



Literature Review on Access to Justice for Family and Civil Matters

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1.0 Introduction

The Manitoba Law Foundation (MLF) is working to develop both an evidence base for access to justice issues related to civil and family law experienced by Manitobans, and performance metrics to measure the performance of the justice system and related programs and initiatives. To inform this work, the MLF has engaged PRA Inc. to conduct a literature review with the following purposes:

1. Provide background on family and civil law legal needs and access to justice issues; and
2. Provide an inventory of Canadian legal needs surveys and access to justice metrics initiatives to inform the development of a survey of Manitobans on civil and family law issues, as well as future work on the development of Manitoba-specific access to justice metrics.

1.1 Methodology

This literature review involved a search for literature on the topics of access to justice and legal needs in relation to family and civil law, as well as an environmental scan focussed almost exclusively on Canadian legal needs surveys and access to justice metrics initiatives. The review included both publicly available academic literature as well as grey literature. While the review is focussed almost entirely on Canadian sources and initiatives, international sources are referenced where especially relevant.

The review covers the following key elements:

- ▶ Background information about justiciable family and civil law issues, including the prevalence of justiciable family and civil law problems, the impact of these problems on individuals and families, and unmet legal needs
- ▶ Access to justice definitions, objectives, stakeholders, barriers, and desired outcomes
- ▶ Initiatives to develop access to justice metrics undertaken or currently underway in Canada

It should be noted that the majority of data collection for this report occurred prior to COVID-19; therefore, the impact of COVID-19 on access to justice-related services is not systematically explored in this review.

2.0 Prevalence of justiciable family and civil law problems

Defining justiciable family and civil law problems

Justiciable problems in family and civil law can be defined generally as matters experienced in everyday life which raise legal issues (Canadian Forum on Civil Justice, 2018; Currie, 2009). Commonly-experienced problems include consumer issues, issues with money or debt, employment issues, family issues (including relationship breakdown, issues related to guardianship, support, or other issues), issues with neighbours, issues with housing or land, issues with community and natural resources, issues with social assistance and access to public

services, issues with law enforcement, and discrimination and immigration-related issues (Action Committee on Access to Justice in Civil and Family Matters, 2019b; Canadian Forum on Civil Justice, 2018; OECD & Open Society Foundations, 2019).

The high prevalence of family and civil law problems

Family and civil law problems are prevalent in Canada. National legal needs surveys conducted over the past couple of decades¹ have consistently found that just under half (44.6% to 48.4%) of Canadians will experience at least one justiciable civil or family problem in a given three-year period (Canadian Forum on Civil Justice, 2018; Currie, 2005, 2009).² In recent (2014) estimates, this translates to approximately 11,420,889 adults (Canadian Forum on Civil Justice, 2018).

Issues related to money or debt, consumer issues, and employment issues are the issues most commonly experienced by Canadians. As Figure 1 shows, between one-fifth and one-quarter of respondents to national legal needs surveys conducted in 2004, 2006, and 2014 reported that they had experienced these three types of issues.³ Less than one-tenth of respondents reported experiencing any other type of civil or family issue (Canadian Forum on Civil Justice, 2018; Currie, 2005, 2009).

Of family issues, relationship breakdown is the most common problem experienced by Canadians; between five and eight percent of respondents to the 2004, 2006, and 2014 surveys reported that they had experienced a relationship breakdown (estimated to represent 1,093,314 Canadians in 2014). One to two percent reported other family issues, such as issues related to guardianship or legal representation for children (estimated to represent 123,183 Canadians in 2014) (Canadian Forum on Civil Justice, 2018; Currie, 2005, 2009). In Manitoba, an estimated 3,000 to 5,000 families are affected each year by separation or divorce (Government of Manitoba, 2019).

Civil justice issues are generally more prevalent than criminal justice issues (Canadian Bar Association, 2016; OECD & Open Society Foundations, 2019). This general observation is reflected in Canadian court statistics as, in 2016-17, adult criminal courts in Canada completed 357,642 cases, and Canadian youth criminal courts completed 29,172 cases — in contrast to the

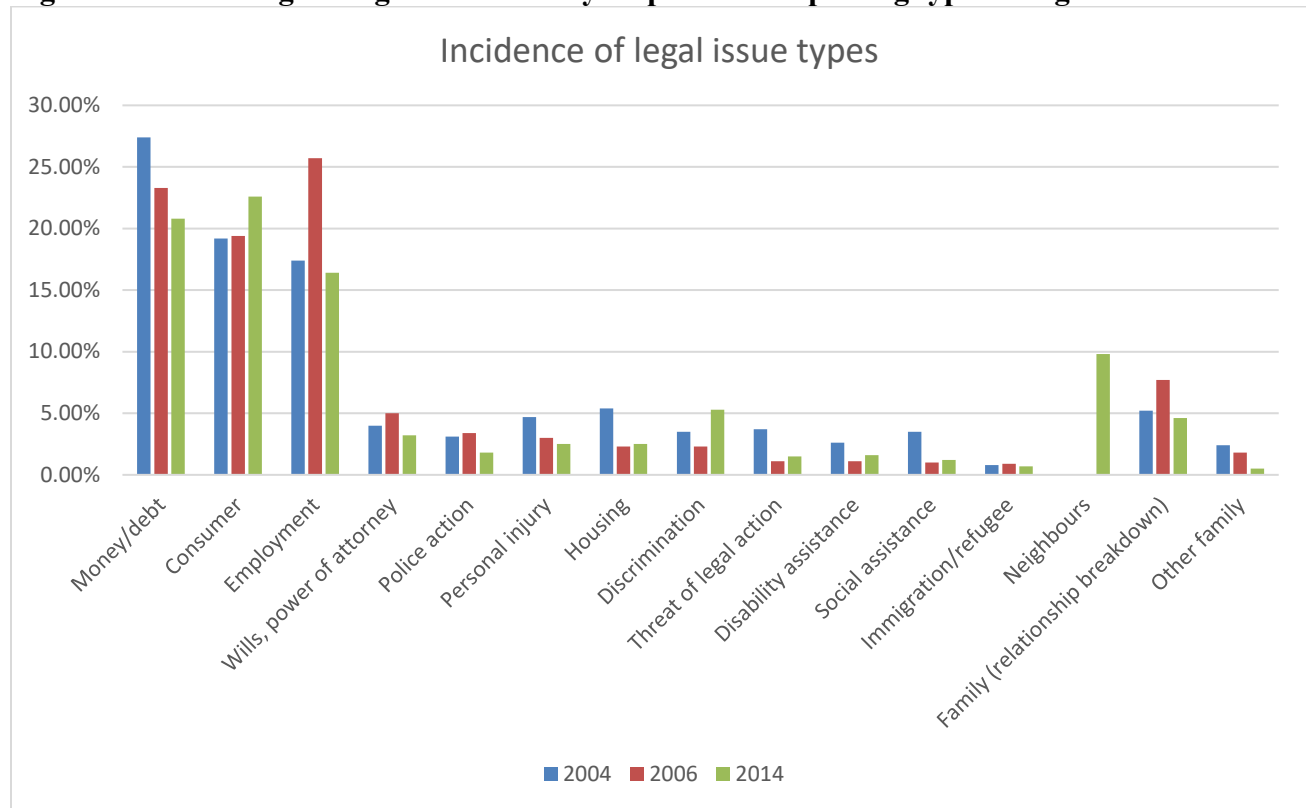
¹ The results of three national legal needs surveys were available for this review: the 2004 [National Survey of Civil Justice Problems](#), the 2006 [Survey of Justiciable Problems in Civil Matters](#), and the 2014 [Everyday Legal Problems and the Cost of Justice in Canada survey](#). See appendix A for additional details about each survey.

² The 2004 National Survey of Civil Justice Problems found that just under half (47.7%) of low- to moderate-income respondents experienced at least one law-related problem during the three years prior to the survey (the survey reference period) (Currie, 2005). Similarly, the 2006 Survey of Justiciable Problems in Civil Matters found that 44.6% of respondents overall, and 49.4% of Manitoban respondents, reported that they had experienced one or more justiciable problems during the three years prior to the survey (Currie, 2009). The 2009 survey of Civil Legal Needs of Lower and Middle-income Ontarians found that just over one-third (35%) of lower and middle-income Ontarians had experienced at least one non-criminal legal issue in the three years preceding the survey (see Appendix A for additional details about these surveys). This literature search did not find evidence that any Manitoba-specific legal needs surveys have been carried out.

³ Based on 2014 survey results, an estimated 5,328,257 people in Canada experienced consumer problems, 4,902,208 people experienced debt problems, and 3,869,397 experienced employment problems in the three years preceding the survey.

891,630 active civil cases heard by provincial and superior courts in 2016-17 (Government of Canada, 2017b, 2019a).

Figure 1 – Percentage of legal needs survey respondents reporting types of legal issues



Sources: 2004 [National Survey of Civil Justice Problems](#); 2006 [Survey of Justiciable Problems in Civil Matters](#); 2014 [Everyday Legal Problems and the Cost of Justice in Canada survey](#)

Trends in civil and family law court cases – civil court statistics

Civil court statistics give some indication of trends in the experience of these issues over time, as well as the types of civil and family law issues that Canadians address through the formal justice system.⁴ Data from the Civil Court Survey (CCS)⁵ (2013-14 to 2017-18) shows that family law cases typically comprise approximately one-third of Canada’s active civil law cases, and other general civil cases account for the remaining two-thirds. Over the past several years (from 2013-14 to 2017-18), the total number of active civil law cases has shown some fluctuation, but remained around 900,000 active cases per year in ten provinces and territories representing over 72% of the Canadian population. This total comprises both active family cases and active general (non-family) civil law cases. CCS data shows a slight decrease in active family cases over time (from 313,203 cases in 2013-14 to 289,013 in 2017-18), and a slight increase in active general

⁴ As not all family and civil law issues are addressed through the court system, it should be noted that court data does not reflect the overall prevalence of these issues among the population.

