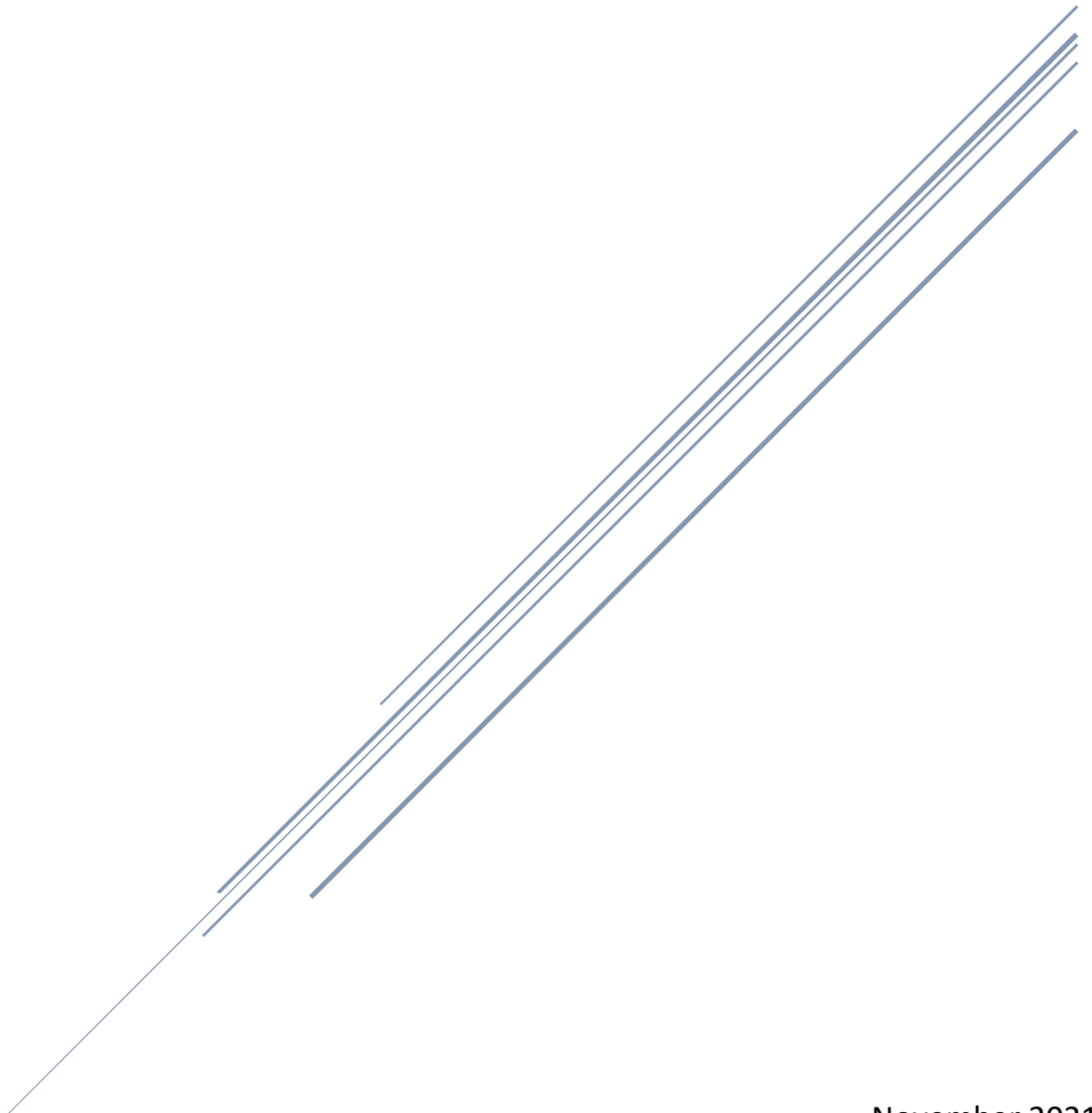


# MEASURING WHAT MATTERS:

*Report of the ad hoc Federal-Provincial-Territorial Working Group on Measuring the Impact of COVID-19 on Access to Justice in Family and Poverty Law Matters*



November 2021



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## List of Acronyms

**ADR** - Alternative Dispute Resolution

**Ad hoc WG** - *Ad hoc* Working Group

**CCJCSS** - Canadian Centre for Justice and Community Safety Statistics

**CCS** - Civil Court Survey

**CCSO - Family Justice** - Coordinating Committee of Senior Officials – Family Justice

**CLPS** - Canadian Legal Problems Survey

**CMHC** - Canada Mortgage and Housing Corporation

**CSI** - Courts Statistics and Information Subcommittee

**DM** – Deputy Minister

**FPT** - Federal, Provincial, Territorial

**GDP** - Gross Domestic Product

**HoCA** - Heads of Courts Administration

**ICCS** - Integrated Criminal Court Survey

**LAO** – Legal Aid Ontario

**LOC** - Liaison Officers Committee

**NJS** - National Justice Survey

**OECD** - Organization for Economic Cooperation and Development

**PPSC** - Public Prosecution Service of Canada

**PWG on Legal Aid** - Permanent Working Group on Legal Aid

**RDD** - Random Digit Dial

**SDG 16** - Sustainable Development Goal 16

**SST** - Social Security Tribunal

**STC** - Statistics Canada

**UN** - United Nations

**WG** – Working Group

## Executive Summary

COVID-19 has underscored the urgent need for the justice sector to improve its ability to collect data, conduct research and rely on evidence to understand the state of justice in Canada and people's ability to access it. During the pandemic, decisions taken by public officials to address the COVID-19 health crisis have been informed by the detailed tracking of infection and hospitalization rates and other health data. The link between public release of data and information and people's reaction to public health measures has been important. Understanding the rationale behind public health measures has helped to bolster confidence and trust. Data has revealed who and where the pandemic is hitting hardest. The justice sector needs similar information and approaches to sharing that information to promote access to justice and enhance public confidence in Canada's justice system.

### *The ad hoc Working Group*

In July 2020, Federal, Provincial, Territorial (FPT) Deputy Ministers Responsible for Justice and Public Safety tasked an FPT *ad hoc* working group (*ad hoc* WG) to identify a small number of indicators and collect existing data to report on the impacts of COVID-19 on access to justice for Canadians in family and poverty law matters. The tasking recognizes the importance of family and poverty law in the everyday lives of Canadians and resonates with the vision of the UN 2030 Agenda and its Sustainable Development Goals (SDGs), particularly SDG 16, which calls for peaceful, just and inclusive societies, including equal access to justice for all.

While the composition and work description of the *ad hoc* Working Group are outlined in the Report, it is worth noting the pioneering nature of the work. Identifying common indicators across jurisdictions and concretely measuring if and how well the system is addressing the justice needs of Canadians is a critical exercise to help inform policy and resource decisions.

### *Why does this work matter?*

Civil legal problems are ubiquitous and can result in significant harm to individuals and communities, particularly those who are marginalized because of race, income, gender and other sociodemographic factors. Looking at how the **system** works is important and administrative data collection and sharing activities are underway, but understanding how **people** experience civil legal problems in everyday life is equally critical and far less advanced. Efforts and ways to measure the impacts of civil legal problems have gained traction both in Canada and worldwide and we see the emergence of recognized indicators now included in international reporting.

For example, in the fall of 2021, the World Justice Project released the 2021 Rule of Law Index. Canada's overall score (80) and ranking (12 out of 139 countries) declined from 2019 (from a score of 81 and a ranking of 11); for the civil justice factor, however, Canada ranks 22 out of 139 countries with a score of 70 – the lowest score out of the eight factors. The work of the FPT *ad hoc* WG also revealed some important gaps in data related to common civil justice problems people experience, as well as shared challenges facing jurisdictions.

### *Defining access to justice*

At the outset, the *ad hoc* WG considered the meaning of access to justice. Members recognized the importance of exploring access to justice from both a systems-focused approach, with an emphasis on



justice system actors and formal institutions, and a people-focused approach, whose starting point is the needs and experiences of the individuals seeking justice. This report adopts a broad understanding of access to justice that acknowledges the impact of socio-economic factors such as poverty, geography, culture, and health and that includes a broad range of formal and informal mechanisms to develop legal capability and address justiciable issues.

#### *The work of the ad hoc WG*

Measuring access to justice is challenging and has been the subject of much study within Canada and internationally. Members of the *ad hoc* WG considered a number of different reports, both those looking at family and poverty law issues in Canada and access to justice on the international scene. These provided important background information. Short summaries of select reports are included in the WG report, along with references to all the materials considered.

Members chose to include both system-focused indicators that would draw from administrative data about the justice system and its actors, such as court case volumes, as well as people-focused indicators. Using this people-centred lens permits examining the issue of access to justice from the perspective of those experiencing legal problems, many of which never come to the attention of lawyers or the formal justice system. This can be done through legal needs or legal problems surveys. Several cycles of legal problems surveys have been conducted in Canada since 2004. The latest cycle, the Canadian Legal Problems Survey, 2021, has been undertaken by Statistics Canada on behalf of Justice Canada and several other federal departments and results are included in this report.

*Ad hoc* WG meetings included discussion items, as well as presentations on innovative practices and projects that show cased data collection efforts and could be replicated or furthered through collaboration, such as the Manitoba Data Repository and Saskatchewan's *Data Matching Agreement Act*. For example, a presentation from the University of Manitoba Centre for Health Policy demonstrated the linkages between Indigenous children in the child welfare system and their contact with the criminal justice system. The *ad hoc* WG decided to study income support and housing as two poverty law areas greatly impacted by COVID-19. Presentations by the Social Security Tribunal, Canada Mortgage and Housing Corporation, and the Canadian Centre for Justice and Community Safety Statistics informed the *ad hoc* WG's decisions on the feasibility of various indicators and data sources. Because of jurisdictional issues and little national data, the work on poverty law matters is less developed than that in family law matters.

The system-focused and people-focused indicators were selected on the basis of factors such as ease of access, understandability, and national availability and data were drawn from a number of sources and are detailed in the full report.

<i>Family Law System-Focused Indicators</i>	<i>Family Law People-Focused Indicators</i>	<i>Poverty Law System-Focused Indicators</i>	<i>Poverty Law People-Focused Indicators</i>
<ul style="list-style-type: none"> <li>• Matters before the courts</li> <li>• Representation</li> <li>• Participation in Family Justice Services</li> <li>• Access to Family Legal Aid</li> <li>• Use of Technology</li> </ul>	<ul style="list-style-type: none"> <li>• Prevalence of Family Legal Problems/Needs</li> <li>• Public Confidence in Family Justice System <ul style="list-style-type: none"> <li>A) that the family justice system can provide a fair outcome;</li> <li>B) that the family justice system is accessible.</li> </ul> </li> <li>• Access through Technology</li> </ul>	<ul style="list-style-type: none"> <li>• Matters before the tribunals</li> <li>• Representation</li> <li>• Use of and participation in services</li> <li>• Access to Legal Aid</li> <li>• Use of Technology</li> </ul>	<ul style="list-style-type: none"> <li>• Prevalence of Poverty Law Problems/Needs</li> <li>• Satisfaction with Service</li> </ul>

*Results*

The quantitative data presented in this study do not tell the full story of the impact of COVID-19 on access to justice in family and poverty law matters. For many of the system-focused indicators in family law, the data for 2020/2021 are not yet available (for example, legal aid data). For income supports, the data largely reflect access to justice impacts in the federal context, based on information supplied by the Social Security Tribunal. In housing, the *ad hoc* WG was not able to collect the data as per its framework of system-focused and people-focused indicators because of the different systems in each jurisdiction, differing definitions and units of analysis, and the lack of availability of, or access to, that data. In addition, for most of the indicators, the point of comparison is the one year prior to the onset of COVID-19. To fully understand what is happening in a system and capture any trends, more than two years of data are needed; the data need to be examined over a longer period of time. Without data for 2020/2021, it has not been possible for the *ad hoc* WG to reach any conclusions about the impact of COVID-19 on family law and poverty law.

That said, the work of the past year has clearly underscored that measuring access to justice in family and poverty law really does matter. The family is arguably the most important social institution in Canada. In regulating the breakdown of this relationship, family law has far-reaching implications for all family members, including children. Similarly, poverty law encompasses critical aspects of people’s daily lives, including their ability to put food on the table and keep a roof over their heads.

The *ad hoc* WG’s study yielded several important learnings about system-focused and people-focused indicators in these critical areas of the law, including the following:

- Better administrative data are needed, including sociodemographic characteristics of those accessing the justice system.
- National data requirements in poverty law are needed.

- Good national data for family law and poverty law is as essential as criminal justice data.
- Those with serious family and poverty law issues can end up in the criminal justice system.
- Advancing this work will require high-level support and resources.

The Working Group recommends that Deputy Ministers:

- 1) ***Elevate the importance of data and measurement*** in the areas of family and poverty law by taking the following actions:
  - a. Extending the mandate of the *ad hoc* WG until the end of the calendar year 2022 to undertake further work:
    - i. to reach a consensus on common definitions for the indicators selected in this initial report;
    - ii. to explore additional indicators if appropriate; and
    - iii. To consider ways to effectively represent the data and key findings visually.
  - b. Considering funding people-focused, self-reported research through a future cycle of the Canadian Legal Problems Survey (2026) or a similar data collection initiative.
2. ***Support transparency and accountability*** in regards to family and poverty law data by taking the following action:
  - a. Facilitating the public release and broad distribution of this report once approved to improve access to data about justice.

## Measuring What Matters

Being a woman, being a person of a different culture, being a person who speaks a different language, being a person who does not speak fluent English . . . I never thought that they were that important. But now having gone through these legal proceedings, I have witnessed what it means to be that person . . . I felt nobody really believed me, I felt voiceless, I felt not heard and not seen or not valued. Because I'm not a white man. I'm just a woman from a foreign country.

- Immigrant woman speaking about access to justice in Canada
  - Verhage 2021, 48

There's a saying in research: "What gets counted counts." Very simply, this means that if we want to solve a problem, we first have to know the size and scope of the problem.

- Brownell et al. 2020, 91

Access to justice is not just a fundamental right; it is a basic human need. It is crucial to our democracy and rule of law.

- The Right Honourable Richard Wagner,  
Chief Justice of the Supreme Court of Canada
  - May 8, 2020

## 1.0 The Working Group

### 1.1 Mandate

At the Virtual Meeting of Federal, Provincial, Territorial (FPT) Deputy Ministers Responsible for Justice and Public Safety that was held from July 6-8, 2020, Agenda Item 6a sought support from the FPT table to work towards developing a common set of indicators to measure the impact of COVID-19 on access to justice in family and poverty law.

Agenda Item 6a was proposed within the context of the United Nations 2030 Agenda and the Sustainable Development Goals (SDGs) to which the Government of Canada has committed, along with 192 other countries.<sup>1</sup> The SDGs are broad goals, but of particular importance is SDG 16 which reads:

Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

There are 16 targets that make up SDG 16, but Target 16.3 is key to this report:

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<sup>1</sup> See <https://www.un.org/sustainabledevelopment/peace-justice/>

Promote the rule of law at the national and international levels and *ensure equal access to justice for all*.  
(emphasis added)

The decision summary reads:

#### Decision Summary

6a. DMs agreed to task an FPT *ad hoc* working group to identify a small number of indicators and collect existing data to report on the impacts of COVID-19 on access to justice for Canadians, particularly in family and poverty law matters. Terms of reference will focus on building on existing efforts underway including race based data and ensuring a consistent approach to data collection.

The *ad hoc* working group will report back to FPT DMs with a small list of indicators and a work plan within a year, after which time the working group will sunset. DMs proposed that the WG assess whether it is the right forum to study data collection related to COVID-19 litigation. If not, the WG shall propose a more appropriate alternative forum.

It is noted that “poverty law” is not defined in the Decision Summary. Poverty law is an umbrella term for areas of law that disproportionately impact people living on low-income such as: housing, income support, and human rights.<sup>2</sup>

### 1.2 Structure, Content and Membership of the *ad hoc* Working Group

The *ad hoc* Working Group (*ad hoc* WG) held its first meeting in September 2020. Membership is comprised of representatives from nine (9) provinces and territories, the Department of Justice Canada (Justice Canada), the Public Prosecution Service of Canada (PPSC), the Permanent Working Group on Legal Aid (PWG on Legal Aid), the Canadian Centre for Justice and Community Safety Statistics (CCJCSS) of Statistics Canada (STC), and the Coordinating Committee of Senior Officials – Family Justice (CCSO – Family). It is co-chaired by Nova Scotia and Justice Canada. The Terms of Reference can be found in Appendix A and a List of Members can be found in Appendix B.

The *ad hoc* WG has met almost every month from September 2020 through 2021 until submission of this report. Meetings included discussion items as well as presentations on innovative practices and projects that showcase data collection efforts and could be replicated or furthered through collaboration. Topics included:

- Research and evaluation on access to justice initiatives - Social Security Tribunal (SST);
- Research on evictions - Canada Mortgage and Housing Corporation (CMHC);

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<sup>2</sup> In a study prepared by the Social Planning and Research Council of BC for the Department of Justice, *An Analysis of Poverty Law Services in Canada (2003)*, poverty law includes, but is not limited to: Employment Insurance (EI), the Canada Pension Plan/Quebec Pension Plan (CPP/QPP) and Old Age Security (OAS), income assistance, housing and landlord/tenant, workers’ compensation, and debtor/creditor.

- Research from the Manitoba Data Repository and linkages of public data – Manitoba Centre for Health Policy, University of Manitoba;
- Overview of Saskatchewan’s *Data Matching Agreement Act*; and
- Overview of the Civil Court Survey – Canadian Centre for Justice and Community Safety Statistics.

## 2.0 Background on Access to Justice

### 2.1 An Introduction

A large amount of work has been completed on defining and measuring access to justice. The term access to justice means different things to different people depending on one’s particular context and outlook. It can be considered from a systems-based approach, with a focus on justice system actors and formal institutions, such as lawyers and courts. It can also be explored using a people-focused approach, which takes as its starting point the needs and experiences of the individuals and communities seeking to address their legal problems. This report incorporates both of these important perspectives.

It is also important to examine both sets of indicators through a diversity lens. In the federal government, a Gender-Based Analysis Plus is applied to all policy and research exercises. More recently, again at the federal level, there have been calls to apply a critical race lens to policy-making. The lack of easily available demographic and other social data makes these analyses more difficult.

### 2.2 Defining Access to Justice

Access to justice is considered a fundamental value of the Canadian justice system. It is a principle that flows out of respect for the “rule of law” where the whole of Government has a role to play. In keeping with this, Justice Canada developed a definition of access to justice as:

Enabling Canadians<sup>3</sup> to obtain the information and assistance they need to help prevent legal issues from arising and help them to resolve such issues efficiently, affordably, and fairly, either through informal resolution mechanisms, where possible, or the formal justice system, when necessary.<sup>4</sup>

This broader understanding of access to justice underscores that:

- 1) The justice system extends beyond courts and tribunals to include an extensive informal system (e.g., information sources, self-help strategies, and other dispute resolution options such as

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<sup>3</sup> The *ad hoc* WG recognizes that not everyone who accesses or attempts to access the justice system in Canada is a Canadian citizen (permanent residents, refugee claimants) and that Indigenous people may not necessarily see themselves as Canadians first. The term Canadians will be used in the document for ease.

<sup>4</sup> *Access to Justice Toolbox*, Internal document (Ottawa: Department of Justice Canada, 2012).

those that are culturally relevant). Increasing access to justice through the use of formal or informal systems is key to achieving fair<sup>5</sup> and just outcomes<sup>6</sup> for Canadians;

- 2) There is a need to develop Canadians' understanding and literacy of, and capability to navigate, the legal system, through a range of measures (e.g., providing all Canadians with basic legal training) necessary to enable individuals to better manage their justiciable problems;<sup>7</sup>
- 3) Access to justice issues are often intensified by socio-economic factors such as poverty; geographic factors such as location and urban/rural differences; cultural factors; health factors; and/or policy decisions taken in other areas of responsibility.<sup>8</sup>

### 2.3 Measuring Access to Justice

Measuring access to justice – whether in the areas of criminal, civil or family law – continues to present challenges in Canada and internationally. Statistics Canada, Canada's national data collection agency, does not measure access to justice as it measures Gross Domestic Product (GDP), unemployment or population growth. There are some relevant indicators collected through different surveys though; one is a "legal representation"<sup>9</sup> variable found on the Integrated Criminal Court Survey (ICCS), as well as the Civil Court Survey (CCS), both administered by the CCJCSS. For both surveys, some jurisdictions do collect this variable consistently, and some do not for a variety of reasons including resources and the complexity of data collection given the changing nature of representation that is possible throughout the life of a case.

