Civil Justice System and the Public
Learning from Experiences to find
Practices that Work

May 2006

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Table of Contents

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The Prologue
Capturing the *Civil Justice System and the Public* (CJSP) Story

The purpose of this report is to provide an overview of the *Civil Justice System & the Public* research project (the "CJSP") undertaken by the Canadian Forum on Civil Justice and several research partners from 2001 to 2006. The CJSP was an ambitious and complex project, spanning several years and involving a multi-tracked, multi-party evaluation of communication practices in the already complex arena of Canada's civil justice system. Designed as collaborative action research, this was not a static project: over the course of five years, the project objectives and research processes continuously evolved as the research produced new and better information about various aspects of communication in the civil justice system. Getting the word out about the project, what is often termed "dissemination activity," began with the project inception, has continued throughout the research process and is ongoing.

The complexities of the CJSP make linear reporting of the project a difficult task. Nonetheless, at the risk of over-simplifying some aspects of the project, this report attempts to isolate and describe the primary features of the CJSP, including:

- project origin, objectives and parameters (working definitions);
- infrastructure and administrative matters;
- research philosophy, process and methodology;
- research findings; and
- principles for changes in communication practices.

By addressing both substantive and procedural aspects of the CJSP, this report is intended to be useful to a wide variety of readers, including the CJSP Research Partners, the funding agencies that contributed to the CJSP, and all persons interested in evidence-based social science research and civil justice reform.

By design, the information in Part I, Part II and most Appendices of this report is presented in the past tense, being mainly descriptive of the manner in which this research project was conducted. The remaining sections of this report are presented in the present tense, reflective of the fact that interpretation, presentation and discussion of the CJSP results are ongoing and are intended to continue to have an impact on the civil justice community.

Part I: Where We Began

A: How the CJSP Was Launched

The civil justice system is a fundamental and far-reaching component of Canada's legal system. It encompasses divorce and family matters, consumer and contract claims, negligence claims, government services and the enforcement of human rights. In short, the civil justice system gives essential legal definition to inter-personal relationships and provides crucial structured processes for the peaceable resolution of private disputes.

While recognizing the vital role served by Canada's civil justice system, many studies pre-dating the CJSP concluded that this system is in need of reform.[1] Chiefly, these studies identified problems of increasing costs of civil litigation, growing delay in civil litigation, lack of public knowledge about the civil justice system, and complex civil laws and procedures, all of which give rise to mounting dissatisfaction amongst users of the civil justice system. These problems were also noted to have a particularly negative impact on cultural and linguistic minority communities, poor or disabled persons, women, and Aboriginal Canadians. The studies typically concluded with proposals for reducing litigation cost and delay and with recommendations for improving public understanding of and participation in the civil justice system. Ironically however, while recognizing the need for more public input into civil justice reform initiatives, most of these studies themselves involved minimal public participation.[2] Accordingly, past

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[1]The primary Canadian study on point was conducted by the Canadian Bar Association in 1996. See: Task Force on Systems of Civil Justice, *Report of the Canadian Bar Association Task Force on Systems of Civil Justice* (Ottawa: The Association, 1996), online: Canadian Bar Association http://www.cba.org/CBA/cba Reports/pdf/systemscivil *tfreport.pdf* . Other provincial studies include: *Civil Justice Review: Supplemental and Final Report* (Toronto: Ontario Civil Justice Review, 1996); *Manitoba Civil Justice Review Task Force Report* (Winnipeg: Government of Manitoba, 1996); and *Strategic Reforms of British Columbia's Justice System* (Victoria: Government of British Columbia, 1997). There have also been studies of civil justice outside of Canada, most notably the "Woolf Report": Lord Woolf, Access to Justice: *Final Report to the Lord Chancellor on the Civil Justice System in England and Wales,* (London: Her Majesty's Stationery Office, 1996) and S. Parker, *Courts and the Public* (Carlton South, Victoria: Australian Institute of Judicial Administration Incorporated, 1998).

As a starting point for the research project, an annotated bibliography was created of literature from Canada, the United Kingdom, Australia, New Zealand and the United States regarding the relationship between civil justice systems and the public served by these systems. These bibliographies included both published and "grey" literature that is not formally published and which are sometimes confidential or quasi-confidential in nature, when that was available for review. These bibliographies confirmed that, while the relationship between the public and the civil justice system had been studied to some extent in other commonwealth countries, virtually no attention had been given to this topic in Canada. The bibliographies also helped to identify research processes which had been used in other studies and communication issues which were implicated in those studies. A report (working title "Communication With the Public About Civil Justice: A Review of the Policy and Research Literature") is currently under review and will be made available on the Forum website once released (http://www.cfcj-fcjc.org/publications-cjsp.htm). The annotated bibliographies and list of references is available from the Forum upon request.

[2] See footnote 1, supra for the sources on which this conclusion is based. This review of literature suggests that past Canadian research and consultation about civil justice has been particularly weak in terms of both a focus on communication issues and meaningful inclusion of public opinion.

studies of Canada's civil justice system illustrated the need for a national research project focussed on obtaining the views of the Canadian public – the users of the Canadian civil justice system – about how the civil justice system is working now and how the system could be reformed to work better. The CJSP was designed to fulfill this need through Canada's first nation-wide, evidence-based[3] study of the state of communication between the civil justice system and the public.

The CJSP was initiated in 1999, with research actively commencing in 2001. Inspired in part by the 1998 Parker study which concentrated on communication practices in the civil justice system in Australia,[4] the CJSP was founded on the belief that a lack of effective communication within the civil justice system, and between the civil justice system and the public, is a significant barrier to access to justice. The focus of the CJSP was therefore on gathering knowledge which would allow for a better understanding of communication, with the hope that improved communication would lead to increased public involvement, increased responsiveness of the system to public needs and expectations, and ultimately increased public access to the system.

B: The CJSP Goals

Designed to obtain evidence-based data about the state of communication between the civil justice system and the public, the central objective of the CJSP was to improve communication between the civil justice system and the public so that in the future specific and clear recommendations could be made for effectively changing the civil justice system to become more responsive to public needs. This main objective encompassed a number of other specific goals, including:

- bringing a public voice into civil justice reform initiatives;
- fulfilling the need for national, evidence-based information regarding the public perception of the civil justice system;
- serving as an example of an innovative approach to the study and process of civil justice reform;
- assisting in the building of public confidence in the civil justice system by seeking direct public input on civil justice reform issues;
- identifying public perceptions of good communication practices between the civil justice system and the public;
- promoting future research by bringing together and forming a civil justice research network amongst research partners who share a concern for civil justice reform but who have been separated by geography, jurisdiction and discipline;
- enriching university curricula and teaching through the development of

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[3]The term "evidence-based" is used here to reflect a qualitative as well as a quantitative research methodology. See Part II.

[4]S. Parker, *Courts and the Public* (Australian Institute of Judicial Administration Incorporated, 1998).

educational resources in law, judicial administration and public administration;

- promoting sharing of knowledge and expertise among members of the community involved in court administration, academics, court users and the general public.

Each of these goals was served not only by the data ultimately obtained from this study, but also by the ground-breaking infrastructure employed by the CJSP (which involved an unprecedented nation-wide partnership of players from all sectors of the civil justice system)[5] and the collaborative, action-based design of the research methodology.

Part II: A Methodology for Collaboration and Action

A: The Underlying Philosophy

The CJSP was founded on the belief that meaningful change to Canadian systems of civil justice could only occur in the context of a committed partnership of key stakeholders in those systems. In keeping with that core belief, the project was built on a social constructionist philosophy of research theory and methodology. This philosophy holds that all knowledge and understanding are mediated by social experiences, statuses and interactions. The approach entails several understandings which provided the foundation for the CJSP methodology. These understandings are that:

- communication within the civil justice system and between the civil justice system and the public includes the active participation of all involved parties for the purpose of sharing knowledge by various means, including formal education and informal learning of all kinds;
- a research approach grounded in the real experiences of participants in the civil justice system is required in order to tap the rich knowledge of these participants about the workings of the civil justice system;
- recognition of the richness of knowledge of the diverse range of participants in the civil justice system is key to gaining useful knowledge about the workings of the civil justice system;
- knowledge about communication between the courts and the public will emerge from the data acquired throughout a grounded research process;
- using knowledge generated from the ground up, it will be possible to identify constructive and effective practices for improving communication within the courts and between the courts and the public;
- the diversity, complexity and fragmented nature of the civil justice

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[5]See Appendix A for an overview of the project infrastructure and Appendix C.3 for a list of the project partners.

system's organization necessitates a multi-faceted research protocol;

- the diverse learning styles and capacities of members of the public and members of the civil justice system to receive, absorb and act upon new information necessitates a multi-media approach to the dissemination of research data, conclusions, and recommendations;
- while the relationship between the courts and the public is currently incompletely theorized, the synthesis of relevant and useful existing theories will help to advance the development of appropriate new understandings; and
- the development of research theory, research methodology and practical application of research results cannot occur in isolation from one another.[6]

Drawing on these understandings, the CJSP chose and developed a multiple-method "collaborative action research" study design. For the purposes of the CJSP "action research" was understood as a process of studying communication within the civil justice system and between the system and the public which, by its approach to raising awareness among those involved in and affected by the research, begins to improve these lines of communication and open the doors to possibilities for future improvement.

"Collaboration" was defined as working together in a cooperative, equitable and dynamic relationship, in which knowledge and resources are shared in order to attain goals and take action that is educational, meaningful and beneficial to all. It is understood that this definition entails that research is conducted with, and not on, the community; and that all collaborators have different but equally important knowledge and resources to share and gain from each other.[7]

B: The CJSP - A Working Model

1. Working Definitions and Parameters

In addition to definitions of "action research" and "collaboration" previously described, the scope and the methodology of the CJSP required a further set of working definitions

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[6]This philosophy and the development of the study methodology were first documented in "A Working Document for the Civil Justice System and the Public Research Project," which was developed as an early consultation tool for use by the Research Coordinator, Research Directors and Project Partners. It is available at: http://www.cfcj-fcjc.org/research-cjsp-working_doc.html .

[7] Ibid. The Research Directors recognized the importance of defining what was meant by "collaboration" at an early stage of this project. Teresa Rose and Mary Stratton have written a paper "How Collaborative is Collaborative?" (forthcoming - draft version available upon request), that focuses in-depth on the theory and practice of collaborative action research in the context of the CJSP.

agreed upon by the Research Partners.[8] Intentionally broad in scope, these definitions were:

- **Civil Justice System**: includes not only the court system, but those working in the court system, and service providers outside of but integral to the court system.[9]

- **Communication**: the active participation of all involved parties for the purpose of sharing knowledge by various means that include formal education and informal learning of all kinds. Imbedded in the process are various aspects which include informing the public about the civil justice system, communication between various components within the civil justice system, and interactive communication where the public communicates with the civil justice system.[10]

- **The Public**: not a homogeneous group of individuals but rather a diverse collection of individuals and groups with varying social characteristics and needs, including users and potential users of the civil justice system. For the purpose of public interviews, the CJSP sought out members of the public who had been involved in a civil case, taking the position that, based on their experiences, these individuals were best able to answer questions about the civil justice system.

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[8] During the course of the CJSP project, the importance of taking the time to agree on a set of definitions has been underlined quite heavily. Unfortunately, a considerable amount of available research about justice systems in Canada has not included even basic concept definitions. See Mary Stratton, " Public Perceptions of the Canadian Judiciary, available at: http://www.cfcj-fcjc.org/publications-cjsp.htm

[9] This definition was elaborated upon in the Interview Guide for Public Participants (see Appendix E), as follows: By 'civil justice', we don't mean the criminal courts. We mean the courts that deal with cases like family law, child welfare, injuries from accidents, property disputes and wills and estates. By 'system' we include everyone who has a role in civil court proceedings, such as judges, lawyers, other people who work at the courthouse, native and other support workers, services such as Legal Aid, government and public legal education groups.

[10]This definition of communication was elaborated upon as follows in the Interview Guide used by the CJSP (see Appendix E) to specifically include every way in which you discuss, receive, or convey information. This may include any of the following:
- ► direct meetings and conversations
- ► telephone, e-mail, memos and letters
- ► handing out or sending of brochures and other materials
    a) which you created, or
    b) you did not personally create
- ► providing or interpreting judicial orders, directions and decisions
- ► information placed on a web site
- ► referrals to or from other services
- ► the posting of directions around the court house

2. Research Questions

An important step in the CJSP methodology was the development of broad research questions to convey the overall focus and intent of the research inquiry. Four central research questions emerged, each with associated sub-components:

1.   *What is the current state of communication between the civil justice system (broadly defined) and the public about being involved in a case in the civil court system?*
     •   What methods of public communication exist?
     •   How well do these existing methods of communication work?
     •   Has there been an experience of change over time in the methods of communication?
     •   Who is communicating what, and to whom?
     •   How does the civil justice system go about determining the needs and expectations of the public?

2.   *How is that communication experienced by:*
           (a) people within the system?
                   among each other?
                   with the public?
           (b) the public?
     •   How does the civil justice system respond to identified needs and expectations of the public?
     •   How do those working within the civil justice system communicate among themselves regarding communication with the public?
     •   What methods of public communication is the public aware of?
     •   What opinions do the public hold about methods of communication (or lack of these)?
     •   What works and why? From an institutional perspective? From the perspective of the public?
     •   What concerns exist about current communication practices?

3.   *What can be done to improve communication between the civil justice system and the public?*
     •   What are identified as constructive and effective practices?
     •   How can systems be developed to increase effective practice?
     •   How can these be further enhanced?

4.   *In the process of answering the above questions, do other issues emerge that have import for other components (including agencies, systems,*

outcomes) of the civil justice system?[11]

Once agreed upon by the Research Partners, these four main questions became the core guide for the development of more detailed data collection tools in the form of short questionnaires and guides for key contact meetings, observation notes and interviews.

3. Tracking the Multiple Aspects of Collaborative Action

The CJSP was an ambitious project and understandably required that an extensive project infrastructure be maintained.[12] As the methodology for this large-scale project developed, so did the complexity of coordinating the project while also maintaining the promise of collaboration. The commitment to the principles of action research also meant that many relevant activities occurred simultaneously within an extended time period between 1999 and 2006.[13]

Such a complicated project is difficult to conceptualize and does not lend itself to a simple description or diagrams. In order to describe the project coherently to the Research Partners and other civil justice system stakeholders, the Research Team developed a "History and Visioning Wall" in the form of a very large coloured poster that recognized and portrayed the time lines of four distinct but overlapping tracks of activity in the conduct of the CJSP project. In March 2003, with data collection in Alberta already completed and preparation for visits to the national research jurisdictions under way, a Partner Symposium was organized. This Symposium was designed to bring together the academic and community partners, creating an opportunity to build relationships, enhance understanding of the research project to date, and plan for the next steps. The History and Visioning Wall was first used during the Partner Symposium, and subsequently to describe the project in presentations at the IAP2 Conference in April 2003 and at the CUExpo in May 2003.[14]

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[11]This question was included in recognition of the fact that, given the interrelated nature of the various parts and functions of the civil justice system in its broadest sense, issues would likely emerge in the research that would relate to the elements of the overall system beyond matters of communication and even beyond the court process.

[12] Details about the project infrastructure are set out in the Appendices. See Appendix B for details about funding and Appendix C for details about the Research Team (including the Research Directors, Research Partners and Research Assistants).

[13] The dates are broader than the period of funded research, as these activities include the process of applying for major funding (the ALF funding and SSHRC-CURA grant) and to meet action-oriented goals, will continue after the grant completion date.

[14] See "Getting the Word Out" in Appendix G.

The Civil Justice System and the Public
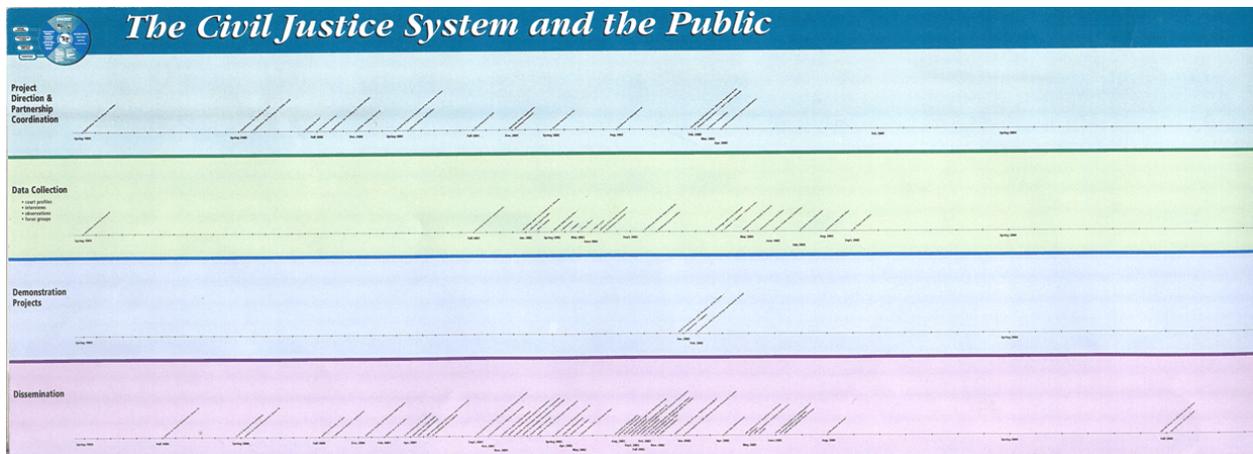
At the time of the Symposium these four tracks were defined as:[15]

- **Track 1: Project Direction & Partnership Coordination**: This initially involved developing a nation-wide research alliance including academic and community partners representing all aspects of the Canadian justice system and obtaining a high level of buy-in from these partners in order to promote improvements in communication through the research process itself. The ongoing maintenance and strengthening of the partnership has continued throughout the project, and is expected to form the foundation for future collaborations.

- **Track 2: Data Collection and Analysis**: Developing and applying research methodology to study the relationships between the civil justice system and the public, including identifying and investigating barriers and potential solutions to effective communication and civil justice reform. Applying appropriate analysis methods to the collected data.

- **Track 3: Demonstration Projects**: Developing more effective methods of communication between the civil justice system and the public by studying example initiatives aimed at improving communication between the system and the public. Following the Partner Symposium, selected initiatives became known as " Case Studies" which would serve as models for making concrete recommendations for improving communication and ultimately access to civil justice. Track 3 is now referred to as "The Case Studies: Models of Good Practice."

- **Track 4: Dissemination**: Considered to be the entire process of "getting

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[15] Collaborative Action Research is by design a tool for reflective thought and learning. As thinking about the project evolved, so did the terms used to convey its concepts and purposes. For example, the initial funding application referred to "pilot projects of best practices", which were later referred to as "demonstration projects" and finally as "case studies".

the word out" about the CJSP including providing information to the civil justice community on an ongoing basis and in a variety of forums, about the CJSP, purpose, organization, methodology, findings and future implications. For the purposes of this report Track 4 is referred to as "Getting the Word Out."

The activities in each of these four tracks were essential pieces of the overall project plan and are now considered in more detail.

C: Track 1- Project Direction & Partnership Coordination

Fundamental to establishing the direction of the CJSP and to implementing the research methodology was the establishment and maintenance of the project infrastructure (see overview in Appendix A), which meant securing project funding (see Appendix B), and finding and coordinating the Research Team (see Appendix C), including a large network of academic and community research partners representing all aspects of the Canadian justice system.

The Research Directors met often throughout the term of the project. They gave direction, reviewed data, identified themes, and participated in knowledge mobilization activities including writing and presentations.

Maintaining the nation-wide research alliance and obtaining a high level of buy-in from the partners was integral to ensuring a collaborative action project that could succeed in promoting improvements in communication through the research process itself. Activities to achieve this goal commenced with the intent to apply for funding and included initial telephone calls and meetings, involving partners in reviewing draft application before they formally signed on, e-mail and letter updates, developing the Working Document, input into the development of the research instruments, participation in an action research workshop focussing on partnership networks, two Partner Surveys, the Partner Symposium, key contact meetings, involvement in the field research, and presentations at conferences and meetings of the partner organizations.

D: Track 2 - Research Action in the Field

Because a social constructionist philosophy values experiential knowledge from multiple points of view, it requires the use of research methods capable of capturing the "quality" of perceptions and descriptions obtained from civil justice system stakeholders about their personal experiences of the system. For this reason the approach tends to rely most heavily on "qualitative research", which refers to data collection methods that attempt to capture the richness of context, particularly by the use of in-depth interviews. The central data collection method for the CJSP employed interviews that used a series

of open-ended questions and prompts to help guide the interview. These interviews were all taped and transcribed, preserving the words of each participant and providing incredibly rich data.

A research design that employs more than one way of collecting data (multiple method[16]) helps to reduce the potential for biased findings and aids with unravelling and understanding tensions that arise from the inclusion of many perspectives.[17] In addition to the in-depth interviews, the multiple-method design employed for CJSP included a literature review, research site profiles, key contact interviews, short questionnaires, researcher observations, focus groups, case studies and a separate but associated exploratory study of civil justice coverage in newsprint media.