⁵ The CCS is an annual survey administered by Statistics Canada. It collects information on family and non-family civil court cases at superior and provincial-territorial courts levels. Currently, 10 provinces and territories report to the survey, including Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Saskatchewan, Alberta, British Columbia, Yukon, Northwest Territories, and Nunavut (Government of Canada, 2019b; Statistics Canada, 2019).

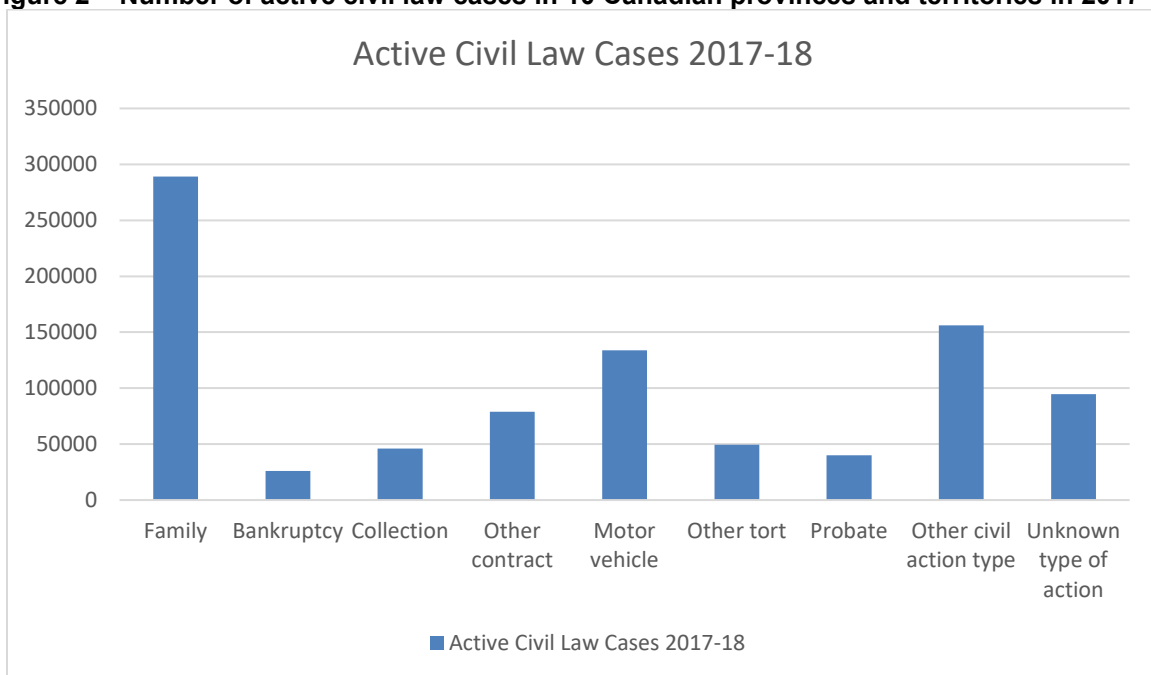
civil cases (from 613,622 cases in 2013-14 to 625,181 cases in 2017-18) (see Table 1) (Government of Canada, 2017b).

Table 1: Total active civil court cases over time					
Case category	Number of active cases by fiscal year				
	2013-14	2014-15	2015-16	2016-17	2017-18
Active family cases	313,203	311,113	310,133	291,742	289,013
Active general civil cases	613,622	596,093	597,575	599,888	625,181
Total active civil court cases	926,825	907,206	907,708	891,630	914,194

*Source: Statistics Canada tables 35-10-0112-01 and 35-10-0113-01

In 2017-18, general civil cases were most commonly for issues related to motor vehicle injury (21% of general civil cases); contracts – including landlord/tenant, employment, mortgage foreclosure, and other contract cases (13%); other torts – including malpractice, defamation, negligence, and other tort cases (8%); collection (7%); probate – involving administration and distribution of estates (6%); and bankruptcy (4%). Other civil action types (those not covered by other categories covered by the CCS) and unknown action types accounted for 25% and 15% of general non-family civil cases, respectively (Government of Canada, 2017a, 2017c) (see Figure 2 below).

Figure 2 – Number of active civil law cases in 10 Canadian provinces and territories in 2017-18



*Sources: Statistics Canada tables 35-10-0114-01 and 35-10-0113-01

Family law cases can be broken down further into divorce cases, child protection cases, and other types of cases. From 2013-14 to 2017-18, divorce cases comprised close to 40% and child protection cases comprised around 10% of all active family cases each year. Other family cases (involving issues of custody, support, access, and other issues) represented just over half of active family cases (see Table 2) (Government of Canada, 2017a).

Table 2: Active family cases over time, by issue identified					
Case type	Number of active cases by fiscal year				
	2013-14	2014-15	2015-16	2016-17	2017-18
Divorce cases	114,897	114,358	116,289	114,648	115,161
Child protection cases	31,811	30,378	30,834	29,163	29,225
Other family cases (support, custody, access, other)	166,495	166,377	163,010	147,931	144,627
Total active family cases	313,203	311,113	310,133	291,742	289,013

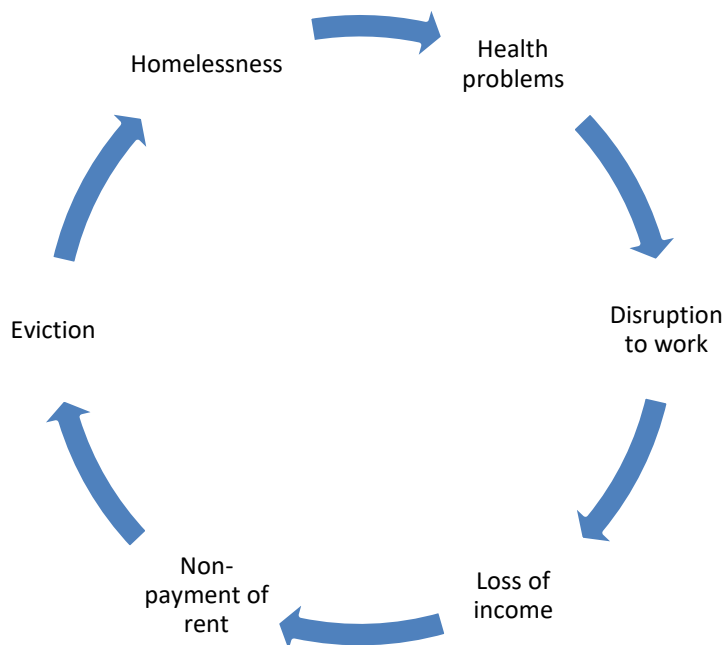
*Source: Statistics Canada table 35-10-0113-01

Problem clustering/multiplication

The experience of civil and family legal problems is not evenly-dispersed among the population. Rather, these types of problems tends to cluster, as the experience of one problem often leads to the experience of additional problems (Canadian Bar Association, 2016; OECD & Open Society Foundations, 2019); as the Canadian Bar Association articulates, “for every additional problem experienced the probability of experiencing more problems increases” (2016, p. 5).

Problem clustering can be cyclical in nature; as Figure 3 illustrates, legal problems can lead to negative impacts on relationships, health, employment or housing status, and so forth (see discussion of impacts in Section 5.0), which can further exacerbate the condition that led to the initial legal problem. Problem clustering can also result when a particular legal issue co-occurs with other problem types. For example, domestic violence issues often co-occur with a variety of other justiciable problems, including relationship breakdown, employment issues, housing (tenant-landlord) issues, and economic/debt problems (OECD & Open Society Foundations, 2019).

Figure 3: Vicious cycle involving justiciable and wider socioeconomic problems



*Source: (OECD & Open Society Foundations, 2019, p. 33)

Legal needs surveys provide evidence of problem clustering in Canada. The 2006 Survey of Justiciable Problems in Civil Matters found that overall, those who had experienced at least one civil legal problem experienced an average of 2.9 problems. For Manitoba, the clustering effect was even more apparent, as Manitoban respondents who had experienced at least one civil legal problem experienced an average of 3.14 problems (Currie, 2009).

Disproportionate experience of problems by certain groups

While the prevalence of family and civil legal issues is generally high, these types of problems are not randomly or evenly distributed across populations. Certain groups — including those with low incomes, disabilities, long-term physical or mental health problems, women seeking to escape intimate partner violence, Indigenous people, newcomers to Canada, and other disadvantaged or marginalized groups — are disproportionately affected by civil and family legal issues (Currie, 2005; Mosher, 2015; Nova Scotia Barristers’ Society, 2015; OECD & Open Society Foundations, 2019).

The 2006 national Survey of Justiciable Problems in Civil Matters highlights the uneven distribution of civil and family justice issues within the Canadian population, as survey results found the following:

- ▶ Female respondents were more likely than male respondents to have experienced relationship breakdown and other justiciable family issues.
- ▶ Respondents with annual incomes less than \$25,000 were more likely than those with higher annual incomes to experience issues related to debt, housing, disability assistance, and social assistance.
- ▶ Respondents with a self-reported disability (hearing, communicating, learning, or physical disability) were more likely than those without disabilities to experience most types of issues, including debt, consumer, employment, police action, personal injury, housing, discrimination, disability assistance, social assistance, immigration, relationship breakdown, and other family issues.
- ▶ Indigenous respondents were more likely than non-Indigenous respondents to report experiencing issues related to debt, employment, police action, discrimination, disability and social assistance, relationship breakdown, and other family matters.
- ▶ Those belonging to a visible minority group were more likely than non-visible minorities to report experiencing issues related to debt, consumer matters, employment, police action, discrimination, threat of legal action, disability assistance, and family matters (other than relationship breakdown) (see Table 3) (Currie, 2009).

The survey also found that unemployed individuals as well as those in the “non-standard” workforce⁶ were more likely than the general population to experience problems related to employment, debt, personal injury, and other legal problems (Currie, 2009).

