

ACTION RESEARCH: TEACHING AND LEARNING IN MOTION

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Abstract

This paper celebrates the success of the Civil Justice System and the Public, a national collaborative, interdisciplinary and community-driven action research partnership that has generated ongoing multi-directional teaching and learning, networking, policy development and a broad range of evidence-based disseminations.

Acknowledgements

The Civil Justice System and the Public was a collaborative project made possible because of the contributions of many individuals. We wish to thank all of the people who have talked with us about their views and experiences of civil justice in Canada. We also thank our Research Partners; Research Directors Lois Gander, Diana Lowe, Teresa Rose and Barbara Billingsley; and each of the Research Assistants who have contributed to the team. We are grateful to the Alberta Law Foundation, Social Science and Humanities Council of Canada, and the Law Foundation of British Columbia who have provided the funding for this project. We continue to collaborate with and learn from our partners as we work to bring about positive change to our systems of civil justice.

The Civil Justice System and the Public Project¹

This paper celebrates the success of the *Civil Justice System and the Public* (CJSP), a national collaborative, interdisciplinary and community-driven action research partnership. The project provides an inspiring example of the power of collaborative action research to mobilize knowledge and generate multi-directional teaching and learning that can lead to positive policy and program change.

From conception, the CJSP has been a groundbreaking venture. The success of the project is due to the commitment of the collaborative partnership and the belief of the many participants in access to justice for all Canadians. The civil justice system is a fundamental and far-reaching component of Canada's system of democracy, but historically, issues of civil justice have been subordinated to criminal justice in terms of investment, research and media attention. During the last decade, however, there has been increasing international recognition of the importance of civil justice systems, which give essential definition to inter-personal relationships, and provide structured processes crucial to the maintenance of citizens' rights and the peaceful resolution of private disputes. In Canada, complex layers of systems, organizations and players have developed independently in each province and territory, as well as federally, providing significant challenges to communication, research, collaboration and reform on a national scale.

The vision for and convening of the CJSP were advanced by the Canadian Forum on Civil Justice (the Forum), a non-profit, independent, national organization with a mandate to bring together the public, the courts, the legal profession and government in order to promote a civil justice system that is accessible, effective, fair and efficient. The Forum was established in response to recommendations of the Canadian Bar Association *Task Force Report on the Systems of Civil Justice* (1996), which underlined delay, affordability, and lack of public understanding as major barriers to access to justice. As an early CJSP dissemination stated:

Our research begins with the belief that improved communication is key to reducing these barriers. We believe that improved communication will, in turn, open the door to involving the public directly and productively in civil justice reform. Our hope is that the system will be able to respond effectively when public needs are clearly communicated. The *Civil Justice System and the Public* is a collaborative research program designed to involve both the public and the justice community in examining the current state of communication within the Canadian civil justice system and between the system and the public. The goal is to identify good practices, and to make specific and clear recommendations about improving communication. (Lowe & Stratton, 2004, p.3).

It is well established that action research is intended to promote change by engaging participants in a process of sharing knowledge that generates teaching and learning and encourages a willingness to enact change (Reason & Bradbury, 2001). Of necessity, the action component of the CJSP was strong and a wide collaboration of stakeholders essential to success. The project broke new ground in a number of ways:

- The newly created Forum was (and still is) the only national organization in Canada with an in-house research capacity in the field of civil justice, and the CJSP was the first systematic evaluation of communication within the civil justice system in Canada.