1. Research Site Profiles

The selection of research sites was especially critical because of the complex structure of Canada's civil justice system. In each province or territory, civil disputes are heard by several levels of court and, in some provinces, specialized courts exist for particular types of disputes (e.g. family law or probate matters). Further, in each province or territory, courts operate both in permanent and circuit locations. Given such systemic complexities, a truly random sampling of civil justice system participants would be impossible to achieve. Clearly, it would also be impossible for the Research Team to visit every court location in Canada. Site selection was therefore a necessary prerequisite to conducting the field research.

Input from the Research Partners and the Research Directors was used to purposefully select research sites[18] that were broadly representative of the various facets of Canada's civil justice system. In particular, the sites were chosen so as to include all regions of Canada, all court levels, a variety of court sizes, rural as well as urban settings, and a range of interest in civil justice reform. This process allowed for the creation of "snapshots" of communication conditions and practices across all aspects of the civil justice system, in sites representing six regional areas across Canada as follows:

- • Alberta (the Prairies, four research sites. Alberta served as the pilot for the

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[16] In the research methodology literature, such approaches may also be referred to as "triangulation" or "mixed methods."

[17] There were 290 interviews from multiple perspectives, which of course can generate contradictory views. The potential for bias is present in all research designs and can occur in many ways: there are always questions about who was asked to participate and who was overlooked as well as who agreed to participate and who did not. Also, questions used in interviews and surveys must be carefully worded to ensure that they do not encourage a preferred answer or exclude the possibility for some responses.

[18] Research literature refers to this approach as "purposive sampling," meaning that the researchers deliberately identify and engage the participation of pre-identified sites or groups of people who can be expected to have important knowledge about the research issue.

CJSP)
- Nova Scotia (the Maritimes, two research sites)
- Ontario (Central Canada - predominantly Anglophone, three research sites)
- Quebec (Central Canada - predominantly Francophone, three research sites)
- Nunavut (the northern Territories, one research site)
- British Columbia (the Pacific Coast, two research sites)

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2. Key Contact Meetings and Identification of Participants

Prior to conducting interviews with civil justice system participants, in-person meetings were held with key contacts within the civil justice system in each of the research jurisdictions.[19] Typically, such personnel included Chief Justices, Associate Chief Justices, Senior Court Managers, Executive Directors of the local branch of the Canadian Bar Association, Legal Aid, and whenever possible, Public Legal Education (PLE) groups and Aboriginal organizations. These advance meetings were a primary action research component as they provided an opportunity to fully inform these local contacts about the objectives of the CJSP and to obtain their interest and assistance, which was essential to gaining access to justice system participants and permission to observe and conduct research inside courthouses. The meetings also provided researchers with additional background information about each research site.

Because of the success of the key contact meetings, the researchers were easily able to access participants working within the justice system.[20] The aim was to ensure that perspectives from all organizations and roles within the civil justice system were included, preferably at each site.[21] Most were very willing to take part in the interviews and the only difficulty experienced by the Research Team was the necessity to limit the number of justice community interviews to a manageable number.

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[19] During the pilot phase of the research in Alberta, both the Research Coordinator and Diana Lowe (who is well-known in the civil justice community as Executive Director of the Forum and one of the Research Directors) met with key contacts. The team believes this was important to facilitating these opportunities at the early stage of the project.

[20] We should note that while we were able to arrange interviews with members of the private Bar, this was the group within the justice community that we had the most difficulty connecting with. We believe that this was not from a lack of interest or support for our research, as we received positive feedback in discussions with individual lawyers, but seemed instead to be due to the busy nature of legal practice. When we began the project we also assumed that the private Bar would assist us to gain access to their clients, however this did not occur.

[21] See Footnote 19, supra for an explanation of purposive sampling.

Finding members of the public to talk to proved to be more challenging.[22] Researchers first needed to identify places where they might make contact with members of the public who were involved in a civil case. A variety of techniques were employed by the researchers to contact potential interview participants:

- Information tables were set up in courthouses, usually outside of courtrooms hearing civil and family cases. Individuals attending in court were encouraged to become participants when they passed by the tables. These discussions generated a variety of participants, and were particularly successful in attracting self-represented litigants.
- Legal Aid offices and private practice lawyers were approached and asked to extend an invitation to their clients to become participants. Legal Aid offices proved to be a consistently helpful source of contacts, both for litigants receiving Legal Aid and those who were denied coverage.
- Newspaper articles, and radio interviews and announcements were used in the smaller research sites. The newspaper publicity was quite successful.
- Personal contacts were employed. Sometimes this involved one participant suggesting another contact to the researchers. It also involved the researchers making personal contact with local organizations, and even hotel and service staff they came in contact with in the community.

The people that the researchers spoke with were often dealing with difficult and emotional issues and were reluctant to participate or unable to do so because of time pressure concerns. Nevertheless, researchers were ultimately successful in identifying a range of participants and completed 105 interviews with members of the public involved as plaintiffs, defendants or witnesses in civil justice proceedings. Another 185 interviews took place with people working within the civil justice system.

3. Short Questionnaires

Participants who agreed to an interview were first provided with information for informed consent.[23] They were also given a short written questionnaire (See Appendix F) which

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[22]This ran counter to prior expectations from within the justice community, where there was a general perception that the researchers would be overwhelmed with litigants wishing to tell their stories. The experiencing of gaining participation from litigants is discussed briefly in an article by Research Assistant Shannon Williams Stawnicky in Issue 7 of *News & Views on Civil Justice Reform* (available at: http://www.cfcj-fcjc.org/issue_7/FindingthePublic.pdf) and in more detail in "The Civil Justice System and the Public: Finding the Public to Talk With," a report in progress.

[23]Information for consent material was available in English, French, and Inuktitut (examples available at http://www.cfcj-fcjc.org/research-cjsp-infosheet.htm and http://www.cfcj-fcjc.org/docs/Inuktitut%20information%20Sheet%20-%20public.pdf). See Appendix F for the Short Questionnaire in English and French.

they were asked to complete before the interview took place.[24] The questionnaire was designed to gather information in quantified format and served two purposes: a) to compile background demographic information about the participants and b) to learn about their experiences and techniques for gathering legal information.

4. Interviews

The one-on-one in depth interviews with each participant provided the main source of data for the CJSP and were generally carried out face-to-face. A few interviews were, however, conducted by telephone to facilitate participants (especially members of the public) who could not meet with the researchers during the site visits. The purpose of the interviews was to document participants' perceptions of the state of communication in and with the civil justice system, and their ideas for improving communication. The interview approach used broad and neutral questions as a starting point for a conversation that encouraged participants to reflect upon and explore their knowledge and experience of the research issues[25] (See Appendix E for the Interview Questions). The role of the interviewer was to support the participants in that reflective process by encouraging them to expand on what they had already said. Interviews were audio recorded, translated to English if necessary, and transcribed verbatim in order to capture precisely how people felt and expressed themselves about these issues.

5. Observation Notes

Researchers made observation notes throughout the field research process. These notes recorded the researchers' perceptions of the physical aspects of the civil justice system at each research site (for example, the structure of the courthouse, the availability of public information documents) and the researchers' perceptions of court proceedings. Additionally, some researchers recorded observations about communication interactions inside and outside of courtrooms, and during interviews and focus groups. The purpose of these observation notes was to document symbolic communication, such as signage, body language and interaction protocols and to provide a 'third-person', essentially uninvolved perspective, on the state of

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[24]This was more successful with members of the justice community than the public. Quite often public interviews took place immediately after first contact, or it was not possible to get materials to the participant prior to the actual interview. If the questionnaire was not completed prior to the interview then researchers encouraged its completion at the beginning of the interview, administering it to the participant if that was preferred (to accommodate any literacy barriers). However, if time was an issue the interview was prioritized over the questionnaire, with a request that the participant complete and return the questionnaire later.

[25]Technically this method is known as a "recursive approach." It assumes that all members of any given community hold valuable knowledge about the issues that concern them, and that any initiatives for constructive change must incorporate these understandings.

communication between the civil justice system and the public.[26]

6. Analysis and Interpretation of the Interview Data

The interview approach achieved an enthusiastic level of participation and resulted in a wealth of data for analysis. Analysing such rich data is a lengthy and complicated process. The analysis began with the pilot data gathered in Alberta. A first step was the development of a " Thematic Framework" of common threads arising in the interviews.[27] The process began with each member of the research team independently reading a sub-set of the interview transcripts and noting themes. After the research team had identified a clear set of mutually recognizable themes and related sub-themes, these were circulated to all of the Research Partners for comment. Once agreed upon, ten major thematic areas were used to systematically code all of the interview data using Atlas.ti, a special software package designed to manage qualitative data.[28]

At the completion of the research in the national jurisdictions, each transcript was reviewed to determine whether the themes identified in the Alberta interviews continued to be applicable, and whether additional themes were also present. This review, combined with insights gained from the systematic coding of the Alberta data, resulted in the merging of some themes and the sub-categorization of others. The revised themes and the explanation for the changes were once again circulated to the Research partners, before the full analysis with Atlas.ti was commenced. The set of revised major themes is presented in Part III. A of this report, where we discuss findings from the project.

7. Media Study

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[26]Of course, no observation can be considered entirely objective, but the researchers did not bring either a user or insider attachment to their perceptions of the court context. *Family Court Coast to Coast* is a CJSP report based entirely on researchers' observations (available at: http://www.cfcj-fcjc.org/publications-cjsp.htm). See also the article by Research Assistant Graham Statt, "Dark & Stormy Night: The Power of Observation," in *News & Views on Civil Justice Reform, Issue 7*, p.10 (available at: http://www.cfcj-fcjc.org/issue_7/DarkandStormy.pdf)

[27] The CJSP report, *Talking with the Public* (available at: http://www.cfcj-fcjc.org/docs/Talking%20with%20the%20Public.pdf) provides examples of how these themes emerged, along with an Appendix of the Major Themes identified in the Alberta Data. The Alberta Major Themes are also presented in *News & Views on Civil Justice Reform, Issue 7*, p.8 (Available at: http://www.cfcj-fcjc.org/issue_7/Information.pdf)

[28] This software allows multiple people to work together on the data coding and facilitates searching the data by a wide variety of categories, such as identified themes, other keywords and phrases, specific jurisdictions and roles. See also the article by Research Assistant, James Cresswell, "Benefits of Atlas.ti Software Analysis," in *News & Views on Civil Justice Reform, Issue 7*, p.9 (Available at: http://www.cfcj-fcjc.org/issue_7/Benefits.pdf)

The literature review conducted at the outset of the CJSP research[29] showed that within the justice community there was a strong perception that the mass media has an important role to play in both educating the public about justice issues and in forming public opinion about justice issues.[30] It was also determined from the review of literature that there was little actual research that examined the civil justice content of media. As a result of this insight an exploratory study of legal content in selected newsprint media was undertaken as part of the overall CJSP program. A brief overview of this study is provided in Part III. B of this report.[31]

E: Track 3 - The Case Studies: Models of Good Practices

The third track of our research was identified in the original research proposal as demonstration projects involving "best practices" for improving communication between the courts and the public. As research proceeded it was recognized that it was more accurate and appropriate to think in terms of learning about models of "good practices" in communication. In this track of the project, the CJSP involved itself in several current civil justice reform initiatives for the purpose of identifying and evaluating efforts to improve communication in the civil justice system. The Research Team and Partners worked collaboratively with the courts and other justice organizations, to first identify suitable initiatives and then to develop relevant methods of measuring whether communication has improved. The three case studies undertaken have provided information about these specific initiatives, but more important, also provide models for designing and evaluating communication impacts in future reform initiatives undertaken in the civil justice system. A brief overview of the case studies is provided in Part III. C, and full reports on each case study are forthcoming.

F: Track 4 - Getting the Word Out

1. A Multiple-Media Approach to Knowledge Mobilization

As already noted in Part II. A of this report, the CJSP adopted a collaborative action research philosophy which holds that the entire research process is about sharing knowledge for the purpose of raising awareness (including among the researched community and the researchers). Knowledge-sharing activities extend far beyond the distribution of formal publications and presentations about "results." The purpose of the

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[29] See *supra*, note 1.

[30] This view was also present in the interviews which we subsequently undertook.

[31]This study is the subject of a separate report, *Beyond the Headlines: The Role of Print Media in Public Understanding of the Civil Justice System*, which will shortly be made available from the CJSP publications web page at: http://www.cfcj-fcjc.org/publications-cjsp.htm .

research as well as the findings from CJSP, therefore, needed to be presented in formats especially designed to be useful for the intended audience. Effectively getting the word out about the research issues necessitates employing multiple ways of mobilizing information because individuals have varied learning styles and capacities to receive, absorb and act upon new knowledge. Different organizations may also have distinct interests, needs and approaches to accepting and introducing change.

As discussed throughout Part II of this report, CJSP knowledge mobilization activities began with the drafting of the first funding proposal and have been ongoing since then. Already specifically mentioned are Partner Surveys, the Partner Symposium, key contact meetings, and the ways in which research participants were identified. Throughout the project there have been many additional activities by letter, email, telephone, in-person meetings and informal presentations that are far too numerous to list. Appendix G provides "Getting the Word Out: A Record of Knowledge Mobilization Activities" for the CJSP. This record attempts to capture the variety of more formal knowledge sharing activities undertaken throughout the project, which include:[32]

- publications in refereed academic and professional journals;
- publications produced by the Canadian Forum on Civil Justice (in print and electronic formats);
- articles in other academic and justice community practice-oriented print media;
- articles in mass media newspapers;
- presentations at academic conferences;
- presentations at justice community conferences (especially those of CJSP partner organizations);
- exhibitions promoting the CJSP;
- citations about the CJSP in other publications.

The progression of the project has led to a natural shift in content in our knowledge-sharing activities. In the initial stages of the project, dissemination primarily involved informing the civil justice community about the research project and informing the academic community about civil justice issues in the context of the project's innovative methodology. Once data analysis was underway, the emphasis shifted to getting the word out about findings as they became available. Early findings were enthusiastically received by members of the civil justice community and in the latter stages of the project partner organizations have been increasingly requesting special issue-focussed reports drawn from the CJSP findings.

2. Focus Groups and Community Workshops [33]

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[32] We provide descriptions of our publications in Part III. B of this report.

[33] The term used depends on the preference of the community to be involved.

A particularly notable forum for sharing knowledge related to the CJSP findings, has been through the coordination of focus groups and community workshops designed as a facilitated discussion among a selected group of individuals. Recent literature on organization and community change emphasizes the importance of following up data collection with activities which take research findings back to the participating communities allowing stakeholder groups an opportunity for review and comment prior to final reporting of those findings. The information and insights gained from the interaction are shared by the participants as well as the researcher. When the participants are stakeholders in a position to take action for meaningful change in an organization or community, new mutual understanding can be attained and innovative solutions generated. Deliberately directing the workshop dialogue to focus on an appreciation of existing community strengths and accomplishments encourages movement towards finding positive solutions to challenges.[34]

Funding provided by the Alberta Law Foundation enabled us to conduct focus groups in each of the four Alberta research sites as well as an additional Aboriginal Community Workshop. A Northern Research Development Grant provided by SSHRC will support a series of follow up Community Workshops to be held in Nunavut and with the Inuit community in Ottawa. These follow-up events are an important part of strengthening the local networks and are essential to turning research findings into effective civil justice system change.

Part III: Learning from Experiences: Findings From CJSP

> *Because we share experiences, it gives you ideas ... [we could] do more training in the courts, especially with the front-line staff. We'll show them how to create a file, manage it, enter all the data in the Registry...but we don't spend any time on the interface with the public aspect, either the legal profession or the general public....That can be - especially for the general public - the only contact that they have with the court system and they'll form an opinion on that basis, so it's very important. It counts. We should insist on that - in fact, this conversation is giving me some ideas [laugh]*. [881 (269 -290), court manager][35]

Part III of this report moves from a description of the organization and conduct of the

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[34] A Gibbs, Focus Groups, *Social Research Update Issue 19*, (UK: University of Surrey); R. Krueger & M. Casey, *Focus Groups: a Practical Guide for Applied Research* (Thousand Oaks: Sage, 2000) ; J. Ludema et al Appreciative Inquiry: The Power of the Unconditional positive Question, p.189 and P. Senge,& O Scharmer, Community action research: Learning as a community of practitioners consultants and researchers, p.238. both in P. Reason, & H. Bradbury, H. (Eds.), *Handbook of Action Research* (Thousand Oaks : Sage, 2001).

[35]As well as illustrating the action component of the CJSP interview process, this participant was also referring to the role organizations like the Association of Canadian Court Administrators (ACCA) can play in providing opportunities to share knowledge about communication practices. Since the time of this interview ACCA has held a Learning Event focusing on good communication practices.

CJSP project to a consideration of the research findings and the principles of good communications that flow from them.[36] In Section A we look at how the collaborative action process of talking with a wide variety of participants has shaped the CJSP findings and stimulated the potential for change. One outcome is the variety of ways that the various findings have been reported and Section B provides a brief review of these. In Section C, we turn to a more detailed discussion of the findings related to identifying and establishing good communication practices within the civil justice system and between the system and the public. Following this, Section D summarizes the three Case Studies of good communication in practice. Associated principles of good communication are presented throughout Part III and also summarized in the conclusion of this report (Part IV).

A: The Power of the Collaborative Action Process

As has already been discussed, the CJSP was founded on a commitment to bring about meaningful change to Canadian systems of civil justice, and a belief that this can only be achieved in a context of collaboration and partnership among the stakeholders in those systems. Without the active collaboration of the partner organizations and their members, the CJSP research simply would not have happened - researchers who did not have the support of the justice community could not have gained the entry into the civil justice organizations necessary to conducting the research. The enthusiastic participation of justice community members and the rich data the study has produced, attest to the success of the collaborative action.

The creation and maintenance of a national partnership such as the CJSP requires a substantial amount of convening work[37] in order to be successful both in terms of the project collaboration and the ongoing networking with and between the partner groups. The need for someone to act as a communications conduit within the justice community is recognized within that community and extends beyond the boundaries of the CJSP as this interview participant notes:

> *I think what you really need is almost like somebody [whose] whole job is to be a communications facilitator. Saying, "You know, we've noticed that there doesn't seem to be an information connect between this partner in the civil justice, and this partner." And having this person being able to act as the conduit or a way of getting these people together.* [855, Provincial Court, family duty counsel manager]

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[36] In keeping with the action goals of the project to achieve changes in communication practices that promote effective civil justice reform, this section of the report is written in the present tense and the first person plural. The use of 'we' in a collaborative project can be complex. It is used in this section of the report to extend beyond the authors and include members of the Research Team, Research Partners and participants in the interviews as is appropriate to the shifting focus of the discussion. When we refer to "our" data or findings, we consider the knowledge provided to belong to everyone who contributed to it.

[37] In their article, "How Collaborative is Collaborative?" (*Ibid,* note 7) Rose and Stratton provide more discussion about the importance of the convening role and the challenges involved in conducting successful collaborative action research.

It is part of the mandate of the Forum to find ways to facilitate communication within the justice community as well as with the public, and the CURA grant provided the funding necessary for the Canadian Forum on Civil Justice to assume a convening role in organizing, conducting and getting the word out about research.

The CJSP project has been an important opportunity to both acquire and share new knowledge. The full impact of collaborative action research is, difficult to pin down and evaluate in definitive and concrete ways. It is a process of exchanging knowledge, from differing perspectives, for the purpose of changing awareness and ultimately practice. New information is not always immediately recognized as useful new knowledge that can be applied to changing actions. It is not possible, therefore, to know definitively the total impact of the CJSP collaboration; it is clear, however, that the research is valued, The CJSP Research Team has received feedback from Research Partners that provide examples of the project's influence in three specific ways:

- ***The Pertinence of the Data***: Increasingly, as findings have been released, both the formal Research Partners and other justice community organizations have turned to the Research Team for additional information.[38] As well as the relevance of the Major Themes (discussed in Part III. C), the richness of the data, combined with the flexibility provided by the Atlas.ti software, allowed the production of reports and presentations focusing on specific issues of interest to partner organizations. Our review of separately reported findings, provided in Part III. B, illustrates the potential of the data to address a variety of access to justice issues.

- ***Networking Ideas and Models Among Partners***: One of the objectives of the CJSP is to facilitate the direct sharing of information among the project partners. This is challenging to achieve within the context of the Canadian justice community, which is dispersed across a vast geography of differing provincial jurisdictions and made up of many diverse organizations. At first, the CJSP Research team provided a conduit that conveyed information among the partners and little or no direct interaction took place. The Partner Symposium provided a rare opportunity for the partners to meet face-to face and tell each other about their respective organizations and civil justice reform initiatives.