⁶ The non-standard workforce was defined by this survey as employment arrangements other than stable, full-time work, including part-time work, marginal self-employment, and temporary work lacking long-term security (Currie, 2009).

Table 3: Prevalence of family and civil legal issues for vulnerable sub-populations						
Problem type	Increased likelihood of experiencing problem type for various groups (number of times more likely to experience, compared to the rest of the population)					
	Women (compared to men)	Low-income (annual incomes less than \$25,000)	Disabilities (compared to those without disabilities)	Indigenous people (compared to non- Indigenous)	Visible minorities (compared to those who are not visible minorities)	Foreign-born (compared to Canadian-born)
Money/debt	-	1.4	1.9	1.8	1.7	-
Consumer	-	-	1.6	-	1.6	-
Employment	-	-	1.8	1.0	1.6	-
Wills/power of attorney	-	-	-	-	-	-
Police action	-	-	2.4	2.9	3.4	-
Personal injury	-	-	6.5	-	-	-
Housing	-	2.9	3.0	2.0	-	-
Discrimination	-	-	4.2	3.3	3.6	1.9
Threat of legal action	-	-	-	-	2.1	-
Disability assistance	-	3.7	13.7	3.3	2.5	-
Social assistance	-	5.0	4.2	3.6	-	-
Immigration/refugee	-	-	2.6	-	-	2.9
Family: relationship breakdown	1.4	-	2.2	2.1	-	-
Family: other	1.5	-	2.7	-	1.9	-

Source: 2006 [Survey of Justiciable Problems in Civil Matters](#)

In Manitoba, it is estimated that violence against women occurs at almost twice the national rate, and rates of police-reported family violence are among the highest in the country (Fenske & Froese, 2017). Manitoba has a large Indigenous population compared to the rest of the country; as of 2016, Indigenous people (including First Nations, Métis, and Inuit people) made up 18.0% of Manitoba's population, compared to 4.9% of the Canadian population overall (Statistics Canada, 2017a, 2017c). Within Manitoba, Indigenous people are over-represented in the correctional and child welfare systems, and face an increased risk of experiencing intimate partner violence in comparison to the general population (Brownridge et al., 2017; Fenske & Froese, 2017; Sinclair, 2016). Indigenous women are also over-represented among female homicide victims (Fenske & Froese, 2017). In addition, Manitoba has seen an increase in the number of refugees and people making asylum claims, due (in part) to commitments made in 2015 by the Government of Canada and the Government of Manitoba to resettle Syrian refugees, as well as an increase in the number of asylum crossings into Manitoba on foot from the United States (at the Emerson border) in response to the results of the 2016 US Presidential election (Fenske & Froese, 2017). Manitoban women, children, Indigenous people, newcomers (recent immigrants), and persons with disabilities are all more likely to experience poverty than the overall population in the province (Fenske & Froese, 2017).

3.0 Addressing legal issues

Options for dealing with legal issues

In Manitoba, three levels of court deal with family cases, and two levels of court deal with civil cases:

- ▶ The Court of Queen's Bench (the General Division, which deals with both civil litigation and criminal law; and Family Division, which deals exclusively with family disputes) (Manitoba Courts, 2014a)
- ▶ The Provincial Court, which hears family cases in northern and rural areas in matters other than divorce, division of family property, and adoption (i.e., areas in which the Court of Queen's Bench [Family Division] has exclusive authority)⁷
- ▶ The Court of Appeals, which hears appeals of decisions made by the Court of Queen's Bench and Provincial Court

While a justiciable problem is one that can potentially be resolved through civil or family court systems, adversarial court processes are not always necessary nor the most desirable options for resolving civil and family problems. A variety of alternative options exist for helping parties to resolve civil and family issues outside of court, and include the following:

- ▶ **Negotiation**, whereby parties involved in the issue discuss it directly with each other. Negotiation may occur with or without assistance, such as assistance from lawyers or through a dispute resolution service.
- ▶ **Court-assisted alternative dispute resolution (ADR)**, whereby parties to a dispute meet with a court officer (either together or in separate meetings). The court officer helps parties to work through the issue and consider available options.

⁷ The Provincial Court of Manitoba primarily has a criminal jurisdiction. It deals with ninety-five percent of all criminal cases and hears all youth court cases in Manitoba (Manitoba Courts, 2014b).

- ▶ **Mediation**, whereby parties are assisted in reaching agreements by an impartial third party mediator. Mediators help parties to talk about their needs and issues and negotiate to resolve the issues.
- ▶ **Settlement conferences**, whereby parties agree to engage in negotiations with assistance from a judge. The judge does not make orders, but provides advice to parties to help them determine if they can reach agreement without going to court.
- ▶ **Collaborative family law**, whereby lawyers for both parties assist their clients in resolving conflicts using cooperative strategies as opposed to litigation or other adversarial approaches. Parties agree not to go to court, and agreements are negotiated through a series of group meetings. While the parties try to settle their own issues, the involvement of lawyers as advisors offers legal protection.
- ▶ **Arbitration**, whereby parties agree to have an independent arbitrator (often a lawyer) hear and decide their dispute (Family Law Nova Scotia, n.d.; Manitoba Justice, 2014).

In Manitoba, mediation services are available through:

- ▶ [Family Conciliation](#) (a service offered through the Manitoba provincial government);
- ▶ [Family Mediation Manitoba](#); and
- ▶ [Family Mediation Canada](#) (Manitoba Justice, 2014).

In addition to these alternatives to court-based resolution, the literature emphasizes the importance of services and resources outside of the formal justice system which provide individuals and groups with legal information and assistance, and are “designed to reach people as early as possible in the life cycle of their problem” (Action Committee on Access to Justice in Civil and Family Matters, 2013a, p. 5). A 2013 report prepared by the Prevention, Triage and Referral (PTR) Working Group of the National Action Committee on Access to Justice in Civil and Family Matters categorizes these services and resources as belonging to the Early Resolution Services Sector (ERSS). More specifically, the ERSS includes functions (including triage, referral, and advocacy) and services (such as PLEI and legal clinics) which support individuals’ capacity to understand, anticipate, and resolve, at an early stage, their issues which have legal implications (Action Committee on Access to Justice in Civil and Family Matters, 2013a). (In Manitoba, the ERSS would include the work of several of the organizations described below in Section 3.1.)

How Canadians are dealing with their civil and family legal issues

For the most part, Canadians are dealing with civil and family legal problems outside of the formal justice system. The 2014 Everyday Legal Problems and the Cost of Justice in Canada survey found that only 6.7% of people who had experienced at least one civil or family justice problem in the three years period preceding the survey had appeared before a court or tribunal to resolve their problems, and that, of those who had appeared before a court or tribunal, 43.9% did so without anyone representing or assisting them. Of those who did have representation or assistance, the majority (72.5%) were represented by a lawyer, and over half (53.3%) attended mediation or conciliation sessions in an attempt to resolve their issue (Canadian Forum on Civil Justice, 2018).

Although few people access the formal justice system in dealing with their civil and family legal problems, 2014 survey results indicate that most people try to address their civil and family legal problems with some form of assistance. Most commonly, people experiencing civil and family

legal issues attempt to address the problem directly with the other party involved, and/or seek out advice from friends and family. Around one-third of survey respondents searched the internet (33.2%) or contacted an organization, such as an advocacy group or union (28.3%), for help. Just under one-fifth (19.0%) contacted a lawyer (see Table 4). Overall, 4.6% of respondents took no action to resolve their legal problems (Canadian Forum on Civil Justice, 2018).

Table 4: Actions taken by Canadians to address their everyday (civil or family) legal problems

Type of action	Proportion of respondents	Estimated number of Canadians
Talk with other party involved	75.1%	7,920,187
Seek advice from friends and family	61.2%	6,456,667
Search the internet	33.2%	3,503,568
Contact an organization (e.g., union, advocacy group)	28.3%	2,981,156
Contact a lawyer for help	19.0%	2,001,328
Access formal legal system through court or tribunal	6.7%	702,603

*Source: 2014 [Everyday Legal Problems and the Cost of Justice in Canada survey](#)

3.1 Legal aid and other services designed to meet legal needs in Manitoba

In Manitoba, legal and non-legal services provided by a variety of organizations — publicly funded, non-profit, as well as volunteer-based — are available to meet the legal needs of low-income Manitobans (Fenske & Froese, 2017; McCoubrey & Brown, 2019). The main organizations offering legal services to Manitobans experiencing civil and family issues are outlined below.

Legal Aid Manitoba

All Canadian jurisdictions have legal aid plans in place, which are funded by both federal and provincial governments. [Legal Aid Manitoba](#) (LAM) is responsible for administering Manitoba’s legal aid plan, in accordance with the *Legal Aid Manitoba Act*. LAM’s mandate is to provide financially-eligible Manitobans with quality legal advice and representation in basic criminal and civil coverage areas (Fenske & Froese, 2017). While LAM offers a variety of services, it focusses first on providing full representation services to low-income Manitobans. Legal representation is provided both through LAM staff lawyers and private bar lawyers, who are compensated according to *Legal Aid Regulation* tariff rates. LAM operates the University of Manitoba Community Law Centre (which primarily deals with Criminal Code offenses), and the [Public Interest Law Centre](#), and also partners with other social service providers to ensure that legal needs are considered in the provision of other social services (Fenske & Froese, 2017; Legal Aid Manitoba, 2018).

According to LAM’s financial eligibility guidelines, individuals can be eligible for free coverage if their gross income is between \$0 and \$26,000. Families of seven or more people can be eligible for free coverage if their gross income is between \$0 and \$46,000. In addition, through an Agreement to Pay program (reintroduced in 2015), LAM has been able to extend coverage to those who do not meet the financial eligibility requirements, but may not be able to pay all of their legal fees. The Agreement to Pay program recovers the cost of services provided at legal aid rates (Fenske & Froese, 2017; Legal Aid Manitoba, 2018, 2021).

