




Canadian Forum on Civil Justice 
Forum canadien sur la justice civile

DISCUSSING THE FUTURE OF ACCESS TO JUSTICE RESEARCH

Law & Society Association Annual Conference

June 3, 2016

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Access to Justice Landscape in Canada



Cost of Justice Project





Canadian Forum on Civil Justice The “Cost of Justice” Project

The Research

- SSHRC CURA Grant
- 5 Year Empirical Study
- Two main questions:
 - i. What is the cost of delivering an effective justice system?
 - ii. What is the cost of not delivering an effective justice system?

“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 ... identifying ... concrete solutions to the problem of access to justice.”

- Rt. Hon. Beverley McLachlin, P.C.





Canadian Forum on Civil Justice The “Cost of Justice” Project

WHAT IS ACCESS TO JUSTICE?

200 semi-structured interviews with residents of Toronto aimed at exploring how ordinary Canadians understand access to justice.

PARALEGALS AND ACCESS TO JUSTICE: A CASE STUDY OF RESIDENTIAL TENANCY DISPUTES IN OTTAWA

A case study that explores and analyzes the role of paralegals in Ontario’s residential tenancy dispute resolution system





Canadian Forum on Civil Justice The “Cost of Justice” Project

THE COST OF CIVIL JUSTICE ATTRITION IN BRITISH COLUMBIA’S COURTS

A study that aimed to examine the outcome of unresolved, civil, non-family cases in the British Columbia Supreme Court

EVERYDAY LEGAL PROBLEMS AND THE COST OF JUSTICE IN CANADA

A national study that includes a survey of over 3000 Canadians that measures the costs to the state and to Canadians of experiencing a civil or family justice problem



Discussion Clusters

- Legal Needs Research: Opportunities & limitations of the “problem centered” approach.
- What Does the Everyday Legal Problems data tell us? What doesn't it tell us?
- Measuring Legal Needs and A2J
- What's next in A2J Research



