyer want information about legal matters. The CJSP findings challenge this assumption. At some point in their legal process 70% of the public participants had legal representation, but almost all sought additional information. Some needed help to find a lawyer in the first place, but many wanted to better understand the law, legal terms and the legal process in which they were involved.

7. Public Legal Education and Information: Experiences of Availability, Accessibility and Usefulness

The questionnaire item reported in Table 2 asked *where* people were likely to go for information. A second item asked about specific *kinds* of public legal education and information and other legal services. Both public and justice community participants were asked if they thought these types of information were available. Public participants were then asked if they had used that sort of information, how easy it was to access and how useful they found it to be. Justice community participants were asked how accessible and how useful they thought each type would be to the public. They were also asked if they had personally given out that kind of information.

Dial-a-Law as using a lawyer; or they may have considered the latter two services to be legal advice lines.

> *I find that most information that's publicly available ... is more or less just intended to direct you to the type of lawyer you require. It's not necessarily there to provide you with the information needed to represent yourself.* [Public Participant]
>
> *I needed to find out exactly all the child custody options so I didn't get a surprise thrown at me kind of thing.* [Public Participant]
>
> *How to commence a Civil Claim document and how to proceed with that type of thing is constant ... even though the booklets on the stand. Even though they have access to the Internet ....To be honest ... if you've never done it and you've never had a legal issue, there's just nowhere to access that information.* [Court Registry Clerk]
>
> *My son received a notice and wasn't sure what it was. He lives in a small community 30 minutes flight from [town]. There is no Legal Aid Office and no other resources. He was given a 1-800 number to call but no one answers and no one calls back. He isn't sure which court he is waiting for and doesn't understand what is going on…. I am well educated and aware of the systems, but I am still having problems. Assistance should be available in every community.* [Public Participant, Remote Area]

7.1 Information Availability

Table 3 lists types of information that people with civil and family legal problems might be expected to need. Public participants answered based on their personal experiences. They were first asked if they knew whether each type of information was available. If they said it was available, they were asked if they had actually used that information. So, in Table 3, 76% knew information about legal aid was available and of those, 67% actually used the available information.

Table 3: Public Legal Education and Information Availability and Use

Type of Information Total N: Public = 108: Justice = 185 Valid N used for reported percentages (rounded)	Available %		Public Used % (of available)	Justice gave out % (of available)
	Public	Justice		
Legal Aid	76	94	67	62
How to find a lawyer	73	93	70	71
How to fill out forms	60	76	93	49
Self-representation	58	74	61	62
Options for resolving disputes (mediations, settlement conferences, mini-trials, arbitration, Aboriginal processes)	58	83	61	55
Courthouse hours and contact information	56	81	76	63
Social support services (Native court workers, social services, mental health workers, etc.)	55	85	63	45
Understanding judicial orders, directions, decisions	53	48	73	46
The civil court system	52	78	75	42
Understanding legal terms	47	60	83	48
Enforcing judicial orders, directions, decisions	46	67	66	46
How to make a complaint	46	69	74	65
Directions to the courthouse	45	47	67	44
The roles of the people in court	43	54	69	46
Legal information centres, kiosks, and services	43	72	67	50
Appealing judicial orders, directions, decisions	41	74	55	53
Alternative legal services (paralegals, community-based assistance, advocates)	40	66	53	45
Correct court etiquette	38	50	72	46
Understanding case lists/postings	38	45	69	35
Court parking and public transport options	38	46	67	31
Range of litigation costs and fees	37	55	57	36
Translation services	37	74	31	49
How to become involved in civil justice reform	27	22	65	30
Map of the courthouse	22	28	41	23
Child care availability	14	14	36	11

Justice community participants were asked, "Do you know if the following kinds of information are available?" Responses, therefore, should also have been based on their personal knowledge of resources. The comparative results of perceived availability and actual usage allow some interesting observations:

- For the most part, justice community participants were far more likely than the public to report types of information as available. The lack of public knowledge about key types of information is of concern.

- A quarter of public participants did not think that information was available on how to find a lawyer or get legal aid. Sixteen of the information items were thought available

by less than half of the participants. This included such basics as understanding legal terms, the roles of people in court and how to get to the courthouse.

- When it came to matters of court roles and etiquette, barely half of the justice participants thought such information was available. Only 60% knew of resources on legal terms. Less than half thought directions to the courthouse were available.

- In the case of directions in general, since the CJSP was conducted, the situation is much improved via the routine use of electronic technology such as Google Map, which provides car and transit options and usually shows parking as well. Ninety percent of public participants reported having access to the Internet.[15]

- Public participants were highly likely to use information they knew to be available. Of the 25 kinds of information listed, 16 were used by two-thirds or more of those who knew they were available.

- In contrast, despite the higher reported knowledge of availability, most justice community participants had not personally provided that information to members of the public. Only eight kinds of information had been given out by more than 50% of those who said it was available.

- Based on insights from the in-depth interviews and findings from subsequent research, it is likely that the justice community members over-estimate the availability of information. They recognize an obvious need for it and tend to think that it must be out there somewhere, and that they *should* know about it even if they don't. In contrast, the public underestimates availability due to accessibility barriers. Table 4 reports on accessibility.

7.2 Accessibility

The findings concerning the ease or difficulty of access to PLEI are complex. They must be considered in the context of availability (reported in Table 3) which varied across the research locations and this may well be the reason that consistent accessibility patterns do not emerge from the data.

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[15] Twenty-two percent of the public participants did not have personal access to the Internet (see "Aids to Communication" Table 6). However, personal Internet access continues to increase, as do alternatives such as access via a work computer or a personal contact and/or public access in libraries or cafés.

