

Bridging the Gaps

**Environmental Scan and Needs Assessment
APPENDIX A**

**Literature Review: Summary of Recommendations and Actions to Bridge the Gaps in
Access to Justice**

APPENDIX A

Summary of Recommendations and Actions to Bridge the Gaps in Access to Justice

The list below summarizes most of the recommendations found in the access to justice literature reviewed. The information is organized by topic. Considering the interaction of services in the justice system, there is some overlap between groupings.

The first group of recommendations listed is on strategies to assist self-represented litigants (SRLs). The SRL phenomenon is the most evident consequence of the gap between the prevalence of legal problems and inadequacies in public and private legal services. For this reason, all reports analyzed touched on the needs of SRLs. The list of recommendations under this topic provides a user-focused overview of access to justice barriers. Each recommendation in this section is general and was further developed in the following sections of the list.

Recommendations and Actions to Bridge the Gaps in Access to Justice

Self-Represented Litigants

1. Increase Legal Aid funding to expand financial and service eligibility to reduce the number of SRLs.
2. Enhance triage and referral to legal and community resources.
3. Increase integration, communication and collaboration among service providers.
4. Expand and enhance delivery of public legal services:
 - Legal advice, legal information and legal education workshops in legal clinics
 - Duty counsel type of service
 - In court legal information services
 - PLEI focused on SRLs (e.g. self-help guides, form filling)
 - Alternative dispute resolution services
 - Coaching for court appearances, settlement and mediation
 - Supervised paralegal services
 - Language services
 - Office services in court (offer at cost)
5. Expand the use of unbundled legal services in private practice.
6. Simplify court processes and forms.
7. Build legal capacity.
8. Expand the use of inclusive technology solutions.
9. Expand data collection and evaluation.
10. Expand access to justice research.
11. Foster innovation.
12. Educate the public, law students and lawyers, the judiciary and court administrators on barriers to access to justice and the SRL phenomenon.

Prevention and Early Intervention

1. Build people's legal capability to understand, anticipate and resolve issues that have legal implications.
2. Promote early understanding and resolution of legal problems outside the court system through alternative dispute resolution and/or directly by parties themselves.
3. Develop PLEI to targeted linguistic and social sub-groups of the population.
4. Conduct individual legal health checks by community and government organizations to create awareness of common legal problems and suggest how to address them.
5. Conduct systemic legal health checks by legal service providers to identify the incidence of legal problems in a community and potential systemic solutions.
6. Invest in conflict resolution services before issues evolve into legal disputes.
7. Promote integration, communication and collaboration between core service providers (i.e PLEI, conflict resolution and legal clinics) and "intermediaries" (e.g. community, social and health services).

Recommendations and Actions to Bridge the Gaps in Access to Justice

Triage and referral

1. Conduct effective triage and referral to legal and non-legal resources and at multiple points of the client's journey (i.e. before, at entry and within the formal justice system).
2. Develop cross-sectoral client assessment, intake and database tools, with protocols to share information in compliance with privacy laws.

Data Collection, Evaluation and Research

1. Invest in data collection, evaluation and research to learn more about relative effectiveness and efficiency of different service delivery models, legal information, assistance and representation, or different dispute resolution mechanisms across different types of legal matters, and how to match processes and legal services to the nature and intensity of the legal dispute.
2. Undertake research and data collection and evaluate the need for more Aboriginal-specific, community based legal services.
3. Promote access to justice research in law schools.
4. Coordinate research between institutions.

Innovation

1. Innovate and experiment, using monitoring and evaluation to identify those ideas that are most effective.
2. Share findings.

Inclusive Technology Solutions

1. Expand use of technology to assist with:
 - Remote legal service delivery.
 - E-court initiatives.
 - Online interactive court forms.
 - PLEI online.
 - Online dispute resolution.
 - Communication between service providers.
 - Coordination of services (e.g. Intake, referral and client database tools).

Court Processes

1. Expand use of technology (i.e. e-courts initiatives, e.g. document management systems, online filing and scheduling tools, teleconferencing and videoconferencing in remote areas and inter jurisdictional proceedings)
2. Expand case management initiatives.
3. Expand alternative dispute resolution (e.g. mediation, judicial dispute resolution, judicial settlement conferences, court-expedited arbitrations).
4. Expand and enhance PLEI on court processes and coaching for court appearance.
5. Reform rules of court to provide more expeditious resolution of actions, applications and appeals.

Court Forms

1. Expand use of technology (e.g. online access to interactive court forms).
2. Reduce multiplicity and simplify language of court forms and guides.
3. Expand and enhance PLEI on form filling.
4. Provide "form checker" services to review court forms and documentation prior to submission to avoid delays.

Legal Aid Alberta

1. Increase funding to expand financial and service eligibility.

Recommendations and Actions to Bridge the Gaps in Access to Justice

2. Evaluate the need to expand Duty Counsel services.
3. Enhance communication between Legal Aid and other legal service providers, especially regarding changes in Legal Aid's financial and service eligibility.
4. Enhance intake, triage and referral services.
5. Integrate client assessment and database tools with other legal service providers, with protocols to share information in compliance with privacy laws.
6. Educate staff on services provided by legal clinics and other community resources.