LAM covers criminal matters as well as certain family and civil matters. Coverage for family matters includes issues related to:

- ▶ simple divorce or separation, as well as divorce with corollary;
- ▶ protection and/or prevention orders;
- ▶ support (including spousal and/or child support);
- ▶ child custody; and
- ▶ child welfare/protection.

LAM also offers coverage in relation to the following civil matters:

- ▶ poverty law matters (including issues related to residential tenancy, government benefits, and detentions under the *Mental Health Act*);
- ▶ public interest matters (e.g., *Charter* cases; systemic matters involving consumer, environmental, or Indigenous rights);
- ▶ immigration and refugee matters (for those seeking refuge status or opposing deportation); and
- ▶ workers compensation, pension, and social assistance appeals (Fenske & Froese, 2017; Legal Aid Manitoba, 2018).

Civil matters that are *not* eligible for LAM coverage include:

- ▶ real estate transactions;
- ▶ property divisions;
- ▶ wills and estates;
- ▶ corporate or commercial matters; and
- ▶ civil suits (i.e., when people file lawsuits against one another) (Fenske & Froese, 2017; Legal Aid Manitoba, 2018).

Manitoba Justice – Family Law Manitoba

The Government of Manitoba has recently launched a new [Family Law Manitoba](#) website designed to be a “one-stop shop” for family law resources in the province. The website includes up-to-date, general legal information about rights and responsibilities relating to a number of family law topics and issues, such as relationships, parenting, money, property, safety (emergencies, intimate partner violence, and child safety), and options for resolving family law disputes (including alternative dispute resolution and court systems and procedures), as well as information on updates to legislation and common law. In addition, the website includes a searchable database of service providers operating within the province’s family law sector, which allows users to filter results by region, issue category, and service type (Manitoba Justice, 2020; Province of Manitoba, n.d.).

Family Law Manitoba resources and supports are available in both official languages and can be accessed online, by email, or by phone (toll-free). Family Law Manitoba Guides are also available to provide personalized support and guidance free of charge:

- ▶ Family Law Client Guides provide personalized support and guidance (assistance, referrals, and information, but not legal advice) for people experiencing family matters.

These guides focus particularly on self-represented litigants and/or people without internet access.

- ▶ Law Library Hub Team Guides provide free legal information and assistance. Two days per week, these guides are to offer free in-person legal assistance at Winnipeg’s Manitoba Law Library. This assistance is to be offered on a drop-in basis – appointments are not required (Manitoba Justice, 2020).⁸

Community Legal Education Association

The Manitoba [Community Legal Education Association](#) (CLEA) is a charitable organization that offers public legal education and information to help individuals better understand the legal system, their legal rights, and options for resolving their issues. CLEA is funded and/or supported by a number of other organizations, including the MLF, Justice Canada, the Law Society of Manitoba, the Winnipeg Foundation, Pro Bono Students Canada, and the Winnipeg Public Library (Community Legal Education Association, 2019; Fenske & Froese, 2017).

A variety of services are offered through CLEA (free of charge), including the following:

- ▶ **Law Phone-In & Lawyer Referral Program.** This program is staffed by two lawyers. It provides callers with legal information and advice, referrals to law-related agencies (when appropriate), and referrals to a lawyer on a Lawyer Referral panel, which is a list of 130 lawyers in Manitoba (when appropriate). A toll-free line is available for callers outside of Winnipeg, and email requests are accepted as well.
- ▶ **Speakers Bureau.** Through the Speakers Bureau, volunteer lawyers and other service providers offer free legal information sessions to community groups and agencies. Sessions can cover a range of topics, including the Canadian legal system and courts, family law, child protection, domestic violence, consumer law, criminal law, wills and estates, and youth law. Sessions are provided upon request. As of 2020, CLEA had a panel of 67 volunteers available and prepared to deliver Speakers Bureau presentations.
- ▶ **Community Legal Intermediary (CLI) Training Courses.** The CLI program offers training in specific areas of law to those acting as legal intermediaries (i.e., “individuals who are often called upon to help others in the community with legal problems, whether in the role of a worker, friend, or community leader”) (Community Legal Education Association, 2019, 2020).

CLEA also co-sponsors workshops and presentations for organizations and community groups. In addition, CLEA distributes plain language materials (pamphlets, booklets, and other resources) about a variety of legal topics — including information on family law for children, protection orders, and abusive relationships — to individuals and agencies across Manitoba (Community Legal Education Association, 2016). A variety of publications, videos, and other resources are available on CLEA’s website, which include pages dedicated to assisting unrepresented litigants with administrative, criminal, family, small claims, and other legal issues (Community Legal Education Association, 2021).

Demand for the Law Phone-In program is high, with 8,443 calls and 1,332 emails received in 2019. Moreover, annual reports show that the number of calls handled through the program has

⁸ Sources indicate that these in-person services are currently on hold, due to COVID-19.

increased steadily over the past five years (with 5,771, 6,607, 7,731, and 8,010 calls received in 2015, 2016, 2017, and 2018, respectively). In 2019, the greatest proportion of calls received were related to family law issues (35%), including divorce, separation, custody, access, adoption, guardianship, support, property, protection, and domestic violence issues. Other calls covered topics of civil issues (11%), wills and estates issues (10%), employment issues (8%), commercial issues (3%), Manitoba Public Insurance claims (2%), small claims (2%), real estate issues (2%), tenancy issues (2%), debt issues (2%), immigration issues (1%), welfare and Employment Insurance issues (1%), legal aid issues (1%), and issues related to the *Highway Traffic Act* (0.5%). Criminal and other issues were the subject of 10% and 11% of calls, respectively (Community Legal Education Association, 2018, 2020).

The organization's 2019-2020 annual report shows demand for other CLEA services as well. In 2019-2020, CLEA:

- ▶ distributed 3,925 publications;
- ▶ trained a total of 14 services providers through the CLI Training Program;
- ▶ posted 35 videos (covering everyday law issues) on its website,⁹ which were viewed 3,165 times during the fiscal year;
- ▶ hosted the CLEA Annual Law Conference, which involved 27 participants (including teachers, students, lawyers, and service providers); and
- ▶ delivered a total of 48 speaking events over the 2019-2020 fiscal year, including workshops, CLEI training course presentations, school presentations, and the Annual Law Day Open House. These events covered 24 different topics, and were attended by a total of 662 people (Community Legal Education Association, 2020).

The Legal Help Centre of Winnipeg

The [Legal Help Centre \(LHC\) of Winnipeg](#) is a not-for-profit organization with a mission to “[improve] access to legal and social service resources for socially and economically disadvantaged members of the community,” helping them to understand and access their social and legal rights (Legal Help Centre, 2010). Centre staff and volunteers, as well as law students from the University of Manitoba and University of Winnipeg, work to provide legal support, education, and referrals to clients (Legal Help Centre, 2010; Manitoba Justice, 2014).

Specific services include the following:

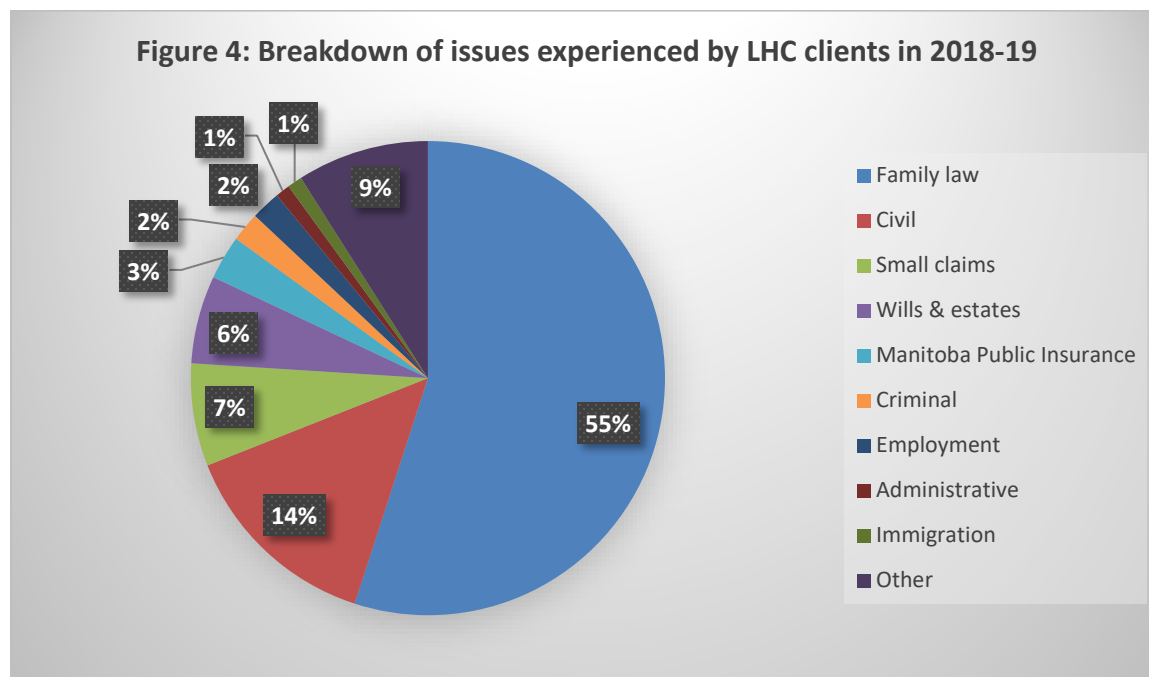
- ▶ **Drop-in clinics.** Clinics are run twice a week and are free of charge. During these clinics, clients can drop in without an appointment, describe their issues to LHC volunteers/students, and receive information and guidance. LHC volunteers/students help people identify their legal issues and options for solving their legal problems, and can make referrals and appointments with other service providers when appropriate.
- ▶ **Legal help workshops.** LHC staff and volunteers run workshops on a variety of legal topics (e.g., estate administration, small claims, family court processes).
- ▶ **Family Law Clinics.** Family Law Clinics run twice per week and are available to LHC clients by referral from drop-in clinic volunteers. These are geared toward individuals who are representing themselves in family law proceedings, and are designed to assist clients with the procedural steps involved in family law cases.