More than a decade ago, Justice Canada researchers examined the legal representation variable from the ICCS in jurisdictions where it was being collected and published a report looking at outcomes where accused had representation and where they did not.<sup>10</sup> There have also been regular annual reports on legal aid – number of applications received, approved, denied by type of case – using data collected from provincial and territorial legal aid plans for many years. Recently, Justice Canada has taken on this work from CCJCSS. In addition, in the early 2000s, officials undertook a significant program of research

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<sup>5</sup> *Ibid.* "Fair" meaning: "accessible, affordable, efficient, sustainable, and proportional".

<sup>6</sup> *Ibid.* "Just outcomes" meaning: "demonstrates respect for the rule of law, supports Charter values, and enables greater social inclusion for Canadians."

<sup>7</sup> See for example, Sarah McCoubrey, *Building Legal Literacy, Preventing Crisis* (Ottawa: Department of Justice Canada, 2015). Available upon request from [rsd-drs@justice.gc.ca](mailto:rsd-drs@justice.gc.ca).

<sup>8</sup> This last principle has been derived from the initial work on the Canadian Legal Problems Survey and the findings from 2004, 2006, 2008. See Ab Currie, *The Legal Problems of Everyday Life - The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians* (Ottawa, ON: Department of Justice Canada, 2009a).

<sup>9</sup> Having access to legal representation, usually a lawyer, was how access to justice was originally interpreted decades ago. Legal aid, and access to it, has been an important part of access to justice discourse as well. See Roderick A. Macdonald, "Access to Justice in 2003: Scope, Scale and Ambitions" in J. Bass, W.A. Bogart and F.H. Zemans, eds., *Access to Justice for a New Century - The Way Forward* (Toronto: Irwin, 2005) at 20. Access to lawyers and courts is Macdonald's first "wave" of access to justice. Those five waves include: 1) access to lawyers and courts; 2) institutional redesign; 3) demystification of law; 4) preventative law; and 5) proactive access to justice (at 19).

<sup>10</sup> Ab Currie, *Unrepresented Accused in Canadian Criminal Courts* (Department of Justice Canada: Ottawa, 2009b). This study should be updated in the coming months.

on legal aid, both criminal and civil. Much of that work is available on the [Justice Canada website](#), along with more recent research.

Additionally, Justice Canada officials have worked to develop an [Access to Justice Index for Administrative Bodies](#) (the Index).<sup>11</sup> The Index is intended to be a people-centred self-assessment tool for tribunals and other administrative bodies to determine how well they are ensuring access to justice for their constituents. And finally, since their introduction in the late 1990s, Justice Canada has championed the use of “legal needs” or legal problems surveys as will be noted in later sections.<sup>12</sup>

Domestically, in the past decade, the Equal Justice Initiative of the Canadian Bar Association has released several reports in this area.<sup>13</sup> Further, in its 2013 final report, *A Roadmap for Change*, the Action Committee on Access to Justice in Civil and Family Matters called for the development of benchmarks and standardized metrics to build a shared understanding of legal services, models and needs.<sup>14</sup> In British Columbia, the Access to Justice BC Working Group has proposed a flexible measurement framework with the Triple Aim approach developed in the healthcare sector, which includes three objectives: 1) to improve population access to justice outcomes; 2) to improve user experience of access to justice; and, 3) to improve costs.<sup>15</sup>

As a concept, access to justice has been included in several recent federal government initiatives, such as the Gender Results Framework.<sup>16</sup> The Framework was introduced in the 2018 Budget and as noted on the website of the Department of Women and Gender Equality: “It is a whole-of government tool designed to:

- Track how Canada is currently performing
- Define what is needed to achieve greater equality

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<sup>11</sup> See Susan McDonald, *An Access to Justice Index for Federal Administrative Bodies* (Department of Justice Canada: Ottawa, 2017). DOJ worked in partnership with the Canadian Human Rights Commission to pilot test the Index. The Social Security Tribunal has recently published their results from taking the Index Challenge. See <https://www.justice.gc.ca/eng/csj-sjc/access-acces/challenge-defi.html>

<sup>12</sup> Legal needs or legal problems surveys are self-reported surveys of the general population (or a particular subset) that ask respondents whether they have experienced a serious problem (that has a legal dimension to it) in the previous set time frame (for example, three years or one year). For those who identify a serious problem, additional questions are asked about what they did (or did not do) to try to resolve the problem.

<sup>13</sup> See The Equal Justice Initiative of the Canadian Bar Association, a project launched in 2012 to improve access to justice in Canada at: <http://www.cba.org/CBA-Equal-Justice/Equal-Justice-Initiative>

<sup>14</sup> Final Report of the Action Committee on Access to Justice in Civil and Family Matters: *A Roadmap for Change* available at <https://cfcj-fcj.org/action-committee/>

<sup>15</sup> Yvon Dandurand and Jessica Jahn, *Access to Justice Measurement Framework* (Access to Justice BC Working Group: Vancouver, 2018) at 1. Accessed at: <https://accesstojusticebc.ca/the-a2j-triple-aim/> ; Also see, *Walking the Talk about Measuring Access to Justice* (Access to Justice BC Working Group: Vancouver, 2017). Accessed at: <https://ajrmdotco.files.wordpress.com/2018/04/applying-the-measurement-framework-a-users-guide-access-to-justice-bc-measurement-working-group-dec-2017.pdf>

<sup>16</sup> See <https://women-gender-equality.canada.ca/en/gender-results-framework.html>



- Determine how progress will be measured going forward”

One of the six key goals is: “Eliminating gender-based violence and harassment, and promoting security of the person and access to justice.” The only objective and indicator listed for access to justice is: “Increased accountability and responsiveness of the Canadian criminal justice system to be measured by a decrease in the proportion of sexual assaults reported to police that are deemed “unfounded”.”<sup>17</sup>

There are other initiatives at the federal level that are also important to note including the Canadian Indicator Framework for the UN 2030 Agenda and the Sustainable Development Goals<sup>18</sup> and Open Government.<sup>19</sup>

Canada is a member of the [Open Government Partnership](#) (OGP), which “is a global multilateral initiative with the core objective of securing solid commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance, in partnership with civil society and the private sector.”<sup>20</sup> Canada’s 5<sup>th</sup> National Action Plan on Open Government is currently under development and will include an Open Justice commitment. The work of the *ad hoc* WG over the past year has been informed by the principles of transparency and accountability with the understanding that improving access to data about justice, will also improve access to justice.

## 2.4 International Efforts

Internationally, civil society organizations, such as the Open Society Foundations and Pathfinders for Peaceful, Just and Inclusive Societies,<sup>21</sup> as well as the Organization for Economic Cooperation and Development (OECD) and its member states have focused on leveraging legal needs surveys. The World Justice Project uses the survey, [Global Insights on Access to Justice](#), to try to understand global access to civil, rather than criminal, justice.<sup>22</sup> The survey covered 1,000 people in the three largest cities of the 45 countries involved, ranging from Canada and Mongolia to Nicaragua and Vietnam. Specific legal problems varied by country, but consumer and land disputes were among the most commonly reported, with an average incidence of 25 percent and 20 percent, respectively.

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<sup>17</sup> See <https://women-gender-equality.canada.ca/en/gender-results-framework/gender-based-violence-access-justice.html>

<sup>18</sup> See <https://www150.statcan.gc.ca/n1/daily-quotidien/210622/dq210622c-eng.htm>

<sup>19</sup> See <https://open.canada.ca/en>

<sup>20</sup> See <https://open.canada.ca/en/open-government-partnership>

<sup>21</sup> See <https://www.justice.sdg16.plus/>

<sup>22</sup> Peter Chapman and Alejandro Ponce, “How Do We Measure Access to Justice? A Global Survey of Legal Needs Shows the Way,” Open Society Foundation. March 16, 2018. Accessed October 5, 2021 at: <https://www.opensocietyfoundations.org/voices/how-do-we-measure-access-justice-global-survey-legal-needs-shows-way>

In another international project, in the fall of 2021, the World Justice Project released the 2021 Rule of Law Index.<sup>23</sup> Canada's overall score (80) and ranking (12 out of 139 countries) declined from 2019 (from a score of 81 and a ranking of 11); for the civil justice factor, however, Canada ranks 22 out of 139 countries with a score of 70 – the lowest score out of the eight factors.<sup>24</sup> Another international effort is the 2015 report by UN Women<sup>25</sup> which includes a summary of access to justice measures used by civil society and international organizations, as well as indicators used by governments.

Over the past few years, the OECD has convened numerous roundtables of experts drawn from OECD member and partner countries. In addition, civil society organizations and academic experts have developed a *Guide on Legal Needs Surveys and Access to Justice*.<sup>26</sup> Released in March 2019, the Guide brings together the experience gained through more than 55 national surveys conducted by governments and civil society organisations in more than 30 jurisdictions over the last 25 years. As well, another important report from the World Justice Project was released in March 2021, *Grasping the Justice Gap: Opportunities and Challenges for People-focused Data*.<sup>27</sup> This report outlines how such data can be used to support design and delivery of effective policy and program responses.

In the context of the United Nations 2030 Agenda and the SDGs, the Praia City Group on Governance released a framework for governance statistics that acknowledges the need for further methodological work in the area of access to civil justice and provides a chapter entitled *Access to and Quality of Justice*,<sup>28</sup> which serves as a helpful conceptualization for this work.<sup>29</sup> In the context of open government, the Open Government Partnership views justice as an [emerging policy area](#) and is working to expand responsiveness, accountability and inclusion into all systems of justice through measurable commitments.

These selected examples of the work completed here in Canada and internationally on measuring access to justice demonstrate not only the importance of this work, but also the ongoing challenges of measuring a broad term across different countries and different justice systems. There is consensus internationally that legal needs/legal problems surveys provide one strong and consistent approach to understanding people's needs by measuring access to justice through a people-focused lens. Canada has

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<sup>23</sup> <https://worldjusticeproject.org/rule-of-law-index/>

<sup>24</sup> See Canada's results at <https://worldjusticeproject.org/rule-of-law-index/pdfs/2021-Canada.pdf>. The eight factors that make up the Rule of Law Index are: Constraints on Government Powers; Absence of Corruption; Open Government; Fundamental Rights; Order and Security; Regulatory Enforcement; Civil Justice; and Criminal Justice.

<sup>25</sup> Theresa Marchiori, *A Framework for Measuring Access to Justice Including Specific Challenges Facing Women*. (UN Women and the Council of Europe: New York, 2015). Accessed October 5, 2021 at: <https://rm.coe.int/1680593e83>

<sup>26</sup> See <https://www.oecd-ilibrary.org/sites/g2g9a36c-en/index.html?itemId=/content/publication/g2g9a36c-en>

<sup>27</sup> See [https://worldjusticeproject.org/sites/default/files/documents/Challenge%20Paper%20Public-Discussion-Draft\\_v10.pdf](https://worldjusticeproject.org/sites/default/files/documents/Challenge%20Paper%20Public-Discussion-Draft_v10.pdf)

<sup>28</sup> See <https://paris21.org/news-center/news/new-praia-city-group-handbook-governance-statistics>

<sup>29</sup> Handbook on Governance Statistics, Praia City Group: [https://paris21.org/sites/default/files/inline-files/handbook\\_governance\\_statistics.pdf](https://paris21.org/sites/default/files/inline-files/handbook_governance_statistics.pdf)

been one of the leaders of this work in the past and most recently with Statistics Canada undertaking the 2021 Canadian Legal Problems Survey.

## 2.5 Legal Needs / Legal Problems Surveys in Canada

Following the lead of other countries, specifically the United Kingdom, the first Canadian legal needs survey was championed by Justice Canada; data collection was undertaken over three cycles in 2004, 2006 and 2008 with multiple reports prepared. The survey had different titles - *The Justiciable Problems Survey* or *The Survey of Problems of Everyday Life*. In 2013/2014, the Canadian Forum on Civil Justice, situated at York University, ran a cycle of the survey called *Everyday Legal Problems and The Cost of Justice* with questions added regarding the cost of resolving respondents' serious problems.<sup>30</sup> These previous cycles all had relatively small sample sizes. For example, the survey in 2014 had a sample of 3,000 respondents.

After months of consultation, testing and additional months of delay due to COVID-19, the latest cycle of Canada's legal needs/legal problems survey, *the Canadian Legal Problems Survey* (CLPS), began data collection in February 2021. These surveys provide important data from the perspectives of those experiencing the problems, rather than from the justice system. More details on the sample and timeframes can be found in the section on Data Sources, *infra*.

A Qualitative Look at Serious Legal Problems is the overarching title for a series of qualitative research studies undertaken by Justice Canada<sup>31</sup> that will complement the results from the CLPS. The studies explore access to justice issues experienced by minority populations in different parts of Canada. The five streams of research are:

- LGBTQ2S+ populations (Stream 1A-C, three studies);
- Black Canadians (Stream 2A-B, two studies);
- Persons with disabilities (Stream 3A-C, three studies);
- Immigrants (Stream 4A-B, two studies); and
- Indigenous peoples (Stream 5A-C, three studies).

These studies are important because they qualitatively document peoples' experiences of serious legal problems – what those problems are; how they have tried to resolve them and the outcomes; and the financial, emotional and physical impacts of those problems. As Currie has noted, "A defining feature of this area of research is that it views legal problems from the point of view of the people experiencing them."<sup>32</sup> Almost all the studies began at the outset of COVID-19 and data collection continued throughout 2020 and into 2021. As the months went by, it also became more evident that the COVID-19 crisis was having the greatest effect on the poorest and most marginalized populations in Canada. At the

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<sup>30</sup> Trevor C.W. Farrow, Ab Currie, Nicole Aylwin, Les Jacobs, David Northrup and Lisa Moore, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Canadian Forum on Civil Justice: Toronto, 2016).

<sup>31</sup> The Department of Women and Gender Equality Canada (WAGE) and Immigration, Refugees and Citizenship Canada (IRCC) helped to fund the 13 studies.

<sup>32</sup> *Supra* note 8 at 1.

time of writing this report, nine of the 13 studies were complete<sup>33</sup> and their findings in the areas of family and poverty law will be included in Section 4.

## 2.6 Other Research

Before and during COVID-19, there have been numerous studies in Canada looking at legal aid in family law matters as well as in civil and poverty law matters, the use of technology in family law matters, diverse and underserved populations in family law matters, the connections between the child welfare system and the youth criminal justice system (“cross-over kids”), as well as the impact of COVID-19 and the closure of courts on families and housing evictions. Another area of research has examined the potential for increases in family violence during COVID-19 and periods of shut down. This section will provide a very brief overview of some of these studies.

In a report entitled *The Impact of the Lack of Legal Aid in Family Law Cases*,<sup>34</sup> the authors consider the difficulties in accessing legal aid for family law cases and the consequences for parents and children, as well as for society as a whole. They review coverage and eligibility guidelines for family legal aid across Canada and discuss the many barriers that applicants may face. The authors also look at innovative practices and finally, explore the impacts of limited legal aid funding in family law cases.

In a study that was underway at the time of writing, consultant Tim Roberts was investigating the role of “legal clinics” in providing legal information, advice and in some cases, representation to individuals who cannot afford legal representation. Roberts surveyed every province and territory and provides a summary of legal aid coverage for poverty law matters such as housing, employment and human rights problems.<sup>35</sup>

A project undertaken by the Coordinating Committee of Senior Officials - Family Justice Research Sub-committee, entitled *Diverse and Underserved Populations in Family Law: An Annotated Bibliography*,<sup>36</sup> examines existing literature to determine the experiences of diverse and underserved groups within the Canadian Family Justice System, including: Indigenous families, LGBTQ2+ families, newcomer and immigrant families and families living in rural, remote and northern communities. Some of the findings allude to the unique needs that each group has and ultimately requires to adequately access family justice services.

In another report compiled by Justice Canada’s Research and Statistics Division, in collaboration with the Coordinating Committee of Senior Officials-Family Justice Research Sub-committee, called *Use of Technology in the Family Justice System: Annotated Bibliography*,<sup>37</sup> the authors explore how technology

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<sup>33</sup> All nine reports are listed in the Bibliography.

<sup>34</sup> Rachel Birnbaum and Nicholas Bala, *The Impact of the Lack of Legal Aid in Family Law Cases* (Department of Justice Canada: Ottawa, 2019).

<sup>35</sup> Tim Roberts, *Legal Clinics in Canada: Exploring Service Delivery and Legal Outcomes among Vulnerable Populations in the Context of COVID-19* (Department of Justice Canada: Ottawa, forthcoming)

<sup>36</sup> Research Sub-Committee of the Coordinating Committee of Senior Officials – Family Justice, *Diverse and Underserved Populations in Family Law: An Annotated Bibliography* (Ottawa, 2021).

<sup>37</sup> Research Sub-Committee of the Coordinating Committee of Senior Officials – Family Justice. *The Use of Technology in Family Law Proceedings* (Ottawa, 2021).

in Canadian courts has increased since the onset of COVID-19, beginning in March 2020. Their findings reveal that technology has increased access and/or enhanced the experiences of individuals involved in the family justice and civil justice systems by reducing costs and providing around the clock services. The authors also flag potential future concerns including that the connection between socio-economic disadvantages and low digital literacy can hinder access to justice as technology becomes further integrated into the justice system.

Not to be confused with the report above, a Task Group comprised of members of CCSO-Family Justice prepared a report, *The Use of Technology in the Family Justice System*, which was presented to FPT DMs in July 2021. The paper describes how the COVID-19 pandemic has necessitated and accelerated the use of technology in the family justice system. With the sudden restriction of in-person court and family justice services, there was an immediate need for jurisdictions to provide alternatives to in-person services and thus technology solutions were accelerated. For many jurisdictions responding to public health orders and court directives, it has become the only safe and permitted option for Canadians to access the family justice system.

The paper provides recommendations regarding the use of technology in the family justice system that provinces and territories may wish to consider to promote access to justice and to improve the delivery of services needed to address family breakdown. The recommendations are as follows:

1. Extend and enhance the use of technology beyond the COVID-19 pandemic in family court processes and family justice services;
2. Meet or maintain minimum levels of affordable services needed to address family breakdown through enhanced use of technology;
3. Use technology to enhance the availability of services;
4. Co-design technological solutions with clients and stakeholders; and
5. Support FPT collaboration and resource sharing with respect to technology.

Another area that is not well researched is the connections between the family and criminal justice systems. This is particularly true in cases of family violence.<sup>38</sup> A recent study that was presented to the *ad hoc* WG, entitled *Youth Criminal Justice Systems: Documenting “Cross-Over Kids” in Manitoba*<sup>39</sup> found that:

- close to one-third of all children who spent any time in care were charged with at least one criminal offense as a youth (age 12-17);
- being in care of Child and Family Services had the strongest association with being charged with a crime; and

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<sup>38</sup> See Linda B. Nielson, *Enhancing Safety: When Domestic Violence Cases are in Multiple Legal Systems (Criminal, family, child protection): A Family Law, Domestic Violence Perspective* (Department of Justice Canada: Ottawa, 2013).

<sup>39</sup> Marni Brownell et al., *Youth Criminal Justice Systems: Documenting “Cross-Over Kids” in Manitoba* (University of Manitoba, Centre for Health Policy: Winnipeg, 2020).

- First Nations youth in the study were 24 times more likely to be involved in both systems compared to other Manitoba children and youth (Brownell et al., xvii-xviii).