Table 4: Ease of Access to Available Information

Information Topic Justice Community N = 185 Public N = 108 Valid N used for reported percentages (rounded)	Ease of Access (in order of the most availability)[16]			
	Very to Quite Easy %		Quite to Very Hard %	
	Public	Justice	Public	Justice
Legal Aid	77	71	23	30
How to find a lawyer	79	85	20	15
How to fill out forms	66	51	34	48
Self-representation	47	58	52	41
Options for resolving disputes (mediations, settlement conferences, mini-trials, arbitration, Aboriginal processes)	75	57	26	43
Courthouse hours and contact info	87	79	13	22
Social support services (Native court workers, social services, mental health etc.)	61	58	39	41
Understanding judicial orders, directions and decisions	59	45	41	56
The civil court system	53	61	46	39
Understanding legal terms	60	45	41	56
Enforcing judicial orders, directions and decisions	52	40	47	60
How to make a complaint	67	50	33	50
Directions to the courthouse	89	60	10	40
The roles of the people in court	66	51	33	50
Legal information centres, kiosks	54	56	46	45
Appealing judicial orders, directions and decisions	50	48	50	53
Alternative legal services (paralegals, community–based assistance, advocates)	70	42	30	58
Correct court etiquette	60	49	40	51
Understanding case lists/postings	77	68	24	32
Court parking and public transport	76	67	24	33
Range of litigation costs and fees	50	37	50	63
Translation services (public N = 6)	66	58	33	41
How to become involved in civil justice reform	53	17	46	84
Map of the courthouse	100	43	0	57
Child care availability (public N = 5)	40	39	60	61

Findings do, however, allow the following observations:

- Figure 2 (below) shows, in order of ease of accessibility, the five key sources of information public participants reported as most available. These sources were among the top ten scores for ease of availability (Table 4). Even so, over 20% of

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[16] Table 4 items are ordered by the degree of availability reported by public participants. See Table 3 for availability details.

public participants said it was difficult to access information on such basics as how to find a lawyer or get legal aid.

Figure 2: Easiest Access to Available Information – Public (%)
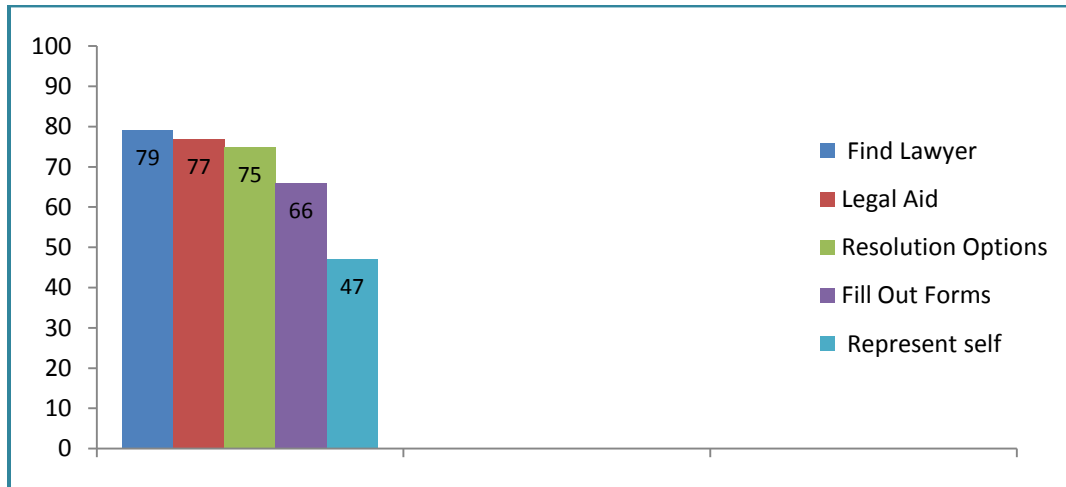
More than half of the public participants found it hard to access information on self-representing, although they were somewhat more successful in accessing information on filling out legal forms (66%).

Figure 3: Easiest Access to Available Information – Justice Community (%)
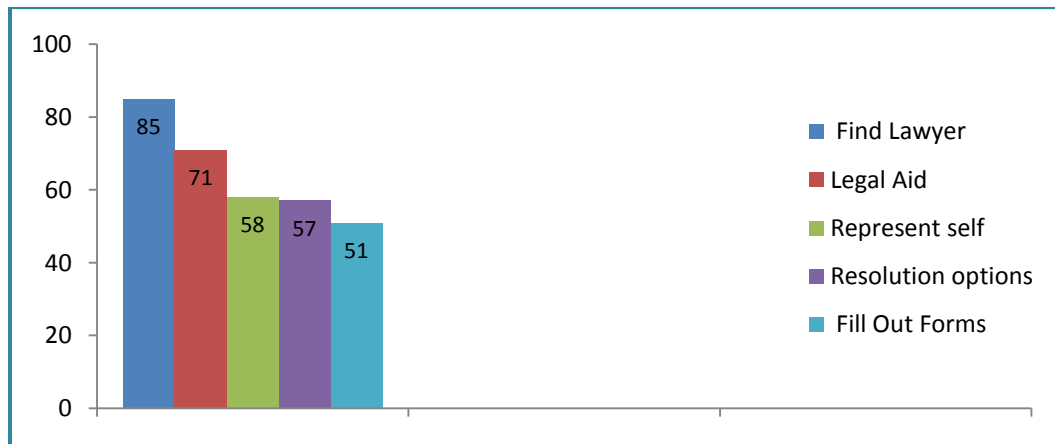
Interestingly, the justice community were more hopeful about the ease of accessing information on finding a lawyer (85%) and self-representing (58%), but pessimistic when it came to forms with almost half (48%) considering information hard to

access. Overall, justice workers perceived even more difficulty with access than the public reported.

In a perfect world one would say, "Well, the brochure's available,
It tells you the resources that you can access – they're there".
And the public would say, "I didn't even know of the existence of
the brochure that told me about the existence of those
resources, much less the resources themselves!" [CJSP,
Participant, Court services]

↓ As previously mentioned, interviews, researcher observations, and subsequent studies suggest that legal service providers generally have limited knowledge of resources beyond those of their immediate service. Furthermore, information gathering is seldom assigned as a specific responsibility (Lowe & Stratton, 2004).

↓ While access obviously requires that we know an information source exists, knowledge of availability and ease of access do not necessarily correlate. Some very basic information needs provide examples of low availability, but easy access if available:
   o 100% of the public who found a map of the courthouse said it was easy to access, but only 22% had found one available.
   o 45% reported directions to the courthouse available of which 89% found them easy to access.
   o Of the 56% who found courthouse hours and contact information, 87% accessed them easily.