⁹ The new website launched on March 24, 2020 (Community Legal Education Association, 2020).

- ▶ **Consumer Protection Law Clinics.** Consumer Protection Law Clinics run twice per week and are available to LHC by referral from drop-in clinic volunteers. These are geared toward individuals who are representing themselves in small claims court proceedings (Legal Help Centre, 2010, 2019).

Services are limited to individuals with household incomes under \$50,000, but the majority of LHC clients (52%) have household incomes under \$20,000 (Legal Help Centre, 2019).

In 2018-19, the LHC had a total of 3,310 client appointments; 15% more appointments than in 2017-18. Clients are mainly accessing LHC services through the drop-in clinics, but demand for all services (including workshops and other clinics) is rising (Fenske & Froese, 2017; Legal Help Centre, 2019). LHC’s 2018-19 annual report notes that “consistently each year, the type of issue people most often seek [LHC] assistance with is related to family law” (Legal Help Centre, 2019, p. 11). However, LHC has seen an increase in civil and small claim questions over time; in 2018-19, LHC received over 20% more questions related to civil and small claims matters than in 2017-18 (Legal Help Centre, 2019). Figure 4 shows the breakdown of issues for which clients sought LHC assistance in 2018-19.



*Source: LHC Annual Report 2018-19 (Legal Help Centre, 2019)

Community Unemployed Help Centre

The [Community Unemployed Help Centre](#) (CUHC) is a non-profit agency that “provides information, assistance, advice, and representation to individuals dealing with the federal government’s Employment Insurance (EI) Program and Manitoba’s Employment and Income Assistance (EIA) Program” (Community Unemployed Help Centre, 2019). Advocates employed by the CUHC:

- ▶ engage in public education work, to inform Manitobans of their rights and obligations in relation to EI;

- ▶ make appropriate referrals to other agencies; and
- ▶ provide representation to individuals making formal appeals to decisions affecting their claims under these programs (Community Unemployed Help Centre, 2019; Fenske & Froese, 2017).

CUHC assists around 1,500 unemployed Manitobans each year (Community Unemployed Help Centre, 2019; Fenske & Froese, 2017). Clients tend to be disproportionately Indigenous, new and recent immigrants, and/or (in EIA cases, in particular) living in poverty (Fenske & Froese, 2017).

Infojustice Manitoba

[Infojustice Manitoba](#) is a legal information centre offering information, support, and referrals for French-speaking individuals. Infojustice Manitoba does not provide legal advice or assistance, but offers information in all areas of the law. Specific services offered include:

- ▶ consultations with clients by phone, email, or in person;
- ▶ workshops on various legal topics; and
- ▶ courthouse accompaniment services (Infojustice Manitoba, 2016).

Newcomers make up a large proportion of Infojustice clients; while over 75% of the Franco-Manitoban population was born in Manitoba, over 60% of those using Infojustice services are immigrants.

Infojustice Manitoba opened its doors to the public in May 2017. In the first six months of operating, the greatest percentage (at roughly one-third, or 33%) of the inquiries that Infojustice received were in relation to family law issues. This was followed by requests for notarial services (25%), and inquiries related to civil matters (24%), wills and estate matters (8%), business or corporate matters (6%), and other matters (roughly 4%) (Fenske & Froese, 2017).

Manitoba government-funded legal service providers

In addition to the community-based organizations listed above, the Government of Manitoba has funded independent advisor offices which offer legal assistance in relation to civil law matters. These include:

- ▶ the [Claimant Adviser Office](#) (CAO), which assists people in appealing bodily injury claim decisions issued by the Internal Review Office of Manitoba Public Insurance;
- ▶ the [Worker Adviser Office](#) (WAO), which provides free and confidential services (advice, assistance, and representation) to help injured workers and their families in dealing with the Workers Compensation Board (WCB) of Manitoba; and
- ▶ the [Residential Tenancies Independent Advisor Program](#), which assigns independent advisors (from Legal Aid) to assist people in filling out forms, filing claims and appeals, and preparing for hearings before the Residential Tenancies Branch or Residential Tenancies Commission (Residential Tenancies Branch, 2011).

Other service providers

The organizations listed above have legal and/or advocacy services as their core mandate. In addition to these, several other organizations — social services and other community non-profit organizations — in Manitoba have programs or services which offer some form of legal assistance. Some of these organizations are listed below:

- ▶ A Women’s Place (NorWest Co-Op Community Health Centre)
- ▶ Canadian Mental Health Association Manitoba (offers a Rights Consultation service)
- ▶ Independent Living Resource Centre
- ▶ Anxiety Disorders Association of Manitoba
- ▶ Manitoba Schizophrenia Society
- ▶ Mood Disorders Association of Manitoba
- ▶ North End Community Renewal Corporation – Tenant Landlord Cooperation Program
- ▶ Workers Organizing Resource Centre (Manitoba Low-Income Intermediary Project)
- ▶ West Central Women’s Resource Centre
- ▶ Eagle Urban Transition Centre (Fenske & Froese, 2017)

3.2 Upcoming changes: *Family Law Modernization Act*

In budget 2018, the Government of Manitoba committed to “creating a more affordable, less adversarial family law system” (Government of Manitoba, 2018a, p. 7). In response to this commitment, the government has introduced the [*Family Law Modernization Act*](#), which aims to:

- ▶ simplify child support processes and expand the authority of the Maintenance Enforcement Program, to enable more child support matters and arrangements to be addressed outside of court;
- ▶ ensure that family arbitration awards are enforceable; and
- ▶ test a new dispute resolution model (including a Family Dispute Resolution Service) through a three-year pilot project (Foxall, 2019; Glowacki, 2019; Government of Manitoba, 2019).

The proposed new dispute resolution model is expected to launch early in 2020. The model includes the creation of a Family Dispute Resolution Service to assist couples in resolving disputes outside of the court system. Under the new model, dispute resolution will be a two-phase process. In the first phase, matters go to a resolution officer (a lawyer, social worker, financial planner, or other professional) who tries to help parties reach a mutually-satisfactory agreement. If an agreement is not reached during this phase, the matter will go to a second phase in which an adjudicator makes a recommendation order. The recommendation order carries the same weight as a court order, unless an objection is made within 35 days (Glowacki, 2019). The new dispute resolution process will be mandatory for most matters (including cases involving custody and access to children; support for children, spouses, and common-law partners; and matters related to property), with the exception of cases involving intimate partner violence (actual or threatened) and divorce proceedings already begun under the federal *Divorce Act* (Foxall, 2019; Glowacki, 2019).

The *Family Law Modernization Act* contains six parts, including:

- ▶ the *Family Dispute Resolution (Pilot Project) Act* (Schedule A);
- ▶ the *Child Support Services Act* (Schedule B);
- ▶ the *Arbitration Amendment Act (Family Law)* (Schedule C);
- ▶ the *Provincial Court Amendment and Court of Queen’s Bench Amendment Act* (Schedule D);
- ▶ the *Family Maintenance Amendment Act* (Schedule E); and
- ▶ the *Inter-jurisdictional Support Orders Amendment Act* (Schedule F).

The Act will, therefore, result in changes to several laws (Bill 9: The Family Law Modernization Act, 2019).¹⁰

4.0 Unmet legal needs in family and civil law

Discerning unmet legal needs in family and civil law can be a challenging task. The presence of legal service gaps and limitations (i.e., when available services are not sufficient to meet demand) is one indicator of unmet legal need;¹¹ however, considering that not all those who experience justiciable civil and family issues will seek out assistance, demand for legal services alone does not provide a complete picture of unmet legal needs related to civil and family matters.

This section discusses legal service gaps or limitations in Manitoba, as well as other indicators of unmet legal need in civil and family law that have been identified in literature and assessed in Canadian legal needs surveys.

4.1 Legal service limitations

Legal aid

Issues with the availability and sufficiency of Canadian legal aid plans are well documented. While there has been some increase in funding for legal aid in recent years, recent studies on legal aid in Canada have shown long-term decreases in civil legal aid spending per capita, as

¹⁰ The *Family Law Modernization Act* was passed by the Manitoba Legislature in June 2019. Schedules C and E came into force in July 2019 (Province of Manitoba, n.d.).

¹¹ This differs somewhat from legal need in criminal justice systems, where issues are necessarily dealt with through the formal justice system. Currie (2009) summarizes the issue as follows:
Unlike being charged with a criminal offence, civil justice problems may be dealt with in a variety of ways. One can attempt to solve the problem on his or her own, one can seek advice and assistance from a variety of sources other than people with legal training and having varying levels of competence, or one can ignore the problem at least for a while. The problems of everyday life with potentially significant legal aspects can have a long life history, becoming more serious with the passage of time. Thus, the need may be for assistance of a preventative nature before the problem becomes more serious, requiring crisis intervention. This variety of circumstances is what makes defining unmet need precisely so difficult. It is not as simple as in criminal justice matters where one can be said to have a legal problem if he or she is arrested and must appear in court to answer the charge. (p. 3)

well as declines in approved applications for civil legal aid.¹² These declines have been attributed, at least in part, to changes in the federal funding model for legal aid, which discontinued direct funding to the provinces for civil legal aid (Canadian Bar Association, 2016; Schellenberg, 2013b).¹³ As provincial and territorial legal aid plans face growing demand for criminal legal aid, many spend substantially more on criminal matters than on civil matters (Canadian Bar Association, 2016).