Focusing on housing during the COVID-10 pandemic, in a recent article, Sarah Buhler of the University of Saskatchewan College of Law describes evictions that occurred during 2020.<sup>40</sup> The Government of Saskatchewan put a partial eviction moratorium in place from March 26<sup>th</sup> until August 4<sup>th</sup>, 2020. The Office of Residential Tenancies (“the ORT,” Saskatchewan’s housing law tribunal) was directed to cease processing eviction applications for all but urgent situations involving risk to health or property. The pandemic became worse in Saskatchewan in the fall of 2020. During the year 2020, the ORT heard over 1800 eviction cases. This study sought to understand the patterns and themes in these decisions using the first quarter of 2020 (January, February and March) as pre-pandemic data for comparison.

In the article titled, “COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence,”<sup>41</sup> the authors reveal that COVID-19 is generating not only new cases of domestic violence and other forms of gender-based violence, but more complex cases, and enabling new tactics of coercive control. They further note that while the risk factors for domestic violence have gone up, the ability to access services and supports has become more difficult. Ultimately, their research findings highlight that there is little awareness of the heightened risks for survivors during COVID-19 and that decision makers tend to focus on incident-based physical violence instead of patterns of coercive control. The authors conclude by underscoring that there has been too limited of an understanding of the complexity of violence against women - too little attention has been paid to the global (and particular) scale of its harms, and there have been too few resources available to address the issue.

## 3.0 Methodology

### 3.1 Selection of Indicators

As noted above, access to justice can be measured in a number of ways. One approach seeks to collect administrative data on indicators about the justice system and its actors, such as access to lawyers or other forms of representation, access to courts or tribunals, etc.

On the other hand, the worldwide movement, supported by Sustainable Development Goal 16.3,<sup>42</sup> of understanding access to justice through a people-centered lens advocates for the collection of data on indicators about the legal problems/needs of people, many of which never come to the attention of lawyers or the formal justice system. These indicators would provide information that could help decision-makers:

- respond to the needs of the user population (as opposed to the needs of lawyers and the system);
- exploit the efficiencies and expanded access offered by technology;

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<sup>40</sup> Sarah Buhler, “Pandemic Evictions: An Analysis of the 2020 Eviction Decisions of Saskatchewan’s Office of Residential Tenancies” *Journal of Law and Social Policy* 35 (2021) : 68-99.

<sup>41</sup> Jennifer Koshan et al., “COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence,” *Osgoode Hall Law Journal* 57 (2021) : 3 .

<sup>42</sup> See Statistics Canada’s Sustainable Development Goals Hub and SDG 16 at <https://www144.statcan.gc.ca/sdg-odd/index-eng.htm?HPA=1>.

- provide appropriate legal and non-legal services; and
- commit to ongoing reform and maintenance of rules, statutes and policies.

The *ad hoc* WG selected system-focused and people-focused indicators to tell a more comprehensive story of access to justice before and during COVID-19. Indicators were selected for a number of reasons including:

- ease of access to data;
- contribution to the access to justice story;
- understandability;
- frequency of release from data collection agency (Statistics Canada, Justice Canada, etc.);
- comparability between jurisdictions; and thus,
- availability at a national level.

This is not an exhaustive list.

In an ideal world, the increase or decrease of each indicator selected would demonstrate a clear increase or decrease in access to justice. Measuring access to justice is not so straightforward. Results from legal needs/legal problems surveys have shown that only a small percentage of those with serious problems access the mainstream, or formal, justice system to resolve those problems; in the 2014 survey, only 6.7% of respondents said they used the formal justice system, with others using a variety of informal means, including doing nothing (Currie 2016). So, for example in the family law context, a decrease in the number of matters before the courts, the first indicator, could mean that fewer people have chosen or been able to commence a court proceeding in that time period. On the other hand, such a decrease could indicate that more people are choosing to resolve their relationship breakdown through a family dispute resolution process, such as mediation, which offer an alternative to the cost, delays and adversarial nature of court proceedings. If that were the case, one would expect to see an increase in the use of those processes around the same time period. Trends such as this are better examined over multiple years of data for system-focused indicators, and over several cycles of legal needs/legal problems surveys. An increase in the number of matters before a court or tribunal could also have several interpretations. For example, the Social Security Tribunal, as will be seen, had a large backlog of cases to clear, which had an impact on its annual data.

For the people-focused indicators, the number and percentage of Canadians who have experienced a family or poverty law problem in a three-year period could increase or decrease for a variety of reasons. A decrease in the number and percentage of Canadians able to resolve their family or poverty law problem could indicate that fewer have had access to justice in that time period, regardless of whether those individuals used formal or informal dispute resolution processes. There are fewer interpretations when it comes to the impact of problems on people. For example, an increase in the number and percentage adversely impacted by their family or poverty law problem during that time period would show the increased negative health impact of this lack of access to justice.

This very short discussion is to acknowledge that there may be different interpretations of the numbers that are presented in this report. The *ad hoc* WG recognizes that different interpretations limit the conclusions that can be drawn from the indicators and data presented in the report. Despite these limitations, the WG believes that the indicators selected represent an excellent starting point for on-going discussions.

### 3.1.1 Family Law System-Focused Indicators

	Description of Indicator(s)
<b>Matters before the courts</b>	The # of family matters before the courts and processing times (by year, pre & during COVID-19, by type of matter)
<b>Representation</b>	The # of litigants appearing in court for family law matters who are not represented by a legal adviser (by year, pre & during COVID-19)
<b>Participation in Family Justice Services</b>	The number of participants who completed family justice services (by type, by year pre & during COVID-19. Two services will be tracked: i)Parent education/information sessions ii)Government-funded out-of-court/early dispute resolution services (such as mediation or conciliation)
<b>Access to Family Legal Aid</b>	The # of legal aid applications for family matters received and the # and % of these applications approved (by year, pre & during COVID-19)
<b>Use of Technology</b>	The # of hits <sup>43</sup> for information about the family justice system (by specific page in each jurisdiction (see Appendix D), by year, pre & during COVID-19)

### 3.1.2 Family Law People-Focused Indicators

	Description of Indicator(s)
<b>Prevalence of Family Legal Problems/Needs</b>	i)The #/% of Canadians who have experienced a family legal problem in a three year time period; ii)The % of Canadians who are able to resolve their family legal problem (SDG 16.3 GIF, CIF); iii)The % of Canadians who were adversely impacted by their family legal problem (by category of impact – economic, psycho-social, etc.).
<b>Public Confidence in Family Justice System</b> <b>A) that the family justice system can provide a fair outcome;</b>	i)The % of <u>all</u> individuals who have high confidence that the family justice system can provide a fair outcome in their disputes (by year, pre & post COVID-19) ii)The % of those with family justice experience who have high confidence that the family justice system can provide a fair outcome in their disputes (by year, pre & during COVID-19)
<b>B) that the family justice system is accessible.</b>	i)The % of <u>all</u> individuals who have high confidence that the family justice system is accessible (by year, pre & post COVID-19) ii)The % of those with family justice experience who have high confidence that the family justice system is accessible (by year, pre & during COVID-19)

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<sup>43</sup> Terminology used in web metrics varies considerably from jurisdiction to jurisdiction. This report uses the term “hits” which is the same as “views”. “Views” refers to the number of times a page is viewed. Today “hits” refers to the number of requests for a file on a single webpage. There may be several hits on a page if that page contains multiple files like images, animations, etc. “Visits” counts the number of sessions for a single visitor. Each session is 30-minutes or less. One visitor might have many sessions and many page views.



<b>Access through Technology</b>	The % of Canadians who are comfortable or very comfortable accessing the family justice system in the following scenarios (by year, pre & during COVID-19): i) Looking for information and reading about the family justice system online ii) Completing forms online using fillable PDF forms iii) Using video conferencing platforms (e.g., Zoom, MS Teams, Google Meet, etc.) for what would normally be in-person meetings, mediation, or court sessions
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### 3.1.3 Poverty Law System-Focused Indicators

	Description of Indicator(s)
<b>Matters before the tribunal</b>	The # of matters before the tribunal and processing times (by year, pre & during COVID-19, by type of matter)
<b>Representation</b>	The # of litigants appearing before the tribunal who are not represented by a legal adviser (by year, pre & during COVID-19)
<b>Use of and Participation in Services</b>	The number of participants using tribunal’s alternative dispute resolution services (by type, by year pre & during COVID-19)
<b>Access to Legal Aid</b>	The # of people with a poverty law (i.e. income support and housing) problem who receive assistance through legal aid (by year, pre and during COVID-19)
<b>Use of Technology</b>	The # of hits on the tribunal website (by year)

### 3.1.4 Poverty Law People-Focused Indicators

	Description of Indicator(s)
<b>Prevalence of Poverty Law Problems/Needs</b>	i) The #/% of Canadians who have experienced a poverty law problem in a three year time period by general area of law (i.e. income support and housing) ii) The % of Canadians who are able to resolve their poverty law problem (SDG 16.3 GIF) iii) The % of Canadians who were adversely impacted by their poverty law problem (by category of impact – economic, psycho-social, etc.)
<b>Satisfaction with Service</b>	% of client/litigant/user who are satisfied or very satisfied with service provided ( satisfaction surveys)

## 3.2 Data Sources

### 3.2.1 Civil Court Survey

Much of the data for the systems-focused indicators come from the CCS. The CCS is a Statistics Canada census survey with ten of the 13 jurisdictions reporting.<sup>44</sup> Manitoba, Quebec and Newfoundland and Labrador are not currently included. When fully implemented, the CCS will collect data from all civil courts in Canada, including all the superior and provincial-territorial courts hearing civil matters including general civil, family, probate and small claims. Appeal courts, federal courts (e.g., Federal Court of Canada, Federal Court of Appeal, and the Tax Court of Canada) and the Supreme Court of Canada are not covered by the survey. The collection of data is from administrative records, in which data are derived from records originally kept for non-statistical purposes. Note that the CCS does not capture administrative law matters at the tribunal level.

In June 2021, the CCJCSS released an analytical report, *Profile of family law cases in Canada, 2019/2020*. The report, funded by Justice Canada, examines data from the CCS from the 2019/2020 fiscal year and presents a profile of family-related cases appearing in civil courts in Canada in order to provide a pre-COVID baseline of family court case processing. This report has been used extensively for populating the pre-COVID-19 system-focused indicators. For a summary of this report, please see Appendix C.

### 3.2.2 Federal/Provincial/Territorial Administrative Data

Each jurisdiction collects its own court and other administrative data. For ten of the 13 jurisdictions, these court data are included in the CCS as noted above. Jurisdictions were asked to supplement the CCS data where possible. In addition, the *ad hoc* WG solicited data on the number of hits on websites for family justice information, and the completion of parenting education courses and out-of-court dispute resolution services.

Data from provincial and territorial legal aid plans are submitted to Justice Canada at the end of the fiscal year. Justice Canada researchers then prepare a report for that particular fiscal year. Legal aid reports can be found on the Justice Canada website.

Data for the SST comes from their administrative information management systems with their permission. Some of these data are reported periodically on their website; other data were requested. The SST has also provided people-focused data through its evaluations and client satisfaction survey results.

### 3.2.3 Self-Reported Studies on Serious Legal Problems

#### *Everyday Legal Problems and the Cost of Justice in Canada Survey*

In 2013/2014, the Canadian Forum on Civil Justice at York University undertook a legal needs/legal problems survey.<sup>45</sup> The Everyday Legal Problems and the Cost of Justice in Canada Survey was part of the broader Cost of Justice project that was supported by the Social Sciences and Humanities Research

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<sup>44</sup> See the Statistics Canada website for a full description at:

<https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=5052>

<sup>45</sup> See <https://cfcj-fcjc.org/cost-of-justice/>

Council (2011-2018). Data from this survey will be used as the pre-COVID-19 baseline for several of the people-focused indicators.

#### *The Canadian Legal Problems Survey*

The Canadian Legal Problems Survey (CLPS) is a general population survey that is being undertaken by Statistics Canada, on behalf of Justice Canada and other federal departments. The CLPS addresses the many challenges of collecting national administrative data on civil and family matters by focusing on legal needs and how those needs were, or were not, addressed, as well as the health and economic impacts of these legal problems. The CLPS had a final sample of 21,170 respondents from the general population aged 18 and older across the ten provinces with an oversample of Indigenous people. Data collection took place in 2021 with a final response rate of 50.3%. First results were released in January 2022.<sup>46</sup> It is important to note that the questionnaire for the CLPS, while based on earlier surveys in Canada, differs as well and so direct comparisons are not possible.

#### *A Qualitative Look at Serious Legal Problems*

The *ad hoc* WG was asked to specifically consider disaggregated data on race and ethnicity and other demographics. At this time, the system-focused indicators do not collect data beyond gender (CCS) and gender and Indigenous identity (legal aid plans). A Qualitative Look at Serious Legal Problems is a series of research studies that will complement the CLPS. The studies began about the same time as COVID-19 and in most cases, this caused delays in getting ethics approval especially when the mode of data collection changed (for example, from in-person interviews to telephone or Zoom interviews), but also made it more difficult to recruit participants with many community organizations closed down. It also became more evident as the months went by that the COVID-19 crisis was having the greatest effect on the poorest and most marginalized populations in Canada. Each study involved approximately 20 people who participated in interviews by telephone or an on-line platform such as Zoom. In a couple studies, on-line focus groups were also held. Participants were asked to describe their serious problem(s), how they had tried to resolve it and what the impacts of the problem were especially in light of COVID-19. Findings in the areas of family and poverty law are included in Section 4.<sup>47</sup>

#### 3.2.4 Public Opinion Data – the National Justice Survey and other surveys

Justice Canada periodically conducts the National Justice Survey (NJS), a national public opinion research survey that provides an understanding of the views, knowledge, concerns and priorities of Canadians on important justice-related issues. For the 2021 NJS, topics included: confidence in the criminal and family justice systems; impaired driving, the sex trade, access to justice; and the United Nation's Sustainable

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<sup>46</sup> Laura Savage and Susan McDonald. *Experiences of serious problems or disputes in the Canadian provinces, 2021* (Statistics Canada, Ottawa, 2022).

<sup>47</sup> The Department of Justice Canada has a specific webpage where one can find a link to the Statistics Canada results, as well as the qualitative studies. See <https://www.justice.gc.ca/eng/rp-pr/jr/survey-enquete.html>

Development Goal 16 (SDG 16). The *ad hoc* WG was able to include specific questions with respect to confidence in the family justice system.

The 2021 NJS had a final sample of 3,211 Canadians, 18 years of age and older from all 13 jurisdictions with oversampling of Indigenous people and racialized minorities.<sup>48</sup> The survey was in the field from February 1, 2021 to March 5, 2021. Full results from the 2021 NJS are available on the Library and Archives Canada Public Opinion Research website.<sup>49</sup>

## 4.0 Results

Results are provided where available. For most of the indicators, system-focused data are not yet available for the year 2020/2021 or “during COVID-19.”

### 4.1 Family Law System-Focused Results – Pre and During COVID-19

#### 4.1.1 Matters Before the Courts

Family law cases can involve one or more issues, including divorce, parenting arrangements, support payments, division of family property, and child and family protection applications. These account for 30.35% of all the cases in the civil courts in the 10 provinces and territories; there were 294,332 family law cases active in 2018/2019 and 275,296<sup>50</sup> in 2019/2020. This represents a decrease of six per cent from the previous year. When child protection cases and cases involving a civil protection order are removed, there were 228,758 active family law cases in 2019/2020.

As noted earlier, access to lawyers and courts is Macdonald’s first “wave” of access to justice.<sup>51</sup> No data are yet available for 2020/2021, but as court operations in several of the large provinces (BC, Ontario and Quebec) were initially reduced when COVID-19 hit, it is anticipated that the number of active family law cases will have decreased significantly. Judges were hearing “urgent” cases during this period. The restriction of in-person courthouse services is the most visible sign of the impact of COVID-19 on access to justice in family law cases.

**Table 1: Active Family Law Cases by Type, 2018/2019 to 2019/2020, Canada<sup>52</sup>**

	<b>Total active family cases</b>	<b>Divorce cases with no issue(s)</b>	<b>Divorce cases with issue(s)</b>	<b>Access and/or custody cases</b>	<b>Child protection cases</b>	<b>Family cases involving a civil protection order</b>	<b>Support only cases</b>	<b>Other &amp; unknown case types</b>

<sup>48</sup> The survey sample was randomly selected from the Probit panel; this panel is assembled using a random digit dial (RDD) process for sampling from a blended land-line cell-phone frame.

<sup>49</sup> See [https://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/justice\\_canada/2021/089-20-e/index.html](https://epe.lac-bac.gc.ca/100/200/301/pwgsc-tpsgc/por-ef/justice_canada/2021/089-20-e/index.html)

<sup>50</sup> Active cases include all cases with activity (at least one court event, which moves all or part of the case through the court process) during the year and thus include initiated cases.

<sup>51</sup> See *supra* note 9.

<sup>52</sup> Does not include data from Manitoba, Quebec or Newfoundland and Labrador, none of which reports to the CCS. See Text Box 1 for descriptions of the different family case categories.

<https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00011-eng.htm>

<b>2018/19</b>	294,332	79,190	31,758	46,672	27,627	21,513	21,232	66,340
<b>2019/20</b>	275,296	76,068	31,413	44,242	25,856	20,682	19,097	57,938

Source: *Profile of Family Law Cases in Canada, 2019/2020*, Statistics Canada & special request from the Civil Court Survey, Statistics Canada.

### **Processing Times, 2018/2019 to 2019/2020**

Based on data from the CCS, in 2018/2019, almost half (48%) of divorce cases without issues that reached a first disposition did so in under three months; the median number of days to first disposition in active divorce cases without issues was 95. This was very similar in 2019/2020 where almost half (47%) of divorce cases without issues that reached a first disposition did so within one to three months; the median number of days to first disposition in active divorce cases without issues was 95.

In comparison, divorce cases with issues such as, custody, access<sup>53</sup> and support, took somewhat longer to resolve. In 2018/2019 and 2019/2020, over one-third of cases (39% and 38% respectively) reached the first disposition within one to three months; the median number of days to first disposition in active divorce cases with issues was 121 in 2018/2019 and 124 in 2019/2020.

Data for 2020/2021 are not available, but it is anticipated that the median number of days to first disposition in active divorce cases with and without issues will increase by a significant number.

#### **4.1.2 Representation**

Access to lawyers has become more and more difficult for not only low-income Canadians, but middle-income Canadians as well. As a result, more litigants are representing themselves in negotiations, mediations and other dispute resolution processes, and in courts and tribunals. Years ago, the National Self-Represented Litigants Project<sup>54</sup> documented the challenging experiences of 283 litigants, most with family law issues in BC, Alberta and Ontario.

Drawing from the CCS for 2018/2019 and 2019/2020, data were only available for 27 per cent of applicants and 12 per cent of respondents across eight jurisdictions. While Table 2 below provides more details, on average, more family law litigants represented themselves, rather than retained representation in both fiscal years. These numbers continue the upward trend of self-represented litigants in family law cases since 2014-2015.<sup>55</sup>

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<sup>53</sup> The amendments to the Divorce Act that came into force on March 1, 2021 replaced the “custody” and “access” terminology that was previously used to describe parenting arrangements with child focused terminology related to “parenting” responsibilities. The new approach uses “parenting orders” that set out each parent’s decision-making responsibilities and parenting time. The amendments to the Divorce Act also allow a court to make contact orders in some cases. Contact orders refer to court-ordered time that a non-parent spends with a child (for example, a grandparent).

<sup>54</sup> Julie Macfarlane, *The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants* (University of Windsor: Windsor, ON, 2013).

<sup>55</sup> Lyndsay Ciavaglia Burns, *Profile of family law cases in Canada, 2019/2020*. (Statistics Canada, Ottawa, 2021) at 1.

Of concern is that only 6.34 per cent of applicants in cases involving a civil protection order in 2019/2020 were represented, while 13.41 per cent of respondents in these cases were represented.