↓ Common sense tells us that the kind of basic information in the above examples should be readily available and easy to find. As already noted, on-line maps have much improved availability of directions. CJSP researcher observations were that if maps of the courthouse layout existed they were prominent, but too often absent. Courthouse contact information is usually available somewhere, but often buried deep inside institutional websites that challenge even trained researchers' navigational skills.

↓ For the most part, as Tables 3 and 4 show, reported availability and ease of access are considerably lower than the ideal for both the public and justice community. There remains considerable room for improvement but many justice stakeholders across Canada have engaged with the findings from the CJSP and subsequent research. Efforts to bring about change should be applauded and it is possible to

observe improvements, especially in meeting the needs of people who are self-representing:[17]

- o Work to improve the content and navigation of legal service and PLEI websites
- o Attempts to redesign legal forms to improve accessibility
- o Establishing dedicated legal information centres, sometimes including brief legal advice
- o Expansion of information and brief advice telephone access
- o Expansion and improved coordination of *pro bono* services.

7.3 Usefulness

Availability of and access are the first two steps in effective PLEI. The third concerns its usefulness to the recipient. To be useful, information must answer questions and give directions in a way that is easy to understand and follow.[18]

> *Filling out forms … that was probably the most difficult thing 'cause I had no clue how to do it …. I talked to a law clerk and she helped me go through how it should be filled out. Because they are very vague sometimes …. an example would help. Just give me something to base it on because if they're not done right you may as well throw them in the garbage and start again.* [Public Participant, Civil Matter]
>
> *The brochures that the Family Law Information Centre provides are useful in terms of filling out forms, how to serve them and stuff like that, but even they don't answer all the questions. For instance,'service'. Rules of Court indicate how you must serve a document but it's kind of written in legalese.* [Public Participant, Family Law]

Table 5 summarizes the participants' perceptions of the usefulness of the information they actually accessed.

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[17] These are very broad descriptions of some common areas of reform. More detail can be found in the Inventory of Reforms at: http://cfcj-fcjc.org/inventory/ . Some attempts have been more successful than others. Information and assistance centres have generally received a positive response from both the public and justice community. In contrast, changes to Family Court forms in several provinces have been roundly criticized by lay people and front-line justice workers. Institutional websites are improving but have some way to go as yet. Some promising efforts have been halted due to lack of funding.
[18] Plain language, meeting ESL needs, and overall clarity might be addressed as accessibility issues. However, CJSP interviews suggest the public tend to regard these factors as elements of usefulness, whereas 'accessibility' means they can actually obtain, or get to, the source of information they know is available.

Table 5: Perceived Usefulness of Accessed Information

| Information Topic Justice Community N = 185 Public N = 108 Valid N used for reported percentages (rounded)	Perceived Usefulness (in order of the most availability)[19]			
	Very to Quite Useful %		Little or No Use %	
	Public	Justice	Public	Justice
Legal Aid	74	79	26	21
How to find a lawyer	62	76	38	24
How to fill out forms	74	70	25	30
Self-representation	61	56	39	44
Options for resolving disputes (mediations, settlement conferences, mini-trials, arbitration, Aboriginal processes)	42	74	58	26
Courthouse hours and contact info	93	84	06	16
Social support services (Native court workers, social services, mental health etc.)	69	69	31	32
Understanding judicial orders, directions and decisions	72	63	27	37
The civil court system	73	68	26	32
Understanding legal terms	67	53	34	47
Enforcing judicial orders, directions and decisions	55	61	46	39
How to make a complaint	68	60	32	40
Directions to the courthouse	80	72	20	18
The roles of the people in court	80	65	20	35
Legal information centres, kiosks	67	69	33	30
Appealing judicial orders, directions and decisions	57	63	44	36
Alternative legal services (paralegals, community–based assistance, advocates)	76	68	24	33
Correct court etiquette	77	74	24	26
Understanding case lists/postings	78	68	22	31
Court parking and public transport	88	86	12	14
Range of litigation costs and fees	56	56	44	44
Translation services (public N = 6)	100	69	0	31
How to become involved in civil justice reform	69	40	31	60
Map of the courthouse	100	60	0	40
Child care availability (public N = 5)	20	57	80	43

[19] Table 5 items are ordered by the degree of availability reported by public participants. See Table 3 for availability details. Only those who accessed available information were asked about its usefulness. For example, of the 108 public participants, 82 or 76% knew information on legal aid was available. Of those 82 people, 63 (77%) actually accessed it. Of those 63 participants, 74% found the information very or quite useful, meaning that over one quarter did not find it helpful.

🔸 Public participants who had successfully accessed information they needed were reasonably positive about its usefulness whereas justice community participants tended to be a little more hesitant.

🔸 A notable exception to this general trend is options for resolving disputes where 58% of users said the information was of little or no use. Just 13% said that it was very useful. In contrast, 74% of the justice community thought such information would be very or somewhat useful. CJSP public interviews indicate that most people would like to use alternatives to court. There is substantial other research about alternative dispute resolution (ADR), but findings are varied and inconclusive, and this was also the case with CJSP data.[20]

> *We know so much about it we assume everyone knows. We need to stop a minute and say, 'what does the average person on the street know about what happens here in the courthouse? What would they like to know? What do they need to know?' and 'How can we get that information to them?'* [Member of the Judiciary]

🔸 As Figure 4 illustrates, people going to court found basic information about how to get to and around the courthouse highly useful, again underlining the importance of ensuring such information is available and easy to get.