Compared to other Canadian legal aid plans, Manitoba’s Legal Aid Plan appears to be faring relatively well within the current context of limited legal aid funding. Operating at the lowest cost per case (\$1,027 per certificate) and with the lowest administrative costs (4.7% of total expenditures), LAM has been named the most efficient of Canada’s legal aid organizations.¹⁴ At the same time, LAM provides more full representation certificates per capita (with 26.5 certificates per 1,000 people) than any other Canadian legal aid plan. In addition, of all legal aid plans, LAM has the broadest coverage areas and the highest financial eligibility guidelines for full representation (Legal Aid Manitoba, 2019).

Nevertheless, there is some indication of potential challenges in meeting Manitobans’ legal aid needs, in particular for civil and family issues. LAM annual reports note that demand for LAM advice and representation (including in civil and family issues; see Table 6) “continues to increase year over year while overall funding remains relatively static” (Legal Aid Manitoba, 2019, p. 4). Furthermore, as outlined in Section 3.1, a number of civil issues are not eligible for LAM coverage. As a result of these coverage limitations, Manitobans may experience unmet legal need in relation to a variety of commonly-experienced consumer, debt, employment, neighbour, and discrimination matters (Fenske & Froese, 2017).

Legal matters issued (opened cases)	2018/19	2017/18	2016/17	2015/16
Family	4,672	4,470	4,596	6,469
Child protection	2,215	2,176	2,232	
Civil	399	429	407	288
Immigration	655	939	308	

*Sources: LAM Annual Reports for 2018/19, 2017/18, 2015/16 (Legal Aid Manitoba, 2016, 2018, 2019)
*Note: The 2015/16 report included immigration matters with civil matters, and child protection matters with family matters, unlike subsequent reports which treated these as separate categories.

¹² A 2016 Canadian Bar Association study on legal aid found that civil legal aid spending decreased by 20% from 1994 to 2012, and approved applications for civil legal aid declined from 17.8 approved applications per 1000 Canadians in 1992-1993 to 6.1 approved applications per 1000 Canadians in 2011-2012 (Canadian Bar Association, 2016).

¹³ In 1995, the federal government transitioned away from a model which matched federal funding for legal aid to dollars spent on legal aid by the provinces. Instead, there is a “no strings” funding mechanism for civil legal aid under the Canada Social Transfer (CST), which allows provinces to dispense federal funding as they see fit. In 2016 the federal government announced additional funding for criminal legal aid (\$88 million over five years); however, there is no federal transfer funding specifically dedicated to civil legal aid. While federal funding for civil legal aid is contained within the CST, according to the Canadian Bar Association (CBA) “the consistent provincial response is that the federal government gives no funding for civil legal aid” (Canadian Bar Association, 2016, p. 4). CBA has been calling for the federal government to designate a portion of the CST to civil legal aid, or designate a separate access to justice transfer (Canadian Bar Association, 2016; Schellenberg, 2013b).

¹⁴ LAM attributes its efficiency to the adoption of a private enterprise approach (Legal Aid Manitoba, 2019).

Other legal service providers – gaps and service limitations

Manitoba has what has been defined as an *ad hoc* approach to coordination of legal services, with many organizations working to meet the legal needs of Manitobans. While some concerns have been raised that this ad hoc approach could result in duplication and inefficiencies in Manitoba's legal services (Fenske & Froese, 2017), capacity appears to be more of an issue. As Section 3.1 identifies, several legal service organizations in Manitoba have experienced increases in demand for legal services related to civil and/or family matters, and in some cases have reported difficulties in meeting demand (Fenske & Froese, 2017).

In addition to potential capacity issues, issues related to the availability and accessibility of legal services in Manitoba have been identified, including, importantly, the disparity in legal services offered in Manitoba's urban centres in comparison to those offered in rural and remote communities, and limitations in the availability of legal information and resources in French. These issues, while indicative of unmet legal need, are important barriers to access to justice, and so are discussed further in Section 6.3.

4.2 Other indicators of unmet legal need

Beyond considerations of legal service capacity and gaps, other indicators of unmet legal needs have been defined as follows:

- ▶ the extent to which problems remain unresolved;
- ▶ the extent to which the situation becomes worse if problems are unresolved; and
- ▶ for problems that are resolved, the extent to which the resolution is perceived as fair (Currie, 2005).

National surveys of civil and family justice problems that have been undertaken in Canada — namely, the 2004 National Survey on Civil Justice Problems, the 2006 Survey of Justiciable Problems in Civil Matters, and the 2013-2014 Cost of Justice Survey — have gathered data on these three indicators. In each survey, around one-third of problems identified by respondents were reported as being unresolved within the survey reference period (i.e., in the three years preceding the survey). Results in relation to the other two indicators varied somewhat among the surveys, but all surveys indicated some degree of unmet need in relation to all indicators (see Table 6) (Canadian Forum on Civil Justice, 2018; Currie, 2005, 2009).

Table 6: National legal needs survey results related to indicators of unmet legal needs			
Indicators of unmet legal needs	Survey Results		
	2004	2006	2014
Extent to which problems remain unresolved during the survey period	<ul style="list-style-type: none"> • 33.9% of all problems reported by respondents remained unresolved 	<ul style="list-style-type: none"> • 35.2% of all problems reported by respondents remained unresolved 	<ul style="list-style-type: none"> • 29.8% of problems reported by respondents were ongoing
Extent to which the situation becomes worse if problems are unresolved	<ul style="list-style-type: none"> • The situation had become worse in 46.1% of problems that were reported as unresolved 	<ul style="list-style-type: none"> • For problems that had not been resolved, 12.3% reported that the situation became worse; 65.7% reported that it remained the same 	<ul style="list-style-type: none"> • For problems that were ongoing, 16% of respondents reported that the problem had become worse
Extent to which resolution is perceived as fair	<ul style="list-style-type: none"> • Resolutions were perceived as unfair in relation to 29.5% of problems reported as having been resolved 	<ul style="list-style-type: none"> • Outcomes were perceived as unfair for 44.4% of problems reported by respondents 	<ul style="list-style-type: none"> • 46% of respondents reported that the outcome of at least one of their legal problems was unfair
*Sources: 2004 National Survey of Civil Justice Problems ; 2006 Survey of Justiciable Problems in Civil Matters ; 2014 Everyday Legal Problems and the Cost of Justice in Canada survey			

5.0 Impact of family and civil law problems on individuals and families

The experience of family and civil law problems can impact individuals in a variety of ways. Most commonly, legal issues in these areas can have negative impacts on:

- ▶ family and other personal relationships;
- ▶ physical, mental, and/or emotional health;
- ▶ employment;
- ▶ housing; and
- ▶ needs for income supports, such as social assistance and insurance (Canadian Forum on Civil Justice, 2018; OECD & Open Society Foundations, 2019).

Results from the 2016 Cost of Justice survey highlight the magnitude of individual-level impacts that justiciable civil and family problems have had on Canadians in each of these areas. Key survey findings related to these impacts are outlined in Table 7 below.

Table 7: 2016 Cost of Justice survey results related to impacts of family and civil law problems	
Impact	Survey findings
Strain or damage to family/personal relationships	<p>In the three-year survey reference period:</p> <ul style="list-style-type: none"> • 20.9% of Canadians (representing approximately 2,160,460 people) experienced social, family, or personal problems, or had existing problems worsen as a result of one or more legal problems. <p>Survey results indicated that, each year, everyday legal problems lead to or worsen:</p> <ul style="list-style-type: none"> • marital problems for approximately 448,187 people; • parent, grandparent, or child relationship problems for approximately 322,851 people; • relationship problems with other family members for approximately 548,382 people; • child behaviour problems (approximately 110,040 people are affected); • problems with alcohol (40,389 people are affected, directly or indirectly); and/or • drug problems (7,882 people are affected, directly or indirectly). <p>Consumer problems (such as spending money on large purchases or repairs and not getting what you paid for) and employment problems are those most commonly identified as problems that cause or worsen personal relationship problems.</p>
Negative impacts on physical, mental, and/or emotional health	<p>In the three-year survey reference period:</p> <ul style="list-style-type: none"> • the physical health of approximately 2,002,304 Canadians was affected by the experience of a legal problem; • 65.2% of respondents (representing roughly 1,306,024 Canadians) visited doctors or used the health care system more often as a result of a legal problem; • the mental health of 5,309,024 Canadians was affected by the experience of a legal problem; and • roughly 2,188,143 Canadians visited doctors or used counselling services more than normal as a result of experiencing a legal problem. <p>Employment problems, relationship breakdown, and neighbour problems were the problems most commonly identified as having caused both physical and mental health problems and extreme stress.</p>
Loss of employment or housing	<p>In the three-year survey reference period:</p> <ul style="list-style-type: none"> • 8.4% of respondents (representing approximately 932,416 Canadians) lost their employment as a direct result of a legal problem that they experienced; and • approximately 310,805 people went on EI as a direct result of a legal problem.
Loss of housing	<p>The survey estimated that 100,839 people experience legal problems every year that cause or contribute to them losing their housing.</p>
Impacts on demand for social assistance and insurance	<p>In the three-year survey reference period:</p> <ul style="list-style-type: none"> • 2.1% of respondents (representing approximately 238,102 people) experienced legal problems that caused them to access publicly funded social assistance; and • approximately 832,112 people made an insurance claim as a result of a legal problem. <p>The average amount of social assistance that respondents reported receiving was \$285.86 per week, and the average number of weeks on social assistance was 34.2 weeks.</p>
*Source: (Canadian Forum on Civil Justice, 2018)	

Broader societal impacts – increased costs to society

These individual-level impacts can, in turn, have broader societal impacts. For example, impacts on individuals' health, employment, and/or housing status can increase use of health care and social services, which result in increased costs to society (Canadian Forum on Civil Justice, 2018; OECD & Open Society Foundations, 2019).

A 2016 report published by the Canadian Forum for Civil Justice estimated that everyday legal problems cost the state approximately \$800 million per year due to increased use of health or social programs. This total includes estimates of \$101 million in increased healthcare costs, \$450 million for EI expenditures, and \$248 million in social assistance expenditures directly related to legal problems (Canadian Bar Association, 2016; Currie, 2016).