**Table 2: Proportion of represented and self-represented litigants in active family court cases by case type, Canada, 2018/2019 to 2019/2020<sup>56</sup>**

Active family law case type	Represented (%)		Self-represented (%)		Represented (%)		Self-represented (%)	
	Applicants				Respondents			
	2018/19	2019/20	2018/19	2019/20	2018/19	2019/20	2018/19	2019/20
Divorce cases without issues	35.8%	35.6%	64.2%	64.6%	30.3%	28.9%	69.7%	71.1%
Divorce cases with issues	25.0%	25.4%	75.0%	74.6%	22.2%	23.7%	77.8%	76.3%
Custody/access only	20.6%	19.5%	79.4%	80.5%	23.6%	23.5%	76.4%	76.5%
Support only	53.9%	52.5%	46.1%	47.5%	22.3%	18.3%	77.7%	81.7%
Child protection cases	97.3%	97.2%	2.8%	2.8%	65.3%	66.8%	34.7%	33.2%
Civil protection order	7.2%	6.3%	92.8%	93.7%	12.7%	13.4%	87.3%	86.6%
Other family cases	82.4%	76.6%	17.6%	23.4%	35.3%	34.3%	64.7%	65.7%
Unknown family cases	7.1%	6.9%	93.0%	93.1%	10.0%	12.4%	90.0%	87.7%

**Source:** *Profile of Family Law Cases in Canada, 2019/2020*, Statistics Canada & special request from the Civil Court Survey, Statistics Canada. Numbers may not add to 100 due to rounding.

#### 4.1.3 Participation in Family Justice Services

In each province and territory, family justice services play an essential role in family law matters. They address the needs of those who are separating or divorcing and may provide important information to litigants about the impacts of separation or divorce on children and help parents understand their legal issues and responsibilities. These may also include dispute resolution services to resolve as many issues as possible out of court; assist litigants with court processes and forms, provide mechanisms to update

<sup>56</sup> For the purposes of this table, child and family protection cases are included in the total active family caseload for 2019/2020. This table is based on the representation status of applicants in 27% of active family cases and respondents in 12% of active family cases as at the end of the 2019/2020 fiscal year. Caution should be exercised when interpreting this data due to the small number of cases for which this includes both self-represented and unrepresented litigants as classified in the Civil Court Survey National Data Requirements. Excludes active case data from Newfoundland and Labrador, Quebec and Manitoba, which are not yet reporting to the survey, and Nunavut.

family obligations; facilitate compliance with parenting and financial arrangements, among other services.

Parent education sessions are mandatory in some jurisdictions for separating or divorcing couples. As Table 3 below shows, in 2018/2019, 57,191 people participated in parent education programs across the country and in 2019/2020, 52,260 people participated. In 2020/2021, that number dropped to 25,926. From late March 2020 onwards, many jurisdictions were providing limited in-person services and in some instances, only for urgent issues. As services re-opened, some jurisdictions switched to on-line platforms, but not all were able to offer the service. Some, however, were online before the start of the pandemic. Some decrease in the number of participants is likely due to the decreased availability of court services as the mandatory court requirement to participate in parent education in some jurisdictions drives a high proportion of participation in these programs.

Also shown in Table 3 is the number of people who participated in conflict resolution services including mediation. In 2018/2019, 31,797 people participated in such processes and in 2019/2020, 36,389. In 2020/2021, that number dropped to 29,401. Again, in some jurisdictions participation in some aspect of dispute resolution services is a mandatory step prior to court applications or appearances. With the reduction in operations of courts for some months, demand for these mandatory services would have decreased. A decrease in the number of participants therefore cannot be entirely attributed to a decrease in access to conflict resolution services.

**Table 3: Number of family law participants who completed parent education sessions and conflict resolution processes in 2018/2019 to 2020/2021, Canada<sup>57</sup>**

	Parent Education Sessions <sup>58</sup>	Conflict Resolution Processes <sup>59</sup>
<b>2018/2019</b>	57,191	36,267
<b>2019/2020</b>	52,260	36,389
<b>2020/2021</b>	25,926	29,401

Source: Provincial and territorial information management systems.

**Text Box 1: Spotlight on British Columbia**

**Parenting After Separation courses:**

Family Justice Services Division (Ministry of Attorney General) in British Columbia offers two online parenting education courses, Parenting After Separation and Parenting After Separation for Indigenous Families (developed with the assistance of an Indigenous Advisory Committee). Both courses are offered free of charge to anyone interested in taking them, as well as those completing the course to fulfill requirements under the Provincial Court Family Rules. Both courses, complete

<sup>57</sup> Includes data from all jurisdictions except Nunavut. Data from New Brunswick not available for Parent Education Sessions in 2020-2021. Data from New Brunswick and Ontario not available for Conflict Resolution Processes in either fiscal year.

<sup>58</sup> No data available for NL and NU in 2018/2019, nor for NU, MB and NB in 2020/2021.

<sup>59</sup> No data available for ON, NL, NB and BC for 2018/2019, nor for NU, NB and ON in 2020/2021.

with current content, support parents to make decisions in the best interest of their children. Given their online format these courses continued to be available throughout the COVID-19 pandemic.

#### **Family Dispute Resolution Services:**

British Columbia offers dispute resolution services, free of charge, through certified family mediators employed by Family Justice Services Division (Ministry of Attorney General). Services are delivered through five Justice Access Centres and 19 Family Justice Centres across the province. Virtual dispute resolution services were offered prior to the covid-19 pandemic to serve families who were separated by distance or lived a prohibitive distance from a local office. This expertise and technology was leveraged to rapidly train all staff to deliver virtual dispute resolution services (through teleconference and videoconference) when in-person services were halted due to pandemic related public health orders. This allowed families who may otherwise have had limited family justice options to continue to be able to access legal information, assessment and dispute resolution services to address their family law matters.

Recent Provincial Court Family Rules reforms introduced Early Resolution Registries to promote early assessment and consensual dispute resolution. Initiated in Victoria in May 2019, expanded to Surrey in 2020, parties to Family Law Matters are required to complete a parenting education program as well as needs assessment with a family justice counsellor at FJSD and one consensual dispute resolution session (if appropriate) prior to filing an Application About a Family Law Matter.

In the studies from *A Qualitative Look at Serious Legal Problems*, researchers asked participants about how they, or their families, tried to resolve their serious legal problems. In Brown et al.'s report on Black Canadian youth,<sup>60</sup> participants described family and immigration issues as their first exposure to the formal justice system. They found the process “complex and intimidating”, involving “many offices and little support”. The participants stated that they felt alone navigating the system, often on behalf of their family. One participant described how he had to assist his mother during her divorce, when he was just 18 years old, by acting as her representative at government offices. As family matters are considered private, he did not ask anyone for help. Another participant recounted that she had to help her mother get legal help and fill out forms. Overall, seeing their parents try to navigate the systems and solve their problems, taught participants to avoid the formal systems (courts) and legal supports (government offices and legal clinics) if at all possible.

#### **4.1.4 Access to Family Legal Aid**

Legal aid is available in all 13 provinces and territories, but the income eligibility threshold and the scope of coverage varies, especially in civil cases. All jurisdictions provide legal aid for representation in family and child protection matters. Ten jurisdictions provide limited services (e.g. duty counsel, information

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<sup>60</sup> Meredith Brown et al., *Voices Matter: The Impact of Serious Legal Problems on 16 to 30 year olds in the Black Community* (Department of Justice Canada: Ottawa, 2021) at 25.



and summary advice through legal clinics, limited representation) for non-family civil matters such as housing, income support and discrimination cases. Seven jurisdictions provide legal aid in immigration and refugee matters.<sup>61</sup>

Justice Canada releases an annual report on legal aid each year based on information submitted by the jurisdictions. In Table 4 below, data for 2018/2019 have been provided. There were fewer applications received in 2019/2020 than in 2018/2019, but the impact of COVID-19 will likely only become apparent when the data for 2020/2021 are available. The annual report for 2020/2021 will be available in June 2022.

**Table 4: Number and percentage of civil legal aid applications<sup>62</sup> received and approved for full service, by staff and private lawyers, annual, Canada, 2018/2019 to 2019/2020**

Fiscal year	Total # of Civil Legal Aid Applications Received	Total # Approved Civil Legal Aid Applications	# of Child Protection Applications Received	# Approved Child Protection	# of Family Matters Applications Received	# Approved Family Matters
2018/2019	266,958	206,178	58,856	53,590	118,403	80,692
2019/2020	250,567	190,363	58,823	53,074	106,563	70,422

Source: *Legal Aid in Canada, 2018-2019*; *Legal Aid in Canada, 2019/2020*

The *Legal Aid in Canada, 2019/2020* report also provides numbers on legal aid applications received and approved by self-identified Indigenous people (First Nations, Metis, and Inuit).<sup>63</sup> Breakdown is limited to criminal and civil legal aid applications. In that fiscal year, for all 13 provinces and territories, there were 14,184 applications received for civil legal aid from Indigenous people. Of those, there were 11,027 (78%) applications approved and 2,417 (17%) rejected. An additional 739 applications were approved, but the applications had been received in the prior fiscal year.

Legal Aid Ontario (LAO) began collecting race-based data in 2018. In its 2019/2020 statistics (pre-COVID-19), it notes that Black Ontarians make up 4.7% of the population according to the most recently available data from Statistics Canada, yet comprise 17.2% of LAO's clients and 10.6% of its clients in family law. Indigenous peoples make up 2.8% of Ontario's population, but comprise 13.8% of LAO clients and 7.8% of clients in family law. Importantly, LAO is making the datasets available to the public.<sup>64</sup>

<sup>61</sup> Newfoundland and Labrador (NL), Quebec (QC), Ontario (ON), Manitoba (MB), Alberta (AB), and British Columbia (BC) and Nova Scotia (NS) will be opening the Halifax Refugee Clinic in the coming months.

<sup>62</sup> Child protection matters are those where measures of child protection are sought and proceedings when a client is involved with a child protection agency. Family matters are proceedings related to divorce, separation, maintenance, and all other matters of a family law nature, excluding child protection. Non-family matters are all other civil proceedings that are not of a family nature (e.g., landlord and tenant disputes, poverty law). Total civil legal aid applications include: child protection matters, family matters, non-family matters and immigration and refugee matters. For additional notes, see *Legal Aid in Canada, 2019/2020*, page 10.

<sup>63</sup> *Legal Aid in Canada, 2019/2020*, Table 10, page 15.

<sup>64</sup> See <https://www.legalaid.on.ca/news/legal-aid-ontario-race-based-data-for-legal-aid-certificates-2019-20/>

In terms of duty counsel services, in 2019/2020, nine jurisdictions reported 163,982 assists in civil matters, including family and other non-family matters, but not including immigration and refugee matters.<sup>65</sup>

In the studies from *A Qualitative Look at Serious Legal Problems*, participants described how they tried to resolve their serious legal problems especially where the cost of retaining a lawyer was an immediate barrier. For many, lack of good, clear information was another challenge. Multiple participants in all the studies mentioned that they had not known initially about transition houses, settlement service providers, or legal aid.<sup>66</sup> While those who received legal aid were mostly appreciative of the service, there were also significant barriers associated with legal aid:

- the legal aid income eligibility was very low and the coverage was limited;
- the application process was slow and if approved, representation was limited to a certain number of hours;
- legal aid lawyers were perceived as less experienced and having less time to spend on a problem than other lawyers.

As one participant said,

*The other lawyers...know how to eat up the hours...the other lawyers know how to play the game, basically.*<sup>67</sup>

#### 4.1.5 Use of Technology

With public buildings such as courts and municipal offices, libraries and legal clinics completely closed in many jurisdictions at different times from March 2020 through July 2021, as a result of public health restrictions related to COVID-19, the use of online resources became key to finding information. The *ad hoc* WG selected three topics in family law and the corresponding web page to determine usage over the COVID-19 time period. The number of hits reflects the number of times a specific web page is accessed by a user. Numbers have been collected from federal, provincial and territorial governments or a designated public legal education provider, usually a non-governmental organization. The webpages for each jurisdiction are provided in Appendix D.

The total numbers below, for the federal government and ten provinces and territories, do not show any notable increases that one might expect, with the exception of the English web page for family mediation and French webpages on child support. Otherwise, the numbers show only a slight increase or decrease from 2018/2019 to 2020/2021.

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<sup>65</sup> *Supra* note 61, Table 11, page 17.

<sup>66</sup> These findings come from many of the qualitative studies including: Verhage 2021, Austin 2021, and Sutter and Esses 2021.

<sup>67</sup> Florentien Verhage, *A Qualitative Look at Serious Legal Problems Faced by Immigrants in Greater Victoria and Vancouver, British Columbia* (Department of Justice Canada: Ottawa, 2021) at 34.

**Table 5: Number of hits to family law web pages, annual, Canada,<sup>68</sup> 2018/2019 to 2020/2021**

Year	General Family Law Webpage - # of hits		Child Support Webpage - # of hits		Family Mediation/Other Dispute Resolution Webpage - # of hits	
	English	French	English	French	English	French
2018/2019	302,690	24,113	98,727	18,303	17,100	46,050
2019/2020 <sup>69</sup>	326,137	24,152	217,233	17,439	40,632	45,827
2020/2021	275,158	25,003	241,694	23,826	54,520	45,522

## 4.2 Family Law People-Focused Results – Pre and During COVID-19

In this section, people-focused indicators are presented using data from the Everyday Legal Problems and the Cost of Justice in Canada Survey, 2014 and the CLPS, 2021. As noted by Currie, “the defining feature of the research is that it looks at problems from the point of view of the people experiencing them and not from the perspective of the traditional formal justice system.”<sup>70</sup> These surveys not only provide data on number and type of serious legal problems experienced by Canadians, but also the outcomes and impacts of the problems.

### 4.2.1 Prevalence of Family Law Problems

The CLPS was in the field in 2021, but there was no such national survey in 2019/2020 so the data presented here are from The Everyday Legal Problems and the Cost of Justice Survey, which was in the field from September 2013 to March 2014.

**NOTE** – As previously mentioned, the CLPS 2021 used a different questionnaire and a different method (on-line and telephone interviews) than the Everyday Legal Problems and Cost of Justice Survey. The data are presented for illustrative purposes and should not be considered comparable.

The *ad hoc* WG selected three indicators:

- i) The number and percentage of Canadians who have experienced a family legal problem in a three year time period; the percentage of Canadians who identified their family legal problem as **their most serious problem**.
- ii) The percentage of Canadians who are able to resolve their family legal problem;
- iii) The percentage of Canadians who were adversely impacted by their family legal problem (a) experienced a high level of stress due to the family legal problem; b) experienced a physical health problem due to the family legal problem).

<sup>68</sup> Data are not available for Canada, BC, MB, NL, NWT, NU and YK for 2018/2019.

<sup>69</sup> Data from Justice Canada for 2019/2020 is for November 2019-March 2020 only for the child support page, and no data were available for the mediation page in 2019/2020 nor in 2018/2019 for either webpage. Numbers were not available on some web pages, including French pages, for some jurisdictions.

<sup>70</sup> Ab Currie, *Nudging the Paradigm Shift, Everyday Legal Problems in Canada* (Canadian Forum on Civil Justice: Toronto, 2016) at 5.

The data are presented in two tables, Tables 6 and 7 below, for ease of reading. A total of 5.1 per cent of Canadians experienced at least one serious family legal problem in the three years prior to the survey (2014) and close to two fifths (38.8%) of respondents indicated that they had resolved the problem. Almost three quarters (73.6%) reported that they had experienced a high level of stress due to the family legal problem and slightly less than three quarters (71.1%) indicated that they had experienced a physical health problem due to the family legal problem.

Given that data collection for the CLPS 2021 occurred during COVID-19, it is reasonable to expect that the percentage of people reporting adverse impacts due to their family legal problem(s) could be higher than what was reported years earlier. It is also possible that a smaller percentage of people may report that their family legal problem was resolved given the restricted operation of courts and other public offices during COVID-19.

**Table 6: Percentage and number of people who experienced a family legal problem and resolved it in the previous 3 years in the 10 provinces, 2014 and 2021**

	Experienced a family legal problem	Experienced a family legal problem	Identified family legal problem as the <u>most serious</u>	Resolved family legal problem
	%	Number	%	%
<b>2014</b>	5.1%	1,216,497 <sup>71</sup>	NA	38.8%
<b>2021</b>	4.6%	1,362,000	1.6% <sup>72</sup>	34.5% <sup>73</sup>

Source: Everyday Legal Problems and the Cost of Justice Survey 2014, N=3,051; The Canadian Legal Problems Survey, 2021, N=21,170

These numbers show that just over a third of those who identified their family legal problem as their **most serious problem** had seen it resolved at the time of the survey. In the studies from A Qualitative Look at Serious Legal Problems, participants reported that experiencing multiple legal problems made navigating a situation more difficult. As one participant described this:

*I was moving mountains at the time.*<sup>74</sup>

Experiencing multiple complex problems at the same time was often mentioned by participants in several of the studies in conjunction with a feeling of powerlessness, having little time, and mounting

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<sup>71</sup> Data from the *Everyday Legal Problems and the Cost of Justice Survey* were weighted to the population to calculate that an estimated 11,420,890 adults in Canada experienced at least one serious legal problem in the three-year period prior to the survey.

<sup>72</sup> When asked to identify their most serious problem, 1.6% of respondents identified a family law problem. This is the base sample for the 2021 detailed questions on impacts.

<sup>73</sup> The 2021 numbers for Tables 6 and 7 are for those respondents who identified a family law problem as their **most serious problem** so comparisons to the 2014 results should not be made.

<sup>74</sup> Verhage, *supra* note 65 at 35.

costs, and all these together contribute to making it harder to solve the legal problems or to settle them to their satisfaction.<sup>75</sup>

In Table 7, in 2014 almost three quarters (73.6%) reported that they had experienced a high level of stress due to the family legal problem; in 2021, this proportion increased to 87.8%. In 2014, slightly less than three quarters (71.1%) indicated that they had experienced a physical health problem due to their family legal problem; in 2021, this proportion dropped to a third (33%) who indicated they had experienced a physical health problem due to their family legal problem.

**Table 7: Percentage of people who experienced a family legal problem<sup>76</sup> and were adversely impacted by it, in the previous 3 years in the 10 provinces, 2014 and 2021**

	Adversely impacted by family legal problem	
	a) Experienced a high level of stress	b) Experienced a physical health problem due to family law problem
	%	%
<b>2014</b>	73.6%	71.1%
<b>2021</b>	87.8%	33.0%

Source: Everyday Legal Problems and the Cost of Justice Survey 2014, N=3,015; The Canadian Legal Problems Survey, 2021, N=21,170

It is clear that those who reported a serious family legal problem, whether it was their most serious problem or not, were impacted adversely with high levels of stress and physical health impacts.

In the studies from A Qualitative Look at Serious Legal Problems, researchers specifically asked participants about the impacts of their serious legal problems. For immigrants, family legal problems were frequent. Where there were several serious legal problems, such as family and child custody issues especially, immigrant women of colour were at risk for housing and food insecurity in addition to experiencing health and social consequences. Missing child support payments, sexual and physical abuse, and psychological and legal manipulation by the other party were often associated with child custody issues (three out of four cases). Child custody and other family issues were often complicated by other legal issues, such as losing access to a house, and losing jobs.<sup>77</sup> As Verhage notes in her report:

Most of these are cases of profound loss: ‘I am losing all, to keep my child safe,’ said a mother who experienced food insecurity, housing insecurity, and trauma after escaping her situation. These kinds of cases with multiple layers of vulnerability, were by far the most complicated cases shared during this study. All of them, except one,

<sup>75</sup> These findings come from many of the studies including: Rajan 2021, Saint John Human Development Council 2021, Community-Based Research Centre Society 2021, Verhage 2021, Austin 2021, and Sutter and Esses 2021.

<sup>76</sup> The 2021 numbers are based on 1.6% of respondents who identified a family law problem as their **most** serious problem.

<sup>77</sup> *Supra* note 65, Verhage 2021.

went to court or are waiting for a court date in the future and most of them had legal aid.<sup>78</sup>

#### 4.2.2 Confidence in the Family Justice System – all Canadians

If one is not able to access the justice system – or any other system such as health care or education -- this may have an impact on a person’s confidence in that system. The National Justice Survey 2021<sup>79</sup> asked respondents about their levels of confidence in both the criminal and the family justice system, both prior to the start of COVID-19 and at the time of the survey (February 2021).

Q5. Thinking back to before the pandemic was declared in the middle of March 2020, how confident were you that the family justice system in Canada was . . . a) accessible to all people? And b) fair to all people?