Figure 4: Usefulness of Accessed information on the Courthouse – Public (%)
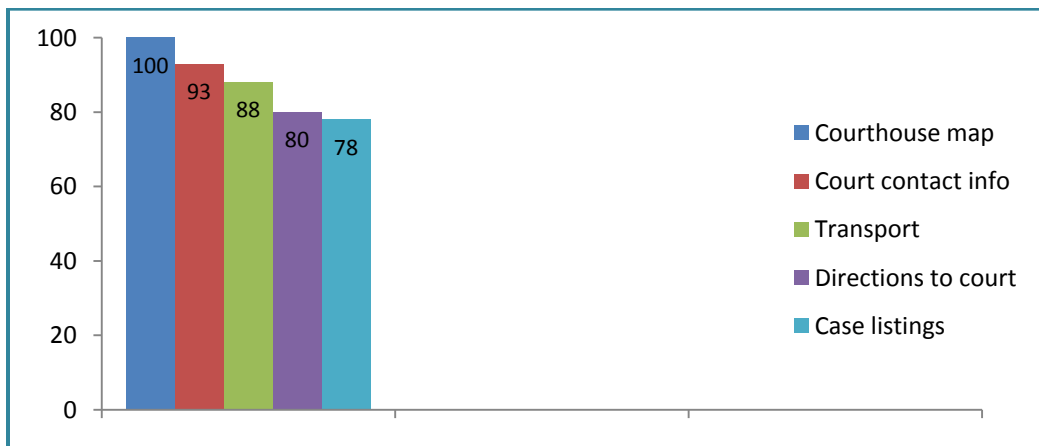
[20] Billingsley et al (2006, pp. 50-55) discuss the positive potential of ADR, but also note the need for more research including a specific analysis of CJSP data concerning this. Resources to conduct this have not, however, been available.

✚ Information on the civil court system and associated matters such as roles in court and court etiquette were also rated as highly useful by the public, as was that on Legal aid, completing forms, understanding judicial orders and alternative legal services (Figure 5).

Figure 5: Usefulness of Accessed information on Court System – Public (%)
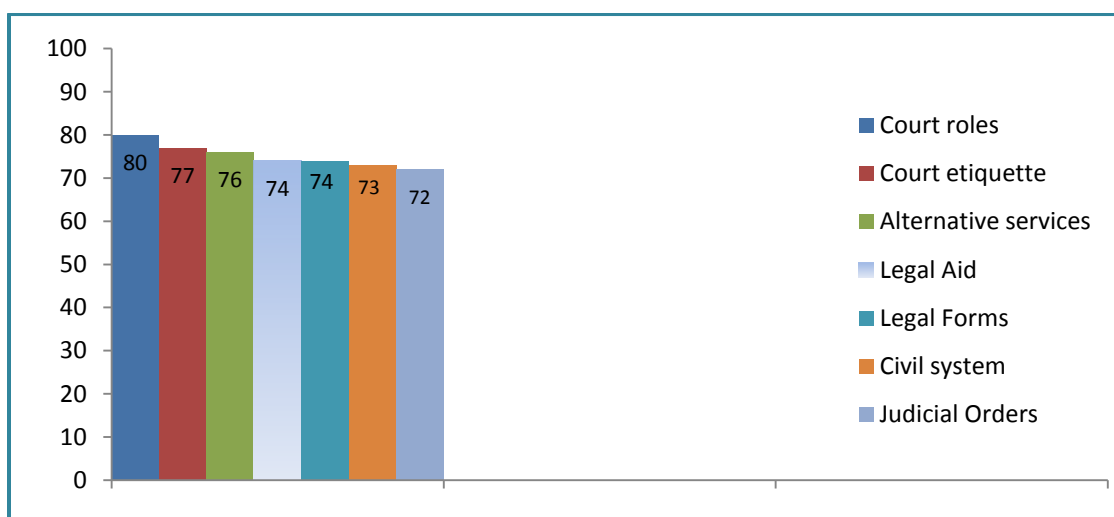
8. Aids to Communication
Materials, Technology, and Attitudes

As Table 2 illustrates, information is sought and gained in a variety of ways. Findings indicate that accessing what is available often requires determination and the ability to apply search tactics and strategies. CJSP participants were, therefore asked a series of questions designed to see if they had the means to access PLEI via commonly used media (see Figure 6 below). These personal tools, along with individual attitudes of service users and providers, either aid or hinder our ability to communicate and access available resources.

> *I'm a very resourceful woman. I don't give up … I had to seek information outside of the courthouse. I had to go to different places – different agencies, government as well …. I am a person who firmly believes in seeking help. I went to a few women's advocacy groups, and I went to the public library. I tried to access the government through the website … I began to involve community and social services because they're the ones that said you have to go after the father for child support.* [CJSP, Female, visible minority applicant in child custody, access and support case]

8.1 Materials and Technology

Traditionally, PLEI has depended heavily on written information, increasingly now provided via the Internet. Even in-person public legal education sessions usually rely a great deal on written handouts.

In recent years there has been a movement to providing PLEI in audio and visual forms, making use of cassette tape, VCR and now DVD technologies. Some providers have developed state-of the-art on-line resources that combine text, audio and visual options, sometimes in several languages. This is excellent work.[21] It does, nevertheless rely on people having access to the Internet and possessing sufficient literacy skills to navigate the pages and options available. Unfortunately, some of the most vulnerable Canadians with multiple social and legal needs do not have these tools. Justice community members sometimes called this group "invisible litigants" because they are too socially excluded to even begin accessing services that are available to assist them.

> *Most people writing the pamphlets are university educated …. I talk to my husband - he's university educated - about the law. I think I am talking normal general language and he doesn't understand a word I am saying. I think, "Oh, my gosh, I sometimes talk to my clients like that!" I have to make sure they understand. If my husband can't understand, how are my clients going to? The simple language … plain language in law - we really need a lot of that in the pamphlets and the administrative stuff. When you see the forms that they make in the courthouse for people to fill out, number one it says "Affidavit" - did you know what that meant before law school?* [CJSP, Lawyer]
>
> *Brochures more layman like ....'Cause you read through it and you go, 'What does that mean?'....They all have that lawyer-talk lingo ... and for somebody who hasn't been there it is difficult to understand.* [CJSP, Public, Provincial Court Civil Claim]

Furthermore, CJSP participants made it very clear that they preferred in-person help to access, understand, and apply the information they required to deal with legal problems. Once a legal matter has become critical, even highly educated people find it difficult to absorb information. There need to be in-person options delivered with excellent communication. Where impersonal resources are to be relied upon, the clarity of content is of paramount importance.

As can be seen from the tools listed in Figure 6, technology has advanced quite rapidly. Some of the tools listed, such as audio cassettes and VCRs are now virtually obsolete.

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[21] For some examples see: Éducaloi at http://www.educaloi.qc.ca/en/; Justice Education Society of BC at http://www.justiceeducation.ca/;and Clicklaw at http://www.clicklaw.bc.ca/.