- The CJSP was the large national partnership of Canadian justice community stakeholders to come together with academic partners for the purpose of conducting research.
- The Forum was one of the first community-based organizations to be granted a Social Sciences and Humanities Council (SSHRC), Community-University Research Alliance (CURA) grant. The project was initiated and led by the practice-based interests of the justice community. Formal partners signing on to the SSHRC application included: the Canadian Institute for the Administration of Justice, the Canadian Bar Association, the Canadian Judicial Council, the Canadian Association of Provincial Court Judges, the Association of Canadian Court Administrators, the Public Legal Education Association of Canada (and member organizations), Justice Canada, the Canadian Centre for Justice Statistics, the Legal Aid Society of Alberta, the Alberta Law Reform Institute and the Yellowhead Tribal Council. This group expanded as the project unfolded.
- The collaborative action orientation and the national scope required the development of innovative methodology that promoted network building among partners and allowed them varied ways to be involved in every aspect of the research process.
- A multiple method approach was selected, with an emphasis on qualitative data from interviews, observations, focus groups and case studies. The 300 in-depth interviews that were completed, broke new ground in Canada for the use of Atlas.ti software for qualitative analysis. The software enabled us to retain a grounded approach to reporting despite the quantity of the data (Cresswell, 2004).

Teaching and Learning in Motion: A Continuing Process

An outstanding feature of the CJSP project is the multiple levels and directions in which teaching and learning has taken place throughout the project. The convenors had bold, relevant research vision, strong connections to justice community and academic partners, and considerable knowledge about the Canadian civil justice system. They needed to know more about designing research methodology and conducting field research. The Research Coordinator they hired to provide this knowledge knew nothing about Canadian civil justice systems. The mutual teaching and learning process that ensued was invaluable to the quality of the developing project and to the nuances of communication among such a diverse group of partners and participants. The following are some of the most notable ways in which the CJSP put into motion teaching and learning exchanges that continue to reverberate:

- *The value of good communication.* At the outset of the CJSP, many members of the justice community wondered why we would focus on the issue of communication. Often, key contacts and potential participants did not initially fully recognize the roles they played in communicating about the civil justice process either among the justice community or with the public. The action design of the project encouraged questioning of the issue and the participants' role, underlining the potential even an individual can have to positively influence the access to justice process. It is now rare to be asked why we think good communication within the system, as well as between the system and the public, is an important aspect of access to justice.
- *Collaborative teaching and learning with students.* The CJSP field team comprised of law and social science graduate students from a variety of disciplines (19 students over the duration of the project).² These students learned hands-on about every stage of applied research, including disseminations.³ Furthermore, team members taught each

- *Increased understanding and valuing of evidence-based research.* The collaboratively collected CJSP data was powerful and Atlas.ti allowed us to retain context and pertinence in a wide variety of grounded disseminations. Stakeholders, recognizing their own experiences reflected in the data, became more open to also recognizing the differing experiences of others. Many CJSP partners and other justice community stakeholders have expressed increased interest in creating a base of research evidence on which to build future policy and program development, and as we discuss subsequently, several have taken action to that end.
- *Teaching and learning through unexpected outcomes.* Because collaboration is essentially a process of teaching and learning, it is never possible to fully anticipate events and outcomes. Actions and exchanges of information may precipitate unexpected events, some of which will involve tensions and challenges to be negotiated by a further teaching and learning exchange. Some unexpected outcomes can, however, be entirely positive. Stakeholder engagement in the collaborative process and interest in the CJSP data prompted some partners to ask if that data could help in answering policy and research questions beyond the specific communication focus of the project. Happily, both the data and analysis software were up to the task of investigating issue-based questions. Already pleased that the data had successfully addressed the initiating questions we were delighted to be able to also produce reports specifically related to issues such as access to justice for people with disabilities, public perceptions of the judiciary, Aboriginal experiences of civil and family justice, and social, health and economic costs of failing to find a resolution to a legal problem.
- *An ongoing commitment to collaborative process.* Bradford (2003) notes an increased interest in collaborative process among all sectors in Canada and the orientation of the CJSP reflects this. The project provided a vehicle for exploring collaborative possibilities and partners continue to express interest in working together to create effective alliances.⁴

Taking Action for Change: A Tribute to the Power of Collaboration

One of the challenges for action research is to assess and evaluate exactly what impact the process and research findings have. Successfully mobilized knowledge does its own work and ideas evolve, even during the course of an interview, as one participant observed:

Because we share experiences, it gives you ideas ... [we could] do more training in the courts, especially with front-line staff but we don't spend enough time on the interface with ... either the legal profession or the general public ... it's very important. It counts. We should insist on that – in fact, this conversation is giving me some ideas [laugh] (881, court manager, cited in Billingsley Lowe, & Stratton, 2006, p. 21).