- ***Interest in Collaborative Processes***: The insight that effective civil justice reform requires better mechanisms to consult with stakeholder

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[38]The "formal" partners are those who signed the SSHRC-CURA application, and are listed in Appendix C. As the project progressed and visited the national jurisdictions, other justice community organizations also took on roles as collaborative partners in practice.

groups did not originate with the CJSP.[39] However, the CJSP proposal submitted to SSHRC for a CURA grant (specifically designed to promote collaborative research) took the lead to develop a collaborative model for civil justice reform in Canada. Collaboration can be challenging within a system such as civil justice that is organized on hierarchical and often adversarial assumptions. It is, therefore exciting to see several CJSP partners now actively embracing the idea of more collaborative processes.[40]

An example that illustrates all three of the above impacts of the CJSP collaboration is provided by the British Columbia Supreme Court Self-Help Information Centre Pilot Project (BCSHC). Rick Craig, Executive Director of the British Columbia Law Courts Education Society, brought the first draft of a funding proposal for this pilot initiative to the Partner Symposium. He bravely agreed to take part in an impromptu scenario using his draft proposal as an example of a potential CJSP case study. The other CJSP partners were invited to provide feedback, and did so. Subsequently, the BCSHC committee was formed and Rick submitted a revised application for funding to the British Columbia Law Foundation, which was successful. The BCSHC committee operated as a collaborative body that included many local stakeholders including government, private, and NGO sectors, as well representatives from the CJSP and the Department of Justice Canada (also a CJSP partner). The BCSHC became a Case Study of the CJSP project.[41]

As the BCSHC pilot came into being in the Vancouver Supreme Court, another CJSP partner, the Association of Canadian Court Administrators (ACCA), invited Rick Craig to participate in their 2005 National Learning Event, "Leadership for Good Communication Within the Court System." Rick joined with CJSP Research Team members to present the BCSHC as a model initiative for improving communication between the Civil justice system and the public. As a result of his presentation, both the collaborative process and the BCSHC model attracted the attention of other CJSP partners and provincial justice departments, including Alberta Justice.[42]

In October 2005, delegates from the Alberta Justice Self-Represented Litigants

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[39]The Literature Review conducted at the commencement of the CJSP demonstrates that such recommendations are part of major reform reports from several countries, including Canada.

[40] In addition to the British Columbia Supreme Court Self-Help Information Centre Pilot Project Committee (discussed in this section and as a Case Study in Part III. D) these are: the Alberta Justice, Justice Policy Advisory Committee and the Self-Represented Litigants Advisory Committee, which have taken a lead in establishing collaborative committees and sub-committees that include a range of stakeholders; and the Executive Director of Legal Aid Alberta, who has told the Research Team that her involvement in CJSP has changed her way of thinking about and approaching new initiatives.

[41] See also Part III. D where this case study is summarized.

[42] In November 2005, Rick also attended the ACCA Annual Conference to exhibit the BCSHC pilot model.

Advisory Committee visited the BCSHC to find out more about the potential for this initiative to meet some of the needs of self-represented and unrepresented litigants. Alberta Justice is now taking the lead in mobilizing collaboration with community support service organizations and front line court service personnel across Alberta on an SRL initiative. Members of the CJSP Research Team have been invited to be part of this collaborative process in a variety of ways.

B: An Overview of Findings Which Are Reported Separately

As we have already pointed out, both methodology and findings related to the CJSP have been presented and reported throughout the project as they became available. From the inception of the CJSP, a description of the project along with available materials was provided on the Forum website (www.cfcj-fcjc.org).[43] Appendix G contains "Getting the Word Out: A Record of Knowledge Mobilization for the Civil Justice System and the Public Project". This document provides details of the many knowledge sharing activities that have occurred during the course of the project.

1. Reports Which Are Already Available

As reports on the research findings become available for general circulation they are described on the publications page (http://www.cfcj-fcjc.org/publications-cjsp.htm), along with a link to the full text of the report. At the time of writing, the following reports are already available:

- Diana Lowe & Mary Stratton, *Talking with the Public: The Public, Communication, and the Civil Justice System* (Edmonton: Canadian Forum on Civil Justice, 2002). Also published in *Dialogues about Justice: the Public, Legislators, Courts and the Media* (Montreal: Editions Themis, 2002) 61. (Available in French)

- *News and Views on Civil Justice Reform Issue 7-* Special Issue (Edmonton: Canadian Forum on Civil Justice, 2004). (Available in French)

- Mary Stratton & Diana Lowe, "Overview of Civil Justice Project" and "The Civil Justice System and the Public" *LawNow* (April/May 2004) 12,13.

- Jim Cresswell, Cam Schwartz, Graham Statt, Mary Stratton (Ed.) and Lily Tsui. The *Civil Justice System and the Public Project: Family Court -*

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[43]This includes the Working Document, the research instruments and available reports.

Coast to Coast (Edmonton: Canadian Forum on Civil Justice, 2004).

- An Overview of the Main Research Questions and Results (Edmonton: Canadian Forum on Civil Justice, 2005). (Available in French)

- Lois Gander, Diana Lowe & Mary Stratton, "The Civil Justice System and the Public: Highlights of the Alberta Pilot" *Alberta. Law Review*, 42, (2005) 803.

- Cam Schwartz & Mary Stratton, *The Civil Justice System and the Public: Communication and Access Barriers for those with Disabilities* (Edmonton: Canadian Forum on Civil Justice, 2005).

- Diana Lowe, "What Does the Public Really Want from their Lawyers and from the Justice System?" *BarTalk* (October, 2005) 18.

- Mary Stratton. *Public Perceptions of the Role of the Canadian Judiciary*. (Edmonton: Canadian Forum on Civil Justice, 2005).

2. Reports Soon to be Released

The following three reports have been completed and are currently under review. We expect these reports to be available for general circulation very shortly.

- Mary Stratton and Diana Lowe, *Public Confidence and the Civil Justice System: What Do We Know About the Issues*? (Edmonton: Canadian Forum on Civil Justice, 2006).

  This report is drawn from the background research conducted in connection with *Public Perceptions of the Role of the Canadian Judiciary*. Observations are based on an examination of 244 published Canadian and international information items. It is concluded that there is a lack of reliable empirical research addressing issues of public confidence in justice systems, beginning with the failure of most research to clearly define what is meant by " justice system." This report was prepared for the Alberta Justice Policy Advisory Subcommittee on Public Confidence. This report is ready for circulation and will be available from our website by mid-May 2006.

- Diana Lowe, Naomi Schmold and Mary Stratton. *Beyond the Headlines: The Role of Print Media in Public Understanding of the Civil Justice System*. (Edmonton: Canadian Forum on Civil Justice, 2006).

  Various forms of mass media are generally considered to be significant

sources of all kinds of public information. Discussions concerning public understanding of and access to the justice system frequently contend that print and broadcast media play a particularly important role in forming public understanding and opinion of Canadian courts. The first part of this report discusses perceptions about the role of print media in reporting on civil justice issues from the perspectives of the justice community, the media, and the public. It is pointed out that there is little research about the quantity or quality of media coverage of legal issues, especially civil justice topics. The second part of the report presents snapshots of the extent and content of legal coverage in two newspapers, which were undertaken as part of the Civil Justice System and the Public program of research. After presenting observations from this exploratory study, the report concludes with suggestions for future research, and for establishing improved collaboration between the justice community and the media, with the goal of improving civil justice coverage.

- Mary Stratton and Travis Anderson. *Social, Economic and Health Problems Associated with a Lack of Access to the Courts*. (Publisher undecided, 2006).

  The purpose of this report is to further understanding about the social consequences arising from both unresolved legal problems and the process of attempting to resolve such problems through the courts. The research questions ask about the range of legal problems, the types of associated social problems and what evidence there is that legal problems are related to social problems. These questions are explored using data from in-depth interviews with litigants involved in civil cases, which were conducted as part of the *Civil Justice System and the Public*. The report incorporates a discussion of the usefulness of social inclusion-exclusion theory and policy for addressing access to justice issues. The report was commissioned by the Research and Statistics Division of the Department of Justice Canada to inform a broader program of research investigating the social costs of a lack of access to justice.

3. Reports in Progress

Seven additional reports about aspects of the *Civil Justice System and the Public* are currently in progress.

- Teresa Rose and Mary Stratton. *How Collaborative is Collaborative?: Ideals and Challenges, Tensions and Potentials in Partnership Research*. (Under revision; draft available upon request).

  Collaborative partnerships for research and change are increasingly

promoted as one way of generating new insights and practical solutions. But what does such a collaboration for knowledge creation and change look like in practice? This question is examined in the context of the *Civil Justice System and the Public,* writing from a perspective within the action as it unfolds. Theoretical ideals are compared to the practical demands of a collaborative action research process. It is argued that knowledge-power dynamics between academic and community-based cultures, along with power hierarchies among collaborating partners, make it impossible, and not even necessarily desirable, to attain the theoretical ideal of full and equal participation in every aspect of the research and change process. Rather, the practical question that needs to be addressed is, "How collaborative *is* collaborative?"

• Mary Stratton. *Civil Justice System and the Public: Aboriginal Perspectives* [working title; draft available upon request] (Edmonton: Canadian Forum on Civil Justice, 2006)

Perspectives from Aboriginal participants in the *Civil Justice System and the Public* interviews, key contact meetings, focus groups and a community workshop are the basis of this report, which begins with the question: *Can the civil justice system work for Aboriginal peoples*? What participants had to say about the serious barriers to equitable civil justice resolutions which most Aboriginal people face, illustrate critical issues in the following four important areas:
  1. A social context of discrimination.
  2. Incompatible concepts and processes of civil justice.
  3. Geographical dispersion.
  4. Child welfare and guardianship.
The report concludes by considering ways to confront the challenges and create bridges to solutions that hear and address Aboriginal concerns.

• Mary Stratton. "Aboriginal Experiences of Family Court" [working Title]. *LawNow* (Winter2006/2007, details to be confirmed)

This article will draw from the *Civil Justice System and the Public: Aboriginal Perspectives* report to focus on the experiences of Aboriginal participants involved in cases concerning child custody and guardianship.

• Janice Henderson-Lypkie. *Communication With the Public About Civil Justice: A Review of the Policy and Research Literature* (Edmonton: Canadian Forum on Civil Justice, forthcoming).

This paper provides an overview of Canadian literature related to issues of communication in civil justice reform. No Canadian literature was identified that directly examined methods used by courts to in communicating with

the public. The discussion of issues is therefore divided into three main areas that identifies problems the public have in understanding the law and the civil justice process: barriers to access to justice; civil justice reform; and access to legal information.

- Mary Stratton. The *Civil Justice System and the Public*: *Finding the Public to Talk With* (Edmonton: Canadian Forum on Civil Justice, forthcoming).

  Based on observation notes taken by the Research Team, this report takes a detailed look at the methods employed to identify and engage members of the public involved in a civil justice case, in our research. Reasons for participation or non-participation and lessons learned are considered.

- Mary Stratton. *"We are in Crisis" - Perspectives on Family Court*: *A Discussion of the Evidence.* (Edmonton: Canadian Forum on Civil Justice, forthcoming)

  This article is developed from a presentation made to the Coordinating Committee of Senior Officials Family Justice Research Sub-Committee Meeting in June 2005. Based primarily on interview data from the *Civil Justice System and the Public* research, it will provide a companion paper to *Family Court Coast to Coast*. Views of litigants are contrasted with those of lawyers and judges involved in family law cases. The experientially based evidence from the *Civil Justice System and the Public* is used as a starting point to discuss the need for additional evidence-based research.

- Mary Stratton. *The Civil Justice System and the Public Participants: Some Facts and Figures.* (Edmonton: Canadian Forum on Civil Justice, forthcoming)

  This report is based on the quantitative data collected in the "Short Questionnaires" completed by participants in the CJSP interviews. Details are provided about social background variables such as education and income, geographical dispersion, and types of court roles and involvements. Public participants' approaches to gaining information about the civil justice system and their opinion of the usefulness of that information are reported. The actions and views of members of the public are compared to justice community expectations concerning public legal education.

C: Talking About Communication Practices

I always feel that it would be better if I knew the whole story. When people arrive here...all I know is the events that are occurring at the time in front of me. But I don't know what happened to bring this matter to court. And what was required to bring it to court....I would like to know more about the process and how people ultimately arrive in the courthouse. And that probably would help me do my job providing... more informed information for the public when they come...just a better understanding of the system and how it works. [345, Sheriff, Supreme Court, family]

Our purpose in this part of the report is to identify positive and effective communication practices that can work within the day-to-day context of the Canadian civil justice system. As was discussed in Part II B.2 of this report, our research questions asked about the state of communication in the civil justice system and how that is experienced by both the public and those working within the system. Based on reports such as the *Task Force on Systems of Civil Justice*, we expected to hear about barriers to communication - and we did. We also asked what could be done to improve the current state of communication - and our research participants told us about this as well.

The findings reported here come from snapshots of the communication experience systematically collected across the country. This series of snapshots captures the views of people from every role inside the justice system and those of litigants ranging from the most socially disadvantaged individuals to representatives of powerful corporations. Among such diverse participants, it is particularly compelling to find that there is much agreement concerning the barriers to communication and the kinds of practices needed to challenge these. Obvious though some of the suggested principles of communication may seem, the complex, hierarchical and frequently adversarial organization and culture of Canadian civil justice systems does little to facilitate good communication practices. Examples of individual and organizational efforts to practice good communication can nevertheless be found all across Canada, and if good practices were not currently in place, our research participants dared to imagine how that might be changed.[44]
As we have already said, the CJSP data are extremely rich and even with our analysis focused specifically on discussions of "good communication practices", it is not possible to include in this report all of the issues and details of potential value and interest. We therefore concentrate on key communication issues emerging from the CJSP research.[45] In order to keep in mind the barriers to communication and to access to civil justice that effective communication practices need to overcome, we present our illustrations and suggestions of good practices alongside our participants' experiences of those barriers. We offer broad principles of good communication to assist in overcoming them and upon which more concrete recommendations for change can be built. Our discussion of the CJSP findings about communication practices is divided into

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[44] As a member of the Research Team conducting the analysis for this report observed, the identified good communication practices are quite simple to state, but implementing strategies to address the barriers that lie behind them will be considerably more challenging. We thank Law Student and Research Assistant Travis Anderson for his succinct summary of the task that confronted us in writing this section of the report.

[45] We welcome further inquiries about the particular themes and issues we touch upon in this section.

the following four areas:

1. Major themes emerging from the data analysis
2. The foundation of good communication: sharing information and valuing knowledge
3. Taking the lead for change: challenging communication hierarchies
4. Communicating the need: creating new approaches for civil justice delivery

1. Major Themes Emerging from the Data Analysis

As we explained in Part II.D.6 of this report, six major themes about the state of communication within the civil justice system and between the system and the public were identified. The data on each of these themes is capable of informing reports on many different issues. In this report we provide a description and example of what each theme captured and conclude with a related principal of good communication practice.

Theme 1: Modes of Communication

> *I think that the most appropriate measure is the one adapted to your target group. It can vary depending on whether you're speaking to children, speaking to adults, if you're talking about what you can do to solve a problem related to your will, or if it's simply general information. The important thing is that your method of communication be adapted to your target group, so it can vary greatly.* [881, Supreme Court manager]

This theme was initially designed to capture who is communicating with the public about the civil justice system and in what ways they achieve this. Several important facts were quickly apparent:

- Almost everyone working within the civil justice community, either directly or indirectly, is involved at some point in communicating with the public about the civil justice system.[46]
- Members of the justice community often do not communicate effectively among themselves in order to share their collective knowledge about good communication practices.
- Communication occurs under many different circumstances and people

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[46] We note, however, that not all participants were initially conscious of this fact. Sometimes justice community key contacts and interview participants only recognized their roles in communication with the public as they explored this with the researchers.

have varying communication needs and abilities. Therefore, there is no one ideal mode of communication. What is important is that the method of communication used is clear, accurate and appropriate to the circumstances of those involved in the communication.

- Any possible, available method of communication may be employed by members of the justice community and the public.
- Whenever possible, face-to-face communication is preferred by almost everyone.

Principle of Good Communication 1

Communication is central to the functioning of the civil justice system, both for those who work in the system and those it serves. We need to take communication seriously and identify both which methods are available and which are most effective for the specific circumstances of the intended users.

Theme 2: The Communication Experience

> *I'm a very resourceful woman. I don't give up...I had to seek information outside of the courthouse. I had to go to different places – different agencies, government as well ….as an immigrant of Canada...even though I've had my citizenship since I was a child - there's that stigma attached....I went back to the Jamaican Canadian Association. And eventually I will have to go to the Jamaican Consulate as well….I'm a person who firmly believes in seeking help, I went to a few woman's' advocacy groups, and I went to the public library, I tried to access the government through the website....Also, currently I'm on social assistance, and that became a stigma as a part of the case…but I began to involve community and social services, because they're the ones who said you have to go after the father for child support.* [801, Female applicant in child custody and access case]

This theme focussed on the participants' experiences in communicating about the civil justice system, including communications between the public and those working within the system and among the various players within the system. Participants' descriptions of their communication experiences capture the complex social context and emotional dimension of the process of accessing civil justice. The costs of confronting communication barriers to accessing justice, as well as the effectiveness of the various methods of communicating, is well illustrated by this theme in accounts from both litigants and members of the justice community. The extreme importance of needed information that is easy to access, appropriate, accurate, easy to comprehend and delivered in an understanding way, plays a prominent role in participants' communication

experiences. The participant quoted above, is as she states, resourceful in her information seeking, but very often members of the public do not know where to begin and as a court clerk observed: "A lot of times you see them walking back and forth, people are just lost...and they're going to all the wrong places." She suggested the following communication solution:

> *But if there were a service that enabled - that impart[ed] knowledge and direction and focus to those litigants, they and the system would be better off for it I think....A service that would sit down with her, go through the material and say..." in order to get the judgment that you want to get, this is what you have to do." You know, step one, two, three, and four. These are the things that you have to prove and this is how....Lay it out for them....That would be extremely helpful to keep them focussed, understand basically what the burden's are, the onuses are....what's involved in proving the fact....lay it out in a summary form for them....A little checklist kind of thing that they can go on and do what they need to do. But designed for their case....guidance as to how to deal with the issue. How to resolve the problem created by that issue.... I suspect that it would probably be impractical. But it would be nice.* [631, Provincial, counter clerk small claims & family]

Principle of Good Communication 2
> **An understanding of the lived-experiences of communicating about the civil justice process is essential to developing initiatives to improve communication and effective systemic reforms to civil justices rules and procedures. Litigant and front-line justice community perspectives must be meaningfully included in policy and program development.**

Theme 3: Communication Barriers

> *I mean, I can walk across my office and show you some brochures that I have. That in a perfect world one would say, "Well the brochure's available, it tells you the resources that you can access – they're there." And the public would say, "I didn't even know of the existence of the brochure that told me about those resources, much less the resources themselves."* [852, Appeal Court manager]

In addition to not being able to access needed information, our research participants told us about the following types of barriers to good communication:

- A lack of resources to implement good communication initiatives (such as funds, technology, personnel, knowledge, and inadequate access to legal advice).
- Language (literacy level, lack of proficiency in the dominant official language, legalese).
- Hierarchical, adversarial, and territorial legal and court cultures (unequal

resources between court levels, failure to respect all system roles, failure to share information and resources, no space to speak or make critical suggestions).

- Attitudes that preclude change (belief that it is impossible, unnecessary, and that current customs and rules of court are adequate; the public are not interested in learning about the civil justice system until they are confronted with a legal problem).
- Holding others responsible for communication breakdowns (instead of developing a proactive response to address problems, other system stakeholders are blamed).

I think the general public have got to better understand how the system works and we have to assist in helping them ... We have to try to make it simpler ... in plain language - not so technical ... And then ... there should be a broad information project to the general public indicating that they can get information [in] these various ways; but that means [the ways] have to be set up. You have to develop them and do the PR. [281, Supreme Court justice]

Principle of Good Communication 3
   Breaking down barriers to communication must be recognized as a priority issue that requires a concerted response to address the problems from multiple directions and in collaborative ways.

Theme 4: Good Practices

As noted in Principle of Good Communication 2, an essential ingredient in good communication is the ability to build empathetic relationships that enable shared understanding based on our real-world experiences. The following two transcript excerpts provide concrete examples of the power of such good communication practices, both within the civil justice system and between system representatives and members of the public:

P:[47]   *[It's] personal relationships so that you're not just working in sort of a very bureaucratic, linear way.... And relationships that work really make things happen. And I think that's probably the most encouraging thing. When you know everybody and you've been to see them, you've talked to them, you've laughed with them, you've had a meal with them [then] you get things done a whole lot better than if they don't know your name and don't know your face. And I think the relationship building is really, really important.*

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[47] In these instances, P stands for the interview Participant and R for the researcher conducting the interview.