A similar question in 2010 would need to ask more about the kind of cell phone access (e.g., texting, Internet access and social networking connections, such as Facebook and Twitter).[22] The age of the available computer and the Windows/Mac software used is also relevant as older models cannot run many of today's multi-media applications.

Figure 6: Personally Have Aids to Communication

(Justice Community N Range = 148 – 155: Public N Range 73 - 81)

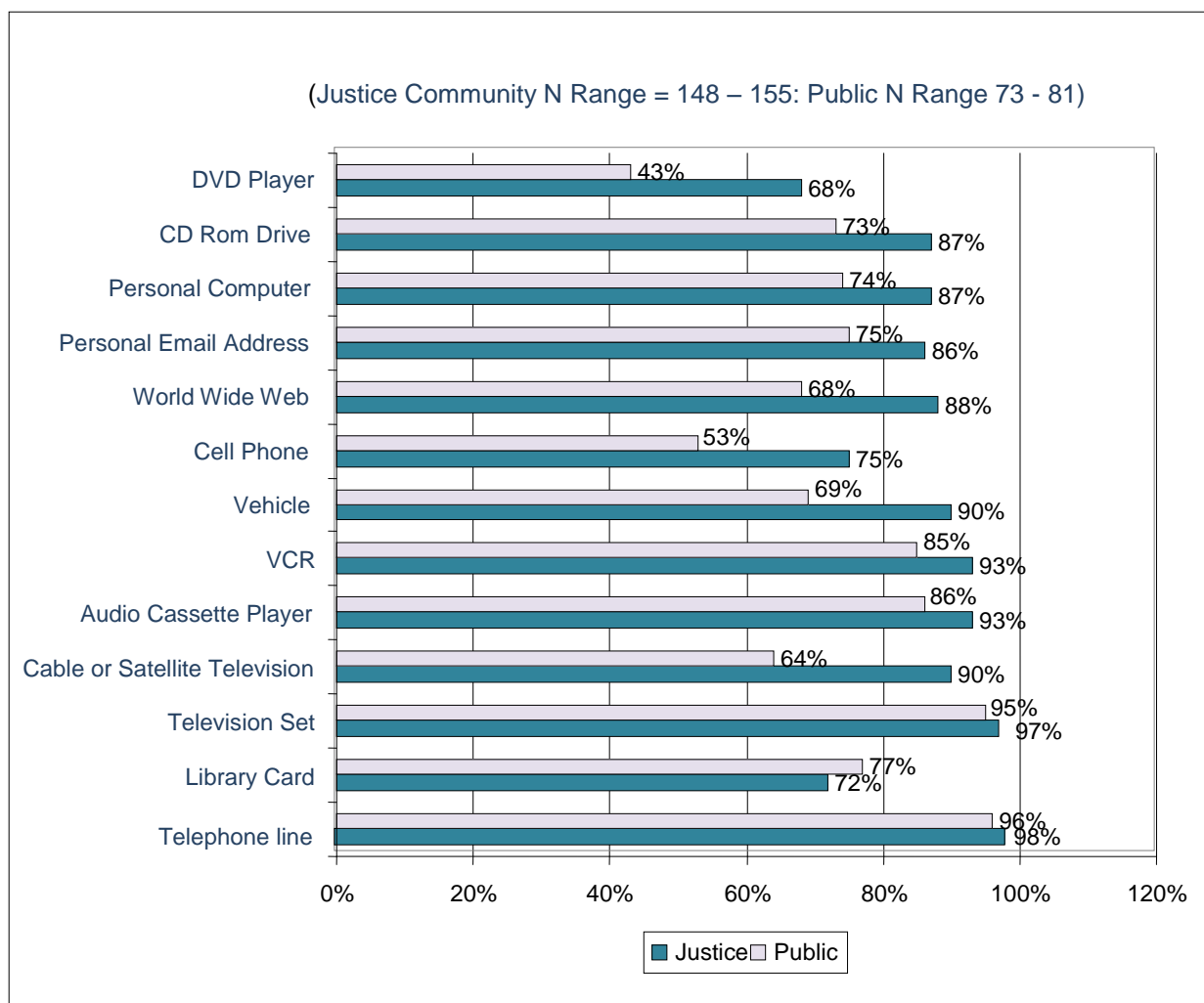| Aid	Public	Justice
DVD Player	43%	68%
CD Rom Drive	73%	87%
Personal Computer	74%	87%
Personal Email Address	75%	86%
World Wide Web	68%	88%
Cell Phone	53%	75%
Vehicle	69%	90%
VCR	85%	93%
Audio Cassette Player	86%	93%
Cable or Satellite Television	64%	90%
Television Set	95%	97%
Library Card	77%	72%
Telephone line	96%	98%

⬛ Justice ⬜ Public

➕ Figure 6 shows that the majority of participants possessed the communication aids we asked about, with the justice community notably more likely to possess the

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newer (at that time, cell phones and DVD players) and/or more expensive items (such as vehicle).

🌣 When considering the degree to which public participants possessed the above tools, it must be remembered that they were all involved in a civil court case and confident enough to talk to researchers. This likely means that the most socially excluded were not captured in this research.

🌣 A library card should be available to everyone and is increasingly a gateway to audio-visual materials and Internet access as well as reference materials. Public libraries are often venues for in-person PLE events.[23] Almost one quarter of public participants did not, however, have a library card.

8.2 Attitudes to Communication

The courts are becoming, and rightly so, more conscious of their responsibility to communicate with the public, to tell the public what is happening in justice, to explain what we do and, in some respects, why we do it…. We need to do that more and better and we are looking for ways to do that…. One of the things I think we need to do is ask the public what they know about justice … We need to do a sort of needs survey…. What would they like to know? What do they need to know? And, how can we get that information to them? [CJSP Participant, Judiciary]

As far as I am concerned, the communication links within the system are adequate and efforts at improving them would be counter-productive and inefficient in terms of the extra costs involved. More bureaucracy would be created, with no discernable improvements anywhere. [CIAJ Survey Participant]

As mentioned in Section 4, the CJSP data reveal a range of attitudes concerning communication within the civil justice system and between the system and the public. Most people (and all of the public participants) believed that there were benefits to improving communication (see CIAJ participants, Table 6 below), but within the justice community there were many questions about how to do this. Of particular concern was whether the resources would be provided to support changes.