Q6. Today, how confident are you that the family justice system in Canada is . . .

**Table 8: Levels of Confidence in the Family Justice System, prior to and during the pandemic**

	<b>Confident (4-5) %</b>	<b>Moderately Confident (3) %</b>	<b>Not confident (1-2) %</b>	<b>Don't know or no response %</b>
<b>a) ...accessible to all people?</b>				
Prior to pandemic	24%	38%	31%	7%
February 2021 ("today")	18%	34%	40%	8%
<b>b)...fair to all people?</b>				
Prior to pandemic	15%	36%	43%	7%
February 2021 ("today")	14%	34%	45%	8%

Source: National Justice Survey 2021, N=3,211

As shown above, in Table 8, prior to the start of the pandemic, almost a quarter (24%) of Canadians were confident that the family justice system was accessible to all people, while only 15% were confident that the family justice system was fair to all people. Below are some key points based on statistically significant differences among the different populations who were part of the NJS 2021. These bullets are directly excerpted from the final report.<sup>80</sup>

- Men (26%) were more likely than women (22%) to say the system was accessible to all people.
- Those in Quebec were more confident, compared with the rest of Canada, that the system was accessible (31%), and fair (19%). Those in Alberta were least confident that the family justice system was accessible (39% were not confident) or fair (54% were not confident) to all people.

<sup>78</sup> *Ibid* at 24.

<sup>79</sup> EKOS Research Associates Inc. 2021. Data and key points have been drawn directly from the final report of the *National Justice Survey 2021*, at 18 – 25. Accessed at: <https://www.bac-lac.gc.ca/eng/porr/Pages/porr.aspx>

<sup>80</sup> *Ibid*.

- Canadians who indicated they had been involved in the family justice system because they have experienced or are experiencing separation or divorce, were more likely to say they were confident (19%) the system was fair to all people compared with those who were involved as family or friends (12%), provided support (12%), or were not involved (14%).
- First Nations respondents were less confident (45% were not confident) than those who are non-Indigenous (31% were not confident) that the system was accessible to all people.
- Canadians who identified as South/West Asian (32%) were more likely to believe the system was accessible to all people compared with those who identified as White (23%). Likewise, those who identified as South/West Asian (25%) or Black (26%) were more likely to believe the system was fair to all people compared with those who identified as White (15%).

Respondents were also asked about their confidence in the family justice system “today” which would have been at the time of the survey, in February 2021. In Table 8 above, confidence in the accessibility of the family justice system was lower than prior to the pandemic with nearly one in five Canadians (18%) confident that the family justice system was accessible to all people. Only 14% were confident that the family justice system was fair to all people, while 45% said they were not confident.

As above, key points have been excerpted from the final report to highlight differences between different populations.

- Similar to perceptions of the family justice system before the pandemic, a larger proportion of men (21%) than women (17%) felt the system was accessible to all people at the time of the survey.
- Regionally, those in Alberta were more likely to say they were not confident the family justice system was accessible (54% not confident) or fair (56% not confident) to all people. Those in Quebec were most confident that the system was accessible (26%) or fair (21%).
- Canadians who indicated they had been involved in the family justice system as having experienced or experiencing separation or divorce were more likely to say they were not confident the system was fair to all people (51% not confident) compared with those who were not involved (40% not confident).
- First Nations respondents (61%) were more likely than non-Indigenous respondents (44%) to say they were not confident the family justice system was fair to all people. Similarly, First Nations people (52%) were more likely than non-Indigenous respondents (39%) to say the system was not accessible.
- South/West Asian respondents were more likely to believe the system was accessible (25%), and fair (28%) to all people compared with White respondents (18% accessible, 14% fair). Black respondents were also more likely than those who identified as White to say the system was accessible (29%), or fair (26%).

#### 4.2.3 Ability to Access the Family Justice System – those involved in the family justice system

Respondents were asked whether they had had experience with the family justice system within the past two years and a small proportion did (7% or n=208). Among those who were involved, less than a third (31%) indicated that the system was easy to access before the pandemic, while only 16% said the family justice system is currently easy to access “today” or at the time of the survey in February 2021. Table 10 below shows the differences.

**Q7b.** Before the pandemic was declared in the middle of March 2020, how would you describe your ability to access the family justice system in Canada?

**Q7c.** Today, how would you describe your ability to access the family justice system in Canada?

**Table 9: Ability to Access the Family Justice System for those Involved, prior to and during the pandemic**

	<b>Difficult to access (4-5) %</b>	<b>Neither (3) %</b>	<b>Easy to access (1-2) %</b>	<b>Don't know or no response %</b>
<b>Prior to pandemic</b>	27%	36%	31%	5%
<b>February 2021 ("today")</b>	32%	42%	16%	11%

Source: National Justice Survey 2021, n=208

Pulling out the key bullets from the NJS 2021 final report, it is notable that just over half (51%) of those with a higher household income were more likely to say that the family justice system is easy to access.

- Canadians aged 35-44 (28%) were more likely than any other age group (for example, 6% of those 18-34 or 16% of those 65 and over) to say the system was currently easy to access.
- Compared with the rest of Canada, those in Ontario (50%) were more likely to say the system was easy to access before the pandemic.
- Those with high school education (46%) were more likely than those with a university (29%) or college (12%) education to say the system was easy to access before the pandemic. At the time of the survey, those with a university education were more likely to say the system was difficult to access (46%), while those with a high school education were least likely to say this (20%).
- Those with a household income over \$120,000 (51%) were more likely to feel the system was easy to access; those with less than \$40,000 in income (23%) were least likely.
- The system was described as easy to access more so for those living in urban communities (37%) compared with rural settings (10%).

#### 4.2.4 Access through Technology

This question was framed to assess how comfortable people are using different types of technology to access the family justice system. The three scenarios provided ranged from looking for information and reading about the family justice system online to completing forms online to participating in proceedings online instead of in-person. Fifty-nine percent (59%) of Canadians would feel comfortable looking for information and reading about the family justice system online. Over half of Canadians (54%) indicated that they would feel comfortable completing forms online using fillable PDF forms. Forty-four percent (44%) of respondents said that they would be comfortable using video conferencing platforms for what would normally be in-person meetings, mediation or court sessions; over a quarter (28%) said that they would not be comfortable in this scenario.

**Q9a-c.** How comfortable would you be accessing the family justice system in the following scenarios?



**Table 10: Comfort using technology to access the Family Justice System**

Question 9a-c	Comfortable (4-5) %	Moderately Comfortable (3) %	Not comfortable (1-2) %	Don't know or no response
Looking for information and reading about the family justice system online	59%	25%	14%	3%
Completing forms online using fillable PDF forms	54%	24%	18%	3%
Using video conferencing platforms (e.g., Zoom, MS Teams, Google Meet, etc.) for what would normally be in-person meetings, mediation, or court sessions	44%	25%	28%	4%

Source: National Justice Survey 2021, N=3,211,

Breaking the findings down into different demographic groups, some differences arose and are highlighted below. Not surprisingly, comfort with using technology increased with younger age groups, higher levels of education, higher levels of income and living in urban areas.

- Younger Canadians were more likely to be comfortable with all scenarios. This includes 76% of those 18-34 who were more likely to look for information online, compared with 44% of those aged 65 and over. Younger Canadians aged 18-34 (63%) or 35-44 (67%) were more likely to report being comfortable completing forms online compared with those aged 65 and over (37%). This contrast was also found in the reported comfort of using video conferencing where 53% of those 18-34 and 58% of those 35-44 were comfortable compared with 25% of those 65 and over.
- Comfort increased with education. Those with a university education were more likely to be comfortable looking for information online (73%), completing forms online (70%), or using videoconferencing platforms (59%) than those with high school education (47%, 42%, and 32% respectively).
- Comfort increased with income. Respondents with an income of at least \$80,000 were more likely than those with lower income to be comfortable in all three areas.
- Canadians living in an urban community were more likely to report being comfortable looking for information online (61%) or completing forms online (57%) than those in a rural setting (55% and 45%, respectively).
- First Nations respondents were less likely to say they were comfortable looking for information online (48% were comfortable) or completing forms online (49% comfortable) than non-Indigenous respondents (60%). Métis respondents also reported less comfort looking for information online (50%) or completing forms online (43%) than non-Indigenous respondents (60% and 55%, respectively).

### 4.3 Poverty Law Results – Pre and during COVID-19

The *ad hoc* WG chose to focus on two specific areas - income support and housing – because of their particular relevance in the context of COVID-19.<sup>81</sup> Although attempts were made, it proved to be very difficult to access data from relevant administrative tribunals/boards dealing with these areas of poverty law. In the case of income support, this report will feature data from the SST, which presented to the *ad hoc* WG on its use of data and a continuous feedback loop to improve its performance and service to clients. The *ad hoc* WG reached out to the administrative body responsible for income support in at least one province, but was not successful in collecting further data. In the area of housing, the CMHC shared its program of research and the interest in understanding “renovictions” at a national level with the *ad hoc* WG.

#### 4.3.1 Income Support<sup>82</sup>

The SST is an independent administrative body that hears appeals related to benefit entitlements under the *Employment Insurance Act*, the *Canada Pension Plan* and the *Old Age Security Act*. The SST collects a range of administrative data, including caseload statistics on the number of appeals that are filed and heard each year, the number of appeals that use their alternative dispute resolution services, and the volume of traffic on their website. It also administers client satisfaction surveys, the results of which can inform people-focused indicators related to user comfort with technology and satisfaction with the tribunal’s services. The SST agreed to share its data, much of which it publishes on its website, with the *ad hoc* WG, offering a useful picture of the impacts of COVID-19 on income support matters at the federal level. The results are set out in the tables below.

#### Matters before the Tribunal

Table 11 below presents the caseloads for the SST by Division and year. What is evident from the numbers of cases is that the inventory of cases has been reduced in the Appeal Divisions for Income Security and Employment Insurance. In the General Division - Employment Insurance, the reduction is also significant given the large number of appeals received in both fiscal years. In the General Division – Income Security, a smaller number of appeals were conducted in 2019/2020 in comparison to the number conducted in the General Division – Employment Insurance, but the number of cases in the inventory at the end of fiscal year 2020/2021 is still almost 400 cases less than at the beginning of fiscal year 2019/2020.

The SST opened its doors in 2013 with an inherited backlog and a poorly designed program.

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<sup>81</sup> In some jurisdictions, there have been eviction bans and suspensions to support renters. See <https://www.cmhc-schl.gc.ca/en/consumers/renting-a-home/covid-19-eviction-bans-and-suspensions-to-support-renters> . People living in apartments and larger households were at higher risk of dying from COVID-19 during the first wave of the pandemic. See <https://www150.statcan.gc.ca/n1/pub/45-28-0001/2021001/article/00004-eng.htm>

<sup>82</sup> Income Support is referred to by different names including, Social Assistance, Income Assistance, Welfare, Transitional Assistance and Last-Resort Financial Assistance. See for example, Federal-Provincial-Territorial (FPT) Directors of Income Support Social Assistance Statistical Report 2009-13, (Federal-Provincial-Territorial Directors of Income Support, 2016) at 5. This report will use the term Income Support, although Social Assistance is also used as is Income Security.

The SST has been addressing the significant backlog of cases for several years. In 2019/2020, three out of four divisions received fewer appeals than the previous year. Only the General Division - Income Security received more - 2,147 appeals in 2020/2021 compared to 2,057 appeals in 2019/2020.

**Table 11: Caseload for the Social Security Tribunal, 2019/2020 and 2020/2021**

	General Division – Income Security		General Division – Employment Insurance		Appeal Division – Income Security		Appeal Division – Employment Insurance	
	2019/2020	2020/2021	2019/2020	2020/2021	2019/2020	2020/2021	2019/2020	2020/2021
<b>Inventory April 1, beginning of fiscal</b>	2,331	1,797	1,322	709	88	68	314	533
<b>Appeals received</b>	2,057	2,147	3,928	1,799	316	181	963	198
<b>Appeals conducted</b>	2,591	1,996	4,541	1,954	334	212	744	693
<b>Inventory March 31, end of fiscal</b>	1,797	1,948	709	554	70	37	533	38

Source: SST website<sup>83</sup>

<sup>83</sup> See <https://www1.canada.ca/en/sst/stats/stats.html>

### Awaiting In-Person hearing

There have been no in-person hearings held by the SST since March 2020 due to COVID-19. As of the end of May 2021, there were 65 files waiting for an in-person hearing. These are cases where the appellant or the representative do not wish to change the form of hearing to teleconference or Zoom.

Fiscal year 2020/2021 is notable for COVID-19 and the shut down of many public offices and courts in several jurisdictions for different time periods. With the exception of the 65 files waiting for an in-person hearing, COVID-19 does not appear to have created an access to justice problem for the SST and appellants.

### Processing Times

The SST has service standards for the time it takes to process appeals, that is how many days from filing to when the appellant will have a decision in their case. The SST's progress on these standards, listed below, is available on their website.

Results for 2020/2021 from the General Division – Employment Insurance are presented in Table 12 below. While COVID-19 began in the latter part of March 2020, we see a success story by looking at the numbers in each quarter in fiscal year 2020/2021. In the first and second quarters, the SST was not meeting its own standard of a final decision made within 45 days from filing of the appeal in 80% of cases. Headquarters in Ottawa were shut down, local offices were shut down, as well as other public offices. The SST had to pivot to working from home for all its employees. By the third and fourth quarters, the SST was exceeding its standard. In the case of its second metric, a final decision made within 15 days of the hearing in 80% of cases, the SST exceeded its standard in all four quarters, significantly so in quarters three and four.

By applying the SST's continuous feedback loop of data, assessment and revising practices, the Tribunal has been able to quickly adapt to COVID-19 with few impacts on the appellants.

The two other divisions – General Division – Income Security (Canada Pension Plan and Old Age Security), Appeal Division – Permission to Appeal, and Appeal Division – Final Decision – have different standards based on the type of work and complexity, but still use the number of days until a decision is made. The results for these divisions can be found on the [SST Service Standards](#) webpages.

**Table 12: Service Standards for the General Division – Income Support (Employment Insurance), 2020/2021 by quarters**

General Division – Income Security (Employment Insurance) 2020/2021 by quarter	From filing of appeal		From hearing	
	% completed within 45 days	Average days	% completed within 15 days	Average days
April-June	74%	39.6	84%	10.5
July-September	74%	38.5	83%	9.2
October-December	84%	33.4	93%	7.7
January-March	89%	31.2	94%	5.2
<b>2020/2021</b>	<b>80%</b>	<b>36.4</b>	<b>88%</b>	<b>8.4</b>

Source: SST website Service Standards<sup>84</sup>

## Representation

Administrative tribunals are intended to be less formal with less complex rules and procedures than the courts in order to facilitate access, especially for those who do not have representation.<sup>85</sup>

In 2019/2020, the SST received 7,264 appeals in its four divisions and the appellant was represented in 1,739 or 24% of those cases. The proportion was similar in 2020/2021 when the SST received fewer cases than the previous year (4,325 cases). In that fiscal year, the appellant was represented in 1,158 or 27% of those cases. The SST considers an appellant to be represented if there is a lawyer, a paralegal, a legal clinic, or a non-legal professional representative on the case. The proportion of appellants represented stayed the same in the year before COVID-19 and also during COVID-19.

## Use of and Participation in Services

### *Alternative Dispute Resolution*

Since 2019, the SST has offered an Alternative Dispute Resolution (ADR) service to appellants at the Appeal Division.<sup>86</sup> In fiscal year 2019/2020, 62 cases went through the ADR process and in 2020/2021, 80 cases went through the ADR process.

A relatively new service, the use of and participation in ADR increased during COVID-19.

### *The Navigator Service*

The SST started its Navigator Service in November 2019, about four and a half months before COVID-19 hit. The Navigator Service helps people who are not represented make their way through the appeal process.<sup>87</sup> The SST started with Canada Pension Plan disability appeals and from November 2019 to March 31, 2020, ten navigators were assigned to unrepresented clients.

In 2020/2021, the service was expanded to all Appeal Division appeals and navigators were assigned to 900 unrepresented clients.

Results from an evaluation of the pilot, showed that among unrepresented appellants, the withdrawal rate of 18% decreased for those in the Navigator Service to 7%. Feedback from the Tribunal members indicates that they consider those appellants in the Navigator Service to be more prepared, knowledgeable and engaged. More than three quarters (80%) of appellants reported being adequately prepared for their hearing and 95% reported being satisfied with their hearing participants.

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<sup>84</sup> See <https://www1.canada.ca/en/sst/rdl/servicestandards.html>

<sup>85</sup> See McDonald, *supra* note 11, for further discussion on administrative bodies and access to justice.

<sup>86</sup> See [Alternative Dispute Resolution](#)

<sup>87</sup> See <https://www1.canada.ca/en/sst/innovation/nav.html>

At the same time, many appellants still struggle even with the support of the Navigator Service and 7% are considered “non-navigable”. The evaluation recommends:

- Better tracking of non-navigable appellants to facilitate their participation;
- Improved cooperation between Tribunal members and navigators;
- Closer monitoring of resource needs.<sup>88</sup>

### Access to Legal Aid

Assistance and representation from a legal aid plan in income security matters varies considerably from jurisdiction to jurisdiction. At this time, it is not possible to determine how many Canadians received assistance from legal aid to access the SST in 2019/2020 from the legal aid data provided in the *Legal Aid in Canada, 2019/2020* report. Additionally, there are income security programs in most jurisdictions and so even more detailed data would be required to determine whether assistance was provided on a federal matter going to the SST, or on a provincial matter such as Ontario Disability Support Program (ODSP).

Roberts’ study<sup>89</sup> shows that in some jurisdictions there are many services that offer a range of legal assistance including information, advice and sometimes representation. Ontario’s legal clinic system, funded by LAO, is well known for its coverage of poverty law issues.<sup>90</sup> In BC, many of the services operate out of social service organizations and are funded by the Law Foundation of BC. Across the 13 jurisdictions, funding for these services is varied and comes from legal aid plans, law foundations, private donors and federal, provincial and territorial governments.

### Use of Technology

#### *Website*

The SST uses its website to get information to appellants. Since July 2020, the client satisfaction survey includes a question about whether the website is easy to search. Ninety-one per cent (91%) of respondents have found the website easy to search.

The SST has also conducted user testing of its website – the content and how easy it is to use. Baseline testing results from December 2020<sup>91</sup> were compared to testing results on a proposed new website over the winter of 2021.<sup>92</sup> This activity was planned before March 2020 and continued to move forward in spite of disruptions caused by COVID-19. Further details can be found at the websites provided.

#### *Using video-conferencing platforms*

Since the start of COVID-19, 15% of hearing have been conducted by video.

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<sup>88</sup> See <https://www1.canada.ca/en/sst/au/profile-chair-msg-202107.html>

<sup>89</sup> *Supra* note 35.

<sup>90</sup> See [Ontario Legal Clinics Services](#)

<sup>91</sup> See [SST website User Testing Results Dec2020](#)

<sup>92</sup> See [SST Website User Testing Results June2021](#)

## Prevalence of Income Support Problems

An important people-focused indicator is the number of Canadians who self-reported income support problems. These data come from the 2014 *Everyday Legal Problems and the Cost of Justice Survey* and the 2021 CLPS. In the 2014 survey, respondents could indicate they experienced a “social assistance<sup>93</sup>” problem. Note that the category social assistance did not include Employment Insurance problems, although they are included in the SST mandate and numbers. In the 2021 CLPS, the “income support” category did not include disability assistance.

**NOTE** – As noted, the CLPS 2021 used a different questionnaire and a different method (on-line and telephone interviews) than the *Everyday Legal Problems and Cost of Justice Survey*. The two categories of social assistance and income support did not include the same sets of problems. The data are presented for illustrative purposes and should not be considered comparable.