R: *Can you give us maybe a specific example of when that happens?*

P: *Sure. Let's go with court services. Very early on I met the regional director for [a certain] area...and as a result of sort of being able to chat with him on a number of occasions to...share my vision for where the library was going, we've been able to make a lot of improvements in service and in any assistance that we need from them. I recognized I wasn't getting that same cooperation from some of the other regional directors whom I had not met and so I just decided to go straight to the top and work my way down so that I would get the buy in at the top.* [634, Provincial chief law librarian]

One of the things I've learned about dealing with a stressed client is don't give them any information [just] by voice. Because they're not hearing it. They're just stressed. They're upset. They're mad. They're hurt. So if I can provide them with printed information, I listen to what they have to say, kind of figure out what they're looking for, go through my kiosk and say OK, here is the explanation of custody and access. Is this what you're looking for? If they say yes, print it up, here you go. Give them a pamphlet, give them a booklet, give them the information off the kiosk. They take it home. When they calm down they can go through it. I always give them my card - "If you have any questions about it, give me a call" ....I'm giving them the opportunity to get the information that they want, but they're not being overloaded because at that point they're not prepared to listen to what you have to say anyway. So when you see it printed later, then they can call me back. And that's what I do with distressed clients. [647, Legal information outreach worker]

Principle of Good Communication 4
  Good communication is built on a foundation of shared understanding of needs and abilities. Therefore, a commitment must be made to providing the resources necessary to ensure that foundation is in place.

Theme 5: The Change Environment

In my opinion, judges have the duty…to assist parties in their relations with the justice system. To assist, and not to canon themselves within their position strictly as judges, judging. The judge is also an officer of the law. Just like a lawyer…who must assist the court, a judge…must help the party in getting access to justice…. it isn't enough to thoroughly understand the law; what distinguishes one judge from another is the capacity to apply the law properly. How could it be otherwise? [134, Self-represented defendant, multiple court levels]

The total environment in which change must occur is highly complex and has many interrelationships that reflect different, sometimes controversial views, such as the one on the role of the judiciary that is expressed in the above quote from a self-represented litigant. What he proposes constitutes a major cultural shift. Meeting the needs of self-represented litigants, by whatever means, will entail engagement with elements of a broad social context that includes the economy in general; government; technology; resources (monetary and human); organizational

restructuring; as well as changes in traditional attitudes. Our "change environment" theme captured insights related to this broad context including observations that there had been a change over time in the way things were done. These discussions also told the story of who can, who should, and who is taking the lead to bring about change. As the following quote illustrates, some members of the judiciary are in surprisingly close agreement with the self-represented litigant concerning what their role needs to be:

The job of a judge in family court in [this city] has turned into a case manager where you take the lead in the case and try to extract from the parties all of the evidence you think they should bring to court in order for you to make the best decision for their children. A very different role from being passive and just making a decision based on whatever evidence is given. But that's what you have to do if you want to do justice. Some judges disagree and refuse to bear the brunt of this changed culture on their own shoulders and are quite critical of judges like myself that have just reinvented themselves. But I feel that if you don't evolve from the role of the traditional judge that stays outside the forum and just receives the evidence and responds, you end up possibly being the cause of great tragedy because parents - litigants don't tell you what you need to know if you don't ask them. And we are talking here about children's safety and children's well being and I'm prepared to redefine my role in such a way as I think I need to make sure that when that couple walks out of this court room they've got a decision that was based as much as possible on the best possible evidence that exists. [842, Provincial Family Court judge]

Principle of Good Communication 5
> **In order to establish effective communication practices within the civil justice system, stakeholders must recognize and engage with the broader social context of change, even if this may demand radical shifts away from previous stakeholder practices and perspectives.**

Theme 6: Barriers to change in communication

I think the system itself has to be understanding of the different people that approach the system...I've seen personally, just observing at the courthouse...the language barriers of a lot of the people who are there as well. And just, people are at a loss. I think there's also, not enough information offered in languages that people can feel comfortable that at least they have that moment where they can say, "oh, this is exactly what I'm going through and this is what I need." [801, Courthouse observer and plaintiff in superior court family law case]

As the preceding quote from a public participant suggests, barriers to bringing about change are, of course, part of the overall change environment. This participant raises the very significant barrier of language (which we address in more detail in Section C 2). Her suggested solution of ensuring information is available in the languages spoken is an obvious one, but very far from easy to achieve. We retained the "barriers to change" theme in order to ensure that

important factors such as this are readily identifiable within the data. In many respects these barriers mirror those identified as "communication barriers", particularly in terms of lack of resources to implement change and resistant systemic characteristics and attitudes.

There are significant and undeniable challenges to confront in uniting perspectives about change to civil justice process. The law is rule-bound and complex, and as the following participant points out, change involves legislative as well as court processes:

> *What I've found over the years is – you hear the people's opinion – but they're discounting why you've done what you've done. Like they're discounting that the law says you must do this, or that. And you can't consider whether it's culturally relevant or not, or whether it's appropriate – you have to follow the law. I find people aren't very understanding that you are doing your job; I think more education in that area as to why things are the way they are. We may also need to revisit the legislation; if it's not serving the people that it's supposed to.* [544 (265-278), Child welfare worker who is plaintiff in child guardianship matters]

The examples that the CJSP data provide demonstrate that good communication practices can be a powerful tool to enact change, but as we discuss their potential, we also remain cognizant that one role of such good practices is to bring to light where there also exists a need for deeper systemic changes to be made. Recognizing the presence of these major communication themes within the 290 interview transcripts is an important step in discovering common ground among the diverse experiences and perspectives of the research participants.[48] Shared concerns are a first and essential part of commencing action for change. We turn now to considering three important components of good communication practices that cut across all of these major themes in creating a foundation that will support ongoing action for meaningful changes to civil justice delivery.

Principle of Good Communication 6
> **Characteristics of the systems of civil justice that inhibit constructive change to civil justice delivery must be identified and confronted. A foundation of good communication practice will assist in this process.**

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2. A Foundation for Good Communication: Sharing and Valuing Knowledge

Every one of us communicates and every communication contains information of some kind. Good communication ensures that those with whom we are communicating understand the information we wish to convey. Information that is not understood is not

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[48]See Part II D.6 for a brief review of this process and our report, *Talking with the Public* for a more detailed discussion.

useful because it has no meaning for us and we do not know what to do with it. These simple statements are key to understanding the state of communication between the civil justice system and the public. Many justice community organizations try very hard, and in a variety of ways, to provide the public with information about the system. Members of the public told us that, unfortunately, for a variety of reasons, much of that information is difficult to access. When they do locate it, they often find it to be intimidating, confusing, and inaccurate.[49] These comments were echoed by many members of the justice community, especially counter clerks and court support workers. Based on the CJSP findings, we suggest that the core of the problem lies in a failure to share and value experience-based knowledge. Too often, civil justice forms, rules and information media are designed without including either the insights of the public or those who deal most directly with people attempting to negotiate the system, especially court clerks, security staff, and legal services intake workers. For example, one member of the judiciary mentioned a court exit poll on the courtroom performance of the judiciary that had been conducted with lawyers by the Bar Association. He thought this was basically a good idea to provide information useful to the judiciary, but noting that he had not personally been asked his view on the polling approach, he reflected on the failure to include front-line perspectives:

> *I think it could even have been a better poll had they also asked some of the sheriff's deputies who are in the courtroom from time to time, the court reporters, the administrative staff, and people who are also actively involved and have a perception of how the judge is communicating with the people, not just the lawyers.* [353, Provincial Court judge]

Several times during the conduct of interviews and follow-up focus groups, members of the research team heard complaints from court counter clerks about changes to forms and procedures that had served to complicate matters for the public instead of simplifying them as intended.[50] The clerks commented that, if they had been asked, they could have pointed out why the changes would have been problematic. However, they were not included in the process:

> *A lot of times ... front-line workers ... are not [even] on any sub-committees, yet they are the ones that do the day to day work. I can say this for myself. I have asked to be on many sub-committees and unless you are in administration you are not on those committees and yet the administration doesn't do the front-line work....And the information will just come back in a memo form and I don't think that is satisfactory....[because] you will [often] find out after you have been doing it for awhile that there was a much easier way* [291, Court clerk, provincial and superior duties in remote location]

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[49]A primary reason for inaccuracy is that material is out of date. Another reason is inaccuracy of referrals, generally because the referral is inappropriate. This is especially the case with verbal information, which can be completely wrong concerning locations of other courthouses and the existence of brochures or services, as recorded in Research Team observation notes.

[50] We have heard this comment specifically in connection with attempts to simplify family court forms and procedures in British Columbia, Ontario and Alberta. In every case, registry staff say that the new forms involve procedures that are very complicated for the litigants to complete (Participant 657 Provides a discussion about this). In the case of Alberta, child welfare workers and native counselling representatives also made the same complaints.

There is a [a new rule]....I feel that isn't working. We're overrun with paper. You have to get every referral request signed...[litigants] run over the [mediation] office...they come back with their paper...[still] have to take a parenting course...and get that paper signed. They have to come back here with that paper. They have to serve the other party and they come back in with that paper. The other party...comes in...and you're explaining things each time....We weren't consulted....They had hoped it was going to save a lot of court time. It hasn't.[657, Court counter clerk]

I think you know from time to time they may have staff meetings amongst the court service people involved in these processes. And we're not invited. I think if they included us - not only for our benefit to make us feel more part of the scene I guess - but more so to impart some of what we've learned that they don't often consider that we consider....if we were included more in the decision making process - anything that goes on in this building will ultimately affect us in one way or another - ...I think it would make things run smoother if we were more involved in the decision-making . [345, Sheriff, Supreme Court, family][51]

We suggest that ensuring available knowledge is valued and shared involves incorporating inclusive communication practices into three important components of providing the public with useful information about the civil justice process: the development of information content; making information resources known; and turning information into public understanding and knowledge.

• ***The development of information content***: There is not just one 'public' but numerous diverse groups who have varied capacities and sometimes, conflicting needs. A range of information about the civil justice process is required and the public legal education (PLE) materials needed to raise general understanding and awareness are not the same as those that must be developed to assist with preparing legal documents for filing.[52] Undeniably, this makes developing and delivering information that works, a complex and challenging task.

Participants in the *Civil Justice System and the Public* research had much to say about the content and delivery of information about the civil justice process and their comments reflect their different needs. There are, nevertheless, some basic characteristics that all groups of public identify as important. Our public participants told us repeatedly that they need information that is:

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[51]The Research Team strongly endorses the point this sheriff makes about the unique position of court security officers. Their job requires that they be astute observers of everything occurring around them. They are alert to conditions that precipitate stress and conflict and they watch the various stakeholders in everyday action. They do not have a personal investment in making the other stakeholders look better or worse than they are and therefore, are akin to having evidence-focused researchers permanently available. To overlook this wealth of knowledge is very remiss.

[52]For additional discussion of Information and knowledge issues see "Information, knowledge and good communication practice' in *News & Views Issue 7*, and "The Civil Justice System and the Public: Highlights of the Alberta Pilot," *Alberta Law Review 42*, p.803. For a discussion of PLE in Canada see "The Changing Face of Public Legal Education in Canada," *News & Views Issue 6*, p.4. All articles are available at: http://www.cfcj-fcjc.org/publications-cjsp.htm .

- accurate;
- detailed yet clear, with straightforward instructions about what to do;
- quick and easy to find out about and access;
- available in a variety of ways (on-line, on video, in print, with face-to-face help).

Regardless of whether or not they had legal representation, CJSP public participants wanted to be able to understand the legal process and were specific and articulate about the kind of content they needed.[53] When litigants were self-represented, step-by-step instructions were crucial. The following participant mentioned a brochure she had found quite useful, but still lacking in all of the detail that she required to proceed:

> *The brochures that the Family Law Information Centre provides are useful in terms of filling out forms, how to serve them and stuff like that, but even they don't answer all the questions. For instance, 'service'. Rules of Court indicate how you must serve a document but it's kind of written in legalese so if she has a lawyer, can you serve it to her, or is that inappropriate? That would be personal service as far as I know. Or do you have to serve it to her lawyer? And if you serve to a lawyer and you don't use the two methods that they say – either use a document server or send it registered mail, double registered, so you can use confirmation of receipt in your affidavit. If you want to do it a little quicker than wait for that, can you fax it to her? Next, what do you use as a fax receipt? Is a phone call sufficient? Is the fact that it registered as "transmitted OK" on your log sufficient? That kind of thing.* [210, Plaintiff in Supreme Court family case]

A representative of Éducaloi, a Quebec-based PLE organization, recommended the following good communication practice for the development of effective information content:[54]

> *With the research we do and the projects we develop...the communication is always to serve the public, to respond as well as possible to the public's communication needs. Find out everything the public needs in terms of information, and collaborate with them to try and reach a final product or tool that meets [their] needs....It's more collaborative communication so that we can then deliver that information to the public....Give [the public] information, yes, but in an interesting way. They should really want the information, be predisposed to receive it, and really...seduce the person in question, because there are different target groups, so for each target group...adapt our methods of communication with the public considerably. Yes, try to make it as effective as possible. We find the Internet is a good way to distribute information, backed by various other actions. So, adapt to the audience, that's for sure. Stress the importance of the various*

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[53] See our discussion of Modes of Communication, Part III.C.1

[54] In the course of our research we identified a number of examples of very good PLEI materials from various organizations. In Quebec, however, the efforts of Éducaloi were repeatedly praised by members of the public, the justice community and community service agencies. This organization provides a model of good communication practice to produce effective information content and to get the word out about the availability of that information.

professionals who distribute information being fully equipped and understanding that information. Finally, when there are changes, every day, like the reform and all that, I think it's important that every person be aware of what's happening and that the information be distributed, explained, simplified so that everyone understands what's happening. It really has to be properly explained. [111, Public legal education expert]

Considerations about language are clearly relevant to the development of information content. Earlier we raised the issue of the barrier to communication that exists when members of the public are not fluent in the dominant official language. Beyond the question of primary language, one of the issues raised most often by our public participants was the use of 'legalese' rather than 'plain' everyday language to provide information and to conduct court proceedings. Use of complicated legal terms and convoluted sentences makes translation and interpretation even more challenging and even litigants who were well educated professionals expressed exasperation at the language of the legal culture:[55]

You have lawyers on both sides...when they communicate to the judge or anybody else...it seems to be a bunch of 52 letter words strung together. "Your Honour", " My Friend", " The opposition here", " we would like to request and I would like to respond to the request." It's so convoluted. You can't understand what they are saying for one thing. The average person can't seem to make heads or tails of what is going on. [285, Represented plaintiff in family matters, social services manager]

One member of the justice community believed there was a simple solution:

I believe that we take these silly words that Euro-Canadian justice has brought up here and we replace them with these other words that are much more culturally appropriate to all - all Canadian citizens. [526, Court services worker and Justice of the Peace]

Although most justice community participants agree that using plain language is important, many also argue that the law is complex and must necessarily use language that can handle this. Nevertheless, the civil justice system is meant to serve the needs of Canadian citizens and we would suggest that using language that makes everyday sense must be considered a priority in the development of all forms of information related to civil justice including legal forms and Rules of Law. We suggest the following actions can greatly assist in this process:

- Increase the liaison, both locally and nationally, between the various justice community groups engaged in developing and delivering

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[55]The barriers of language and culture are raised by almost all Aboriginal participants in the CJSP. Most Aboriginal cultures and languages do not include concepts that can accommodate 'legalese'. But this is not a problem that effects only people with cultural and literacy skills that differ to the local norm, even an expert witness complained about "legal mumbo jumbo" that prevented him from understanding the message his lawyer was trying to convey. [222, Expert witness and executor of an estate]

public legal information.

- Ensure that all PLEI materials are developed with meaningful input, throughout the process, from a range of members of the public and the front-line justice and community workers who are information conduits.
- Improve the mechanisms to share existing sources of information and assistance among all justice community stakeholders.

- ***Delivering information and making the resources known***: Information content that communicates clearly is an essential first step, but it is only effective if people know that the resource is available and how to access it.[56] As we illustrated when presenting the Major Themes (Part III. C.1), when they find themselves confronted with a civil justice problem, members of the public do not know where to begin in their search for information and assistance. They will turn to anyone they can think of, especially front-line service people. Clerks and security personnel at the courthouse are a popular choice, as are reception staff at other legal services organizations. However, people also seek information from the police, public libraries, and other community and government departments. A major barrier to communication about civil justice is the poor flow of information between front-line service people. Creating more opportunities and better mechanisms to network and share information was a frequent good practice recommendation from justice community participants.

  This need was further underlined in the CJSP follow-up focus groups and community workshops we have held. Our primary purpose in holding focus groups is to take back the knowledge gained by this research to the people and organizations it concerns. We expect that this process will help to strengthen community networking and in turn to bring about needed changes. Participants in the groups we have facilitated soon discovered that they had much knowledge about civil justice resources to share with each other. Each group told us that they would welcome opportunities to hold similar kinds of meetings on a regular basis (for example about every three months).[57] One participant described his experience as follows:

  > *I mean that meeting was just a huge eye opener for me - that we had in [city]. I mean you know sitting there around the table and seeing people all involved in different aspects being surprised to hear things from other people involved in another arm of the same system, what better illustration could you have that there is a need for some kind of a central clearinghouse of information for the public.*

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[56] See footnote 19 for additional discussion of information and knowledge issues.

[57] The community consultation meetings held by Alberta Justice in relation to their SRL initiative have generated the same interest and response. It is however apparent that resources need to be available to coordinate these opportunities. In fact, the CJSP researchers have been asked on more than one occasion if they would arrange subsequent meetings for the group involved in the focus group meeting.

And I must say my leaning or my bias would be - well, two things. First, Legal Aid strikes me as being the logical start place for a clearinghouse because I think, you may have done surveys, I would think most people on the street would say - would know Legal Aid. [287, Law Society Bencher]

As can be seen from these comments, the exchange of information that occurred in the focus groups promotes ideas about how civil justice information can be better organized and shared. The same participant continued to imagine a process that would gather together collective knowledge and make it easy for everyone to access:

So to me, what you would need, what would be helpful...is gathering together what all the resources are....And then once you know – everyone in the system would then hopefully have access and would know what resources were available in the system. So that would be accomplishing step one. And then step two is, OK, how do you make those available to members of the public? And I would think Legal Aid should head it up. And then to me, in the civil justice system, the ideal situation would obviously be to have a trained person, not a lawyer but whether you would called them trained like a paralegal or something like this, at the court house. And a Legal Aid paid employee at the court house that would field all kinds of questions about, you know, "I've got a Landlord Tenant" or "I've got a Family" or "I've got a Custody"... there must be thousands of potential questions. And then that person, having/knowing, what all the resources are would be able to say well, you're here in [city] and there's a pro bono clinic run through Legal Guidance and here's the phone number and here's the web site....[and] you should go and see the Landlord Tenant Advisory Board and here's their address and here's their phone number and so forth. And then that person would sit there all day long, basically, directing members of the public to the appropriate resource....And how you accomplish that? ...Really - in the end - what you are talking about is government money....And there you go. [287, Law Society Bencher]

Although not aware of it at the time, this participant was describing a process very similar to the BCSHC project, which we will discuss in more detail as one of our case studies (see Part III. D).

The need for multifaceted approaches to providing the public with information and assistance was recognized by many CJSP participants, along with the recommendation that there should be an easily identifiable central source for appropriate and accurate information and referrals to other available resources for legal information or advice. Participants held different views about the best way to achieve this goal. In major urban centres, the idea of a self-help centre or kiosk was popular,[58] but in rural locations there were different considerations, driven primarily by the large geographical catchment areas served by local courts. It was

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[58] Participants expressed different views about the location of such centres and kiosks and many thought that a centre should be located outside of the courthouse and be open beyond regular court hours. However, both the BCSHC and the successful Ontario Family Legal Information Centre (FLIC) models operate inside courthouses. We also note a SHC initiative in the US has expanded to include a mobile SHC to reach those who cannot access the courthouse (http://lstech.org/projects/ventura_county_superior_courts_mobile_selfhelp_center)

the observation of the Research Team that in smaller towns the courthouse already served some of the functions of a self-help centre, especially when it was located close to other government buildings. As participants in rural areas pointed out, a telephone information service with help staff would better meet rural needs.[59] The key point is that successful delivery of legal information and associated support services must be based on: a) an understanding of the life circumstances of the people needing to access assistance and, b) a solid knowledge of services and resources which are already available to meet those needs, as well as the gaps in service.[60] The following example taken from our draft report, *Civil Justice System and the Public: Aboriginal Perspectives*, illustrates the kind of considerations that must be taken into account:

> *You know it's very difficult for children who get apprehended from a community... they're flown out of the community, and the people are – they don't know what to do .... the first thing they have to do is they need to know what to do. And often their voluntary care agreement is put down in front of them with no access to a lawyer...then they have to get the matter before a court. Well there's no court up there. So the matter comes before a court in... some place where these people aren't. And the people have to file an answer within 30 days in order to get served with anything that's going to happen after that. Well how do they file an answer? They don't even know that they're supposed to, they may get served with the form and the answer forms are there, but they don't know what they are, and probably nobody in the community knows what they are. So we just did a workshop with our community legal workers saying – okay here's the time frames. When somebody tells you their children have been apprehended – let us know right away, because we can help out by at least making sure the answer gets filed so that they're on the record, and they're knowing what's happening.* [851, Executive Director, Aboriginal legal aid organization]

As this participant conveys, effective information delivery has to be tailored to the needs of the clients, which requires awareness of those needs and a willingness to collaborate to find solutions. Some members of the public, especially Aboriginal participants, suggested there was a need for more communication and cultural sensitivity training for members of the judiciary, lawyers and court services staff. Interestingly, the strongest recommendations for increased communications training opportunities actually came from within the justice community, particularly from the judiciary and court counter clerks, many of whom recognized the benefits to themselves of such opportunities. Examples of successful initiatives to meet these training needs originated from a variety of stakeholders. The first example that we offer here reflects an attempt by court services to address the concerns about child welfare cases raised by the Aboriginal participant quoted previously.