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[23] The ALSMP research has documented the success of such PLE ventures in Alberta. The University of Alberta Law Library allows access via a public library card. See also the BC Law Libraries new directions http://www.courthouselibrary.ca/default.aspx .

> *Communication is obviously important but it's my experience that people working in the system are pretty overwhelmed trying to meet the demands of the job. This would limit the time available for extra effort to communicate with peers.* [CIAJ Survey Participant]
>
> *Well they keep asking us what tools we need for the trade. So we make very many suggestions, there's no money in the budget. There's always no money in the budget.* [CJSP Participant, Provincial Family Court Clerk]
>
> *Everything could be done more effectively if adequate resources were available to allow proper time for communication.* [CIAJ Survey Participant]

Table 6: Benefits of Improving Communication
Perceptions of CIAJ Survey Participants

Benefits to Improvement?	With Public? %	Justice Community? %
Yes	80	78
No	10	13
Maybe (or other qualification)	10	8
Don't Know	-	1

- Responses in Table 6 indicate that CIAJ participants generally perceived benefit to improving communication with the public, but when asked if their own organization could do more to improve 'yes' responses dropped to 63%; 12% said 'no'; 13% gave qualified answers amounting to a hesitant 'maybe'" and 2% admitted they did not know.

- Some of this hesitancy related to the lack of resources needed to support good communication practices and even some 'yes' answers included this qualifying comment.

- Most of the uncertainty, however, was connected to perceptions of what communication involved and the limits this therefore placed on ways it might be enhanced.

- As reported in Section 4, front-line service providers generally focussed on the context and quality of communication whatever the mode of delivery. This was also true of some participants in management and the judiciary, but the trend was for

those higher up in the system hierarchy to think of communication in terms of its mode and not the quality of content and interaction.

> *It seems to me that the best we can achieve is through the education system in making a law course mandatory and interesting. I try to make my judgements "readable" but we will never see the general public reading judgements. The best we can do is increase the general education level on the courts and the law.*
>
> *Little [can be done] beyond our current website info, plain language brochures and forms, computer access kiosks and telephone information trees with live assistance*
> *Very few people read our judgements and we rely on the media to report.[24]*
>
> [All quotes taken from CIAJ Survey responses]

⬥ The public participants also strongly emphasized the content and quality of communications. A significant number of the judiciary perceived their communications with the public as limited to minimal, but public participants (although sympathetic to the difficulties) believed judges had a duty to communicate well.

> *In my opinion, judges have the duty ... to assist parties in their relations with the justice system. To assist, and not to canon themselves within their position strictly as judges, judging. The judge is also an officer of the law. Just like a lawyer who must assist the court, a judge ... must help the party in getting access to justice .... It isn't enough to thoroughly understand the law; what distinguishes one judge from another is the capacity to apply the law properly. How could it be otherwise?* [Self-represented defendant, multiple court levels]
>
> *The judge … [has] to represent the law …he has to listen and he has to come up with his own opinion …. I think it is really hard to be a judge.* [CJSP, Plaintiff, Small Claims, Criminal Witness]

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[24] Issues of media communication concerning both criminal and civil justice systems have been a topic of much justice community debate, particularly concerning the role of the media in informing the public, but almost no actual research exists that analyses such coverage. A small exploratory study was conducted as part of the CJSP project and this is reported in Lowe, Schmold & Stratton, 2006.

9. Communicating about Civil Justice System Reform

As stated in Section 1 of this report, the CJSP was founded on the belief that a lack of effective communication within and about the civil justice system creates a significant barrier to access to justice. The goal of achieving effective change requires good communication about possible reforms among all stakeholders, including the public.

Participants were informed verbally and in writing that taking part was contributing to this eventual goal. Even so, when asked about availability of information on being involved in reform (Table 2) few seemed to fully grasp the connection:

+ Even though they answered this question as part of the interview, 27% - only one quarter - of public participants thought that information was available on being involved in reform initiatives.

+ One third (35%) of the few that reported such information as available, said they had not used it, apparently not recognizing the connection via CJSP participation. It is not clear why this disconnect occurred for so many, as some participants specifically noted that this kind of research was a good way to be involved.

> *You know, some fair interviewing … like you're doing of people that have been to court would soon find out how heartbreaking it is for most of us.*
>
> *I am only one person [but] perhaps even this survey that you are doing is a mechanism to …. Find out what's broken before you can fix it.*
>
> *Things like this [research] are one way people can be involved in the reform. People who are sort of making the change asking the public for input and suggestions on what they think needs to occur.*
>
> [Interview comments from CJSP public participants][25]

+ Among justice community participants, just 22% considered the information available to the public. Participants were informed that some litigants were also taking part, but it is easier to understand that from the justice perspective law reform information is not generally available to the general public. Only 30% of this group thought the public would use it if they had it.

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[25] These comments are all taken from "Through the Public Lens" originally published in *News & Views on Civil Justice Reform 7* (Summer, 2004).

- Justice community participants had wide-ranging views on whether or not the public should - or were capable of - being involved in developing reforms. The majority did believe the public should provide input, but tended to see a quite limited public role.

- Only 8% of CIAJ participants answered a definite "no' to public involvement; 2% didn't know and 11% gave very qualified 'maybe' answers.

> *My personal impression, in my 28 years of practice, is that the clients were not capable of taking part in the reform of civil justice process.*
>
> *Public can help shape policies but process/procedures must be developed by legally trained people.*
>
> *It is naïve … to suggest that someone, even a judge, who is unaware/unfamiliar with policies/procedures, and why they exist, would be in a position to propose helpful changes.*
>
> [All comments from CIAJ Survey Participants]

- The 75% who responded that the public could be involved in shaping reform considered the following possibilities:
  - Providing a user perspective via research, workshops, submitting input, exit polls, etc. (32%).
  - Via specific justice/government organized consultations (23%).
  - As lay representatives on court and legal services and reform initiative committees (18%).