**Table 13: Percentage and number of people who experienced a social assistance problem and resolved it in the previous 3 years in the 10 provinces, 2014 and 2021**

	Experienced a social assistance problem		Identified social assistance problem as the <u>most serious</u>	Resolved social assistance problem
	%	Number	%	%
<b>2014</b>	1.2%	306,122 <sup>94</sup>	NA	49.4%
<b>2021</b>	2.8%	825,000	0.6% <sup>95</sup>	24.3% <sup>96</sup>

Source: Everyday Legal Problems and the Cost of Justice Survey 2014, N=3,051; The Canadian Legal Problems Survey, 2021, N=21,170

**Table 14: Percentage and number of people who experienced a social assistance problem<sup>97</sup> and were adversely impacted by it, in the previous 3 years in the 10 provinces, 2014 and 2021**

	Adversely impacted by social assistance problem	
	a) Experienced a high level of stress	b) Experienced a physical health
	%	%
<b>2014</b>	69.0%	89.0%
<b>2021</b>	61.2%	17.7%

<sup>93</sup> The term “social assistance” is the term used in the *Everyday Legal Problems and the Cost of Justice Survey* and so it is used here to report the findings.

<sup>94</sup> Data from the *Everyday Legal Problems and the Cost of Justice Survey* were weighted to the population to calculate that an estimated 11,420,890 adults in Canada experienced at least one serious legal problem in the three-year period prior to the survey.

<sup>95</sup> When asked to identify their most serious problem, 0.6% of respondents identified a social assistance problem. This is the base sample for the 2021 detailed questions on impacts.

<sup>96</sup> The numbers for Tables 13 and 14 are for those respondents who identified a family law problem as their **most** serious problem so comparisons to the 2014 results should not be made.

<sup>97</sup> The 2021 numbers are based on 1.6% of respondents who identified a family law problem as their **most** serious problem.

Source: Everyday Legal Problems and the Cost of Justice Survey 2014, N=3,015; The Canadian Legal Problems Survey, 2021, N=21,170

In the studies from *A Qualitative Look at Serious Legal Problems*, serious problems due to issues around income support came up more frequently in the three studies about persons with disabilities in Western, Central and Atlantic Canada.<sup>98</sup>

The Saint John Human Development Council found that the results strongly indicated that the people with disabilities who participated in this study live in poverty. Weak or nonexistent attachment to the labour force means that many respondents rely on income support programs.

*People on social assistance are perceived the wrong way ... They are not considering quality of life ... it is a form of discrimination in my eyes; it is socially unjust.*<sup>99</sup>

The findings demonstrated that disability supports were often means tested and many require medical evidence to support their claim for support. Some participants struggled meeting rigid, “one size fits all”<sup>100</sup> eligibility requirements or not qualifying because their incomes were just above low threshold limits for public supports.

#### Satisfaction with Service

The SST regularly asks appellants to complete client satisfaction surveys. This occurs after the hearing, but before a decision is received. The results are posted each quarter on the SST website.<sup>101</sup> While information was not available for April and May 2020 due to COVID-19, the SST posted a comparison of satisfaction levels pre-COVID-19 and then for June 2020. These results have been reproduced in Table 15 below.

For the June numbers, there were 78 respondents to the Employment Insurance client satisfaction survey for a response rate of 58%. For the Income Security client satisfaction survey, there were 30 respondents for a response rate of 53%. These are not large samples and so the margin of error was +/- 6%, 19 times out of 20. The survey results show that the SST operations continued to provide high levels of satisfaction for appellants by the third full month of COVID-19.

**Table 15: General Division – Employment Insurance (EI) and Income Security (IS) – Client Satisfaction Survey Results for June 2020 compared to pre-COVID-19<sup>102</sup>**

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<sup>98</sup> Doris Rajan. *Serious Problems Experienced by Diverse People with Disabilities: Western Canada - A Qualitative Study*. (Ottawa: Department of Justice Canada, 2021); Jihan Abbas and Sonia Alimi. *A Qualitative Look at Serious Legal Problems for People with Disabilities in Central Canada* (Ottawa: Department of Justice Canada, 2021); and Saint John Human Development Council. 2021. *Serious Problems Experienced by People with Disabilities Living in Atlantic Canada*. (Ottawa: Department of Justice Canada, 2021), hereinafter “Saint John HDC 2021”.

<sup>99</sup> *Ibid*, Saint John HDC 2021, at 19.

<sup>100</sup> *Ibid*, at 20.

<sup>101</sup> See [SST Client Surveys](#)

<sup>102</sup> From <https://www1.canada.ca/en/sst/surveys/client-satisfaction-survey-june2020.html>



Client Satisfaction Survey Question	Pre-COVID-19 – December 2019 to February 2020	During COVID-19, June 2020, % change
<b>Overall</b> Surveys before and after COVID do not show impact on client satisfaction. Differences in percentages are within the error margin with one exception of marked improvement below.	86% EI: 88% IS: 78%	+1 EI: +2 IS: +2
Q1 Appeal process easy to understand	94% EI: 96% IS: 88%	0 EI: -1 IS: +2
Q2 Forms, letters, emails easy to understand	88% EI: 89% IS: 87%	+2 EI: +3 IS: -4
Q3 Treated with courtesy and respect	98% EI: 98% IS: 98%	+2 EI: +2 IS: +2
Q4 Appeal was quick	92% EI: 96% IS: 73%	-6 EI: -4 IS: -3
Q5 Treated fairly at hearing Significantly more appellants said they were satisfied with the fairness of their hearing during COVID-19 than pre-COVID-19.	95% EI: 95% IS: 85%	+3 EI: +2 IS: +15
Q6 Satisfied with hearing form	94% EI: 96% IS: 85%	0 EI: -1 IS: +5

Source: SST Client Satisfaction Surveys

Overall, the data from the SST show that after an initial disruption at the outset of COVID-19, operations continued with similar positive results from the appellants’ perspectives. The backlog of cases continued to decrease even with large numbers of cases being filed. Initiatives such as a new website structure, and the user testing of that structure, moved forward, as well as an evaluation of the newly launched Navigator Service. The number of cases that went through the recently launched ADR process increased in 2020/2021. While there are 65 hearings that have not moved forward, this has been at the express request of the appellants who were given several options on how they could proceed, given that no in-person hearings have occurred since mid-March 2020. The SST has also continued to release numbers and progress reports on its website on a regular basis, with only a few exceptions.<sup>103</sup>

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<sup>103</sup> Client satisfaction surveys are not available for April and May 2020.

### 4.3.2 Housing

In addition to securing data from the SST, the *ad hoc* WG explored opportunities to obtain data to help assess the impact of COVID-19 on housing, another area that falls under the poverty law umbrella. Secure housing supports better health outcomes, stable education and employment, and greater independence and dignity for individuals and families. The public health restrictions imposed to address COVID-19 have had serious financial implications for many Canadians, which could negatively impact their ability to pay their mortgage or rent. A patchwork of eviction moratoriums, freezes to rent increases, and mortgage payment deferrals were implemented across Canada in response.<sup>104</sup>

Rental housing falls within the responsibility of the provinces and territories, and each jurisdiction has implemented its own system for addressing housing issues, including within government ministries and through independent boards and agencies. The *ad hoc* WG's exploratory efforts revealed that housing data is not uniformly collected, nor is it widely accessible. Given the one-year time frame, the *ad hoc* WG made a decision to not include an analysis of the impacts of COVID-19 on housing.

However, there are promising data collection initiatives underway that would support future research in this area. A key example is a multi-year study on evictions (2020-2023) that the CMHC has contracted STC to undertake. This project will look at administrative tribunal data from three provinces and link these data with other datasets such as the Census, or data from income tax returns, to develop a more comprehensive picture of those impacted by tribunal decisions. The focus will be on formal evictions at the provincial housing tribunal, and will collect data on the three components of a formal eviction: the application; the tribunal hearing and decision; and the process of enforcement. The initiative will also include a qualitative stream that will involve interviews with individuals with lived experience of evictions.

Another recent CMHC study similarly has drawn upon the lived experiences of individuals, as well as a literature and program review, to assess changes in the drivers for eviction. Although this research, highlighted in the text box below, was largely completed before the onset of COVID-19, its findings reveal important trends that are anticipated to have been amplified by the impacts of the public health emergency. Future data collection and research can build upon this analysis to support effective programmatic responses in the critical area of housing.

#### **Text Box 2: CMHC Research “Evictions: New Typologies and Analysis for the Canadian Landscape”**

In 2019, the Canada Mortgage and Housing Corporation (CMHC) commissioned a research team from the Institute of Urban Studies (IUS) at the University of Winnipeg to examine the reasons for eviction and how they have been changing, with a view to identifying implications for eviction prevention. From October 2019 to May 2020, the IUS team undertook a literature and eviction prevention program review and analysis and conducted interviews with housing professionals and people with lived experience of eviction.

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<sup>104</sup> Table of measures available at <https://www.cmhc-schl.gc.ca/en/consumers/renting-a-home/covid-19-eviction-bans-and-suspensions-to-support-renters>.

The research shows that the landscape in Canada has been changing in terms of drivers for evictions and scale of evictions. The conventional wisdom is that evictions are driven by tenant factors, such as the inability to pay rent or damage to property. These evictions take place on an individual and household basis and are more likely to involve vulnerable, low-income tenants. The research study indicates that a growing number of evictions are now landlord-driven, arising in the context of “renovictions”, “demovictions” and own-use evictions. These evictions are often on a mass scale, involving entire buildings and even communities. The interview element of the study reveals the devastating impact of eviction for tenants, including hidden homelessness and feelings of loss, depression, and exhaustion that can carry on for months. Some populations are more vulnerable to eviction, such as newcomers and migrants, children and youth within families, people with mental health and addiction issues, seniors, Indigenous peoples, the working poor, and gig-economy workers.

Based on these results, traditional prevention measures, typically designed to respond to tenant-driven evictions, need to be expanded to include new measures, such as “renoviction” by-laws and increased supply of affordable housing. Further areas of focus should include evaluating the effectiveness of prevention measures and developing education and awareness for tenants and landlords.

For more details see: <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/research-reports/housing-needs/research-insight-evictions-new-typologies-analysis-canada>

### Prevalence of Housing Legal Problems

As with family legal problems and income support problems, housing legal problems have been common in the Canadian legal needs/legal problems surveys. Results from the 2014 survey, *Everyday Legal Problems* and the *Cost of Justice in Canada Survey* and the *CLPS 2021* are presented in the tables below.

**NOTE** – As noted, the *CLPS 2021* used a different questionnaire and a different method (on-line and telephone interviews) than the *Everyday Legal Problems and Cost of Justice Survey*. The data are presented for illustrative purposes and should not be considered comparable.

**Table 16: Percentage and number of people who experienced a housing legal problem and resolved it in the previous 3 years in the 10 provinces, 2014 and 2021**

	Experienced a housing legal problem		Identified housing legal problem as the <u>most serious</u>	Resolved housing legal problem
	%	Number	%	%
<b>2014</b>	2.6%	643,122 <sup>105</sup>	NA	26.2%

<sup>105</sup> Data from the *Everyday Legal Problems* and the *Cost of Justice Survey* were weighted to the population to calculate that an estimated 11,420,890 adults in Canada experienced at least one serious legal problem in the three-year period prior to the survey.

<b>2021</b>	3.6%	1,069,000	0.9% <sup>106</sup>	35.1% <sup>107</sup>
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Source: *Everyday Legal Problems and the Cost of Justice Survey 2014*, N=3,051; *The Canadian Legal Problems Survey, 2021*.

**Table 17: Percentage and number of people who experienced a housing legal problem<sup>108</sup> and were adversely impacted by it, in the previous 3 years in the 10 provinces, 2014 and 2021**

	Adversely impacted by housing legal problem	
	a) Experienced a high level of stress	b) Experienced a physical health problem due to housing legal problem
	%	%
<b>2014</b>	63.5%	71.2%
<b>2021</b>	64.0%	23.6%

Source: *Everyday Legal Problems and the Cost of Justice Survey 2014*, N=3,015; *The Canadian Legal Problems Survey, 2021*.

### **Text Box 3: Quebec’s Administrative Housing Tribunal**

The mandate of Quebec’s Administrative Housing Tribunal is to provide the public with adequate information and with effective recourses in the event that a party to a tenancy agreement fails to comply with their obligations. With the onset of COVID-19 and the provincial public health measures in place, the Tribunal’s work practices pivoted to take advantage of digital solutions that were already in place. Operations continued and as an example, during one day almost 1000 calls were handled with a waiting period for each caller of less than 30 seconds. Front line workers assisted people to draft hearing applications over the phone.

The Administrative Housing Tribunal, as with other provincial tribunals, is required to table an annual management report<sup>109</sup> in the National Assembly. The Annual Report, with statistics on services provided in 2019/2020, describes the impacts of the first month of COVID-19 on access to justice for those with housing legal problems. The Annual Report provides transparency and accountability to the National Assembly and the public.

The Tribunal also tabled its 2020/2023 Strategic Plan in October 2020. The Strategic Plan reflects the initial impacts of COVID-19 on its operations, as well as changes to the law governing the Tribunal, which were adopted in December 2019. The new law provides a framework for alternative dispute resolution. The 2020/2023 Strategic Plan outlines the strategic issues, objectives and performance indicators. The first key objective is to continue to improve the processing of requests despite the current rental market and the impacts of COVID-19.

<sup>106</sup> When asked to identify their **most** serious problem, 0.9% of respondents identified a housing legal problem. This is the base sample for the 2021 detailed questions on impacts.

<sup>107</sup> The 2021 numbers for Tables 16 and 17 are for those respondents who identified a housing legal problem as their **most** serious problem so comparisons to the 2014 results should not be made.

<sup>108</sup> The 2021 numbers are based on 0.9% of respondents who identified a housing legal problem as their **most** serious problem.

<sup>109</sup> See [https://www.tal.gouv.qc.ca/sites/default/files/Rapport\\_annuel\\_2019-2020.pdf](https://www.tal.gouv.qc.ca/sites/default/files/Rapport_annuel_2019-2020.pdf)

Housing was one of the more common serious problems throughout all nine studies from A Qualitative Look at Serious Legal Problems. In one study, a participant living with disabilities, who lives in co-operative housing, indicated that their needs have changed as they have aged and they now require an overnight attendant. That same participant received a letter from the co-op informing them that they would need to pay more for their unit because of this additional “overnight guest.” The participant found the “legal jargon and confusion around supports” challenging. Navigating and addressing the situation caused the participant considerable stress.

Participant statements about housing issues highlight not only the kinds of legal problems people with disabilities commonly face, but also that housing is connected to other systemic issues they face.<sup>110</sup>

In a positive story, one participant and her family were able to hold on to their housing, to pay the outstanding rent, and to have the landlord agree to much needed fixes to the building. They united with other renters in the building and started to record all communication with the landlord:

*So, you know, we couldn't actually do anything but all of us in the building got together because all of us were in isolation anyway. So, we got together in one person's apartment and we gave [the landlord] a call. And all of us spoke to him together on a conference call and he agreed to everything. So, it was the tenants' word against the landlord's.*<sup>111</sup>

The serious problems about housing were frequent in all the studies, affecting immigrants, Black Canadians, persons with disabilities and LGBTQ2S+ people. In most cases, it was easier and less stressful to move on.

Without the benefit of more data, it is impossible to fully gauge the impact of COVID-19 on housing legal problems across the country. It is clear, however, from media reports and other research studies that have been completed or are underway,<sup>112</sup> that challenges in housing have only been exacerbated by COVID-19.

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<sup>110</sup> *Supra* note 90, Abbas and Alimi 2021, 16.

<sup>111</sup> *Ibid* at 33.

<sup>112</sup> See Tom Cardoso and Shane Dingman, “Eviction factories: How Ontario’s tenants get trapped in a never-ending cycle with landlords,” *The Globe and Mail*, December 19, 2019. Accessed at: <https://www.theglobeandmail.com/canada/toronto/article-toronto-ontario-housing-rental-eviction-data-landlords-tenants/>; Scott Leon and James Iveniuk. *Forced Out : Evictions, Race and Poverty in Toronto* (Wellesley Institute: Toronto, 2020). Accessed at:

## 5.0 Discussion and Recommendations

### 5.1 Discussion

In July 2020, FPT Deputy Ministers Responsible for Justice and Public Safety agreed to strike an *ad hoc* Working Group to work towards identifying a common set of indicators to measure the impact of COVID-19 on access to justice in family and poverty law. In this report the *ad hoc* WG has responded, in part, to its mandate. In this final section of this report, we outline why this work has been, and continues to be, important and what we have learned to date. In addition, we identify key challenges and resources that will be needed to implement the recommendations that we offer for consideration by FPT Deputy Ministers.

The *ad hoc* WG, co-chaired by Justice Canada and Nova Scotia, embarked on this work with a goal of gaining a better understanding of justice data in the areas of family law and poverty law. At the outset, several members indicated that they were far more familiar with criminal justice data than they were with family law data and poverty law data. To ensure that the *ad hoc* WG had the expertise required to pursue its mandate, membership also included a representative from CCSO-Family, CCJCSS (Courts Program), and the Permanent WG on Legal Aid. The *ad hoc* WG believes that it has met its goal to better understand both system-focused and people-focused justice data and the gaps in that data. It has been an important journey of learning. Presentations from PTs, STC, CMHC, tribunals and academics have underscored the possibilities for better collection and reporting of justice data including disaggregated data. The *ad hoc* WG learned about data linkage and data sharing agreements, different ways of understanding access to justice, current limitations of system-focused (court and legal aid) data in the context of family law, the opportunity to advance a people-focused approach through legal needs surveys, and some of the particular challenges in collecting poverty law data.

#### 5.1.1 Why this is important

It would be hard to find any member of the Canadian public, or indeed, anyone working in the justice system, who would say that the family, and by extension family law, is not important. The family is arguably *the most important social institution* in Canada; it is the “most basic social unit upon which society is built” and is connected to our other important social institutions such as government,

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<https://www.wellesleyinstitute.com/wp-content/uploads/2020/08/Forced-Out-Evictions-Race-and-Poverty-in-Toronto-.pdf>. Also see, The Justice in Government Project, *Key Studies and Data About How Legal Aid Improves Housing Outcomes*, 2020. Accessed at: <https://www.american.edu/spa/jpo/toolkit/upload/housing-7-30-19.pdf>

education, work and the economy, health, and religion.<sup>113</sup> The impacts of COVID-19 on families – both adults and children – have been closely monitored in Canada.<sup>114</sup>

Family law, which regulates the breakdown of this significant relationship, is an area of shared federal and provincial/territorial jurisdiction. In many cases, when there is family breakdown, high levels of conflict, emotion and stress can make reaching a resolution exhausting, costly and potentially traumatizing for the parties and unfortunately, for children as well.

Poverty law, which is an umbrella term to describe areas of law experienced disproportionately by people with low income, is less understood by the general public, as well as the broad legal community. However, once explained that poverty law encompasses housing and employment, income support and human rights, its importance is clear. After all, serious problems related to these areas are “the problems of everyday life” which many Canadians face.<sup>115</sup> Separate administrative bodies and processes govern distinct areas of poverty law in each province and territory, as well as at the federal level. This complexity ensures that efforts to access dispute resolution mechanisms and assistance can be difficult particularly where language, geography, low literacy and other vulnerabilities can create additional barriers. These and other barriers also frustrate efforts to conduct research at a national level.

Understanding access to justice in family law and poverty law at a national level is important. Just as crime statistics are collected by police services and reported by Census Metropolitan Area, by province, by territory and for all of Canada, so too should data on family and poverty law matters be available at all these levels. The Government of Canada has recently committed to more detailed crime data.<sup>116</sup> COVID-19 has clearly shown the need for good national data and for the disaggregation of that data by geography and demographics such as age, gender, and race. COVID-19 has also highlighted the importance of income and housing security, and of social supports, such as family. These issues affect Canadians every day and have significant health and financial impacts.

There have been multiple calls for coordination and progress on access to justice from groups like the Action Committee on Access to Justice in Family and Civil Law Matters<sup>117</sup> and the Canadian Bar

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<sup>113</sup> Lumen Learning, *Introduction to Sociology*, Module 10: Family and Marriage. Accessed at:

<https://courses.lumenlearning.com/wm-introductiontosociology/chapter/defining-family/>

<sup>114</sup> Statistics Canada, July 9, 2020, *The Daily*: “Impacts of COVID-19 on Canadian families and children”. Available at:

<https://www150.statcan.gc.ca/n1/daily-quotidien/200709/dq200709a-eng.htm>

<sup>115</sup> Currie, *supra* note 68.