When individuals are not able to adequately address their family and civil law problems, their productivity and ability to participate fully in society can be significantly reduced (Canadian Bar Association, 2013b). In addition, when legal services (such as legal aid) are unavailable or inaccessible, individuals may be unable to assert their rights and entitlement, which may, in turn, reduce trust in the justice system (Canadian Bar Association, 2013b; OECD & Open Society Foundations, 2019). As the Canadian Bar Association points out, when people perceive that the justice system does not work, this can “[undermine] the rule of law and [leave] systemic discrimination unchallenged” (2013b, p. 12).

6.0 Access to justice in family and civil law

6.1 Core objectives and features of access to justice

Defining access to justice

Definitions of access to justice vary. According to some authors, in its broadest sense, access to justice means “enabling people to avoid, manage, and/or resolve legal problems and disputes” (Roberts, Dandurand, & Morley, 2018, p. 1). This broad view of access to justice goes beyond the basic right to litigation or defense, and encompasses a variety of elements which may affect individuals' abilities to address their legal problems and enforce their rights within or outside of the formal justice system (Alberta Civil Liberties Research Centre, n.d.; Dandurand & Jahn, n.d.; Fenske & Froese, 2017; OECD & Open Society Foundations, 2019; Schellenberg, 2013a).

Access to justice is also defined in terms of need. Access to justice means ensuring that appropriate services are in place for those who need them and who cannot otherwise achieve appropriate solutions to their justiciable problems; deficits in access to justice arise when there is unmet legal need (OECD & Open Society Foundations, 2019). The Department of Justice Canada defines access to justice as:

Enabling Canadians to obtain the information and assistance they need to help prevent legal issues from arising and help them to resolve such issues efficiently, affordably, and fairly, either through informal resolution mechanisms, where possible, or the formal justice system, when necessary. (McDonald, 2017, p. 9)

Similarly, the Manitoba Bar Association describes access to justice as a “continuum of needs with the relatively basic need for legal information at one end of the continuum and the need for highly specialized legal advice or representation at the opposite end of the continuum” (Manitoba Bar Association, 2011, p. 3).

As needs vary with individuals, ensuring access to justice may encompass a variety of initiatives/interventions/approaches, including:

- ▶ ensuring the accessibility and availability of legal information and advice;
- ▶ providing advocacy for those who cannot afford legal representation or advice;
- ▶ implementing justice system reforms which build on legal aid models and simplify procedural and formal requirements; and
- ▶ addressing barriers faced by those accessing the judicial system to achieve equality of outcomes (Alberta Civil Liberties Research Centre, n.d.).

Key features and principles of access to justice

A number of key access to justice principles emerge from the literature, relating to the availability, accessibility, acceptability, and adequacy of legal services, as well as the fairness of legal system processes and outcomes. Table 8 outlines these key access to justice principles, along with requirements for their achievement.

Table 8: Key access to justice principles, questions, and requirements		
Key principle	Key questions	Achievement requires that...
Availability	<ul style="list-style-type: none"> • Do necessary services/information exist? • Are services adequately resourced and certain? 	<ul style="list-style-type: none"> • Appropriate legal supports are in place to address legal need • Legal services/supports have capacity to meet demand • Legal services/supports are consistently available
Accessibility	<ul style="list-style-type: none"> • Can individuals access necessary information and services? • Are information and services offered at a reasonable cost? • Are information and services understandable to users? 	<ul style="list-style-type: none"> • People are aware of legal rights and obligations, options for resolving disputes, and available services • People are able to access available services regardless of their location of residence, access to communications technology, technological capability, literacy and language capabilities, etc.
Acceptability	<ul style="list-style-type: none"> • Is the system set up and services delivered in a needs-based and culturally-appropriate way? 	<ul style="list-style-type: none"> • Available services reflect/are responsive to the needs of those experiencing justiciable issues, and who cannot (in the absence of legal services) achieve appropriate resolutions • Services are designed to address differential needs/challenges/experiences of vulnerable sub-populations
Adequacy	<ul style="list-style-type: none"> • Are information and services meaningful and sufficient? • Are individuals' experiences with the justice system meaningful and sufficient? 	<ul style="list-style-type: none"> • Legal services/resources are of high quality • Legal services/resources effectively assist people in resolving their legal issues and/or improving their situation

Key principle	Key questions	Achievement requires that...
Fair processes	<ul style="list-style-type: none"> • Are processes transparent? • Are services adequately resourced and well-organized? • Is the system easy to navigate? • Are people treated fairly? 	<ul style="list-style-type: none"> • People have meaningful opportunities to participate in systemic reform and development of the law and legal processes • People can effectively use court and non-court dispute resolution systems and services
Fair outcomes	<ul style="list-style-type: none"> • Are people offered meaningful opportunity to be heard? • Are decisions/resolutions timely (delivered at reasonable speed)? • Are decisions/resolutions just? 	<ul style="list-style-type: none"> • People have the ability to effectively participate in the resolution process to achieve just outcomes • Decisions are made in a timely manner • Decisions are based on facts and the law

*Sources: (British Columbia Legal Services Society, 2012; Fenske & Froese, 2017; McDonald, 2017; Moore & Farrow, 2019; OECD & Open Society Foundations, 2019)

6.2 Desired outcomes of access to justice

In the short term, access to justice is expected to enable people to resolve their disputes and enforce their legal rights. This, in turn, is expected to lead to a variety of other positive outcomes; when people are able to effectively manage, avoid, or resolve disputes in family and civil matters, this:

- ▶ promotes economic growth, as individuals and businesses can enter into contracts with greater confidence;
- ▶ increases government accountability;
- ▶ allows inequalities and discrimination to be addressed; and
- ▶ decreases health care and social service costs by reducing the negative health, economic, and other impacts associated with family and civil law issues (Canadian Bar Association, 2013b; OECD & Open Society Foundations, 2019).

For these reasons, access to justice is recognized as a key element of sustainable development. It has been described as “an essential element of development, human rights, democracy, and the rule of law” (Marchiori, 2015, p. 5), and an “enabler of other development priorities, such as health, the environment, and social development” (OECD & Open Society Foundations, 2019, p. 15). Access to justice is named in the United Nations’ 2030 Sustainable Development Agenda, as member countries agreed to “promote the rule of law at the national and international levels, and ensure access to justice for all” under Sustainable Development Goal (SDG) 16 (Moore & Farrow, 2019; OECD & Open Society Foundations, 2019, p. 11). Access to justice also forms the basis of Canada’s Justice Development Goals (JDGs), developed by the Action Committee on Access to Justice in Civil and Family Matters. The JDGs are intended to offer “a common framework to coordinate access to justice efforts,” aligning the work of organizations (large and small) in all provinces and territories. The nine JDGs are as follows:

- ▶ Goal 1: Address Everyday Legal Problems
- ▶ Goal 2: Meet Legal Needs
- ▶ Goal 3: Make Courts Work Better
- ▶ Goal 4: Improve Family Justice
- ▶ Goal 5: Work Together

- ▶ Goal 6: Build Capacity
- ▶ Goal 7: Innovate
- ▶ Goal 8: Analyze and Learn (involves development of metrics)
- ▶ Goal 9: Improve Funding Strategies (Action Committee on Access to Justice in Civil and Family Matters, 2019a; McCoubrey & Brown, 2019)

6.2.1 Access to justice stakeholders

Broadly speaking, access to justice stakeholders include all individuals and organizations interested and involved in furthering access to justice initiatives, as well as users of the justice system. Key stakeholders in relation to access to justice in family and civil law matters include:

- ▶ federal and provincial government branches/departments with jurisdiction over family and civil law;
- ▶ legal professionals (judiciary, lawyers, paralegals);
- ▶ non-governmental legal organizations and other organizations serving users of the justice system; and
- ▶ the public/community at large, which stands to benefit from access to justice initiatives (Access to Justice BC, 2019; McCoubrey & Brown, 2019; University of Saskatchewan College of Law, 2018).

As outlined in Section 3.1, a variety of governmental, non-profit, and social service organizations and agencies are involved in civil and family access to justice initiatives in Manitoba.

6.3 Common barriers/challenges to access to justice

A variety of access to justice barriers are identified in the literature. While access to justice barriers and challenges are often overlapping and linked, they can be grouped into broad categories as follows:

- ▶ the high cost of seeking assistance
- ▶ other factors (aside from cost) which affect individuals' decisions to seek out assistance for family and civil justice issues
- ▶ issues with the availability, accessibility, and appropriateness of legal services
- ▶ issues with quality of legal services
- ▶ systemic factors which impede sustained improvement to access to justice

High costs of legal services

Many studies have found the costs (including opportunity costs) of taking action/seeking assistance with civil and family issues to be prohibitively high (Dodge, 2013; Farrow et al., 2016; Fenske & Froese, 2017; Government of Manitoba, 2018b; OECD & Open Society Foundations, 2016). Cost indicators for measuring the cost of an individual's path to justice have been identified as follows:

- ▶ out-of-pocket expenses, which include the costs of transactions associated with and resulting from legal proceedings (such as fees for lawyers, experts, witnesses, notaries, etc., as well as transportation and communications costs)
- ▶ time spent dealing with the legal matter
- ▶ the cost of lost opportunities due to the lengthiness of legal proceedings
- ▶ intangible costs, such as stress, loss of relationships, and other emotional impacts (Schellenberg, 2013a)¹⁵

The 2013-14 survey conducted as part of the Canadian Forum on Civil Justice’s Cost of Justice project identified that Canadians incur these types of costs in addressing civil and family legal issues. Survey results found that nearly half (42.9%) of respondents (estimated to represent approximately 4,386,613 Canadians) spent money dealing with their legal problems in the three years preceding the survey. These costs included out-of-pocket expenses for:

- ▶ legal representation (21.8% of respondents incurred lawyers’ fees);
- ▶ transportation (16.1% of respondents spent money on buses, cabs, or other transportation);
- ▶ materials (13.1% of respondents spent money on photocopies or other materials);
- ▶ court fees (11.2% of respondents spent money on court filing or other court fees);
- ▶ advisors or mediators (10.1% of respondents incurred these costs);
- ▶ communications (5.4% of respondents spent money on long distance calls or fax services); and
- ▶ domestic tasks (4.8% of respondents incurred childcare, cleaning, or other domestic expenses in dealing with their legal issues) (Canadian Forum on Civil Justice, 2018).

