

The Data Deficit: The Case For Improving Court Records For Future Access To Justice Research

What role do courts and court processes play in access to justice?

In order to learn more about users' experiences with our court system – a public first approach— the Canadian Forum on Civil Justice conducted a study of 495 unresolved civil cases.

The case records examined can mainly be categorized as...

Civil

General Civil (24%)

Non-Family

Personal Injury (76%)



96% were Motor Vehicle Accident (MVA)

- Started in 2012 and had no activity on record beyond 2013
- Filed in the Supreme Court of British Columbia

Following our review we discovered that...

The case files lacked a lot of the information that our researchers needed to:

1. Initiate contact with claimants
2. Assess claimants' experiences
3. Determine claimants' level of satisfaction with the court system

Of the case records examined...

- Only 50% included a specific address for the claimant(s) on a hard copy of their documents. Furthermore, the address information was unreliable in many cases
- In 76% of the cases, the claimant's community (but not the specific address) was listed on the case files
- For 62% of cases, the only document on file was the Notice of Civil Claim
- In 32% of cases, the only documents on file were the Notice of Civil Claim and Response to Civil Claim
- Only 10% of the case files had information on the size of the claim
- For the case types examined, 35% of the files in the Supreme Court electronic database included no recorded final event.

There are several ways that court records could be improved for future access to justice research...

These are some recommendations:



Oversight that ensures that court records are current, accurate and reflect the processes used to resolve the case

Creating "Research Access Agreement" forms for dissemination through court service agencies



More consistent filings of Notices of Discontinuance

Mechanisms that facilitate the identification of the types of cases – individual, small business, corporate and other cases types— included in the "General Civil" case category

Revising the Notice of Civil Claim form to include contact information



Collecting information related to the use of non-court and court adjunct resolution processes

Collecting information about changes to the types of dispute resolution processes offered to claimants by insurers

Instituting methods of consent-gathering, that include an explanation of consent forms, when people use court services or justice programs

READ THE FULL REPORT AT

<http://www.cfcj-fcjc.org/cost-of-justice>

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“This research ... by the Canadian Forum on Civil Justice will be essential in helping us understand the true extent of the problem of cost and how it impacts on the justice system. I believe that it will prove to be of great assistance to ... identify concrete solutions to the problem of access to justice.”

– The Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada (2011)

The Canadian Forum on Civil Justice is a national not-for-profit organization dedicated to civil justice reform and access to justice research and advocacy. Established by the Canadian Bar Association and affiliated with Osgoode Hall Law School, the CFCJ envisions an accessible, sustainable and effective justice system for all Canadians.

Overview of the Cost of Justice project. The Cost of Justice project (2011-2017) examines the social and economic costs of Canada’s justice system. It is guided by two questions: What is the cost of delivering access to justice? And what is the cost of not delivering access to justice? Comprised of leading researchers investigating various dimensions of access to justice and cost across the country, the Cost of Justice project is producing empirical data that will inform the future of access to justice in Canada and abroad. The lead research team includes: Trevor C.W. Farrow (Principal Investigator), Nicole Aylwin, Les Jacobs, Lisa Moore, and Diana Lowe.

The Cost of Justice project is funded by a \$1 million grant from the Social Sciences and Humanities Research Council of Canada. For more details please visit Canadian Forum on Civil Justice, “Cost of Justice”, online: CFCJ <www.cfcj-fcjc.org/cost-of-justice>.



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