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[59] Again, we note that it is beyond the capacity of this report to provide the many details that the CJSP data contain about the kinds of services various initiatives should offer.

[60] Based on what we have observed while conducting the CJSP, we suggest that whatever particular approach is adopted, the collaboration of local court and legal aid services is essential, and strong participation from other community services and the private bar in providing *pro bono* services is extremely helpful.

The second example originates with the judiciary and the third with a community-based group. Common to each is the inclusion of multiple perspectives and areas of expertise intended to aid the sharing of knowledge across organizational boundaries:

We're looking at setting up a joint education committee to make sure that the lawyers that work in that area - like the children's aid lawyers, the office of the children's lawyer, and legal aid - they're looking at putting together joint training programs because there are certain issues that need to be dealt with by lawyers in all of those sectors. So we want to see if we can ensure that we are getting training that goes across all sectors because all of them need it. And to make sure that the same message is getting across. [855, Duty counsel manager, Provincial Family Court]

The work that the National Judicial Institute does is very, very good. They involve judges who were appointed from an academic rather than a practice [background]....Judges who are comfortable in the academic world – but they're also comfortable in the legal world. So then they...seem to have a natural comfort level with education - and so the programs are very, very well designed, so they have the top people in the field that are there. Lawyers and judges and then you have sessions. Usually between 30 – 45 people. You have plenary sessions where you have lectures and then you break into small groups. And then you have a facilitator usually that – they'd be a lawyer or a professor or a judge working together with...hypothetical problems that you work through and then you have discussions around the table. And then you go back to the plenary session and – so they're quite well designed....And they've been very useful. [530, Member of the judiciary]

Unfortunately, the judge's [training] experience was discontinued. They did it for five years or so and then stopped because they ran out of funds. They didn't have enough money to continue. But it was a good thing. I remember, for example, when I was there, there was also an anthropologist, a sociologist, a native person, etc. Father [name], the President of [organization] who helps young substance abusers on [the] street. He was there. So there were about ten experts invited to take part in the annual seminar. We spent a whole day with [the judges] - each of us. First we gave a lecture, then they asked questions, then they had breakout groups. The judges told us that they learned some things they had been completely unaware of. [146, Psychologist and expert witness, concerned with human rights and immigration issues]

The CJSP findings show, however, that communications training is seldom available to court clerks, although it was the observation of both participants and the research team that such training is very beneficial for front-line staff.[61] When front-line staff can communicate effectively they become key agents in increasing

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[61] See "Information Knowledge and Good Communication Practices" in *News & Views Issue 7,* p.5 for an example of this in connection with the Ontario FLICs. Issues of the benefits of communication training for court clerks have also been discussed ins several of our other publications and presentations.

public understanding and make a tremendous difference to the experiences of anxious litigants attempting to access the civil justice process.

- ***Turning information into understanding and knowledge***: The kind of communication training initiatives our participants described as useful aim at combining information with shared experiences, that help to understand the perspectives and circumstances of others. It was this understanding approach to providing legal information and other assistance that our public participants praised. In the following example a member of the public describes the help she received from a court clerk when she went to the courthouse to begin a small claims action:[62]

> *So I called small claims court and she told me I would have to bring X amount of dollars and, and try to get it started. So I went over and I did that, and then I asked small claims 'what do I do? Step by step, I've never done this before.' So the court date was set. And she said 'You're going to have to have a bailiff or someone to serve papers'. I could do it myself but she explained the difference if you get a bailiff or if I did it or whatever. And the cost that would involve and she gave me this card, like she gave me 2 or 3 cards and I chose one. And uh, she said after that was done, he would register it after he served the papers, just to appear in court on this date. She told me the date of everything. Any other questions I could give her a call. And I did, this one individual girl I called and I said 'Okay, what do I have to take? What do I have to do?' And they did send me papers explaining, the court date is set down for this date and make sure you have, this, this, this and this. And I of course, I didn't know the legal terms so I called her and I said 'Okay, what does it mean by this and this?' She said 'Okay, you have to take this and prove that he does owe you the money. You have to make this adjudicator believe that he owes you the money and that you are the right person. Because he'll go in with a defense and he'll make his case, and it's up to the adjudicator to decide okay which is which.' Anyway, so I got everything together and I went to court and the defendant didn't show up. And so it was granted, that he owed me the money....She was very helpful, just a very helpful young lady. So, but I probably would not have gone this far if it hadn't have been for her, because I did not know what I was doing. You know if I had gone in that day and said, 'I don't know what I'm doing, I've never done this before.' And she had just given the forms and said, 'Fill it out.' ...[but] she explained every step to me. And it was just remarkable.* [307, First time litigant, self-representing plaintiff in a small claims case]

The need to receive information "step by step" was repeatedly emphasized by members of the public and is a also emphasized by members of the justice community when explaining how they achieve effective communication with litigants, as this small claims counter supervisor explains:

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[62]Another very detailed example of this kind of step by step assistance from a court clerk is provided by participant 524, a Tenant Relations Officer entering into frequent legal action as a plaintiff, and attempting to do so without legal counsel. Also notable in these accounts is the fact that litigants are willing to go back and forth to the courthouse, or other sources of assistance as long as it is useful to them.

I had a situation this morning. There were four different [counter clerks] that helped...it was an Indian family, and I could see that they was just not picking up. So I happened to pass by each time when different people were helping them and I said – I just pulled the person aside that was helping them and said what's the problem? What are they not understanding? And they explained to me. And I said, "OK, that's easy. I'll try". So I went up there and I just told the person, "OK so you've filed your claim, you've served it but because you've served it I need an affidavit from that individual - that person that gave this paper... I need them to fill out this form....And it also it had been expired and we had explained this to you by putting this note here." And I let them see the note. And they said, "that's right." I said, "OK. So now what we have to do is we'll get a judge's order to extend the time for you but I need you to file an amended claim because I also now see that there is an error into your claim. You filed a claim against this individual but no first name. You are going to need a first name. But I see on this form that you are giving me today you have a first name. So perhaps you have to do an amended claim." I explained to them what that was and I said to them take another number, fill out this form and I want you to come back and see me. Ask for me. And they understood because I took that extra time just to – you know – make them feel that they weren't wrong, they did the right thing....And they were really happy and pleased that I had helped them. [858 Supervisor, small claims counter]

An important theme common to many examples of effective communication with the public was the conscious attempt to make them feel less intimidated and more at ease and an important part of the civil justice process. In the following interview excerpts a lawyer, a judge and a sheriff describe a variety of communication settings with the common action of conveying a level of shared understanding.

I'm not sure whether [clients] always feel comfortable asking me what is going on, so that's really why I do try to make sure that they do understand. And that it's okay to ask. You know that it's not stupid to ask. A lot of times I tell them I didn't get it either to begin with. So then they can feel that it's not just them, you know? [533, Lawyer/public trustee]

I had the habit, you know, of taking notes and sometimes I would even start doing other things. While a witness was talking I was working, Now, from where the witness stood, he was sure I wasn't listening to him, so I changed that. Now I look at the witness and give him signs that I understand. Now I communicate at least with my eyes.... I would speak so that he could see that I was really paying attention. That's communication. Prior to that I thought it wasn't necessary. I thought I was just a receiver. Communication only happened when I rendered a decision, but now I think that communication has to take place throughout the whole process. [101, Provincial Court judge]

And I find...that if I show up wearing a t-shirt and jeans I get a better response out of people. You know, as opposed to showing up in a shirt and tie, or a uniform for instance. It's an authority thing – people in position in authority – lay person's are a little bit – I don't know how to put it, but they don't want to open up as easily as they would to someone say who's wearing a t-shirt and jeans. [537, Sheriff in remote location responsible for courthouse security and for bailiff duties in the surrounding communities.]

Each of these examples include two important factors: the willingness to see the other person's perspective and action to break down the communication barriers inherent in the hierarchical traditions of the legal system. Our public participants told us that they felt much more secure about their entire case when they were treated in this way by members of the justice community. Moreover, people within the system said that they felt more satisfied when they had interacted with clients in a respectful and helpful way.

Principle of Good Communication 7
> **Knowledge based on first-hand experience must be valued and shared in order to build a foundation of good communication practices among all civil justice system stakeholders. Action to achieve this must be taken in the areas of: developing effective information content about the civil justice system; ensuring this information and associated resources for assistance are well-known and easily accessible; and creating understanding and knowledge of the civil justice system that is based on accurate and available information.**

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3. Leading Change

> *Courts are great places for attitude....We need a little reality check every now and again....We're just ordinary people.* [218, Security officer, multiple court levels]

> *Provincial Courts are as arrogant as the federal courts –as an entity…The judge himself and the clerks and whatnot – the persons are people. But the entity of the court itself is arrogant as hell. Cold.* [285 Social services professional, plaintiff in divorce and custody case with legal representation]

As the above quotes suggest, both public and justice community CJSP participants offered some wry observations about the hierarchical organization and customs of the justice system. The Canadian civil justice 'system' is of course made up of a number of separate structures that are hierarchically organized, both internally and in relation to each other. Many interactions are highly technical and formalized and some of these arrangements may be necessary to preserve fairness and impartiality. Nevertheless, these status-bound and sometimes adversarial communication customs create barriers among those working within the justice community as well as between the system and the public. The *Systems of Civil Justice Task Force Report* (Canadian Bar Association, 1996) emphasizes the importance of effective dialogue to achieve a service focus in managing the courts of the 21st century. Recommendation 29 of the Task Force provides that:
> every court establish an advisory committee composed of members of the public and others involved in the civil justice system for the purpose of obtaining advice on (a) ways to improve the administration of civil justice

(b) reducing or removing barriers to access, and

(c) implementing, evaluating and monitoring reform measures.

This idea of establishing 'user' committees has been widely discussed within the civil justice systems across Canada. Bringing such committees into being will necessitate challenging traditional communication hierarchies. Taking the lead to make change happen will require challenging status quo practices and initiating good communication that crosses the traditional hierarchical boundaries. Most of the quotes that we have used to illustrate good communication practices throughout this report also provide examples of taking the lead to bring about positive change. The following participants provide three more examples of how an individual can take the lead to improve communication across organizational boundaries within the civil justice system, within related systems and with the public:

> *One of my principal things is making sure to the extent possible that everyone's treated as sort of, fair and equal as we can. Whether it's the distribution of work, whether it's travel assignments, whatever it is. You never get it perfectly, but you have to keep trying, so that sort of falls under that heading I think of trying to treat people equal.* [643, Supreme Court justice]

> *Well there is something that I did on my own...last summer I was in [place] with my family and I visited the Court of Appeal, and I...twice visited the office of the registrar for the Court of Appeal [there]. And since I was born in [other place], I've done the same thing with respect to the equivalent court [there]. That would just be my own sort of interest.* [852, Court manager]

> *Well, one of the things I did when I was at Children's [Services] with domestic violence - [the case] was involved so we had to go out. And what surprised me was they had no handouts. There was some individual pamphlets, but there was no real handout that we could give the woman. And so when I got back to the office, I made, I spent a day or so and I made one up for them with regards domestic violence and domestic abuse. With phone numbers and contact people...where they receive help and a general outline of a panic plan*…[328, Member of the public currently involved in a divorce case who had previously worked for children's services]

Individual actions can make an important difference to the state of communication within the justice system as it presently exists and operates - especially for members of the public trying to negotiate that system. Real systemic change, however, needs concerted, committed, long-term collaborative action among representatives of all justice system stakeholders. It is not an easy undertaking as the following participant points out:

> *The [stakeholders who are] the ones that can institute those changes - we have worked on developing those types of relationships with open communication with the department of justice, with the ministry of the attorney general, and with legal aid. However, again because of the issue related to working in silos, particularly in the department of justice, it's very difficult for anything to happen there. Also it appears that how federal departments operate in comparison to the provincial departments is that...it doesn't seem to be as an equal approach.* [883, Executive Director, Aboriginal legal clinic]

The problems described above are very real, however there is a growing awareness within the civil justice community across Canada of the need to meet these challenges and find ways to work together effectively. One court clerk told us of her involvement in such an initiative that brought together experience-based knowledge from many different front-line perspectives in order to better respond to issues of family violence:

> *You are getting people in the community on this committee that work at different agencies, you have children's [services], you have different crisis homes, you have the Francophone [organization] - there's about thirty different agencies. And you have the police, the [government enforcement agency], you got crown attorney...that are all involved with each other in one aspect or another. And this committee meets about once a month and basically what they do is try to streamline and try to build in a network. So that we can assist each other where things are not working out...and see if something can be done to change a process, to make it work smoother. I think it's an excellent group.*
> [843, Provincial Family Court clerk]

As the CJSP findings emerged we have also sought opportunities to promote a dialogue about challenging communication hierarchies. One opportunity was a panel session at the ACCA Learning Event, 2005, which brought together representatives from the justice community to 'model' the idea of a user committee that would include people from all roles in civil justice. Our volunteers included a chief justice, a public service lawyer, a court counter supervisor, a court manager and the CJSP research coordinator. The CJSP focus groups also serve as models for establishing these kinds of committees and finding ways to confront and resolve the barriers to communication that are created by the traditional status differences attributed to various justice system roles.

Principle of Good Communication 8
> **The creation of Court Services Committees and Court User Committees should be pursued, as a means to provide opportunities for including, sharing and understanding all stakeholder perspectives on civil justice delivery.**

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4.   Creating New Approaches for Civil Justice Delivery

> *It's very much an inner culture of the legal system. It's unchangeable. That's the way it is…they've done it that way for so long.* [204, Plaintiff in civil action, defendant in divorce case with and without legal representation]

> *Well they keep asking us what tools we need for the trade. So we make very many suggestions, there's no money in the budget. There's always no money in the budget.*
> [843, Provincial Family Court clerk]

Both of the points of view quoted above represent serious barriers to bringing about effective change to the way that Canadian civil justice is organized and delivered. While we do not believe that the system is 'unchangeable', we do recognize that it can seem that way at times - not just to members of the public, but also to those within the system.

We also recognize the problem of resources raised by the court clerk as well as in numerous interviews with justice community participants. As the court clerk states, it is no good to ask what needs to be changed if there is no budgetary commitment to follow through. Creating new approaches for civil justice delivery also requires developing new ways of understanding the benefits of the investment required and the cumulative social costs of failing to do so.

As the CJSP has unfolded, the Research Team has been encouraged to observe an increased awareness of the role that good communication practice can play in increasing the understanding of the civil justice process - not just for the public, but also for members of the justice system. We are privileged to have been invited to take part in some admirable initiatives to open up the lines of communication, which include the valuable knowledge of front-line workers and informed members of the public. In this way the CJSP has been a tremendous success: it has achieved our goals of establishing an empirical evidence base about communication within the civil justice system across Canada and in the process it has formed, contributed to and strengthened networks within the justice community. At the same time, as awareness has grown and our justice community partners have heard what each other and the public have to say, they have turned to us and to each other, with growing concern that there are some deep systemic problems which must be addressed urgently. The two that stand out are costs and delay associated with civil litigation, which along with lack of public understanding, were identified as key priorities for reform in the 1996 CBA *Task Force Report on Systems of Civil Justice*.[63] It is clear that, ten years after this report, costs and delays remain priority issues for civil justice system stakeholders.

All of the public participants in the CJSP raised concerns about the cost of litigation. This is true regardless of their economic means and whether they were individual litigants or major corporations. As many of our public participants explained, in addition to legal fees there are financial costs that accrue when a legal dispute is not successfully resolved. The length of time a case requires to progress through the court process obviously increases financial costs, and the CJSP and other recent research suggest that delay also increases social costs in terms of negative mental and physical health consequences.[64] The following interview excerpt illustrates some of the cost and delay consequences litigants face:

> *Well I am simply self-representing because I have no choice. I spent $10,000 in legal fees; waited nine months for my case to get to court. I had six items on the notice of*

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[63] See Part I. A and footnote #1.

[64] See our overview of *Social, Economic and Health Problems Associated with a Lack of Access to the Courts*, a soon to be released report referred to in Part III.B.2 .

motion; only three were addressed. The second one was reduction of maintenance which I was eligible for 20 months prior and I'm still dealing with this – February, March, April, May, June – five months after my court date I have yet to get that settled because they are putting it off. In the interim I've been ordered to pay the previously ordered amount, which was a maintenance agreement I voluntarily signed which is four times the amount we are currently discussing. The Justice who presided over that case, Justice [name], she knew the case .... Money was just one issue. I tried a settlement meeting – that cost me $2500 and delayed the case three months….[At] one time, I [had] authorized the daycare to withdraw $352 per month from my account, I was paying [my ex wife] $314 and I had my daughter 60% of the time and I was buying diapers and everything else for the daycare. [210, male plaintiff and defendant, various family-related matters, now self-representing]

Family matters are complex and highly emotional, They also tend to involve on-going issues, which from the litigant's point of view are related to each other. The court, however, may treat them as separate and independent, and this can result in many appearances before different judges that lead to contradictory orders. The problems of delays were not confined to family issues however, and case management was a frequently raised concern among all public participants in the CJSP:[65]

It's really bad faith that tries to drag out the process as much as possible….We always wind up in front of a new judge who doesn't know what's already happened, or at best he has a short summary but he isn't the one who handled the case, doesn't know what's already happened….It's always a new proceeding. We come before one judge….we argue that [a motion from opposing counsel is inadmissible because of X, Y, and Z…and the judge says, "Fine, it will be heard." But the one who hears the two parties six months later is another judge….There should be only one judge who takes on the whole…case so that he can settle it himself….I think that if it were one judge who had to manage…all the proceedings related to his case, it would expedite the case to an amazing extent, and it would also have the impact that the big boys [in a large] industry, would know that the judge is wise to them. They would probably be less inclined to use stalling tactics, like, what motion we can file to slow the process down. They'd know that the judge would eventually say, "Alright, that's enough of that…because we had a judge who got mad and said, "No, my availability is X, Y and Z. You guys pick one of those dates." And on our side we were like, "Yes! Finally a judge who plays a bit of hard ball instead of being a pushover"….The judges are always waiting for the parties to be ready. But they could perfectly well be the ones who say, "Look, my deadline is this." [132, plaintiff, represented in a civil action]

CJSP participants indicated that high litigation costs coupled with the failure to resolve a dispute eroded their confidence in the civil justice system. As one participant put it, "the most disappointing thing is when you go in, you know, you're expecting it to be resolved -

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[65]Case management is another issue that has been raised and much discussed within the civil justice community, again demonstrating common ground between stakeholders, including members of the public. We note a recent article in *The National* (March 2006, p.36) that describes a Quebec initiative to address the problems of related matters coming before different courts, particularly in family matters.

you're expecting it to go away - and it's still there."[66] The CJSP findings indicate that litigants are expecting the civil justice system to provide them with a practical, workable and enforceable resolution to the conflicts they face. They would like that resolution to also be fair and affordable. Concerns that the system is failing to meet such expectations is not confined to any one group of litigants. The following CJSP participant is speaking on behalf of a large corporation as he discusses in-house dispute resolution processes that have been introduced to avoid civil litigation whenever possible - one that is "fast, free, fair, friendly and final":[67]

> *And one of the things we learned...[was] that there had to be a better way then going to court, than what we were doing - either going through small claims court, or higher courts if people are trying to seek the buy back of the vehicle and the dollar value exceeded the small claims court limitations. And so what we did - we worked as an industry...and established...[a] motor vehicle arbitration program. And we offered that as an alternative to customers. And it was free to them - we had...almost a slogan for it - the five F's we called it - fast, free, fair, friendly and final. And we're trying to encourage customers to use it rather then to go through the court process. No expense to them....And it worked well for us - or more importantly it worked well for consumers....Two thirds of the cases, or more, that would have gone through the court process...now go through this arbitration process in a much more efficient and expeditious way....Another [example] is with our dealers...we have this relationship of 500 dealers, and from time to time they can generate lawsuits....I looked at that as a kind of counterproductive litigation, because in the end we probably still have an ongoing contractual relationship with that dealer - but you've expended a large amount of money, and energy, and time, on a court process that wasn't all that satisfactory to either side. So...I went to work on the industry again, and said..."Can we develop an arbitration program strictly for dealers that feel that they have a grievance with a manufacturer and want to get it resolved?" So....[now] with the exception of one litigation case that I have remaining with dealers - any disputes that we can't resolve with them in a business way, now go through this [arbitration] process....It actually has retired judges that act as the arbitrators and a very detailed set of rules for both complicated, and less complicated cases. But the end result is it's taken a whole lump of litigation that would have been, you know, kind of burdensome for the courts, moved it over to an arbitration program where we get the decisions much, much, more quickly. Most of - the goal is to have all the decisions within 90 days of the time that an application is commenced. So [this] helps the relationship because you get a third party, former judge, knowledgeable person, renders the decision, and it's done in a timely way, and the relationship can keep on going afterwards* [815, Corporate representative]

This participant later provided more details of the dispute resolution process that his company adopted to provided dispute resolutions that are felt to be not only faster and less expensive than litigation, but also lead to resolutions which both sides consider fairer and more satisfactory. What he describes contains the elements other CJSP public participants told us they would like to see in the courts - clear information about their dispute resolution options and an opportunity for their side of the matter to be fully heard,

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[66]829, Plaintiff and defendant in various family matters.