Initial action for change generates more knowledge-sharing and the formation of new or extended alliances. The CJSP was born because the Canadian justice community and members of the public had identified the need for change and the project itself must be seen as an action

outcome. Establishing the Forum as an independent institute was a crucial facilitating step that allowed us to undertake the role and work of a neutral convenor among the many diverse and dispersed stakeholders. Such a large project clearly required considerable coordination and we identified four tracks to the collaborative work, which often occurred simultaneously and had overlap, but were nevertheless distinct components of the collaborative process (Billingsley et al, 2006⁵). Recognizing these tracks was also helpful in tracking action outcomes:

- *Project direction and partnership coordination.* Once formed, the collaborative partnership had to be maintained. One CJSP objective was to facilitate the direct sharing of information among the project partners. Initially, however, the CJSP team provided the conduit that conveyed information. In 2003, after the pilot phase of the CJSP, a Partner Symposium provided a rare opportunity for the partners to meet face-to-face and talk with each other about their respective organizations and reform initiatives. As the CJSP continued, direct communications among partners increased and new local, provincial, national, and even international alliances formed around specific interests.
- *Data collection and analysis.* This central activity included many components that involved the partner representatives and many additional members of their organizations in research actions that included: research site profiles, key contact meetings, activities to identify and engage public as well as justice community participants, short questionnaires, in-depth interviews, observation notes, analysis and interpretation of the data. Each activity was a multi-directional teaching and learning tool for all involved.
- *Case studies of good communication practices.* A component of the over-all methodology was to identify and observe examples of initiatives that were aimed at improving communication between the civil justice system and the public and thus provide models for others (see Billingsley et al, 2006 for details).
- *Getting the word out.* In the context of the CJSP, ‘dissemination’ was considered to be the entire action process of getting the word out about the research from the conception of the project and continuing after completion. We have used a wide variety of forums to accomplish this, documenting these activities in a periodically updated “Getting the Word Out: A Record of Knowledge Mobilization” made available on the Forum website. This continuing record has been a helpful way for the research team and partners to review the action activities and outcomes associated with the CJSP.

Other collaborative action research endeavours initiated by CJSP partners pay the strongest tribute to the power collaboration has to promote action for change through a process of teaching and learning in motion. This paper allows only a brief discussion of two of an ever-increasing number of initiatives for change to civil justice delivery, the British Columbia *Supreme Court Self-Help Information Centre Pilot Project* and the *Alberta Self-Represented Litigants Mapping Project*. These two projects are apt examples because they are strongly linked to the CJSP process and to each other.⁶

Supreme Court Self-Help Information Centre Pilot Project (SHIC). The SHIC was one of the CJSP case studies, beginning at the CJSP Partner Symposium where the Executive Director of the BC Law Courts Education Society shared the fledgling idea. In the wake of provincial service cuts and a concern about the number of litigants attempting to use the Supreme Court without legal representation (SRLs), the proposed SHIC was intended to provide free legal information and assistance. A large collaborative committee of civil justice stakeholders was

formed and every step of the SHIC process, including agreement to become a CJSP case study, involved the input of this collaboration. Reaching agreement among so many contrasting perspectives was not always easy, but committee members persisted until different viewpoints were successfully negotiated and the project moved forward. Part of the process included a needs assessment to ‘map’ currently available services for self-representing litigants. In April 2005 the pilot SHIC opened in the Vancouver courthouse. Both the SHIC service and the process that brought it into being have become models for justice community stakeholders across Canada.