Community Legal Clinics

1. Evaluate which type of clients/cases are suited to summary legal advice, more intensive legal assistance (i.e. brief services), support by non-lawyers (e.g. supervised paralegals) or PLEI.
2. Enhance intake and triage to determine the service appropriate to the client's capabilities (e.g. understanding of the law, mental and physical health) and the problem's complexity.
3. Help client prepare to legal advice session (e.g. questions to ask, documents to bring) to maximize their benefit from the session.
4. Provide written summary of the legal advice given and follow up case progress.
5. Offer more guidance on practical tasks (e.g. form filling, document preparation).
6. Offer coaching for court appearances and alternative dispute resolution sessions.
7. Evaluate the need to expand the role of pro bono counsel to court appearances.
8. Consider offering mediation services, especially for family law.
9. Expand language services (e.g. translation/interpretation, multilingual staff and multilingual PLEI).
10. Expand service delivery by non-lawyers.
11. Expand remote legal service delivery.
12. Expand specialized legal information and advice to targeted linguistic or social sub-groups (e.g. Indigenous, immigrant, homeless, elder, disabled, LGBTQ2+).
13. Expand evaluation capacity within the clinics.

Lawyer-supervised Paralegals

1. Evaluation of what tasks and responsibilities require intervention of a qualified lawyer and the potential for other information and assistance to be offered by paralegals.
2. Expansion of supervised paralegal services in the public legal service sector.
3. Re-examination of restrictions placed on paralegal services by professional regulators.

Unbundled Legal Services

1. Educate the public, legal service providers and the judiciary about the need and benefits of unbundled legal services.
2. Outreach to smaller/rural community lawyers.
3. Further research and evaluation to determine who may benefit from what types of limited legal services and in which situations.
4. Further research to present lawyers with factual information about the risk of legal liability and complaints when legal services are unbundled.
5. Reassurance from the Law Society that, done well, unbundling and legal coaching do not increase risk of liability and complaints. Reassurance from the Judiciary that retainer boundaries will be respected.
6. Develop a structured framework within which to practice including template materials, best practices, intake and assessment guidelines and practical tips.
7. Incorporate education about unbundling into law school curricula.
8. Create CBA section on unbundled legal services to provide members with education, peer support /mentoring and information-sharing for their unbundling efforts.

Recommendations and Actions to Bridge the Gaps in Access to Justice

Mediation

1. Expand mediation services.
2. Better inform the public on existing services.
3. Provide initial orientation and training (i.e. coaching) to prepare participants.

Coaching

1. Expand legal coaching for court appearances, settlement and mediation.
2. Expand coaching on communication, negotiation and presentation skills.

Language services

1. Expand translation/interpretation services.
2. Increased availability of multilingual PLEI.
3. Expand multilingual staff and volunteers in legal clinics, court and community-based organizations.

Public Legal Education and Information (PLEI)

Educate the public regarding:

1. The challenges faced by poor and vulnerable people trying to access and navigate the legal system.
2. Economic and social costs of inaccessible justice.
3. Their rights and obligations.
4. Legal and community resources/services available.
5. Dispute resolution options.
6. Unbundled legal services.

Educate Service Providers regarding:

1. Resources and services available in the justice system for the purpose of effective triage and referral to most appropriate legal service.
2. Preliminary identification of problems that may have a legal component for staff in community and government organizations (e.g. legal health check).
3. Regular training updates on court forms and procedural changes to legal service providers and court staff.
4. Gaps in service, best practices and opportunities to innovate.
5. Cultural competency around immigrant and Indigenous peoples (e.g. the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, treaties and Aboriginal rights, Indigenous Law and Aboriginal/Crown relations).

Educate the Judiciary and Court Administrators regarding:

1. Resources and services available in the justice system.
2. The challenges faced by those trying to access and navigate the legal system.
3. Opportunities for court process and form simplification.
4. Appropriate conduct and strategies to deal with SRLs (e.g. Canadian Judicial Council's Statement of Principles on Self-represented Litigants and Accused Persons).

Recommendations and Actions to Bridge the Gaps in Access to Justice

PLEI Online, Video, Audio and Print

1. Eliminate legal jargon.
2. Organize topics by type of problem, not legal term.
3. Go beyond substantive law and offer information on practical steps and tasks (e.g. filling up forms).
4. Offer information in languages other than English.
5. Make resources easy to find and navigate.
6. Direct user to appropriate legal and non-legal resources available in their community.
7. Provide more accessible and effective self-help guides, especially for family law.
8. Use questions and answers (e.g. decision tree and FAQ) to provide information. Enhance interactivity in online platforms, as well as links to personal support via chat and phone.
9. Enhance technical support and maintenance to keep information up to date and maintain active links.
10. Consolidate information as much as possible to avoid duplication and navigation among multiple websites.
11. Conduct further research and evaluation on the effectiveness of online PLEI.
12. Include individuals who acted as SRLs in planning and reviewing PLEI materials.

PLEI In Person Sessions

1. Focus on offering practical skills and information on what lies ahead.
2. Offer the opportunity for interactivity and asking questions.
3. Make it available at courthouses.
4. Prepare individuals for thinking about settlement and how to make effective use of available settlement resources.
5. Include individuals who acted as SRLs in planning PLEI in person sessions.

In-court Legal Information Services

1. Expand in person legal information and assistance with court forms and procedures.
2. Enhance training to enable court staff to deal effectively with SRLs
3. Develop clear guidelines on the distinction between legal information and legal advice and provide staff training in this area.
4. Develop models and protocols to ensure legal information is provided as comprehensively as possible without encroaching on legal practice.

Law Schools

1. Provide in-class and experimental learning opportunities on access to justice and the SRL phenomenon.
2. Promote access to justice research.
3. Require all law students to take a course in Aboriginal law.

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