[67] *News & Views Issue 9*, pp. 9-14 also focus on corporate and small business views of the civil justice system.

before someone they trust to make an impartial decision - in this case a retired judge.[68]

> *Normally what happens with these disputes [is] we've concluded that [a dealer has] violated a fundamental term of our sales and service agreement and...we want to now move to terminate the agreement. So we will start a process of putting them on notice, we say, "You'll be terminated on such and such a date because of this action." They in turn - they've got a couple of options. As I was saying 95% of them have signed up for the dealer arbitration program, so their first step in that is we have an internal dispute resolution mechanism. We call the office of dealer affairs. So if that dealer feels, "Oh, this [is] unfair, they shouldn't be terminating my agreement" the dealer can appeal to that office. The office has almost like an ombudsman type of role - [an] employee... picks up the dealers complaint, looks at it, gets our input as a company, and can actually make decisions....Then the dealer has another ADR option with us, and that is we have a dealer affairs tribunal. And it has a dealer representative, a company representative, and an independent third party, who can again hear the dealer's position....The dealer comes in and makes a presentation, can be represented by counsel, but most often as not - he does it himself. We have a business person here who will go and present our position. And then that tribunal makes a decision. And these things happen pretty expeditiously. The decisions are binding on [company name] but not on the dealer. So in both instances ... it's sort of you know an option that all dealers would chose because it's not binding on them, it's a way to have somebody, a third party listen to their dispute. If at the end of that they're still not satisfied with the decision .... the next step for them is mediation to see if that can work, and there's set time frames for that. And then if that fails it gets into full-blown arbitration. Now ... this whole process...[is] in place ... it ... causes a review to happen every five years .... And so I play an integral role in that if there's issues about the administration of it, quality of the ADR, the arbitrators that we're using - the retired judges and that - these things get kind of vented there and resolved.*

As might be expected, this participant thought that the civil justice system could make some improvements and that litigants and other civil justice jurisdictions had valuable insights to offer about what these might be:

> *I know it's in other jurisdictions too - one big sort of improvement in [province] is when they created a specific commercial list and assigned judges specifically to it. And then began to require you as parties to come in there on a regular basis and sort of explain where you're heading with this case, and what your process is on that. And that brought a lot of - I think - integrity to the whole thing. Because just couldn't - and this is counsel, and parties in the action - just couldn't doddle around anymore. And you're brought to some level of accountability. And I think that really improves the whole process, you know.... I think, there needs to be some kind of a forum where the court - from judges right down to administrators, can actually sit down with former litigants. Not to talk about their specific case, but the learnings about the process to see how it can be improved. You know like the things that you're doing are a real hub in that regard....gain some knowledge, and the sharing of that knowledge can be useful to improving the whole*

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[68] There is indication in the CJSP data that although members of the public complained about too much pomp and ceremony and too many rules in the court process, they did generally prefer their matters to be decided by a member of the judiciary. On the whole participants were positive about the judiciary and had far more reservations about mediation conducted by lawyers or mediators without legal backgrounds.

thing... And [if] the reason that they're getting bogged down in the process was because of inadequate facilities, or not enough judges to hear them or whatever, then I think it's kind of incumbent on us as a company or an industry, whatever, to be letting governments know that, "Hey, this is what we're seeing." You know, that maybe in the whole mix of how you allocate public resources and that - more has got to go to certain elements of the courts to improve these things you know. But on the other hand you've also got to do it in a cost effective, efficient way.

Very noticeable in the excerpts from this corporate representative are the references to alternative dispute resolution (ADR) options, which have also been much discussed by the justice community as a possible solution to reduce both delay and cost within the traditional civil court process. Notably absent from our discussions of good communication practices are examples of ADR initiatives. The CJSP data includes many discussions of various forms of dispute resolution (formal court and private mediation; ADR, JDR, pre-trails; and less formal approaches). However, the data also reveal considerable disagreement among both the justice community and the public about the benefits and detriments of the various approaches, which will require a separate analysis and report to address adequately. What we can say with reasonable confidence at this point is that the CJSP public participants would have welcomed a dispute resolution option with just four of the 'Fs' described by the corporate representative: fast, fair, friendly and final - as long as it is also affordable.

When it comes to creating new approaches for effective civil justice delivery, there is undeniably much work to be done, and there is also much will and energy to meet those challenges, as exemplified by the following front-line worker:

I think we all really have to...work together. I mean, we create our own civil justice system. We have our problems that affect society that each of us experiences on a different level. We also create solutions. The solutions to our civil justice system, and others....Like we create the system. And if we work together I can't see how that would work against us. And I'd like to see more of that. [645, Legal Aid intake worker]

Principle of Good Communication 9
> **The CJSP research suggests that in addition to the need for improved communication practices, creating an accessible civil justice system will mean developing new approaches for civil justice delivery that requires a budgetary commitment to providing the necessary resources. An increased understanding of the cumulative social costs of failing to provide effective civil justice resolutions is needed in order to recognize the benefits of adequate financial investment in the system.**

D: Good Communication in Practice - Three Case Studies

I'd like to see a little more coordination...with respect to all of the jurisdictions. We tend, in Canada, to do our own thing within each province and we don't get the advantage, I think, of even communicating within the country to the extent that I would like to see. So that if something is working particularly well in an area that those clues are passed on. Not only to judges, necessarily from the top down, but to the administrative staff so that if they have...a better means of doing it. [353, Provincial Court judge]

The purpose of the CJSP case studies is to assist in passing on the "clues" to effective practices that the judge quoted above would like to see, and in so doing to help facilitate the solutions needed to create a system that works for the people it is meant to serve. As part of the CJSP program of research we have conducted three case studies that involve action to improve communication with the public concerning the civil justice system. In each case, establishing information-sharing and collaborative communication among the civil justice community has been part of the process. The first of our case studies was associated with the pilot stage of our research in Alberta and occurred in collaboration with the Alberta Law Reform Institute as they undertook the "Alberta Rules of Court Project".[69] The second case study, the British Columbia Supreme Court Self- Help Information Centre (BCSHC), we have already mentioned. In collaboration with CJSP project partner, Rick Craig of the BC Law Courts Education Society, and the BCSHC committee members and evaluation researchers, we have watched this project from inception to fruition. Our third case study evolved out of a knowledge-sharing process of the CJSP and resulted in the Canadian Forum on Civil Justice offering a public legal education course, "Legal Basics: The Civil Court System and You" at the Metro Continuing Education Division of Edmonton Public Schools. A full report on each of these case studies is currently being developed and will be made available on the Forum website when completed. For the purposes of this report we provide a brief overview of each case study.

1. The ALRI Rules of Court Project

Given our focus on improving communication between the civil justice system and the public, we are particularly interested in initiatives that include consultation and collaboration with members of the public and the justice community. One of our project partners, the Alberta Law Reform Institute (ALRI), has undertaken a major review of the rules governing practice and procedure in civil actions in the Court of Queen's Bench and the Court of Appeal (the Alberta Rules of Court Project). The commitment of the Rules Project Steering Committee to involving both members of the justice community and members of the public in their consultation process made this project an ideal case study for the *Civil Justice System and the Public* research and ALRI welcomed the opportunity to collaborate with us in this way. Previous attempts to actively consult with the public about the reform of something as technical as the Rules of Court, have been negligible to non-existent. In fact, even the legal community has seldom been actively engaged in providing input throughout an entire reform process.

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[69] For more information about the Rules Project and related reports, visit http://www.law.ualberta.ca/alri .

In order to meet the challenge of effectively involving the public and professionals in the justice community, ALRI developed several consultation strategies. In the case of the justice community, the existing infrastructure was used to promote the *Issue Paper for the Legal Community* via a series of key contact presentations with local bar associations, law firms, Canadian Bar Association sections and the judiciary. As draft recommendations evolved, further consultation papers were circulated to justice community professionals. A Public Consultation Paper and Questionnaire was also developed and over 4,000 of these were distributed to the public via court registries, legal aid offices and community groups. Both consultation papers were also made available on the ALRI website and by link from the Alberta Law Society website.

ALRI was satisfied with the number and quality of responses received from the justice community, but initially disappointed that only 98 public questionnaires were returned. Nevertheless, the Rules Project Steering Committee found that the public input was valuable. Since many of the respondents indicated a willingness to participate in follow-up focus groups, two focus groups with members of the public were subsequently organized in Edmonton and Calgary. Members of the CJSP team observed the focus groups as part of the case study process. The information gained from these groups made a helpful contribution to ALRI's considerations in the Rules Project and also served as learning models for the CJSP team for the design and conduct of the feedback groups we subsequently held. The partnership with ALRI in developing this first case study also assisted us to clearly develop a philosophy and methodology for collaborative program evaluation.[70]

2.   The BC Supreme Court Self-Help Information Centre Pilot Project

As we discussed earlier (Part III. A), our collaboration in using the BCSHC as a case study began in the Spring of 2003 when the BC Law Courts Education Society, Executive Director, Rick Craig shared the fledgling idea and his draft funding proposal at the CJSP Partner Symposium. In the wake of drastic provincial service cuts and a concern about the number of litigants attempting to use the Supreme Court without legal representation, the proposed BCSHC was intended to provide free legal information and assistance. A large collaborative committee was formed that included representatives of many civil justice stakeholder groups. Every step of the BCSHC process, including agreement to become a CJSP case study, has involved the input of this collaboration. Reaching agreement among so many contrasting perspectives was not always easy, but committee members persisted, when necessary continuing dialogue outside of official meetings until different view points were successfully negotiated and the project moved forward.

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[70] A short and preliminary overview of our evaluation approach is provided in *News & Views Issue 7*, p.16. A more developed version was presented at the *PLEAC Conference* -. Montreal, Quebec, September 7-10 and a detailed discussion will be included in the full report on the ALRI Rules Project Case Study.

From the outset, a clear three-stage plan of action was developed:[71]

1. Researchers were hired to compile a report, "Mapping Services, Gaps, Issues and Needs" that documented details of all available sources of information and assistance with a civil justice case.
2. Based on the "mapping report" a "Proposed Service Vison and Program Design" was written for the purpose of establishing a coordinated service model (self-help centre) to meet the needs of self-representing litigants.
3. An evaluation model was designed to commence as soon as the BCSHC pilot centre was in place.

When these reports were completed they were made available to the public and the justice community. As a result, this process became a model of good collaborative planning shared across Canada. Built on this strong base of research the project received start-up funding and widespread community support. In 2004, the BC Ministry of the Attorney General approached the committee, proposing to take a more active lead role in establishing the pilot centre, essentially managing the centre from within the court services structure. This offer of early active involvement represented a culture shift in relations between government and community based groups and was a learning process for all involved. The BCSHC Committee recognized that to meet their ultimate goal of not just one, but several permanent SHCs, provincial government buy-in was positive and necessary. Government representatives acknowledged that collaboration was a new tradition for them. An agreement was negotiated that facilitated the establishment of the BCSHC pilot and retained a strong continuing voice for the community-based steering committee.

In April 2005, the BC Supreme Court Self-Help Information Centre opened in the Vancouver courthouse. Both the Evaluation Report and anecdotal feedback show it to be a resounding success in helping to meet the needs of the public, and also as an example of "a very successful and creative partnership between government, BC courts and several non-governmental agencies within the justice system."[72]

3. "Legal Basics: The Civil Court System and You" - A Public Legal Education Pilot

"Legal Basics: The Civil Court System and You" was designed and delivered by Kim Taylor, Program Director at the Canadian Forum on Civil Justice for the Metro Continuing Education Division of Edmonton Public Schools in October 2005. The pilot session of this course evolved out of the CJSP project on two levels: 1) the content was

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[71] Details about the BCSHC and copies of the reports associated with the three-stage action plan can be accessed at http://www.lawcourtsed.ca/Self_Help_Information_Research/ and the web page for the BCSHC can be found at http://www.supremecourtselfhelp.bc.ca/

[72] The quote is taken from a News Release of the BC Ministry of the Attorney General, June 30, 2005, "Centre provides free legal information and assistance."

a response to information provided by public participants in the research and 2) the invitation to provide the course through Metro Education resulted from exchanges of information and networking contacts made during the research process.

Justice community participants in the CJSP almost unanimously felt that the Canadian public needed a better general understanding of the civil justice system, but they were doubtful that adults not currently involved in a civil case would be prepared to engage in this kind of general learning. Most of our public participants told us how much they wished that they had begun their involvement with more background understanding about the civil system. Some confirmed what participants in the CJSP had suggested, stating that they would probably not have attended a course prior to involvement, while others said that they would have taken advantage of such a course.

At the beginning of our field research in Alberta, the CJSP team did not know that the Metro Community College in Edmonton regularly offered, at a very minimal cost, a substantial series of night courses specifically about "Law for the Lay Person". At some point, a member of the Research Team discovered the program and the team arranged a key contact meeting.[73] The Metro College Program Coordinator invited the Forum to develop a course addressing basics about the civil justice system. Although a content plan and approach was prepared, the session was run in a collaborative way and the participants were asked what issues they would like to learn about. The group of nine participants generated the following list of queries - far more than could be adequately covered in one two-hour session:

- Legal terminology
- Civil court processes & procedures
- Time lines for cases
- Costs of trials
- How to find a good civil lawyer
- Differences between court levels
- Differences between provincial systems (Quebec, Alberta, Saskatchewan)
- Differences in roles of notaries and lawyers in Alberta
- Roles of Barristers and Solicitors
- Civil court documentation
- Evidence - what constitutes "evidence"
- Starting the process
- Complaints about fees/costs/taxation process
- How to do the research necessary to be self-represented

This pilot course attracted a range of participants. Some had previous involvement in the court system, either civil or criminal; others just wanted to be better informed. As the list above suggests, participants raised excellent questions based on partial prior knowledge

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[73]During the feedback focus groups, we discovered that many other justice community people were also unaware of these courses.

that was incomplete and sometimes inaccurate. The interest in this course demonstrates that there is room to develop public legal education that provides a basic background about the civil justice process. The full case study report on this pilot course will form the basis of a model to share with our partners in other jurisdictions.

V: Conclusion: Into the Future

> *I think it would be important to get people's opinion on that and then to do some good solid information gathering from people, that's what ought to be done. Not people in general, who are indifferent to the system, let's say, because it doesn't affect them, but people who have been victims of the system. Sure, there are people who got satisfaction. It would be good to talk to them too, but in general, in civil matters, people are dissatisfied. It's too long. It's too complicated. It doesn't make sense. It costs too much. I'm embarrassed by the justice system when I see what goes on in some cases.* [101, Provincial Court judge]

Ten years after the release of the CBA *Task Force Report on Civil Justice,* from every corner of the country, there is increasing concern that there is a crisis of public confidence in the civil justice system. This perception of crisis is apparent in strategic plans for most Departments of Justice and Ministries of the Attorney General, and was the topic of discussion at the recent Federal-Provincial-Territorial Deputy Ministers Meeting. On April 30 - May 2, 2006, a national conference titled *Into the Future: The Agenda for Civil Justice Reform*, will be held for the purpose of discussing the state of the Canadian civil justice system ten years after the CBA report. This report on the *Civil Justice System and the Public* project will be presented at that conference. As the Program for this conference reflects, although much has been accomplished, there is much still to do in civil justice reform.[74]

Concerns about major barriers to accessing civil justice posed by costs and delay, and the impact on public confidence in the system, are the drivers for an emerging research initiative which the Forum is planning to lead, along with partners throughout the justice community. Building on the foundation of both research knowledge and collaborative partnership created by the CJSP, this project will develop means of understanding the origins and reasons for prohibitive costs and delays, and will lead to recommendations for more effective approaches to civil justice delivery that can assist in dissolving these barriers to civil justice.

Based on the CJSP findings, we conclude that good communication practices have the potential to assist in ongoing efforts to improve access to justice on two distinct levels:

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[74] The title of the opening keynote address from Brian A. Tabor QC is, " *Ten Years Later: So Much Accomplished, So Much Still to Do in Civil Justice Reform.* The Conference program is available at: http://www.cfcj-fcjc.org/IntoTheFuture-VersLeFutur/ .

- Regardless of system limitations and other access barriers, good communication can immediately increase shared understanding of the system among the justice community as well as members of the public. Shared understanding facilitates effective communication within the system as it currently exists.
- Shared understanding and open lines of inclusive communication assist in identifying barriers to access to justice that require deep systemic change and in establishing the cooperation across system boundaries that will be required to bring about effective change.

After the *Into the Future Conference* we will develop and publish further specific recommendations for changes to communication within the civil justice system and between the system and the public. We are convinced that adopting principles of good communication can assist all of the stakeholders in the civil justice system to take the action that is needed for constructive change. We conclude this report by summarizing the nine communication principles identified earlier in this report.

Summary of Principles of Good Communication

Principle of Good Communication 1
Communication is central to the functioning of the civil justice system, both for those who work in the system and those it serves. We need to take communication seriously and identify both which methods are available and which are most effective for the specific circumstances of the intended users.

Principle of Good Communication 2
An understanding of the lived-experiences of communicating about the civil justice process is essential to developing initiatives to improve communication and effective systemic reforms to civil justices rules and procedures. Litigant and front-line justice community perspectives must be meaningfully included in policy and program development.

Principle of Good Communication 3
Breaking down barriers to communication must be recognized as a priority issue that requires a concerted response to address the problems from multiple directions and in collaborative ways.

Principle of Good Communication 4
Good communication is built on a the foundation of shared understanding of needs and abilities. Therefore, a commitment must be made to providing the resources necessary to ensure that foundation is in place.

Principle of Good Communication 5

In order to establish effective communication practices within the civil justice system, stakeholders must recognize and engage with the broader social context of change. This may demand radical shifts away from previous stakeholder practices and perspectives.

Principle of Good Communication 6

Characteristics of the systems of civil justice that inhibit constructive change to civil justice delivery must be identified and confronted. A foundation of good communication practice will assist in this process.

Principle of Good Communication 7

Knowledge based on first-hand experience must be valued and shared in order to build a foundation of good communication practices among all civil justice system stakeholders. Action to achieve this must be taken in the areas of: developing effective information content about the civil justice system: ensuring this information and associated resources for assistance are well-known and easily accessible; and creating understanding and knowledge of the civil justice system that is based on accurate and available information.

Principle of Good Communication 8

The creation of Court Services Committees and Court User Committees should be pursued, as a means to provide opportunities for including, sharing and understanding all stakeholder perspectives on civil justice delivery.

Principle of Good Communication 9

The CJSP research suggests that in addition to the need for improved communication practices, creating an accessible civil justice system will mean developing new approaches for civil justice delivery that requires a budgetary commitment to providing the necessary resources. An increased understanding of the cumulative social costs of failing to provide effective civil justice resolutions is needed in order to recognize the benefits of adequate financial investment in the system.

APPENDIX A: PROJECT INFRASTRUCTURE - OVERVIEW

In 1999, the CJSP was initiated by the Canadian Forum on Civil Justice (the "Forum") as part of the Forum's mandate of pursuing civil justice reform in Canada.[75]   Funding for the CJSP was provided primarily by the Alberta Law Foundation (ALF) and the Social Sciences and Humanities Research Council (SSHRC) in the form of a Community University Research Alliance (CURA) grant. Working together with the CJSP's Research Coordinator, the CJSP research was managed and directed by the Forum Executive Director and several other Research Directors associated with various University of Alberta Faculties (see Appendix C. 1 for names and details of participation). As discussed in Part 1 of this report, a wide range of Research Partners were involved in the development of the project. The partners provided advice and assistance with respect to all aspects of the project and at the end of the funding period, many are actively involved in sharing the knowledge gained via the CJSP.

A national project as ambitious as the CJSP required a considerable amount of convening work to take place throughout the project. The early collaborative role of the Research Directors was essential to developing the partnership, the conceptual and the practical aspects of a successful project. The multi-disciplinary perspective provided by early brainstorming among the Research Directors resulted in the original funding proposals, and after the hiring of the Research Coordinator, in the initial drafts of the Working Document and the research instruments suitable to circulate to the larger partnership for further input. The collaborative work of the Research Directors also made a powerful contribution to the preliminary analysis of the interview data. Throughout the project, the Research Directors as a group, have continued to make a variety of contributions to our knowledge sharing activities (as can be seen in Appendix G). Unquestionably, this ongoing collaboration strengthened the project at all stages.