Alberta Self-Represented Litigants Mapping Project (SRLM). One of the stakeholders interested in the SHIC model was Alberta Justice Court Services. Alberta Justice was not one of the formal partners at the outset of the CJSP but became an increasingly active partner as the project developed. Also concerned about the increasing number of SRLs, the Ministry formed a Self-Represented Litigants Advisory Committee and sent a delegation to visit the recently opened Vancouver SHIC. Subsequently, Alberta Justice asked the Forum to assist them in establishing collaborative NGO committees to discuss the possibility of conducting a mapping process to document current SRL services and to better understand how to address gaps and shortcomings in those services. As a result of these consultations, in 2006, the Forum acting on behalf of the NGOs, successfully applied to the Alberta Law Foundation for funding to conduct the collaborative mapping research, which was then matched by funding from Alberta Justice. The SRLM was completed in that year (Stratton, 2007) and by June 2007, Law Information Centres (LInCs) had been opened in Edmonton, Calgary and Grande Prairie. Members of the SHIC committee, as well as the BC Attorney General were, in turn, interested in the SRLM process as they continued to push ahead with innovative changes to the civil justice system. Alberta stakeholders liked the research approach used in the SRLM and the Alberta Law Foundation suggested the Forum develop a proposal for a large-scale and comprehensive research mapping of all Alberta legal services. This forward-looking collaborative project is now underway.

Into the Future: Research in Action

In 2006, ten years after the *Systems of Civil Justice Task Force Report* (Canadian Bar Association) the Forum hosted a two-part national conference for civil justice system stakeholders, many of who had, in a variety of ways, participated in the CJSP. The Conference had three objectives: 1) to provide an update on the status of civil justice reforms nationwide; 2) to identify barriers preventing effective change from occurring; and 3) to consider novel approaches to reform that respond to the current and future needs of Canadians. The final session of the Conference challenged participants to think about the future. What immediate and long-term objectives should be set? What avenues or mechanisms for reform hold the most promise? What is needed in order to move forward with reform at this juncture? Who should take leadership? What are the next steps? These questions elicited significant talk about the need for more research — for quantitative and qualitative empirical data that will help us to better understand the civil justice system, identify the public needs and expectations, point the direction that reforms should take, garner support for concrete change and evaluate the success of the initiatives that are undertaken. During that session participants took part in an exercise to demonstrate the many networking links that had now been formed among participants. As string passed back and forth among the participants, linking some many times to others an impressive web was formed – one that did not exist ten years ago.⁷

The CJSP was only one part of the commitment to change and collaboration that created this climate of networking among the Canadian civil justice community, but the web showed that it was an important factor. Collaborative action is always challenging, never easy, but the CJSP experience convinced stakeholders that it is well worth the effort and the way to a future in which the goal of a civil justice system that is accessible, effective, fair and efficient can be achieved.

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² Billingsley, Lowe & Stratton (2006), provides an overview of the project and includes details about the research team in Appendix C, available at <http://cfcj-fcjc.org/publications/cjsp-en.php#13>.

³ Six of the students authored articles for *News & Views on Civil Justice Reform #7 Special Issue* (Summer 2004), available at <http://cfcj-fcjc.org/publications/newsviews-en.php#issue7>.

⁴ An example of this is the creation of a *Living Document for Creating Collaborative Alliances for Change* (Stratton, forthcoming) that can provide justice community stakeholders with some concrete assistance in forming and maintaining successful collaborations.

⁵ Billingsley et al (2006) provide a much more detailed explanation about the evolving recognition, naming and nature of these distinct tracks.

⁶ The following accounts of these inspiring projects are necessarily brief. Billingsley et al (2006) provides a longer overview of the SHIC project, and a full case study report is pending. Research reports for the SHIC can be found at http://www.lces.ca/self_help_information_research/. The SHIC website is <http://www.supremecourtselfhelp.bc.ca/>. The SRLM report (Stratton, 2007) and information on the *Alberta Legal Services Mapping Project* are available on the Forum website. The LInCs webpage is <http://www.albertacourts.ab.ca/CourtServices/LInCLawInformationCentres/tabid/275/Default.aspx>

⁷ Details about the *Into the Future: The Agenda For Civil Justice Reform* are also available from the Forum website.