<sup>116</sup> See <https://www.justice.gc.ca/eng/abt-apd/budget.html> . “Justice Data Modernization: To modernize Canada’s justice system, support evidence-based policies, and ensure accountability within the criminal justice system, the Government needs to update and fill gaps in its collection and use of data. Under Budget 2021 Justice Canada and Statistics Canada would receive \$6.7 million over five years, starting in 2021-22, and \$1.4 million ongoing, to improve the collection and use of disaggregated data. This is part of ongoing efforts to address the overrepresentation of Indigenous peoples and racialized groups in the justice system.”

<sup>117</sup> See <https://cfcj-fcj.org/action-committee/>

Association.<sup>118</sup> Provincial law societies have struck their own committees.<sup>119</sup> Internationally, the 2030 UN Agenda calls for equal access to justice for all in Sustainable Development Goal 16 (SDG 16.3).<sup>120</sup> Given how much family law and poverty law matter, they must be measured.

### 5.1.2 Measuring access to justice in family and poverty law matters – system-focused and people-focused indicators

The quantitative data presented in this study do not tell the full story of the impact of COVID-19 on access to justice in family and poverty law matters. For many of the system-focused indicators in family law, the data for 2020/2021 are not yet available (for example, CCS data and legal aid data). This is also true of the CLPS 2021, one of the key data sources for the people-focused indicators. In addition, for most of the indicators, the point of comparison is the one year prior to the onset of COVID-19. To fully understand what is happening in a system, such as the family justice system, more than two years of data are needed; the data need to be examined over time. For example, the CCS has shown that the percentage of appellants and respondents who are self-representing has been increasing since 2014/2015. The data presented in this report from 2019/2020 continue that trend, but it is important to understand that trend.

On family law matters, the system-focused indicators show the following:

- That in 2019/2020, the number of active family law cases in civil court was down slightly (by 6%) from the previous year. That number on its own does not tell us much about access to justice or the impact of the pandemic.
- That the percentage of appellants and respondents in family law matters who did not have representation continued to increase, as it has been doing since 2014/2015. Here it is important to note that this variable is not well populated in the CCS.
- Legal aid applications for family law matters are relatively stable from 2018/2019 as are the number of applications approved.
- Numbers from individual jurisdictions showed fluctuations in the numbers of completed parent education/information sessions between 2018/2019 and 2020/2021. In these cases, the drop in attendance and completion was due to COVID-19 where public services were reduced and in some cases, did not pivot immediately to online formats. The same can be said for alternative dispute resolution services. In some jurisdictions, numbers of people participating in such services dropped.
- In terms of use of websites for information on family law, the numbers of hits on three different web pages (in English and in French where available) varied considerably with some sites having more hits, some less and some staying constant with 2019/2020 numbers.

Through a people-focused lens:

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<sup>118</sup> See <https://www.cba.org/Sections/CBA-Access-to-Justice-Committee>

<sup>119</sup> See for example, Access to Justice BC: <https://www.lawsociety.bc.ca/our-initiatives/access-to-justice/collaborations-to-improve-access-to-justice/>

<sup>120</sup> See <https://www144.statcan.gc.ca/sdg-odd/goal-objectif16-eng.htm>



- The selected indicators were able to show the number of people with family legal problems in 2014 (5.1% of the general population over 18 years), and the percentage of those who were able to resolve the problem at the time of the survey (38.8%), and importantly, the impact on those people. In 2021, 4.6% of the population experienced a serious family legal problem. Of those who identified a family legal problem as their most serious problem (1.6%), 34.5% were able to resolve the problem at the time of the survey.
- Public opinion data gathered through the NJS 2021 showed that people had more confidence that the family justice system was fair and accessible before COVID-19 than at the time of the survey in February 2021.
- The NJS 2021 also showed that people were most comfortable accessing information online, followed by filling out forms online, and lastly, with conducting in-person processes online. Their levels of comfort had increased at the time of the survey compared to before COVID-19.
- Qualitative data showed that those going through family legal problems were significantly impacted by stress and anxiety.

In poverty law, the *ad hoc* WG selected the areas of income support and housing as two areas that would be impacted by COVID-19. The data provided by the SST and the data available on its website show that, with the exception of two months at the outset of COVID-19, the SST quickly continued operations and maintained high levels of client satisfaction throughout 2020/2021. The SST has implemented a continuous feedback loop so that evaluation of practices and processes is an on-going endeavor and once feedback is received, it is acted upon. Hearings have for the most part proceeded using different platforms such as videoconferencing or by telephone or appellants have opted to use ADR. The SST is a success story by all measures.

In housing, the *ad hoc* WG was not able to collect the data as per its framework of system-focused and people-focused indicators. This was because of the different systems in each jurisdiction and the lack of availability of, or access to, that data. Further exploration is warranted and the *ad hoc* WG will continue to liaise with CMHC, STC and other research and statistics agencies.

Indeed, there was very little disaggregated data available, if any. To supplement and to complement the numbers, the *ad hoc* WG included narratives from the research studies in A Qualitative Look at Serious Legal Problems series. The quotations from the participants about their lived experiences with serious legal problems helped the *ad hoc* WG to understand the barriers, the pain, and the loss that often accompanied family legal problems. The study participants are people from different races and cultures, abilities, immigration statuses and sexual orientations. Each participant has their own identity and yet, many of the stories they told were similar. Barriers to access to justice on a whole range of matters included:

- finding accurate information;
- technical language and legalese;
- accessing assistance and representation;
- lack of time to address the problems;
- lack of legal aid coverage for their particular problem;
- perceptions of success;
- fear of consequences, particularly in cases of discrimination or family matters where there was violence; and,

- experiencing multiple problems at the same time.<sup>121</sup>

### 5.1.3 The Impact of COVID-19

Without data for 2020/2021, it has not been possible for the *ad hoc* WG to reach any conclusions about the impact of COVID-19 on family law and poverty law. There are clear examples where services were not available (parent education sessions). The SST was one example where COVID-19 did not seem to have any lasting impact on access to justice for appellants. Indeed, with this particular administrative body, it was able to introduce and expand its Navigator Service and Alternative Dispute Resolution during COVID-19.

The impact of COVID-19 did feature in some of the qualitative studies, essentially, creating greater challenges in navigating legal problems. Without the ability to meet someone in person or walk into an organization to get advice, several participants noted that it is harder to overcome the lack of information that some newcomers experience and it has also made it harder to create peer communities of support.<sup>122</sup>

In one of the studies about persons with disabilities, a few participants shared their increased stress and anxiety because their court cases, i.e., child custody or criminal cases, were put on hold or indefinitely delayed. Rajan further found that there were a number of impacts including:<sup>123</sup>

- increased isolation;
- fear of getting sick;
- difficulty in understanding COVID-19 protocols and dealing with technology;
- unable to get needed healthcare services;
- justice-related services delayed;
- lack of work income;
- forced to go into work; and
- feeling forgotten and not valued.

Lastly, an interesting and somewhat surprising finding from Rajan's study was that some people interviewed were not stressed by COVID-19 at all. They expressed that these types of restrictions, income insecurity and isolation, were the way their lives had always been. This sentiment was offered a few times:<sup>124</sup>

*I'm seeing the rest of the world maybe for the first time, deal with things and deal with loss. Things that I've dealt with all my life. And so, for me COVID has not made things worse ... there is just more awareness of what a bad life is like.*

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<sup>121</sup> These barriers have been pulled from several of the studies in A Qualitative Look at Serious Legal Problems.

<sup>122</sup> *Supra* note 65, Verhage 2021, at 46.

<sup>123</sup> This section is excerpted from the report directly. See *supra* note 90, Rajan 2021, at 45-47.

<sup>124</sup> *Ibid*, Rajan 2021, at 47.

#### 5.1.4 Key learnings

This study yielded several important learnings about system-focused and people-focused indicators.

##### *i) Better administrative data are needed*

While the CCS offers some promising administrative data for family law, with only 10 out of 13 jurisdictions reporting to it, it does not represent a truly national data source. There are also numerous variables where there is poor reporting, such as representation.

CCJCSS is the division at STC responsible for national data collection from the civil courts. As part of its workplan, it will be working with jurisdictions to improve responses to variables like representation and to further engage with those jurisdictions who do not yet report to the CCS. CCJCSS works closely with HoCA to identify priorities and work collaboratively to make progress. In 2021/2022, with funding from Justice Canada, CCJCSS will be undertaking a consultation to identify new variables that could be added to the CCS. The *ad hoc* WG recognizes that this work will move forward, but prioritizing it and providing resources will quicken the pace of progress.

##### *ii) National data requirements in poverty law are needed*

The situation is more challenging in the poverty law area. The administrative data that could tell a story about access to justice and COVID-19 in areas such as housing and income support are not shared by different agencies in every jurisdiction. While the SST data included in this report offers an important window into federal income support matters, data collection related to poverty law has not been tackled on a national scale.

In many instances, statistical information is not collected; in other instances, it may be collected but is not published. This represents a significant data gap, which undermines our ability to understand and respond to people's legal needs/legal problems in these critical areas of their lives. That said, some promising research and data initiatives are underway that could contribute to our understanding of the volume and nature of poverty law issues in Canada.

The SST showcased what is possible for an individual administrative body, but their data only provides a picture of what is happening with those federal benefits. Data on the provincial and territorial income supports are missing. In the area of housing, the Quebec Administrative Housing Tribunal, like the SST, publishes reports that include data on all its activities. That is not the same for all the jurisdictions.

##### *iii) Good, national criminal justice data are essential, but so are data for family law and poverty law*

The current focus from virtually all quarters is on criminal justice data needs. Criminal justice engages some of our most important *Charter* rights and pits the Crown against the accused. Furthermore, the overrepresentation of any specific demographic in our society must be rectified and good disaggregated data are essential to addressing this and many other serious issues in the criminal justice system. However, the *ad hoc* WG firmly believes that ensuring good data for the criminal justice system should not be achieved at the cost of good data in other justice areas such as family law and poverty law.

##### *iv) Those with serious family and poverty law issues can end up in the criminal justice system*

Many of these civil justice issues, if not resolved, can trigger or compound additional problems that might ultimately lead to criminal justice system involvement. A recent study that was presented to the

*ad hoc* WG, entitled *Youth Criminal Justice Systems: Documenting “Cross-Over Kids” in Manitoba* (Brownell et al. 2020) found that:

- close to one-third of all children who spent any time in care were charged with at least one criminal offense as a youth (age 12-17);
- being in care of Child and Family Services had the strongest association with being charged with a crime; and
- First Nation youth in the study were 24 times more likely to be involved in both systems compared to other Manitoba children and youth (Brownell et al., xvii-xviii).

By using a people-focused approach to look at serious legal problems, we can better understand what resources people need to resolve their problems earlier and more effectively, rather than what the system might need to deal with backlogs or lockdowns. The criminal, civil and family justice systems are not as separate and distinct as we might imagine. For some people, they are interwoven and tangled. In order to understand the connections, CCJCSS at STC will be beginning discussions with jurisdictions on the feasibility of collecting personal identifiers (e.g. names) in the CCS. This would permit the statistical agency to identify those people appearing in both criminal and civil datasets and further explore the relationship between the two, as well as other social and economic factors.

#### *v) Advancing this work will require high-level support and resources*

To further advance this important work will require high-level support for the resources needed to identify, compile and explain the relevant data. While the *ad hoc* WG has for the most part fulfilled its mandate, there remain gaps in the data as it has not yet been released or fully analyzed.<sup>125</sup> The *ad hoc* WG also believes that more time would be beneficial to further consult with government officials at all levels about how to continue the efforts started in the past year. As such, the *ad hoc* WG will recommend that its mandate continue for another 16 months. With this additional time, officials will be able to analyse the additional data and they will be able to further explore the best permanent structure that can continue the work. Given the significant impact these areas of the law have on the well-being of Canadians, the *ad hoc* WG views this to be a necessary and justified investment.

## 5.2 Concluding Remarks

Recommendations to Deputy Ministers follow and are drawn from the work presented in this report, as well as many conversations with federal, provincial and territorial officials from many different responsibility areas.

This report began with several quotations – from the Chief Justice of the Supreme Court of Canada, from an academic, and from an immigrant woman struggling in the family justice system. Each statement reflected the importance of measuring what matters in access to justice: the system that encompasses our courts and our legal processes underpinned by the rule of law; and also the people who have serious legal problems and are struggling to find resolution. In our concluding remarks, the *ad hoc* WG draws on the findings from several of the research projects that comprise A Qualitative Look at Serious Legal Problems to emphasize the importance of a people-focused understanding of access to justice.

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<sup>125</sup> The first results of the CLPS 2021 were released in January 2022, but more analysis will be invaluable. The CCS data were released in March 2022. Legal aid data will be released in June 2022.

Intersectionality is most often thought of as how different identities (age, gender, race, sexual orientation, ability and other demographic and social identities) form together to create unique experiences. These qualitative research projects also suggest that:

. . . we can also think of intersectionality in how a particular legal problem can, and often does, spill over into other aspects of an individual’s life: how losing one’s job because of work harassment can lead to the loss of a home and a breakdown in a marriage and the loss of family ties; how calling the police could mean the victim getting arrested instead of the perpetrator of the assault; how previous experiences with the justice system and lawyers wear down the desire to fight, resulting in resignation and defeatism; and how not being able to access correctional programs, in English, can affect a prisoner’s parole, and, therefore, their life chances.<sup>126</sup>

This report shows that being denied jobs or housing because of prejudice, while struggling to navigate a system without fully understanding the laws and one’s own rights, all the while trying to learn a new language and build a new life, can indeed lead to feeling out of control.<sup>127</sup>

Many noted that sometimes it is easier to “give up and move on” than to fight. This shared observation is significant, as it sheds light on one of the ways the justice process differs for people with disabilities. Indeed, the frequency and systemic nature of violations, their inherent ableism, and the exhaustion and trauma many people with disabilities carry will influence how they decide to proceed when they encounter rights violations or legal problems.<sup>128</sup>

These challenges are real and significant, but they are not insurmountable. Over the past 12 months, the *ad hoc* WG has learned a great deal about both system- and people-focused indicators of access to justice in family and poverty law problems. Although there remains much work to be done to achieve SDG 16.3 - access to justice for all - the *ad hoc* WG firmly believes that progress has been made on how access to justice can be measured. This is an important advancement, one that reminds us all that access to justice in family and poverty law problems really does matter.

### 5.3 Recommendations

The Working Group recommends that Deputy Ministers:

- 1) ***Elevate the importance of data and measurement*** in the areas of family and poverty law by taking the following actions:

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<sup>126</sup> David Austin, *Urban African Canadians: A Qualitative Study of Serious Legal Problems in Quebec* (Ottawa: Department of Justice Canada, 2021) at 13.

<sup>127</sup> *Supra* note 65, Verhage 2021, at 9.

<sup>128</sup> *Supra* note 90, Abbas and Alimi 2021, at 17.

- a. Extending the mandate of the *ad hoc* WG until the end of the calendar year 2022 to undertake further work:
    - i. to reach a consensus on common definitions for the indicators selected in this initial report;
    - ii. to explore additional indicators if appropriate; and
    - iii. To consider ways to effectively represent the data and key findings visually
  - b. Considering funding people-focused, self-reported research through a future cycle of the Canadian Legal Problems Survey (2026) or a similar data collection initiative.
- 2. Support transparency and accountability** in regards to family and poverty law data by taking the following action:
- a. Facilitating the public release and broad distribution of this report once approved to improve access to data about justice.

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## Appendix A

### ***Ad hoc* FPT Working Group on Measuring Access to Justice and the Impact of COVID-19 in Family and Poverty Law Matters**

#### Terms of Reference

##### **Context**

The COVID-19 pandemic is having, and will continue to have, a significant impact on the lives of all Canadians, creating new legal problems and exacerbating existing ones including those related to health, employment, debt, and family law matters.

While the pandemic has had an impact on all facets of people’s lives, civil legal needs in the areas of family and poverty law are prominent. At the outset of the pandemic, many family law matters related to divorce and separation, including disputes involving child and spousal support, parenting arrangements and property matters, were postponed as physical distancing requirements forced courthouse closures and restrictions in court operations and the provision of in-person family justice services. This has exacerbated a pre-existing backlog of cases. A surge of new family law matters arising from the pandemic itself is also emerging, such as disputes relating to schooling arrangements. Similarly, the impacts of reduced employment and job losses are resulting in an increase in issues concerning debt, housing, and social benefits, among others. Access to justice challenges faced by unrepresented and marginalized litigants, including the use of technology, are also of concern. Enhanced data collection would serve to support our understanding of access to justice related systemic issues, inform policy, legislative, and funding decisions, and identify areas that require further research.

With this context in mind, at the July 8, 2020 Virtual Meeting of FPT Deputy Ministers of Justice, Deputy Ministers agreed to establish a temporary *ad hoc* Working Group on Access to Justice and Data (“Working Group”).

##### **6.a. Supporting Improved Data Collection to Measure Impacts on Access to Justice**

DMs agreed to task an FPT *ad hoc* working group to identify a small number of indicators and collect existing data to report on the impacts of COVID-19 on access to justice for Canadians, particularly in family and poverty law matters. Terms of reference will focus on building on existing efforts underway including race based data and ensuring a consistent approach to data collection.

The *ad hoc* working group will report back to FPT DMs with a small list of indicators and a work plan within a year, after which time the working group will sunset.

DMs proposed that the WG assess whether it is the right forum to study data collection related to COVID-19 litigation. If not, the WG shall propose a more appropriate alternative forum.

##### **Name**

The full name of the working group is the “*ad hoc* FPT Working Group on Measuring Access to Justice and the Impact of COVID-19 in Family and Poverty Law Matters.”

For simplicity, the Working Group will be referred to as the “*ad hoc* WG on A2J.”

## **Mandate**

The Working Group will identify [by consensus] a small number of indicators, taking into account both a systems and user perspective, and will collect existing data to report on the impacts of COVID-19 on access to justice for Canadians in family and poverty law matters. This work will build on current efforts to measure access to justice and to collect sociodemographic data. The Working Group will report back to FPT DMs with its list of indicators, already existing data and recommendations for further work within a year (Fall 2021), after which time the Working Group will sunset.

## **Composition**

The Working Group is composed of the following members:

Alberta

British Columbia

Coordinating Committee of Senior Officials – Family

Justice Canada

Saskatchewan

Manitoba

Northwest Territories

Nova Scotia

Ontario

Permanent Working Group on Legal Aid

PPSC (observer)

Quebec

Statistics Canada

Yukon (observer)

Appendix B provides names, titles and contact information for each member.

## **Format**

The Working Group be co-chaired by Justice Canada and one PT member. Work will proceed by monthly teleconference calls which will have set agendas and desired outcomes. The Working Group will make decisions by consensus wherever possible. Where opinions differ and a consensus cannot be reached, the differing opinions will be noted in the final report and work will proceed with the majority view.

The co-chairs may reach out to experts outside of the membership to solicit advice/ help if deemed appropriate. These experts may be invited to attend a meeting by teleconference if members agree that their input would be valuable.

## **Meetings and Timelines**

The Working Group will conduct its first meeting on September 30, 2020 and convene on a monthly basis thereafter, or as determined by the co-Chairs, until the conclusion of its mandate. Members may delegate a replacement to represent them when necessary.

## **Operational Support**

Operational support, including the scheduling of meetings and distribution and translation of documents, will be provided by the Department of Justice Canada.