Inevitably, however, a considerable amount of the day-to-day direction of the project fell to the Forum Executive Director, who was: a) constantly on hand; b) ultimately responsible for ensuring the CJSP and all associated materials were in keeping with the Forum's principles and standards; and c) responsible for the budgetary and other administrative aspects of the project.[76]   Additionally, the Research Coordinator was hired

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[75]The Forum is a national, bilingual organization, incorporated under the *Canada Corporations Act* in 1998 through a joint initiative of the Canadian Bar Association and the University of Alberta, Faculty of Law. Created in response to the Canadian Bar Association's *Systems of Civil Justice Task Force* recommendation for a national organization focussed on improving Canada's civil justice system, the Forum's mandate is to bring together the public, the courts, the legal profession, and government to strive to ensure that civil justice is accessible, effective, fair, and efficient. The Forum is the only organization in Canada with the mandate to collect and share information and conduct research for the purpose of promoting civil justice reform.

[76]The Executive D irector of the Forum was the Principle Investigator, and therefor the grants were received in her name and she was ultimately responsible for their administration. As an NGO organization operating within a University setting, such work was considerable. It involved the supervision and direction of administrative staff and ongoing liaisons with funders and the university. Included in such requirements was the submission of a research

for her methodological and field research knowledge and had no prior background in the legal world. The Executive Director was primarily responsible for familiarizing the Research Coordinator with the culture of the legal world and, as mentioned in Part 1. D. 2 of the main report, accompanied her on the early key contact visits, and again on visits to the final jurisdiction.[77] Working in close proximity, the Executive Director and the Research Coordinator continued to consult on an almost daily basis, and were generally responsible for initiating agendas and first drafts of materials for the other Research Directors.

The actual field research was conducted by a Research Staff comprised of the Research Coordinator and a team of five or six Research Assistants (RAs). One of the requirements of SSHRC funding is that graduate students be involved in the research process as a form of applied research training. The RAs were, therefore, either Law or Social Science Graduate Students, and over the course of the five-year project, some graduated or left the project because of demands of their studies, or when they completed their programs. Each RA had to be recruited, interviewed, trained and supervised. This daily work most usually also fell to the Research Coordinator and the Forum Executive Director.[78] Appendix C provides more details about all members of the Research Team.

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plan that met the standards of SSHRC and the University for the conduct of research.

[77]Executive Director, Diana Lowe had practiced law in BC before taking on the role at the Forum. The importance of the key contact visits was by this time very clear and Research Directors agreed that Diana's knowledge of and personal contacts in British Columbia would be advantageous to capturing an excellent final snapshot for the CJSP.

[78]We see this as inevitable within such complicated organizational strictures and partnerships. Each Research Director also had other commitments in addition to the CJSP. Individual Research Directors assisted at various times with hiring, training and writing as it was possible for them to do so. We note the issue of convening here because these practical aspects of the convening work necessary to successful collaborative projects are generally overlooked in the research literature. See also *How Collaborative is Collaborative*, by Rose and Stratton, *ibid* note 7.

APPENDIX B: PROJECT INFRASTRUCTURE: FUNDING

Date Funding Received	Funding Source	Purpose of Funds	Amount Received
2000	University of Alberta	Small Faculties Research Grant for Research Director June Ross to hire a summer student to do research for a literature review	$5,000
2001	Alberta Law Foundation	Alberta Pilot Project for a National Study of the State of Communication in the Civil Justice System and Between the Civil Justice System and the Public	$110,000
2001	University of Alberta	Travel Grant to enable Professor Lois Gander to present our research at the Eighth Annual Consumer Law Conference, Auckland, New Zealand	$1800
2001	Community-University Research Alliance Grant (CURA) from Social Science & Humanities Research Council (SSHRC) (Government of Canada)	5 Year National Study of the State of Communication in the Civil Justice System and Between the Civil Justice System and the Public	$600,000

Date Funding Received	Funding Source	Purpose of Funds	Amount Received
2003	Completion Grant, from Social Science & Humanities Research Council (SSHRC) (Government of Canada)	Completion of the National Study of the State of Communication in the Civil Justice System and Between the Civil Justice System and the Public	$328,000
March, 2003	Department of Justice (Government of Canada)	March 2003 Research Partners Symposium	$15,000
March 2003	Alberta Law Foundation	March 2003 Research Partners Symposium	$13,635
2003	Alberta Law Foundation	Dissemination Activities relating to the Alberta Pilot Project Research	$10,000
2004	Department of Justice Canada	Alberta Dispute Resolution Project	$4,500
2005	Canadian Judicial Council	Report on Public Perceptions of the Judiciary in Canada	$22,500
2006	Department of Justice Canada	Report on Social, Economic & Health Consequences	$7,000
2006	Social Sciences & Humanities Research Council	Northern Research Development Program - Community Workshops Project	$40,000

Date Funding Received	Funding Source	Purpose of Funds	Amount Received
2002-2005	Human Resources Development Canada - Student Career Placement Program	Grants to assist with hiring of Research Assistants for summer employment	2002 - $1,218 2003 - $2,891 2004 - $2,891 2005 - $2,891
2002 - 2006	University of Alberta	Matching grants on RTS for Research Directors	02/03 - $10,0000 (Law & Extension) 03/04 - $2,500 (Law) 04/05 - $5,000 (Law & Extension) 05/06 - $5,000 (Law)
2000-2006	University of Alberta	In-Kind Contribution in the form of space, HR and research services assistance.	

APPENDIX C: PROJECT INFRASTRUCTURE: RESEARCH TEAM

1. Research Directors

Working collaboratively with the CJSP Research Coordinator and CJSP Partners, the Research Directors were responsible for the overall management and research direction of the CJSP, including:

- Developing an overall research plan;
- developing and approving research methodology and design;
- ensuring compliance with SSHRC and University guidelines relating to the ethical conduct of research;
- ensuring research quality;
- developing and evaluating case studies;
- communicating and disseminating research findings and recommendations.

The four Research Directors involved at the commencement of the CJSP were (in alphabetical order):

- Lois E. Gander (LLM), Professor / Director of Legal Studies Program, University of Alberta Faculty of Extension.
- Diana Lowe (LLM), Executive Director of the Canadian Forum on Civil Justice.
- Allison McKinnon (PhD, Sociology), Faculty of Rehabilitation Medicine & Director of the Population Research Laboratory, University of Alberta.
- June Ross, QC (LLM), Associate Dean / Associate Professor, University of Alberta Faculty of Law.

Over the course of the CJSP, some changes in Research Directors occurred for the following reasons:

- In September 2001 Allison McKinnon left the University of Alberta and resigned her position as Research Director.
- In September 2001, Teresa Rose (PhD, Organizational Analysis), Assistant Professor, University of Alberta Faculty of Extension and partner in the CJSP, was appointed as a Research Director. Teresa Rose has continued as a Research Director despite leaving the University of Alberta in February 2004. She currently works with InnerWorks Consulting in Mississauga, Ontario.
- In 2004, June Ross was appointed to the Court of Queen's Bench of Alberta and resigned her position as Research Director. Justice Ross continues to be supportive of the CJSP and to provide input as a member of a CJSP partner organization.

- In September 2004, Barbara Billingsley (LLM), Associate Professor, University of Alberta, Faculty of Law and partner in the CJSP, was appointed as a Research Director and has been actively involved in capturing the CJSP history for this report.

2. Research Coordinator

Since September 2001 the CJSP, the position of Research Coordinator was filled by Mary Stratton. Mary has a PhD in Sociology from Carleton University,[79] and an interdisciplinary MA in Child and Human Development from Laurentian University. Her specializations include collaborative approaches to research in community development and organizational change; developing multiple method approaches that are appropriate to the issue and community to be researched; and the role of informal learning in gaining and applying new knowledge. Through her role in the CJSP, Mary has gained first-hand knowledge about the experiences of the public and justice community members across the country. She is currently an Adjunct Professor with the University of Alberta Faculty of Arts, Department of Sociology and has accepted an ongoing position as Research Director with the Canadian Forum on Civil Justice.

As Research Coordinator, Mary worked in consultation with the Research Directors to establish and maintain the overall management and research direction of the CJSP, and was responsible for leading the Research Staff in conducting the "hands-on" research for the CJSP, including:

- establishing appropriate research instruments;
- training and managing the Research Assistants;
- organizing and conducting the field research;
- compiling and coding the data obtained in the field research;
- analysing and interpreting the data obtained in the field research;
- regularly meeting with the Research Directors on all matters relating to the CJSP;
- disseminating information regarding the purpose, methodology, findings and future implications of the CJSP.

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[79]At the time Mary joined the CJSP team she was still completing the final stages of her PhD. She wishes to acknowledge the support and encouragement she received from the Research Directors to successfully defend her dissertation at the same time as coordinating the CJSP. Mary also acknowledges the contribution to her research expertise provided by previous training opportunities afforded by her involvement as an RA in earlier SSHRC funded research projects.

3. Research Partners

Research for the CJSP was conducted with the assistance of an unprecedented, nation-wide network of Research Partners intended to represent a diverse range of stakeholders in the civil justice system and in the overall administration of justice. Accordingly, the Research Partners included members of the judiciary, the academic community, the legal profession, court administration, public legal education, Aboriginal organizations, government and various other public and private organizations.

As part of the CJSP's action research plan, the Research Partners provided advice and assistance on technical, theoretical and practical aspects of the CJSP, including:

- developing research design and methodology;
- drafting research questions;
- locating participants for various aspects of the research;
- identifying case studies and demonstration projects;
- obtaining court access;
- accessing civil justice system service providers;
- providing expertise on various aspects of the civil justice system such as organization and management, communication and aboriginal issues;
- conducting focus groups;
- disseminating information about the CJSP and the resulting data; and
- evaluating data.

Although each justice community stakeholder identified a representative for the purposes of formally signing the SSHRC-CURA partner portion of the grant application, many other members of these organizations acted on behalf of the organizational partnership as they facilitated the CJSP field research. Other organizations also become actively involved as partners as the project developed. Due to re-assignments, some of the partner organizations replaced their original representative and we have indicted this where possible. The formal partners listed in the SSHRC-CURA application (listed alphabetically) were:

- Marco Adria, Associate Professor, Faculty of Extension (until June 30, 2004)
- Alberta Law Reform Institute - Peter J.M. Lown, QC, Director
- Chris Anderson, Assistant Professor, University of Alberta School of Native Studies
- Association of Canadian Court Administrators - Rod Wacowich, ADM, Court Services (and later Irene Hamilton and Francis Remedios).
- Carl Baar, Adjunct Professor, York University
- Catherine Bell, Professor, University of Alberta Faculty of Law
- Canadian Association of Provincial Court Judges - The Honourable Judge Sandra Hunt McDonald
- Canadian Bar Association - Joan Bercovitch, Senior Director Legal and Governmental Affairs

- Canadian Institute for the Administration of Justice - Christine Huglo Robertson, Executive Director and Phil Brydon, Professor, University of British Columbia
- Canadian Judicial Council - Jeannie Thomas, Executive Director and later Norman Sabourin, Executive Director and General Counsel
- Justice Canada - Albert Currie, Principal Researcher, Susan MacDonald, Researcher, and Terry De March, Department of Innovations.
- Legal Aid Society of Alberta - Nancy Brown Medwid, Executive Director
- Public Legal Education Association of Canada & Member Organizations
    - BC Law Courts Education Society - Rick Craig, Executive Director
    - Community Legal Information Association of PEI - Ann Sherman, Executive Director
    - Public Legal Education Society of Nova Scotia - Maria Franks, Executive Director
    - Public Legal Education Association of Saskatchewan - Joel Janow, Co Director
- University of Alberta
- Yellowhead Tribal Community Corrections Society - Rupert Arcand, Director, Justice.

4. Research Staff

The Research Staff was comprised of undergraduate students in law and graduate social science students from the University of Alberta who were employed on a full-time basis over the summer months and/or on a part-time basis during the academic year.
Under the guidance of the Research Coordinator, the Research Staff were responsible for:

- compiling court profiles;
- assisting in the development of research instruments;
- assisting in the conducting the field research including making contacts, arranging and conducting interviews and observations;
- compiling, coding and in some cases translating, the data obtained in the field research;
- preparing issue-based data reports drawn from the CJSP data;
- assisting in the organization and conduct of follow-up focus groups;
- assisting with knowledge mobilization activities, including writing (see Issue 7 of *News & Views on Civil Justice Reform)* and taking part in presentations.

The members of the Research Staff (listed generally according to the chronology of their respective employment) were:

- Leah Lis - July 2000 to May 2002

    While a Law Student, Leah assisted with the annotated bibliography of literature and the compiling of articles for the media study. Upon graduation, she articled

and practiced locally before joining the Alberta Law Reform Institute (another CJSP partner organization) in 2006.

- Charlene Hillier - June 2001 to February 2002

  Charlene accepted a summer position as an RA assisting with the annotated bibliography for the CJSP. After graduating she accepted an articling position in private practice.

- Zhi Jones - November 2001 to January 2002

  Zhi joined the CJSP team briefly while completing her Doctorate in Education. She assisted in the early stages of developing research instruments. Upon successfully defending her dissertation she accepted a Research Coordinator position elsewhere.

- Amritha Fernandes-Bakshi - November 2001 to August 2002

  Amritha joined the CJSP team at the beginning of the project, as she entered her final year at law school. She assisted in the development of court profiles and research instruments and as a field researcher for the Alberta phase of the project. Upon graduation, Amritha entered graduate studies in mediation in the UK.

- Shannon Williams Stawnicky - April 2002 to June 2004

  Shannon joined the CJSP as a summer law student working on both the annotated bibliography and the Alberta phase of the media study. She remained with the team as a part-time RA. She conducted field research, assisted with data analysis and contributed an article to *News & Views Issue 7*. Upon graduation, Shannon accepted an articling position with the Department of Justice Canada, where she is now counsel.

- Camron Schwartz - February 2002 to July 2005

  Cam joined the CJSP as a first year law student and remained with the team as a part-time RA until his graduation. He was involved in every aspect of the CJSP research from the development of instruments to the conduct of focus groups. He assisted with the coordination of the Partnership Symposium. Cam proposed the idea for *News & Views Issue 7* as well as contributing an article. He also co-authored the report "*Communication and Access Barriers for those with Disabilities*." Cam left the CJSP team to accept an articling position with a private law firm.

- Graham Statt - May 2002 to February 2004

  Graham joined the CJSP team as a part-time RA while completing an MA in Anthropology. He was involved in instrument development, field research, data analysis, and the ALRI case study. He left the team when he was recruited by Aboriginal Affairs. During the time that he was with the team, Graham also successfully defended his MA thesis and contributed an article to *News & Views Issue 7*.

- Natalie Salvalaggio - June 2002 to July 2004

Natalie originally joined the Forum as a summer student assisting with the Clearinghouse and later joined the CJSP team as a part-time RA. Fluently bi-lingual, Natalie took a leading role in key contact visits and field research coordination in Quebec and contributed an article to *News & Views Issue 7*. Upon graduating from law school, Natalie accepted an articling position with a local law firm, where she is now an associate lawyer.

- James Cresswell - November 2002 to present

  James is currently a PhD student in Psychology. He first joined the CJSP team while in the process of applying to graduate school. He assisted with quantitative analysis and took a lead role in learning the use of the Atlas.ti software, developing tutorials for the other team members. James joined the field research team in Ontario and British Columbia and with focus groups in Alberta. He also contributed an article to *News & Views Issue 7*. He has currently taken a leave from the CJSP to concentrate on his dissertation work, but continues to be available for consultation on data analysis.

- Roberto Jovel - July 2003 to September 2003

  Roberto is a Sociology PhD student at the Université du Québec à Montréal. Fluent in English, French and Spanish, Roberto joined the CJSP team for "in the field" training in Toronto, in preparation for assisting with interviews in Quebec.

- Karen Urtnowski - August 2003 to November 2003

  Karen has completed an MA in social sciences. Fluent in English, French and Spanish she joined the CJSP field team in Quebec.

- Lily Tsui - October 2003 to July 2004

  Lily is a Graduate student in Psychology who joined the CJSP to assist with the interview analysis using Atlas.ti. She subsequently accompanied the team to BC as a field researcher. She left the project in order to devote additional time to her studies.

- Naomi Schmold - May 2003 to present

  Naomi joined the project as a summer law student working on the national phase of the media study. She remained with the project as a part-time research assistant assisting with data analysis. She joined the field research team in Nunavut and BC and has assisted with the Alberta focus groups. She also contributed an article to *News & Views Issue 7*. Upon graduating from Law school Naomi taught English as a Second Language in Quebec and is currently the Program Manager for the Centre of Constitutional Studies in the Law Faculty at the University of Alberta. Naomi has continued to be involved in the CJSP, using her theatre background to assist in developing multimedia presentations. Naomi has accepted an articling position with the Alberta Court of Appeal which commences in 2007.

- Marisa Ferraiuolo - April 2004 to present.

  Marisa joined the CJSP as a summer law student. Her duties were to assist with data analysis and compile a database of PLE materials gathered by the Research Team during the field research. Marisa has remained with the CJSP as a part-time Research Assistant and has assisted with the Alberta focus groups. She will graduate from Law School in May 2006 and has accepted a position with the Competition Bureau Canada.

- Brad Albrecht - June 2005 to August 2005

  Brad joined the Forum as an RA for the Clearinghouse while completing his law degree. He became a member of the CJSP team to assist in the background research, informing the report on *Public Perceptions of the Role of the Canadian Judiciary.*

- Stephanie Boisard - June 2005 to August 2005

  Stephanie is a PhD student in Political Science. Fluently bilingual, she assisted with the review of French literature that informed the report on *Public Perceptions of the Role of the Canadian Judiciary.*

- Travis Anderson - September 2005 to present

  Travis joined the Forum as a summer law student assisting with the Clearinghouse. He subsequently joined the CJSP team as a part-time RA involved with data analysis. He conducted the back ground analysis and assisted in drafting *Social, Economic and Health Problems Associated with a Lack of Access to the Courts*, a Report commissioned by the Department of Justice, Canada. Travis, who has a background in Anthropology, will continue his involvement as an RA for the Northern Community Workshop series.

Administrative Staff

The CJSP also required on-going administrative support which over the course of the project was provided by the following personnel:

- Carmen Baldwin-Déry
- Melanie Blier
- Michelle Lang
- Becky Nagra

as well as a number of part-time administrators. Transcription and translation services have also been provided by a number of individuals working on a contract basis over the course of the project.

Canadian Forum on Civil Justice

Additional support to the project was provided by Forum staff:

- Michael Lines, Law Librarian and Information Coordinator

  As well as well as providing library support, Michael undertook field work training in order to join the team in Vancouver, where he conducted two interviews and assisted at a courthouse site.

- Kim Taylor, Program Director

  Kim assisted in the production and editing of *News & Views Issue 7*, provided editing assistance to other reports and accompanied the team to northern Alberta to assist with the follow-up focus groups.

APPENDIX D: PARTNER SURVEYS

The effectiveness of the Research Partnership as a collaborative tool was strengthened by two surveys of the Research Partners and by a Research Partners Symposium held in March, 2003. The surveys and the symposium fostered the Research Partnership by providing an opportunity for the Research Partners to share their respective views on:

- the level and nature of their interest in the CJSP;

- the current state of communication in the civil justice system;

- the methodology pursued by the CJSP, including particularly the content of questionnaires, the interview questions, and the options for dissemination of data;

- the themes drawn from the data;

- possible improvements for communication in the civil justice system.

Partner Survey #1

1. Partner name and contact person(s)

2. How will the partnership enhance the quality of research?

3. We want to ensure that the partnership has mutually beneficial outcomes. What are your needs and objectives for this research project?

Principles, Beliefs & Values

4. What are your research principles, beliefs & values?

Objectives

5. We have defined the major collective objective of the partnership, as studying and ultimately improving communication between the civil justice system and the public. Do you agree? Do you have additional objectives?

6. What are your specific objectives in terms of research results?

7. What are the deliverables that you expect from the project?

Resources

8.   What resources will you contribute to the research project?

       (Please clearly define in terms of availability, cost, time, human capacity & availability)

Roles

We have proposed that the overall direction of the research will rest with the Research Directors (Associate Dean June Ross, Professor Lois Gander, Dr. Allison McKinnon) and the Research Coordinator (Diana Lowe). An Advisory Board will be composed of the Research Directors, representatives of the academic units and community partners, to ensure that the research will benefit from the expertise of our partners.

We propose to draft a memorandum of agreement setting out the specific role of each partner, project management, work assignments, dispute resolution and research confidentiality.

9.   What will your role be during each phase of the research project?

Partnership Team

10.   Which individuals from within your organization will be involved in the Research?

11.   Will there be a continuity of membership in your partnership team?

12.   Ar there other contacts/decision makers in your organization who need to be involved in any partnership decisions or negotiations?

Evaluation

13.   What level of project evaluation do you require? Do you require specific criteria for evaluation?

Communication

14.   We propose to communicate by listserves and electronic media, and with two partnership meetings per year.   Do you agree with this proposal?

15.   Please identify your needs and expectations regarding confidentiality and dissemination of project results.

Partner Survey #2

We would appreciate if you would take time to complete these survey questions. We would like to include both your answers to these questions and the original survey responses in our Working Document and our research materials.