> *To date we have generally only involved lawyers and professors in actual reforms of policies and procedures. The question would be "Who are the public?" Can you avoid getting only a slanted view from particular interest groups? How can we use what we get?* [CIAJ Survey Participant]
>
> *Would there be a benefit to improving my communication with [litigants]? The very term "improvement" implies a benefit. It sounds attractive but I am uncertain how you would propose to do that …. So, to comment on the benefits implied, I'd need to know what you had in mind.* [CIAJ Survey Participant]

🔸 The questions posed in the above quotes are important to ask. What is to be communicated, how and to whom is a vital component of good communication. Representatives of the many groups of public are in the best position to identify what they need to know.

🔸 The input to the CJSP from litigants suggests that most are able to provide reasonable and balanced reflections on their experiences - even when these have been extremely stressful. Furthermore, professionals from many fields have legal needs and become involved in court actions. Some are experts in other areas of policies and procedures and can offer system-relevant expertise and a valuable lay perspective.

> *The broad public can express needs and desires that require consideration in shaping policies and procedures. Informed members and groups within the public ought to be able to contribute to the actual shape of policies and procedures. But each [initiative] should also involve those with responsibilities in the system to ensure realism and due regard for the necessary independence of the system.* [CIAJ Survey Participant]

🔸 Just as important as involving members of the public, is to include the perspectives of a wide range of justice community members – especially those who work on the front-lines of communication with the public. The CJSP found that the experience of these key people is too often overlooked.[26]

🔸 Public participants willing to be involved had realistic ideas about participation and also grasped the importance of including a wide range of stakeholders.

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[26] *Creating Alliances for Change* (Stratton, 2009b) includes detailed discussions on identifying justice and public stakeholders and including them in collaborations for change.

> *I would consider myself somewhat as a partner to the reform .... It's important to be part of changes ... just participating in these interviews and offering suggestions .... If I were being communicated with then I would definitely be willing to be part of that. Maybe part of a focus group, or questionnaire, or feedback to the system reform.*
>
> *You need to have maybe a judge or two, a few lawyers. But you need to have paper people because that's where basically the key of the whole system is I think. And you need to have some public input .... I [would take part] if I could, but I don't think I'm educated enough to do so .... I guess [maybe I could] as part of the cross section group.*
>
> [Interview comments from CJSP public participants][27]

10. Conclusion: Good Communication as Central and Essential

The CIAJ survey asked respondents for three important recommendations to improve communication and participants provided many thoughtful responses. Three examples are quoted in the box below.

Improving Communication
Examples of Recommendations from CIAJ Participants

1. *More sharing of information on existing methods and proposed changes.*
2. *Developing an identifiable mandate and steps to achieve it.*
3. *Asking for input from all players before making changes.*

1. *Identify the questions the public have.*
2. *Reflect on the answers you will give.*
3. *Prepare a plan of action to communicate the answers.*

1. *Be prepared to listen.*
2. *Encourage everyone to take an active role in educating colleagues on what their role is and to make suggestions re how to improve the system.*
3. *Ensure everyone that his/her role in making the system function properly is an important one.*

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[27] These comments are all taken from "Through the Public Lens" originally published in *News & Views* on *Civil Justice Reform* (Summer, 2004).

CJSP interview participants were also encouraged to identify good communication practices. From their responses, nine broad "principles of good communication" were identified and related to the major communication themes that emerged from the CJSP data (Billingsley et al, 2006).[28] In the conclusion of this report, these nine communication principles are considered in the context of the findings presented here. Each principle is summarized and where possible, associated with specific recommendations for improving civil justice system communication.[29]

10.1 Nine Principles of Good Communication

> **Principle 1**
> *Communication is recognized as central to the functioning of the civil justice system, both for those who work in the system and those it serves. The importance of identifying both which methods are available, and which are most effective to the specific circumstances and the intended users, is taken seriously.*

Recommendations

1. Efforts be made to increase understanding that everyone working within the justice community plays a communication role and no matter the mode of communication, quality and effectiveness of content is important.

2. Effort be increased to provide multiple ways of communicating, both up and down the hierarchy within the civil justice system and between its members and the various publics it serves.

3. Mechanisms to evaluate the effectiveness of communication strategies become an automatic part of instituted processes, programs and information materials.

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[28] The main communication themes initially emerged during the Alberta pilot phase of CJSP (reported in Gander et al, 2005; Canadian Forum on Civil Justice (2005) and were subsequently confirmed in the national data.
[29] Originally, the Principles were presented with extensive discussion and offered as states that *should* be achieved. The Principles are presented here as foundational ideals for justice community practice that is designed to achieve necessary reforms.

> **Principle 2**
> *Litigant and front-line justice community perspectives are meaningfully included in policy and program development because the lived-experiences of communicating about the civil justice process are essential to developing improved communication and effective systemic reforms to civil justice rules and procedures.*

Recommendations

4. It be standard practice that successful policies and programs must be built upon operational experience of the people that actually deliver and use the processes and programs.

5. In consultation with front-line workers, mechanisms be developed to ensure safe environments in which input can be provided.

6. Suitable ways to meaningfully involve service users and other valuable public perspectives be automatically identified as part of all policy and program development.

> **Principle 3**
> *Breaking down barriers to communication is recognized as a priority issue that requires a concerted response to address the problems from multiple directions and in collaborative ways.*

Recommendations

7. It is understood that the hierarchical organization of the justice system and the traditions of legal culture do construct barriers to communication that require conscious and specific action to surmount.

8. In the context of this understanding, importance is placed on establishing good communication principles as part of project/program Terms of Reference, charters and other agreements.

9. Committees and other group interactions be pro-active in establishing good communication practices and mechanisms to address conflict.

10. Strategies to overcome institutional barriers to effective communication be actively sought and put in place.

> **Principle 4**
> *Good communication is built on a foundation of shared understanding of needs and abilities. Therefore, a commitment is made to providing the resources necessary to ensure that foundation is in place.*

Recommendations

11. In keeping with Principles 1-3, sufficient financial and human resources (in terms of staff and project time) be invested to achieve the priority of central, inclusive and effective communication practices.

> **Principle 5**
> *In order to establish effective communication practices within the civil justice system, stakeholders recognize and engage with the broader social context of change even if this demands radical shifts away from previous practices and perspectives.*

Recommendations

12. It be recognized that the communication practice put forward in these principles and associated recommendations will require changes in traditional institutional practices.