LEGAL NEEDS RESEARCH OPPORTUNITIES & LIMITATIONS OF THE PROBLEM-CENTERED APPROACH

OPPORTUNITIES

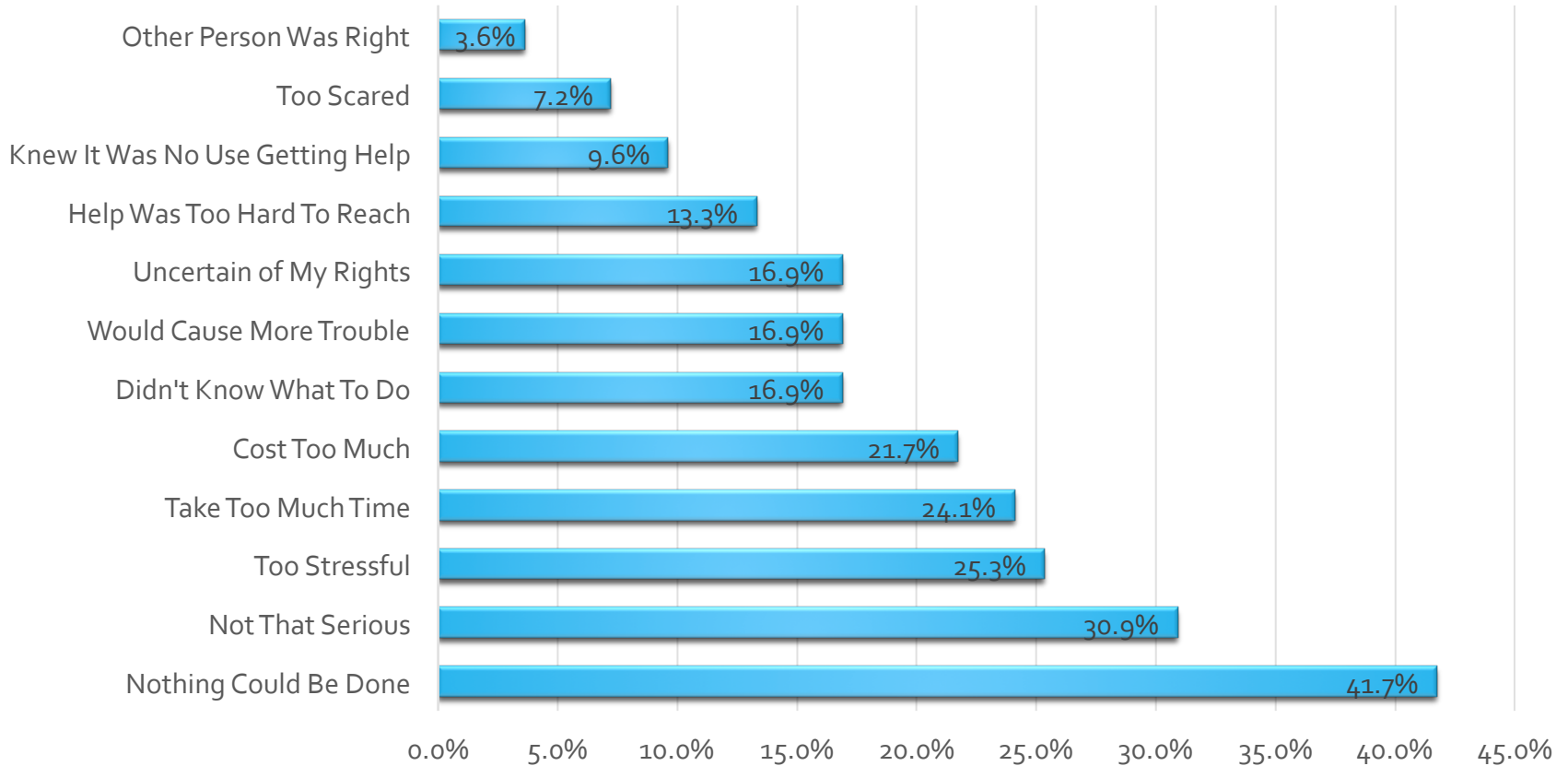
- Contextualizing legal problems
- Systemic vs. personal barriers