## Appendix B

### List of Members

Jurisdiction	Officials	Contact Information
Alberta	<p>Fiona Lavoy</p> <p>Kelly Tyler Agency Oversight, Planning and Evaluation Alberta Justice and Solicitor General</p> <p>Rachel Melnychuk</p>	<p><a href="mailto:Fiona.Lavoy@gov.ab.ca">Fiona.Lavoy@gov.ab.ca</a></p> <p><a href="mailto:kelly.tyler@gov.ab.ca">kelly.tyler@gov.ab.ca</a> M: (780) 904-0861 P: (780) 422-2617</p> <p><a href="mailto:Rachel.Melnychuk@gov.ab.ca">Rachel.Melnychuk@gov.ab.ca</a></p>
British Columbia	<p>Cindy Eng Manager, Performance Measurement and Business Intelligence Strategic Information and Business Applications, Ministry of Attorney General, Court Services Branch</p>	<p><a href="mailto:Cindy.Eng@gov.bc.ca">Cindy.Eng@gov.bc.ca</a> T: 250-419-8831</p>
CCSO-Family Justice	<p>Kim Newsham Crown Counsel, Family Justice Services Branch, Saskatchewan Ministry of Justice and Attorney General</p>	<p><a href="mailto:Kim.Newsham@gov.sk.ca">Kim.Newsham@gov.sk.ca</a> 306-787-5709</p>
Justice Canada	<p>Susan McDonald (<b>co-chair</b>) Principal Researcher, Research and Statistics Division, Policy Sector</p> <p>Janet McIntyre Director, Access to Justice Secretariat</p> <p>Catherine McKinnon Senior Counsel, Access to Justice Secretariat</p>	<p><a href="mailto:Susan.mcdonald@justice.gc.ca">Susan.mcdonald@justice.gc.ca</a> 613-410-9066</p> <p><a href="mailto:Janet.mcintyre@justice.gc.ca">Janet.mcintyre@justice.gc.ca</a> 613-889-5845</p> <p><a href="mailto:Catherine.mckinnon@justice.gc.ca">Catherine.mckinnon@justice.gc.ca</a> 613-612-3259</p>
Manitoba	<p>Daniel Rempel Director of Strategic Services, Manitoba Justice</p>	<p><a href="mailto:Daniel.Rempel@gov.mb.ca">Daniel.Rempel@gov.mb.ca</a></p>
Northwest Territories	<p>Jennifer Young</p> <p>Emily Ingarfield</p>	<p><a href="mailto:Jennifer_Young@gov.nt.ca">Jennifer_Young@gov.nt.ca</a></p> <p><a href="mailto:Emily_Ingarfield@gov.nt.ca">Emily_Ingarfield@gov.nt.ca</a></p>
Nova Scotia	<p>Ryan Grigg (<b>co-chair</b>) Manager of Business Analytics Nova Scotia Department of Justice</p>	<p><a href="mailto:Ryan.Grigg@novascotia.ca">Ryan.Grigg@novascotia.ca</a> 902-499-4706 (C)</p>

	Teri LeDrew	<a href="mailto:Teri.LeDrew@novascotia.ca">Teri.LeDrew@novascotia.ca</a>
Ontario	Dominic Fernandes Director, Analytics and Evidence Branch, Ministry of the Attorney General	<a href="mailto:Dominic.Fernandes@ontario.ca">Dominic.Fernandes@ontario.ca</a>
PPSC ( <b>observer</b> )	Stéphane Hould Senior Counsel & Remediation Agreement Coordinator	<a href="mailto:Stephane.Hould@ppsc-sppc.gc.ca">Stephane.Hould@ppsc-sppc.gc.ca</a>
Quebec	M. Albert Besnier Conseiller stratégique et chef de l'équipe de valorisation des données Ministère de la Justice du Québec  <b>Gabriel Lacroix-Dufour</b> Directeur Direction de la performance et de l'intelligence d'affaires Sous-ministériat aux orientations, à l'accès à la justice et à la performance Ministère de la Justice	Albert.besnier@justice.gouv.qc.ca 418-643-8501, poste 21053 (T) 418-999-6794 (C)  <a href="mailto:gabriel.lacroix-dufour@justice.gouv.qc.ca">gabriel.lacroix- dufour@justice.gouv.qc.ca</a> Téléphone : 418 646-8153, poste 21879
Saskatchewan and Permanent Working Group on Legal Aid	Kylie Head, Q.C., Assistant Deputy Attorney General for Saskatchewan, Ministry of Justice and Attorney General	<a href="mailto:kylie.head@gov.sk.ca">kylie.head@gov.sk.ca</a> 306-787-8220
Statistics Canada	Marnie Wallace, Chief, Canadian Centre for Justice and Community Safety Statistics, Statistics Canada	<a href="mailto:marnie.wallace@canada.ca">marnie.wallace@canada.ca</a> 343-552-2068
Yukon ( <b>observer</b> )	Norma Davignon Senior Advisor Deputy Minister's Office  Abdul Hafeez Policy Development Officer	T 867-667-3221  <a href="mailto:Norma.Davignon@yukon.ca">Norma.Davignon@yukon.ca</a>  <a href="mailto:Abdul.Hafeez@yukon.ca">Abdul.Hafeez@yukon.ca</a>

## Appendix C

### Summary of Juristat

The full report can be found on the Statistics Canada website at [Profile of family law cases in Canada, 2019/2020](#).

The Juristat is organised into three sections: the first provides an overview of all family cases, the second provides a profile of child and spousal support cases, and the third profiles custody and access cases.

Each of the three main sections provides information on the number and type of cases that were active during the year, as well as the number and type initiated during the year. For the main analysis, case types include: divorce (with and without issues), support only, custody and access (may also include support), child protection, civil (family) protection and other family (e.g. estate, guardianship).

A number of factors are explored throughout the analysis including: the proportion of cases which include only a single issue (e.g. divorce only) compared to those which contain multiple issues (e.g. divorce and child support), the number and type of case events (e.g. pre-trial conference hearings, trial hearings, judgments, adjournments), case processing times, and a profile of participants (sex of plaintiff and defendant as well as number of children involved).

Each section includes an analysis of the legal representation of the applicant and the respondent reporting on those who are self-represented/unrepresented. Typically, participants are considered to have been represented if they had at least one appearance with a lawyer present. Few jurisdictions currently report these data to the Civil Court Survey and so analysis is quite limited.

The article also includes two shorter text boxes looking at available data on child protection cases and civil (family) protection cases.

## Appendix D

### Family Law Web pages

**Table D1: Number of hits on family law pages by jurisdiction 2019/2020**

Jurisdiction	Family Law Pages	# of Hits 2019/2020/ 2020/2021
CA	<p><b>Family Law Main Page</b> EN: <a href="https://www.canada.ca/en/services/policing/justice/familylaw.html">https://www.canada.ca/en/services/policing/justice/familylaw.html</a></p> <p>FR: <a href="https://www.canada.ca/fr/services/police/justice/droitfamille.html">https://www.canada.ca/fr/services/police/justice/droitfamille.html</a></p> <p><b>Child Support Information Page</b> EN: <a href="https://www.justice.gc.ca/eng/fl-df/child-enfant/index.html">https://www.justice.gc.ca/eng/fl-df/child-enfant/index.html</a></p> <p>FR: <a href="https://www.justice.gc.ca/fra/df-fl/enfant-child/index.html">https://www.justice.gc.ca/fra/df-fl/enfant-child/index.html</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://www.justice.gc.ca/eng/fl-df/fsfdr-firdf.html#s1">https://www.justice.gc.ca/eng/fl-df/fsfdr-firdf.html#s1</a></p> <p>FR: <a href="https://www.justice.gc.ca/fra/df-fl/firdf-fsfdr.html">https://www.justice.gc.ca/fra/df-fl/firdf-fsfdr.html</a></p>	
BC	<p><b>Family Law Main Page</b> EN: <a href="https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/family-law">https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/family-law</a></p> <p><b>Child Support Information Page</b> EN: <a href="https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/family-law/child-support">https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/family-law/child-support</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/who-can-help/mediators?keyword=family&amp;keyword=mediator">https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/who-can-help/mediators?keyword=family&amp;keyword=mediator</a></p>	
AB	<p><b>Family Law Main Page</b> EN: <a href="https://www.alberta.ca/family-law-assistance.aspx">https://www.alberta.ca/family-law-assistance.aspx</a></p> <p><b>Child Support Information Page</b> EN:</p>	

	<p><a href="https://www.alberta.ca/child-support.aspx">https://www.alberta.ca/child-support.aspx</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://www.alberta.ca/family-mediation.aspx">https://www.alberta.ca/family-mediation.aspx</a></p>	
SK	<p><b>Family Law Main Page</b> EN: <a href="http://familylaw.plea.org">familylaw.plea.org</a> FR : <a href="http://familylaw.plea.org/fr/">familylaw.plea.org/fr/</a></p> <p><b>Child Support Information Page</b> EN: <a href="https://www.saskatchewan.ca/residents/family-and-social-support/child-support">https://www.saskatchewan.ca/residents/family-and-social-support/child-support</a> FR: <a href="https://www.saskatchewan.ca/bonjour/legal-services/separation-or-divorce/child-support">https://www.saskatchewan.ca/bonjour/legal-services/separation-or-divorce/child-support</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://www.saskatchewan.ca/residents/births-deaths-marriages-and-divorces/separation-or-divorce/early-family-dispute-resolution/family-mediation">https://www.saskatchewan.ca/residents/births-deaths-marriages-and-divorces/separation-or-divorce/early-family-dispute-resolution/family-mediation</a></p>	
MB	<p><b>Family Law Main Page</b> EN: <a href="https://www.gov.mb.ca/familylaw/">https://www.gov.mb.ca/familylaw/</a> FR: <a href="https://www.gov.mb.ca/familylaw/fr/index.html">https://www.gov.mb.ca/familylaw/fr/index.html</a></p> <p><b>Child Support Information Page</b> EN: <a href="https://www.gov.mb.ca/familylaw/money/child-support.html">https://www.gov.mb.ca/familylaw/money/child-support.html</a> FR: <a href="https://www.gov.mb.ca/familylaw/fr/money/child-support.html">https://www.gov.mb.ca/familylaw/fr/money/child-support.html</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://www.gov.mb.ca/familylaw/resolution/mediation.html">https://www.gov.mb.ca/familylaw/resolution/mediation.html</a> FR: <a href="https://www.gov.mb.ca/familylaw/fr/resolution/mediation.html">https://www.gov.mb.ca/familylaw/fr/resolution/mediation.html</a></p>	
ON	<p><b>Family Law Main Page</b></p>	



	<p>EN:  <a href="https://www.attorneygeneral.jus.gov.on.ca/english/family/">https://www.attorneygeneral.jus.gov.on.ca/english/family/</a></p> <p>FR:  <a href="https://www.attorneygeneral.jus.gov.on.ca/french/family/">https://www.attorneygeneral.jus.gov.on.ca/french/family/</a></p> <p><b>Child Support Information Page</b>  EN:  <a href="https://www.ontario.ca/page/arranging-child-support">https://www.ontario.ca/page/arranging-child-support</a></p> <p>FR:  <a href="https://www.ontario.ca/fr/page/etablir-des-pensions-alimentaires-pour-enfants">https://www.ontario.ca/fr/page/etablir-des-pensions-alimentaires-pour-enfants</a></p> <p><b>Family Mediation Page</b>  EN:  <a href="https://www.attorneygeneral.jus.gov.on.ca/english/family/mediation.php">https://www.attorneygeneral.jus.gov.on.ca/english/family/mediation.php</a></p> <p>FR:  <a href="https://www.attorneygeneral.jus.gov.on.ca/french/family/mediation.php">https://www.attorneygeneral.jus.gov.on.ca/french/family/mediation.php</a></p>	
QC	<p><b>Family Law Main Page</b>  EN:  <a href="https://www.justice.gouv.qc.ca/en/couples-and-families/">https://www.justice.gouv.qc.ca/en/couples-and-families/</a></p> <p>FR:  <a href="https://www.justice.gouv.qc.ca/couple-et-famille">https://www.justice.gouv.qc.ca/couple-et-famille</a></p> <p><b>Child Support Information Page</b>  EN:  <a href="https://www.justice.gouv.qc.ca/en/couples-and-families/separation-and-divorce/children-a-joint-responsibility/child-support">https://www.justice.gouv.qc.ca/en/couples-and-families/separation-and-divorce/children-a-joint-responsibility/child-support</a></p> <p>FR:  <a href="https://www.justice.gouv.qc.ca/couple-et-famille/separation-et-divorce/les-enfants-une-responsabilite-commune/lobligation-alimentaire-envers-les-enfants">https://www.justice.gouv.qc.ca/couple-et-famille/separation-et-divorce/les-enfants-une-responsabilite-commune/lobligation-alimentaire-envers-les-enfants</a></p> <p><b>Family Mediation Page</b>  EN:  <a href="https://www.justice.gouv.qc.ca/en/couples-and-families/separation-and-divorce/family-mediation-negotiating-a-fair-agreement/">https://www.justice.gouv.qc.ca/en/couples-and-families/separation-and-divorce/family-mediation-negotiating-a-fair-agreement/</a></p> <p>FR:  <a href="https://www.justice.gouv.qc.ca/couple-et-famille/separation-et-divorce/la-mediation-familiale-pour-negocier-une-entente-equitable">https://www.justice.gouv.qc.ca/couple-et-famille/separation-et-divorce/la-mediation-familiale-pour-negocier-une-entente-equitable</a></p>	

<p>NB</p>	<p><b>Family Law Main Page</b>  EN: <a href="http://www.familylawnb.ca/english/index.php">http://www.familylawnb.ca/english/index.php</a>  FR: <a href="http://www.familylawnb.ca/french/index.php">http://www.familylawnb.ca/french/index.php</a></p> <p><b>Child Support Information Page</b>  EN:  <a href="http://www.familylawnb.ca/english/faqs_child_support#top">http://www.familylawnb.ca/english/faqs_child_support#top</a></p> <p>FR:  <a href="http://www.familylawnb.ca/french/faqs_child_support">http://www.familylawnb.ca/french/faqs_child_support</a></p> <p><b>Family Mediation Page</b>  EN:  <a href="http://www.familylawnb.ca/english/lawyer_mediation">http://www.familylawnb.ca/english/lawyer_mediation</a></p> <p>FR:  <a href="http://www.familylawnb.ca/french/lawyer_mediation">http://www.familylawnb.ca/french/lawyer_mediation</a></p>	
<p>NS</p>	<p><b>Family Law Main Page</b>  EN:  <a href="https://www.nsfamilylaw.ca/">https://www.nsfamilylaw.ca/</a></p> <p>FR:  <a href="https://www.nsfamilylaw.ca/fr">https://www.nsfamilylaw.ca/fr</a></p> <p><b>Child Support Information Page</b>  EN:  <a href="https://www.nsfamilylaw.ca/general-information-child-support">https://www.nsfamilylaw.ca/general-information-child-support</a></p> <p>FR:  <a href="https://www.nsfamilylaw.ca/fr/informations-generales-sur-la-pension-alimentaire-pour-enfants">https://www.nsfamilylaw.ca/fr/informations-generales-sur-la-pension-alimentaire-pour-enfants</a></p> <p><b>Family Mediation Page</b>  EN:  <a href="https://www.nsfamilylaw.ca/services/court/mediation">https://www.nsfamilylaw.ca/services/court/mediation</a></p> <p>FR:  <a href="https://www.nsfamilylaw.ca/fr/services/tribunal/mediation">https://www.nsfamilylaw.ca/fr/services/tribunal/mediation</a></p>	
<p>PEI</p>	<p><b>Family Law Main Page</b>  EN:  <a href="https://www.princeedwardisland.ca/en/topic/family-law">https://www.princeedwardisland.ca/en/topic/family-law</a></p> <p>FR:  <a href="https://www.princeedwardisland.ca/fr/sujet/droit-de-la-famille">https://www.princeedwardisland.ca/fr/sujet/droit-de-la-famille</a></p> <p><b>Child Support Information Page</b>  EN:</p>	

	<p><a href="https://www.princeedwardisland.ca/en/information/justice-and-public-safety/applying-child-support-order">https://www.princeedwardisland.ca/en/information/justice-and-public-safety/applying-child-support-order</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://www.princeedwardisland.ca/en/information/justice-and-public-safety/child-focused-family-mediation">https://www.princeedwardisland.ca/en/information/justice-and-public-safety/child-focused-family-mediation</a></p>	
NL	<p><b>Family Law Main Page</b> EN: <a href="https://www.gov.nl.ca/jps/divorce">https://www.gov.nl.ca/jps/divorce</a></p> <p><b>Child Support Information Page</b> EN: <a href="https://www.gov.nl.ca/jps/childsupport/">https://www.gov.nl.ca/jps/childsupport/</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://www.gov.nl.ca/jps/department/branches/division/division-family-justice-services-2/">https://www.gov.nl.ca/jps/department/branches/division/division-family-justice-services-2/</a></p>	
YT	<p><b>Family Law Main Page</b> EN: <a href="https://yukon.ca/en/legal-and-social-supports/family-law">https://yukon.ca/en/legal-and-social-supports/family-law</a></p> <p>FR: <a href="https://yukon.ca/fr/legal-and-social-supports/family-law">https://yukon.ca/fr/legal-and-social-supports/family-law</a></p> <p><b>Child Support Information Page</b> EN: <a href="https://yukon.ca/en/legal-and-social-supports/family-law/find-out-about-child-support#child-support-guidelines">https://yukon.ca/en/legal-and-social-supports/family-law/find-out-about-child-support#child-support-guidelines</a></p> <p>FR: <a href="https://yukon.ca/fr/legal-and-social-supports/family-law/find-out-about-child-support#lignes-directrices-sur-les-pensions-alimentaires-pour-enfants">https://yukon.ca/fr/legal-and-social-supports/family-law/find-out-about-child-support#lignes-directrices-sur-les-pensions-alimentaires-pour-enfants</a></p> <p><b>Family Mediation Page</b> EN: <a href="https://yukon.ca/en/get-mediation-when-going-through-divorce-or-separating">https://yukon.ca/en/get-mediation-when-going-through-divorce-or-separating</a></p> <p>FR: <a href="https://yukon.ca/fr/ressources-sociales-et-juridiques/droit-familial/divorce-ou-separation-recours-la-mediation">https://yukon.ca/fr/ressources-sociales-et-juridiques/droit-familial/divorce-ou-separation-recours-la-mediation</a></p>	
NT	<p><b>Family Law Main Page</b> EN: <a href="https://www.justice.gov.nt.ca/en/browse/children-and-families/">https://www.justice.gov.nt.ca/en/browse/children-and-families/</a></p>	

	<p>FR:  <a href="https://www.justice.gov.nt.ca/fr/fouiller/enfants-et-familles/">https://www.justice.gov.nt.ca/fr/fouiller/enfants-et-familles/</a></p> <p><b>Child Support Information Page</b>  EN:  <a href="https://www.justice.gov.nt.ca/en/child-support/">https://www.justice.gov.nt.ca/en/child-support/</a></p> <p>FR:  <a href="https://www.justice.gov.nt.ca/fr/pension-alimentaire-pour-enfants/">https://www.justice.gov.nt.ca/fr/pension-alimentaire-pour-enfants/</a></p> <p><b>Family Mediation Page</b>  EN:  <a href="https://www.justice.gov.nt.ca/en/family-law-mediation-program/">https://www.justice.gov.nt.ca/en/family-law-mediation-program/</a></p> <p>FR:  <a href="https://www.justice.gov.nt.ca/fr/programme-de-mediation-en-droit-famille/">https://www.justice.gov.nt.ca/fr/programme-de-mediation-en-droit-famille/</a></p>	
<p>NU</p>	<p><b>Family Law Main Page</b>  EN:  <a href="https://www.gov.nu.ca/familyservices">https://www.gov.nu.ca/familyservices</a></p> <p>FR:  <a href="https://www.gov.nu.ca/fr/services-a-la-famille">https://www.gov.nu.ca/fr/services-a-la-famille</a></p> <p><b>Child Support Information Page</b>  EN:  <a href="https://www.gov.nu.ca/justice/programs-services/family-support-orders">https://www.gov.nu.ca/justice/programs-services/family-support-orders</a></p> <p>FR:  <a href="https://www.gouv.nu.ca/fr/justice/programs-services/ordonnances-alimentaires-familiales">https://www.gouv.nu.ca/fr/justice/programs-services/ordonnances-alimentaires-familiales</a></p> <p><b>Family Mediation Page</b>  EN:  <a href="https://www.gov.nu.ca/justice/programs-services/mediation-program">https://www.gov.nu.ca/justice/programs-services/mediation-program</a></p> <p>FR:  <a href="https://www.gov.nu.ca/fr/justice/programs-services/programme-de-mediation">https://www.gov.nu.ca/fr/justice/programs-services/programme-de-mediation</a></p>	