In addition to including partner responses in the Working Document, we anticipate being able to draw comparisons between the responses of our partners and those of our research participants. These questions have been modelled closely on questions in the interview guides with that purpose in mind.

We need to have your permission to make this information public before we set out the details of your responses in the Working Document. Could you review, sign and return the enclosed consent along with your responses?

1. a) Do you think there would be any benefit in improving communication with the public? If **no**, why not? If **yes**, what benefits would you anticipate?

   b) Do you think there would be any benefit in improving communication with people working in other areas of the civil justice system? If **no**, why not? If **yes**, what benefits would you anticipate?

   c) Do you think you/your organization could do more to communicate well with the people it serves? What could be done better?

2. a) What changes would you like to see in communication with the civil court system?

   b) Are these attainable? And if so, how can these changes be brought about?

   c) If these are not attainable, what is the best possible that can be achieved?

3. Do you think members of the public can, and should have a role in shaping civil justice reform?

   a) If **no**, why not? Who should be involved in shaping reform?

   b) If **yes**, in what ways could they be involved?

   c) Can the public help shape policies and procedures? Why or why not?

4. What are the three most important recommendations you would like to make:

   a) to improve communication between the civil justice system and the public?

   b) to improve communication among those working within the system?

APPENDIX E: INTERVIEW GUIDES

INTERVIEW GUIDE: THE PUBLIC

Interview Date: ID#:
City/town: Province:
Interviewer:
Organization/Court level:
Gender:
Site of interview:
Source of contact:
The interviewer should complete the above without asking the participant

SECTION A:

To begin, I would like to go over some definitions:

By 'civil justice,' we don't mean the criminal courts. We mean the courts that deal with cases like:

- **family law**
- **child welfare**
- **injuries from accidents**
- **property disputes, and**
- **wills and estates**

By 'system' we include everyone who has a role in civil court proceedings, such as:

- **judges**
- **lawyers**
- **other people who work at the courthouse**
- **native and other support workers**
- **services such as Legal Aid**
- **government, and**
- **public legal education groups.**

Now, I am going to ask you a few questions about your involvement with the civil justice court system.

1.	a)	At this time are you involved in a civil court case?

		1.	YES		2.	NO

		[**if no**] go to question two

	c)		[**If yes**] How are you involved?

Interviewer note:

Do not read out the list below. The participant might not know what their role is called.
Let them explain and then circle the correct role below. Tell them what their role is called.

Probes to assist:

Did you start the court case?
Why did you have to go to court?

1.	Plaintiff
2.	Defendant
3.	Witness
4.	Expert Witness
5.	Juror
6.	Member of Aboriginal Justice Committee
7.	Participant in Aboriginal dispute resolution
8.	Other

Note: We cannot interview jurors until the case is finished.

	c) [*For plaintiffs and defendants only]*

	Are you represented by legal counsel?

1.   YES   2.   NO

2.   a)   Have you previously been involved in a civil court case?

1.   YES   2.   NO

b)   *Interviewer note: **If 'yes'** record all the following information for **each** occasion. Note if the participant is a regular court visitor (e,g.) a representative of a financial institution; insurance company; property manager. In such cases, be sure to probe later for comparative experience.*

HOW OFTEN:

WHEN:

IN WHAT WAY(s) INVOLVED :

WHERE YOU REPRESENTED BY LEGAL COUNSEL?

[plaintiffs and defendants only]

1.   Plaintiff

2.   Defendant

3.   Witness

4.   Expert Witness

5.   Juror

6.   Member of Aboriginal Justice Committee

7.   Participant in Aboriginal dispute resolution

8.   Other

c) Attended court as a COMPANY REPRESENTATIVE:

1. YES 2. NO

3. How well informed do you think you are about the civil court system in Canada?

Probes

Do you feel you knew all that you needed for your court case[s]?

Did you feel you had enough information as a [*fill in appropriate role*]

SECTION B:

Now, I would like to ask about your experience of communications with the civil court system.

Interviewer reads definition of communication

For this interview, we would like you to consider as communication every way in which you have discussed, given, or received information about your court case. This may include any of the following:

- **direct meetings and conversations**
- **telephone, e-mail, memos and letters**
- **finding or receiving brochures and other written or visual information material**
- **getting information placed on a web site**
- **receiving or understanding orders, directions and decisions of the court**
- **referrals to or from other services**
- **seeking or following directions posted around the court house.**

4. a) Have you ever given any thought to these things before now?

If 'no':

Given the ways of communicating I just mentioned, can you tell me more about your experiences of communicating with the civil court system?

Both: *Use any or all of the following probes if the various aspects of this information are not volunteered.*

What things did you need to find out about?

Were you able to get the information that you needed?

What barriers were there? [*if participant does not raise issue of travel or telecommunications be sensitive to possible problems in both rural and urban areas. Ask – Was it easy to reach the court?*

What, if anything, would have made it easier?

What ways of communicating worked the best?

Did you use any particular tactics to communicate successfully [get what you needed]?

Was it easy for you to reach the court?

5. During your involvement with the civil court system, were you ever offered information without having to ask for it? If so, when did this occur?

   Probe: *If information was offered be sure to capture the type of information who offered it, and if it was useful.*

6. *Only for participants with more than one involvement in the civil justice system.*

   You have had more than one involvement with the civil court system. Were your communication experiences different?

   Probes:

   This is a very complex question. Difference can occur by:

   level of court

   role

   location

   across time

   judge

   represented/self-represented

If 'no' ask about their role if it differed (e.g., as a [witness] did you need to understand/find out different things than as a [plaintiff]?

If 'yes' encourage the participant to expand on how and why.

e.g., If participant has appeared in the same role multiple times ask about changes over time, or from place to place.

Ask about any improvements.

SECTION C

Now I would like you to think about ways communication between the civil court system and the public could be improved.

7.   Do you think there would be anything to be gained by improving communication between the public and the civil court system?

      <u>Probes</u>

      If 'no':

      Why not?

      If 'yes' and these aspects of the issue are not volunteered:

      What would the gains [benefits] be and why?

8.   Ideally, what changes would you like to see in communication with the civil court system?

      <u>Probes</u>:

      How do you think these changes can be brought about? [*probe further to be clear about the preferred form of change*]

      What might be a barrier and what might help the changes to occur?

9.   Past reports have often suggested that such things as multi-service information centres, telephone information lines, special web pages, and better public education would help improve communication between the civil justice system and the public. We would like to know what <u>you</u> think about these ideas.

84

b) Do you think a multi-service information centre would be helpful? Why or why not?

If the participant asks what this means say:

A central place where you can get all the information you need about civil justice court proceedings.

if yes: *Probes*

Where should it be?

What should it be like?

What should it have in it?

Should it be staffed or self-help?

Who should the staff be?

b) What about a telephone information line? Would that be helpful?

Probes

What kind of information should it provide?

Automated or in-person information?

Hours of operation?

c) What about specially designed web sites?

Probes

What kind of information should it provide?

What kind of design features?

d) What about other kinds of public education efforts? There are brochures, videos, public forums, workshops, and educational classes. What kinds of public education do you think are most helpful?

Probe

Probe to find out about the desirable features, location etc., of the various types of public education.

e) How should the public be informed about these services?

10. What are the three most important recommendations you would make to improve communication between the public and the civil justice system?

SECTION D

Recently it has been suggested that the civil justice system in Canada needs overall reform (that is, changes to improve the way it works). I would now like to ask you a few questions about your views on that.

11.   Do you think members of the public can, and should have a role in shaping civil justice reform?

     Probes

     If 'no':

     Why not?

     Who *should* be involved?

     If 'yes':

     In what kinds of ways could they be involved?

     Can the public help shape policies and procedures?

     If the participant seems unable to answer, try the following <u>probes</u>:

     What about polls for their views?

     Should they be involved in this kind of research?

     Can they be involved in the actual decision making process?

     How about as committee members?

12.   If there were more, or better, communication between the civil justice system and the public, do you think this would make reforming the system easier?

     Probes if these points are not covered by the initial answer

     If 'no: *probe only if the reason is not clear from the answer to the previous question.*

     Why not?

     If 'yes,' *encourage an expansion on* **how** *this can happen and* **why** *it should.*

     Also, if it has not been covered as part of this answer or the previous one, ask:

     How could the public be involved in improving the way the civil justice system communicates with them?

13.   Would you personally like to be part of shaping civil justice reform?

<u>*Probes:*</u>

If 'no': *encourage an explanation of why not, and which members of the public might want to be involved.*

If 'yes':

In what ways would you like to be involved?

What would you like to be able to do?

I have come to the end of my questions. Is there anything else that you would like to add? Or anything that you would like to ask me?

Thank you very much for taking part in this research.

APPENDIX F: SHORT QUESTIONNAIRE

THE CIVIL JUSTICE SYSTEM AND THE PUBLIC RESEARCH PROJECT

Short Questionnaire – Public

Contact: Mary Stratton, Research Coordinator

Tel: (780) 492 9426; Fax: (780) 492 6181

mstratto@law.ualberta.ca

You may fill out this questionnaire before your scheduled interview or complete it with the researcher at the time of the interview.

Section A: Information about the Civil Court System

We would like to know how you found the **information** that you needed to use the **civil justice system**. We would also like to know how useful the information was, and how easy it was to find. You are welcome to add comments about the questions as you go, or make some notes at the end.

By **'civil justice,' we don't mean the criminal courts**. We mean the courts that deal with cases like:

- family law
- child welfare
- injuries from accidents
- property disputes, and
- wills and estates

By **'system'** we include everyone who has a role in civil court proceedings, such as:

- judges
- lawyers
- other people who work at the courthouse
- native and other support workers
- services such as Legal Aid
- government, and
- public legal education groups.

b) From what sources did you get the information that you needed to use the civil court system?

For each question, follow these steps:

Step 1:   Circle **Y only** if you have used the information source

Step 2:   If **you** used the source of information, please rate how **useful** the source was on the scale below.

No Use At All = 1   2   3   4 = Very Useful

SOURCE OF INFORMATION	Used Source ? *Yes/No*	How Useful ?		
Personal Sources (Friends, Co-workers, Family members	Y N	1	2 3	4
Police Services	Y N	1	2 3	4
Band Council Office	Y N	1	2 3	4
An elected government representative (MP, MPP, MLA, MNA, municipal councillor etc.) or Government Department	Y N	1	2 3	4
Court Information Desk or Booth/Kiosk	Y N	1	2 3	4
Court administrative staff (e.g. clerks)	Y N	1	2 3	4
Court security staff	Y N	1	2 3	4

Legal Aid (including Youth and Family Law offices)	Y N	1	2	3	4
A paralegal	Y N	1	2	3	4
A lawyer	Y N	1	2	3	4
Public Library	Y N	1	2	3	4
Law Library	Y N	1	2	3	4
A community centre or shelter	Y N	1	2	3	4
A school class or program	Y N	1	2	3	4
Newspaper articles	Y N	1	2	3	4
TV News/documentaries/information programs	Y N	1	2	3	4
Radio News/documentaries/information programs	Y N	1	2	3	4
Television Drama Shows	Y N	1	2	3	4
The Internet (World Wide Web)	Y N	1	2	3	4
Notices or Signs in the courthouse	Y N	1	2	3	4
Public Legal Education sessions/workshops	Y N	1	2	3	4
Public Legal Education pamphlets and booklets	Y N	1	2	3	4
Public Legal Education video	Y N	1	2	3	4
Public Legal Information Telephone Line (e.g. 1-800 number)	Y N	1	2	3	4

2. What kinds of information did you use?

For each question, follow these steps:

Step 1:   Circle **Y** if **you know** the information is available

Step 2:   Circle **Y** if **you used** the information

Step 3:   If you circled **Y** for **both** please rate:
             a.) How easy it was to access the information
                  Very Hard to Get = 1   2   3   4 = Very Easy to Get
             b.) How useful the information was.
                  No Use at All = 1   2   3   4 = Very Useful

	Step 1	Step 2	Step 3	
INFORMATION ABOUT	**Avail-able ?** Yes/No	***Used ?*** Yes/No	**Ease of access ?**	**How Useful ?**
The purpose of the civil court system	Y N	Y N	1 2 3 4	1 2 3 4
Legal information centres, kiosks, and services	Y N	Y N	1 2 3 4	1 2 3 4
How to find a lawyer	Y N	Y N	1 2 3 4	1 2 3 4
Range of costs and fees	Y N	Y N	1 2 3 4	1 2 3 4
Legal Aid	Y N	Y N	1 2 3 4	1 2 3 4
Alternative legal services (e.g. Paralegal, Community-based assistance, Advocates)	Y N	Y N	1 2 3 4	1 2 3 4
Social support services (Native Court Workers, Social Services, Mental Health Workers, etc.)	Y N	Y N	1 2 3 4	1 2 3 4
Translation services	Y N	Y N	1 2 3 4	1 2 3 4
Other options for solving disputes (such as mediations, settlement conferences, mini-trials, arbitration, traditional Aboriginal approaches)	Y N	Y N	1 2 3 4	1 2 3 4
Representing yourself in court	Y N	Y N	1 2 3 4	1 2 3 4
Understanding legal terms	Y N	Y N	1 2 3 4	1 2 3 4
How to fill out forms	Y N	Y N	1 2 3 4	1 2 3 4

Correct court behaviour/etiquette	Y N	Y N	1 2 3 4	1 2 3 4
The roles of the people in court	Y N	Y N	1 2 3 4	1 2 3 4
Understanding case lists/postings	Y N	Y N	1 2 3 4	1 2 3 4
Courthouse hours of operation and contact information	Y N	Y N	1 2 3 4	1 2 3 4
Map of the courthouse	Y N	Y N	1 2 3 4	1 2 3 4
Directions to the courthouse	Y N	Y N	1 2 3 4	1 2 3 4
Court parking and public transport options	Y N	Y N	1 2 3 4	1 2 3 4
Child care availability	Y N	Y N	1 2 3 4	1 2 3 4
Understanding judicial orders, directions and decisions	Y N	Y N	1 2 3 4	1 2 3 4
Appealing orders, directions and decisions	Y N	Y N	1 2 3 4	1 2 3 4
Enforcing the judge's orders, directions and decisions	Y N	Y N	1 2 3 4	1 2 3 4
How to make a complaint	Y N	Y N	1 2 3 4	1 2 3 4
How to become involved in reforming/changing the civil justice system	Y N	Y N	1 2 3 4	1 2 3 4

Section B: Background Demographics: For Comparison Only

Previous research shows that different groups in society have different perspectives and experiences of the civil court system. Knowing a little about those taking part in the research helps us to better understand the information we receive. It will also help improve communication materials in the future.

You do not have to answer if you do not wish to. **Any information you provide will remain absolutely confidential**.

3.   The following items are often used to get information and communicate. Do you personally own, or have access to the following items?

FOR EACH ITEM, PLEASE INDICATE WITH A CHECK MARK IF YOU PERSONALLY HAVE THIS, JUST HAVE SOME ACCESS TO IT, OR DO NOT HAVE IT AT ALL.

AID TO COMMUNICATION	Personally Have	Have Access to	Do Not Have
Telephone line	!	!	!
Public library card	!	!	!
Television set	!	!	!
Cable/satellite television	!	!	!
Audio cassette player	!	!	!
VCR	!	!	!
Car	!	!	!
Cell phone	!	!	!
Access to the World Wide Web (Internet)	!	!	!
Personal e-mail address	!	!	!
Personal computer	!	!	!
CD ROM Drive	!	!	!
DVD player	!	!	!

4.   What is the highest level of education you have finished?

LEVEL OF EDUCATION check **highest** level only	
Some high school or less	!

High school graduate	!
Some post secondary (incomplete university, college, trade or training program)	!
Community college, trade or other training diploma	!
University Bachelors degree	!
University Graduate degree	!
Professional degree (e.g. law, medicine)	!

5. Which age group are you?

AGE GROUP Check which group you belong to	
Under 18	!
18 – 24	!
25 – 34	!
35 – 44	!
45 – 54	!
55 – 64	!
65 and Over	!

6. Where does your family's yearly income (before taxes) appear below?

INCOME GROUP Check which group you belong to	
Under $10,000	!
$10,000 to $14,999	!
$15,000 to $19,999	!
$20,000 to $24,999	!
$25,000 to $34,999	!
$35,000 to $44,999	!
$45,000 to $54,999	!
$55,000 to $64,999	!
$65,000 to $74,999	!

$75,000 to $99,999	**!**
$100,000 or more	**!**

7. How many people are supported by the total income for your household?

    Number = _____

8. What is the first language that you learned to speak?

    Language = _____

9. Were you born in Canada?
    ! Yes   **!** No

10. Do you think of yourself as part of any First Nation, Métis, or Inuit peoples?
    ! Yes   **!** No
    ⬇

    Which Group(s)? _____

11. Do you think of yourself as part of any ethnic or minority group?
    ! Yes   **!** No
    ⬇

    Which Group(s)? _____

Thank you very much for taking part in this research.

Please feel free to write any additional comments on this form, or to make further comments to the interviewer.

Comments:

APPENDIX G: "GETTING THE WORD OUT"

Getting the Word Out

A Record of Knowledge Mobilization in the *Civil Justice System and the Public*

The *Civil Justice System and the Public* is a collaborative action research project. As such the knowledge mobilization and sharing activities extend far beyond publications and formal presentations about "results." Our knowledge mobilization began with getting the word out about the project to key contacts in the justice community, and then again to representatives of those organizations in our research sites across Canada. Activities by letter, emial, telephone, in-person meetings and informal presentations have continued throughout the project and are far too numerous to list. In this record of knowledge mobilization we have tried to capture a sense of our knowledge sharing activities throughout the project. As well as paper publications and presentations we list articles in justice community, academic and mass media that inform about the research in process as well as our findings. As we learn about them, we have begun to add citations about the *Civil Justice System and the Public* and we would like to add a further section that listed activities among our partners that result in part from what they have learned for this research.

Chapters in Edited Books

Nothing at present.

Articles in Refereed Journals

2005   Lois Gander, Diana Lowe and Mary Stratton. "The Civil Justice System and the Public: Highlights of the Alberta Pilot." *Alberta Law Review 42 (*3) Special Edition, pp 803-817.

(Under Review). Teresa Rose and Mary Stratton. "How Collaborative is Collaborative: Ideals and Challenges, Tensions and Potentials in Partnership Research."

Refereed Conference Proceedings

2002   Diana Lowe and Mary Stratton, "Talking with the Public: The Public, Communication and the Civil Justice System." *Dialogues about Justice: The Public, Legislators, Courts and the Media*, pp.61-82. Canadian Institute for the Administration of Justice Annual Conference, Hull, Québec, October 17-19.

Reports from Canadian Forum on Civil Justice

Forthcoming. Mary Stratton and Travis Anderson, *Social, Economy and Health Problems Associated with a Lack of Access to the Courts.* A report to the Research and Statistics Division, Department of Justice Canada.

Forthcoming. Mary Stratton, *Civil Justice System and the Public Project: Aboriginal Perspectives* [working title]

Forthcoming. Diana Lowe, Naomi Schmold and Mary Stratton, *Beyond the Headlines: The role of Print Media in Public Understanding of the Civil Justice System.*

2006   Barbara Billingsley, Diana Lowe and Mary Stratton, *Civil Justice System and the Public: Learning from Experience to Find practices That Work* [to be released May 1st]

2006   Mary Stratton and Diana Lowe, *Public Confidence and the Civil Justice: What do we know about the issues?*

2006   Mary Stratton, *Public Perceptions of the Role of the Canadian Judiciary*.

2005   Cam Schwartz and Mary Stratton, *The Civil Justice System and the Public: Communication and Access Barriers for those with Disabilities.*

2005   Diana Lowe, "Executive Director's Report: Research" *Civil Justice System and the Public Project*, pp. 16-17.

2005   Canadian Forum on Civil Justice, *Civil Justice System and the Public*: *An Overview of the Main Research Questions and Results.*

2004   Jim Cresswell, Cam Schwartz, Graham Statt, Lily Tsui and Mary Stratton [Editor], *Civil Justice System and the Public: Family Court - Coast to Coast.*

2004   Diana Lowe. "Unrepresented Litigants: What Are We Doing to Meet the Challenge?" CBA Annual Meeting Conference Materials, 2004

2002   Diana Lowe and Mary Stratton, *Parler avec le public: Le Public, la communication et le système de justice civile.*

Professional Journals and Publications (Justice Community)

Forthcoming. Mary Stratton, "Aboriginal Perspectives about Involvement with Family Court" [working Title] *LawNow,* September.

2005 Diana Lowe, "What does the Public Really Want from Their Lawyers and from the Justice System" - *BarTalk,* October 2005 (is also available at http://www.cba.org/BC/CBA_Publications/bartalk_10_05/guest_lowe.aspx)

2005 "The Civil Justice System and the Public". *Legal and Governmental Affairs, Policy Briefing Book, June,* pp. (in press), Canadian Bar Association.

2004 "The Civil Justice System and the Public". *Legal and Governmental Affairs, Policy Briefing Book, June,* pp. 18-19, Canadian Bar Association.

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Revised March 31, 2006