CHALLENGES/LIMITATIONS

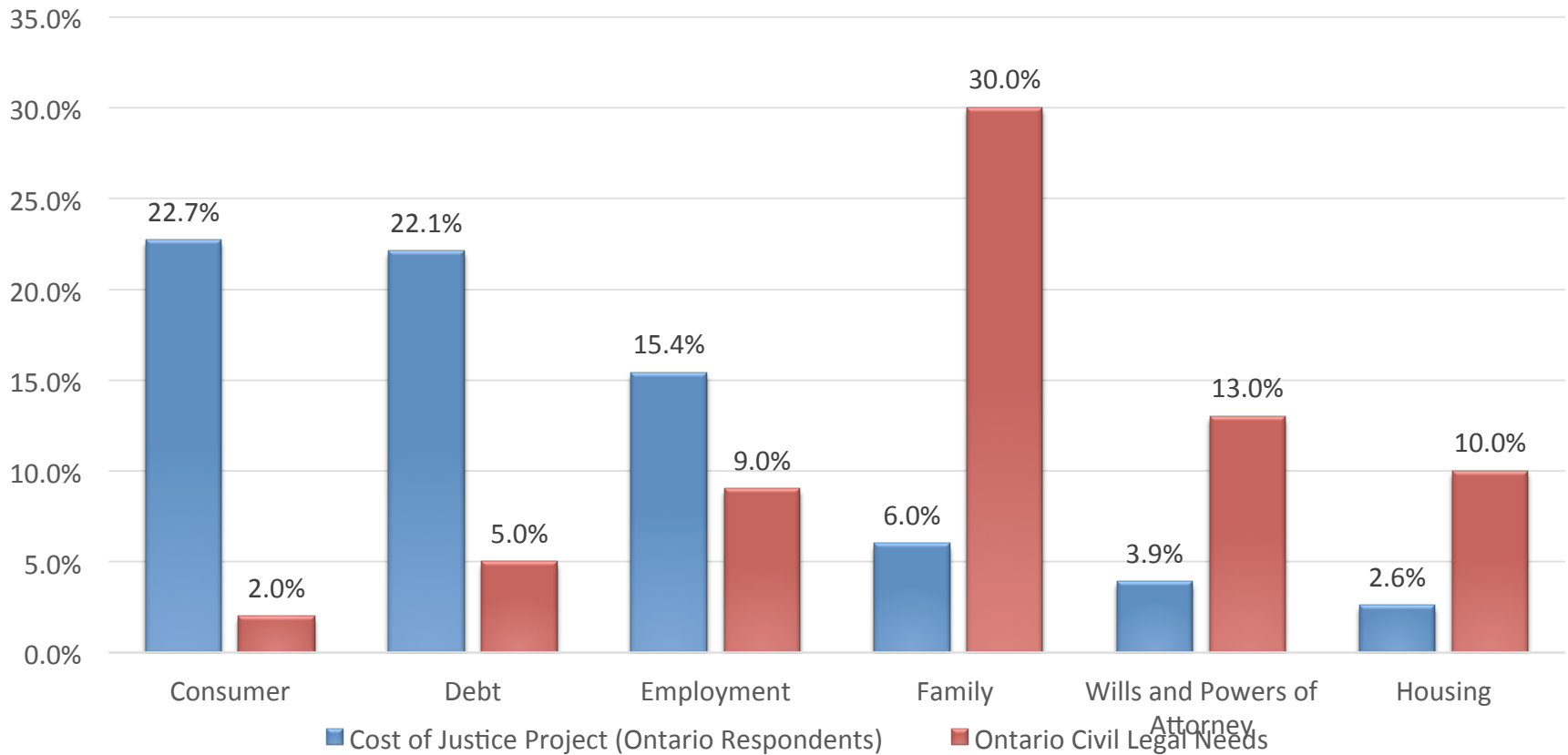
- Self-reporting
- Measuring cost in legal needs surveys
 - Outliers in the data
- Question generation



