

## Family

# Canadian research institute studying cost of resolving family law disputes

By **Amanda Jerome**

(August 16, 2017, 9:22 AM EDT) -- The Canadian Research Institute for Law and the Family (CRILF) and the Canadian Forum on Civil Justice are tackling a piece of the access to justice puzzle together by conducting a study on the cost of resolving family law disputes.



John-Paul Boyd, CRILF

"Part of the whole access to justice inquiry has to involve the accessibility of different dispute resolution processes and their relative costs," said John-Paul Boyd, executive director of the CRILF, adding that this often leads to questions about prioritizing funds.

"For example, we have legal aid programs across Canada since the late '60s [and] early '70s and those legal aid programs are by and large directed towards providing legal assistance to people who are litigating. In terms of where we, as a society, spend our dollars in the justice system, we spend it maintaining the courts. And it's not that anyone is suggesting that the courts have no value or that courts are going the way of the dodo, they're not. Courts are necessary ... but just looking at Canadian funding priorities, honestly it's a bit perplexing to realize that we spend the lion's share of our money on justice in the civil context on funding a system, which from my experience, is costly and destructive to families."

Boyd said the institute is studying the costs of resolving disputes through collaborative processes along with the cost of intermediation and arbitration. He said the study is trying to "paint a better picture" of what costs are to clients as that data is not readily available.

"We're taking a two-pronged approach," he said. "First we're gathering data from lawyers, mediators and anybody who's a member of the CBA's family law subsections in Nova Scotia, Ontario, Alberta, and B.C. We've sent those members a very lengthy survey that asks questions about lawyers' preferences in terms of dispute resolution and their perceptions as to the cost of themselves, the cost of third party experts and the cost of third party dispute resolution professionals like mediators and arbitrators."

He said the survey is trying to gauge whether lawyers believe that collaborative processes are suited for high conflict families and whether litigation is capable of handling extremely complex social

issues. He added that the institute's second approach is to conduct a social return on investment analysis on the four different dispute resolution processes by looking at a small number of families who have gone through these processes themselves.

Boyd said the CRILF and the Canadian Forum on Civil Justice started discussing this study last November and began drafting the survey to send to lawyers in March. He said the institute's goal is to have the study done by December at which point it will make recommendations to provincial and federal governments.

"We aim our recommendations at different places depending on the context," he said. "We'll also be making this information publicly available and speaking about it to governments, to decision-makers, to lawyers and to judges because this is all part of the access to justice puzzle. It's part of the overall effort that's being undertaken across Canada to finally collect some data on access to justice and the experience of people who have family law disputes."

Boyd pointed out that lawyers who take the survey can be assured that the information collected is kept confidential. He said the information provided by legal professionals is important because Canada has very little data on lawyers' experiences with family law and clients' observations about dispute resolution processes.

"It's really only in the last five or six years that efforts have been undertaken to collect actual empirical information about the court and other dispute resolution processes," he said.

Boyd said that beyond the study and the recommendations it might produce it is important for lawyers to encourage government to spend tax dollars in a "sane and rational manner" on dispute resolution processes that cause the least conflict and result in the most enduring resolutions.

Lawyers interested in taking the survey and contributing to the CRILF study can do so here.

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