13. A broad approach be taken to considering the possibilities for alternative practices by engaging with other institutions, groups and individuals that have experience and expertise in evolving positive cultural shifts.

> **Principle 6**
> *Characteristics of the systems of civil justice that inhibit constructive change to civil justice delivery are identified and confronted. The foundation of good communication practice is utilized to assist this process.*

Recommendations

14. The understanding and new knowledge generated via Recommendations 12 and 13 be actively and collaboratively considered by groups of justice stakeholders representing diverse practice perspectives.

15. These collaborative groups understand that systems of justice include characteristics that are resistant to radical change and are therefore willing and able to confront these barriers and seek positive alternatives.

> **Principle 7**
> *Action is ongoing to ensure that knowledge based on first-hand experience is valued and shared among all civil justice system stakeholders and in all system activities such as: creating understanding and knowledge of the civil justice system that is based on accurate and available information; developing effective information content about the civil justice system; and ensuring this information and associated resources for assistance are well-known and easily accessible.*

Recommendations

16. Building upon the foundation fostered by the application of good communication principles, the inclusive collaborative practices outlined in previous recommendations be applied to improve the availability, accessibility, accuracy and usefulness of all forms of PLEI, including the related knowledge of legal service providers about legal information and other services. Drawing on the findings reported in *Facts & Figures,* it is recommended that:
    o Collaborative projects are undertaken (preferably at the provincial/territorial level in scope) to identify, catalogue, coordinate and make available public comprehensive information about existing legal services and PLEI resources.[30]
    o All existing PLEI resources be actively shared by all possible means, including nationally where materials are broadly applicable.
    o Everyday – front-line provider and user – input be <u>always</u> included in the development of new PLEI resources.
    o The experience of legal service users be prioritized concerning what information they need, how they wish to access it, and what content is useful.

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[30] Examples already referenced are: the ALSMP, which aims to collect into a accessible database, comprehensive information about legal services; Clicklaw, a collaborative endeavour that has built a coordinated porthole for PLEI in BC. The ultimate goal must be to generate one-point access to combined legal service and related PLEI information.

Conversely, assumptions about what the public *should* want, and where they might go to get it, do not drive the development and distribution of PLEI.

o It be recognized that interpersonal communication is the preferred mode of communication for most people and that those seeking help with a legal problem seek information from front-line services. Accordingly, mechanisms are put in place to ensure that service providers have accurate, current information to provide.

o Following from the above, special attention be paid to ensuring key contact points are aware of and can provide a wide range of available PLEI resources. In this regard, research indicates that courthouses are especially critical access points, and also that elected government officials and police services typically receive diverse inquiries but do not have the information they need to respond effectively.

> **Principle 8**
> *Permanent mechanisms are in place to involve all stakeholders in opportunities for including, sharing and understanding all stakeholder perspectives on civil justice delivery (such as the creation Court Services Committees and/or Court User Committees).*

Recommendation

17. In keeping with the centrality of inclusive, knowledge-sharing communication Principle 8 becomes the accepted practice for civil justice delivery.

> **Principle 9**
> *There is budgetary commitment to providing the resources to support the new approaches for civil justice delivery necessary to creating an accessible system. In addition to improving communication practices, understanding is increased of the cumulative social costs of failing to provide effective civil justice resolutions and the benefits of adequate financial investment in the system are recognized.*

Recommendations

18. National research conducted by Justice Canada (Currie, 2006, 2007, 2009) concerning the extent of civil legal problems experienced by Canadians be shared and understood among all justice stakeholders.[31]

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[31] See also Stratton & Anderson (2008).

19. Building on this and similar international research ([Genn, 1999](#) ; [Pleasance, et al, 2008a](#), [2008b](#)) further work be undertaken to calculate, document, share and respond to the cumulative social costs of not providing affordable, timely and effective civil justice resolutions to legal problems.

20. That the justice community continue to support and advance the efforts of the Canadian Forum on Civil Justice and partners to design a "Costs of Justice" project that begins to fill the current void of empirical information regarding the legal, economic and social costs of pursuing, and not pursuing, justice through various civil dispute resolution mechanisms, together with related policy implications.[32]

10.2 Into the Future

> *I think we really have to … work together. I mean, we create our own civil justice system. We have our problems that affect society that each of use experience on a different level. We also create solutions …. And if we work together, I can't see how it would work against us. And I'd like to see more of that.* [CJSP, Participant, Legal Aid Intake]

In 2006, ten years after the release of the CBA report, *[Task Force on Systems of Civil Justice](#)*, a two-part conference, *Into the Future: The Agenda for Civil Justice Reform* provided the opportunity to review and evaluate the many and varied responses to the 1996 recommendations for reform. Part II of the Conference produced consensus about taking a national approach to civil justice reform with the help of the Forum, that would include:

- Forming a common vision.
- Making the business and social well-being case for funding civil justice reform.
- Developing a civil justice index or set of indices.
- Promoting research on the civil justice system, its strengths and shortcomings.
- Facilitating information-sharing among jurisdictions and with the public.
- Educating the public about rights, responsibilities and the civil justice system.
- Creating a "steering committee" to consider and coordinate civil justice reform from a national perspective.

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[32] In September 2010, on behalf of an alliance of 50 researchers and justice stakeholders, the Forum has submitted an application for to the Social Sciences and Humanities Research Council for a Community University Research Alliance grant to support this project. Results will be announced in Fbruary 2011. Details available at http://cfcj-fcjc.org/research/costs-en.php .

Since 2006, justice stakeholders have continued to work towards these goals and a national "Action Committee on Access to Justice" has been formed. The findings and recommendations in *Facts & Figures* are pertinent to several of the *Into the Future* commitments.

It is hoped that the CJSP research and the overall work of the Forum will continue to assist the justice community to meet these goals. However, as is the case for many independent non-profit organizations concerned with research and knowledge sharing, the past two years have seen a reduction in funding available to the Forum. As this report is released we are in a process of transition. It is expected that in January 2011 the Forum will move to York University in Toronto, Ontario where it will be housed in partnership with the Centre for Public Policy and Law. This new partnership will preserve the independent status of the Forum and access to all information and reports currently available through our website. We are optimistic that future resources will be found to build on this foundation of knowledge.

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