REASONS CITED FOR INACTION



COMPARISON OF PROBLEM CATEGORIES

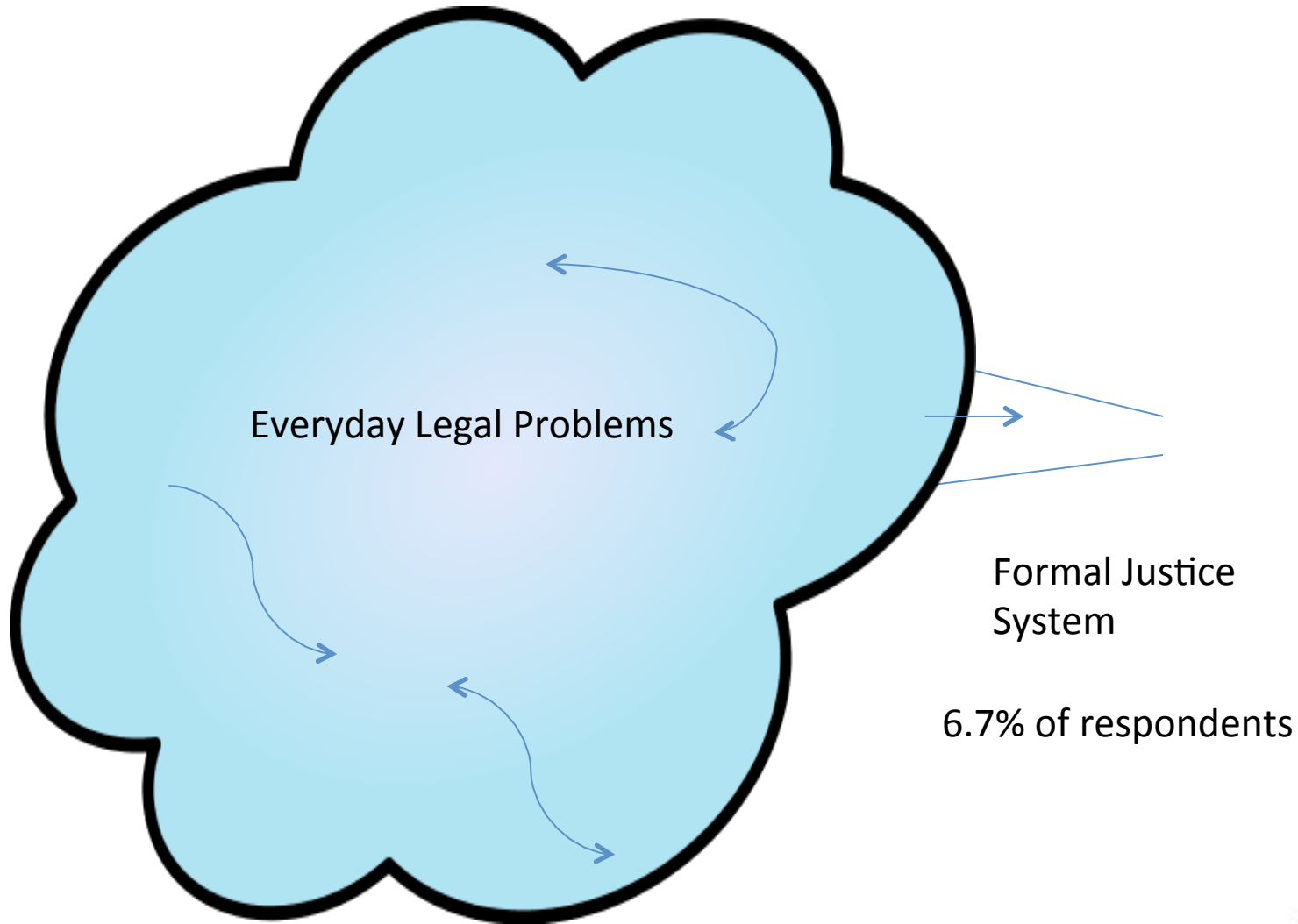


WHAT THE EVERYDAY LEGAL PROBLEMS DATA TELLS US

- ❑ Why People Don't go to Lawyers
- ❑ Developing Legal Capability Among the Public
- ❑ Achieving Outreach to Identify People with Legal Problems and Meet Legal Needs



LEGAL PROBLEMS EXPERIENCED BY THE PUBLIC



MEASURING LEGAL NEEDS AND ACCESS TO JUSTICE

- ❑ What do we measure?
 - ❑ The significance of what we measure
- ❑ Research audiences and the tensions between academic vs. policy-based research
- ❑ Strategies for addressing the bridge between academic and policy-based research



SIX PILLARS OF MEANINGFUL ACCESS TO JUSTICE

- ❑ Person-centred (as opposed to service or system-centred)
- ❑ Justiciable Problem-Focused
- ❑ Few of these problems are resolved in the formal justice system.
- ❑ The emphasis should be on trying to get upstream on these problems and in effect be proactive and take preventative measures
- ❑ How ordinary people understand and make sense of law and legality—their legal consciousness—is of fundamental importance to if and how they address their legal problems
- ❑ Within a problem-centred approach to access to justice, what matters for fair outcomes and fair processes are the paths to justice or legal journeys people take, and not so much the opportunities for legal advice available to them



RESEARCH INSTRUMENTS AND APPROACHES

- ❑ Surveys versus more ethnographic-type research
- ❑ Mixed Methods Approaches
- ❑ Surveys as Snapshots of Legal Needs versus Large Scale Longitudinal Studies



WHAT'S NEXT IN A2J RESEARCH

- ❑ Lessons learned for future A2J research
 - ❑ Measurement and legal innovation
- ❑ Adapting survey methodology and data collection to the 21st century
 - ❑ Open and Big Data





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Questions?

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