It is estimated that Canadians spend a total of \$7.7 billion annually to deal with their everyday legal problems (Currie, 2016). As Table 9 shows, lawyers’ fees for civil and family law matters range from \$192 to \$475 per hour (Bruineman, 2018, 2019; Hendry, 2017). As efforts to obtain justice for civil and family issues can last many months and consume many hours, it is not uncommon for individuals to have to spend tens of thousands of dollars in legal fees to address these issues (Semple, 2016).

Table 9: Hourly rates for civil litigation and family law, by lawyers’ years of practice			
Lawyers’ years of experience	Year		
	2017	2018	2019
Civil litigation			
• 1 year or less	\$199	\$193	\$192
• 2 to 5 years	\$241	\$241	\$253
• 6 to 10 years	\$315	\$306	\$312
• 11 to 20 years	\$389	\$370	\$379
• > 20 years	\$474	\$433	\$475
Family law			
• 1 year or less	\$197	\$200	\$205
• 2 to 5 years	\$248	\$240	\$251

¹⁵ These are the cost indicators used by the Hague Model Measuring Access to Justice project (Schellenberg, 2013a).

Table 9: Hourly rates for civil litigation and family law, by lawyers' years of practice			
Lawyers' years of experience	Year		
	2017	2018	2019
• 6 to 10 years	\$304	\$300	\$322
• 11 to 20 years	\$363	\$331	\$350
• > 20 years	\$412	\$383	\$431

*Sources: Canadian Lawyer Legal Fees Survey results from 2017, 2018, and 2019 (Bruineman, 2018, 2019; Hendry, 2017)
 *Note: Survey reports for 2015 and 2016 did not break down hourly rates by type of legal service; therefore, data from these years is not included in the table.

Other factors affecting individuals' decisions to seek out assistance for family and civil justice issues

While not all everyday legal problems require resolution through the formal justice system, legal needs assessments that have been undertaken in Canada have shown that legal assistance is not accessed for all problems where it would be appropriate, and where, if used, could result in better outcomes. One factor prohibiting individuals from seeking out assistance is a lack of knowledge about the justiciable aspects of their civil and family issues; studies have found that people often do not identify the legal dimension of civil legal issues, and do not consider that there may be legal remedies for their problems (Currie, 2009; OECD & Open Society Foundations, 2016, 2019). Lack of information and awareness about individual legal rights and legal procedure can also exacerbate the emotional impact of interacting with the justice system and deter some from going through legal processes to address their civil and family legal issues (Dodge, 2013).

Other personal factors which influence individuals' decisions about whether or not to seek legal assistance for their problems include:

- ▶ individuals' level of trust in the justice system and the extent to which they believe that the system will result in fair outcomes (Dodge, 2013; OECD & Open Society Foundations, 2016);
- ▶ issues of anonymity and privacy (which may be an issue, particularly in smaller communities that may not have enough legal professionals to avoid conflicts of interest) (OECD & Open Society Foundations, 2016); and
- ▶ feelings of shame or experiences of stigmatization associated with seeking help in dealing with family and civil issues (de Jong, 2003; OECD & Open Society Foundations, 2016).

Issues with the availability and accessibility of legal services

Geography is one factor that can affect both the availability and accessibility of legal services. Legal services are generally more limited outside of large city centres. Fewer legal professionals typically reside in rural and remote communities than in urban centres, and residents of rural communities often experience greater transportation and infrastructure costs and challenges in accessing legal services (OECD & Open Society Foundations, 2016). In areas served by circuit courts, dockets can be crowded. As family and civil law matters are often considered lower priority than other matters, these cases are less likely to be heard on circuit court days, leading to delays in their resolution (Gallagher-Mackay, 2003). Those in rural and remote communities

may also have less or poorer-quality access to communications technologies – which may, in turn, lead to difficulties in accessing legal information and assistance available online (including more formal sources of assistance, as well as social networks, which could improve legal awareness) (OECD & Open Society Foundations, 2016).

Language is another factor that can affect the availability and accessibility of legal services. Living in a bilingual nation, Canadians have the right to use their official language of choice in courts,¹⁶ and adequate bilingual capacity in the justice system (and in all justice professional groups with which the public interacts, including the judiciary, private sector lawyers, and government officials) has been identified as an essential component of access to justice. However, past studies have found that, in provinces and territories where French is a minority language, French-speaking individuals are often disadvantaged in judicial and legal services (GTA Research, 2005). While significant progress has been made in Manitoba and other francophone-minority provinces over the past few decades (Laurencelle, 2019; Ontario Ministry of the Attorney General, n.d.), recent assessments have revealed some persisting issues. For example, in Manitoba, issues have been identified in relation to the scarcity of bilingual lawyers specializing in criminal or family law, and limited bilingual staff members employed in prominent justice system organizations and institutions (including the Royal Canadian Mounted Police, Winnipeg Police Service, and Manitoba’s general legal aid program) (Laurencelle, 2019).

As identified in Section 4.1, availability of legal services is also affected whenever supply is insufficient to meet demand, and when service gaps exist.

Issues with quality of legal services

Variation in service quality among service providers affects access to justice (Canadian Bar Association, 2013b; Dodge, 2013; Fenske & Froese, 2017; Nova Scotia Barristers’ Society, 2015). Community consultations conducted by the Canadian Bar Association in 2013 produced a number of accounts of variation in services offered by justice professionals and legal service providers. This variation was attributed, at least in part, to workload and compensation issues (Canadian Bar Association, 2013b). Other reports have offered the perspective that, when funding for legal aid is insufficient, legal aid workers can be overworked and lack time to provide high quality legal services and to offer clients sufficient choice in how to deal with their legal matter (Dodge, 2013; Nova Scotia Barristers’ Society, 2015).

Systemic factors

The following systemic barriers impeding sustainable and sustained improvement to access to justice have been identified:

- ▶ lack of political profile
- ▶ inadequate strategy and coordination of access initiatives
- ▶ absence of mechanisms to measure change
- ▶ absence of common terminology and definitions of success in relation to access to justice

¹⁶ This right is enshrined in the 1967 Confederation pact, as well as subsequent statutory measures enacted by the Canadian Parliament and provincial legislatures to protect language rights (GTA Research, 2005).

- ▶ identifiable gaps in knowledge about what works to improve access to justice (Schellenberg, 2013a).

In addition, funding for legal services and access to justice initiatives typically prioritizes criminal justice processes over civil and family justice processes. Improving access to justice in relation to civil and family issues may, therefore, require a rebalancing of priorities (Canadian Bar Association, 2013a; OECD & Open Society Foundations, 2016).

Manitoba-specific barriers

Many of the above-mentioned barriers apply to the Manitoba context/population. The Manitoba population, or portions of the population, experience issues in access to legal representation, legal aid, the courts, and the family law system. As such, it has been suggested that achieving access to justice for Manitobans requires improvements in relation to:

- ▶ the affordability of legal services for all Manitobans;
- ▶ the availability of lawyers/services/court staff to meet the demand for services (which requires ensuring a sufficient number of lawyers, court staff, and other services, particularly in Manitoba's rural and remote areas);
- ▶ the availability of legal services in both official languages, as well as in languages other than English or French;
- ▶ legal aid access and coverage;
- ▶ circuit court facilities;
- ▶ the availability and use of ADR mechanisms for resolution of family and civil matters;
- ▶ the adequacy of training for judges and lawyers in relation to civil and family issues (and in the area of intimate partner violence, in particular); and
- ▶ the availability of legal information and in-person assistance for self-representing litigants (Fenske & Froese, 2017; Manitoba Bar Association, 2011).

6.3.1 Unique barriers for certain populations

Just as certain groups experience a disproportionate number of family and civil justice problems (see Section 2.0), these same vulnerable groups also tend to encounter unique barriers or challenges in accessing justice. Table 10 summarizes some of the unique legal needs and access to justice challenges of groups that are especially vulnerable to civil and family legal issues, namely:

- ▶ people living in poverty;
- ▶ Indigenous people;
- ▶ newcomers to Canada;
- ▶ people with physical or mental health issues or disabilities;
- ▶ precarious workers; and
- ▶ women – in particular, those impacted by intimate partner violence (IPV)

Table 10: Unique needs and access to justice challenges for groups vulnerable to disproportionate experience of legal issues		
Vulnerable groups	Unique legal needs	Access to justice challenges
People living in poverty	<ul style="list-style-type: none"> • Need for assistance with multiple problems due to problem clustering (i.e., simultaneous experience of multiple poverty-related problems, such as poor nutrition and health, increased exposure to crime/violence, exclusion from labour force, reliance on social assistance, etc.) 	<ul style="list-style-type: none"> • Difficulty affording the costs of legal assistance • Limited legal aid coverage (low financial eligibility cutoffs, limited civil and family issues covered) • Limited access to technological communications – necessary for dealing with issues, as well as accessing legal information and resources • Challenges in ensuring that basic needs are met takes time/energy/resources away from addressing legal problems
Indigenous people	<ul style="list-style-type: none"> • Need for assistance with multiple problems due to problem clustering (Indigenous people in Canada are impacted by a number of interconnected issues, including multi-generational trauma; racism; internalized oppression; higher rates of violence, abuse, addictions; limited educational and economic opportunities; and poor health) 	<ul style="list-style-type: none"> • Under-representation of Indigenous people within the legal system (lack of Indigenous court officials, lawyers, judges, and jury members in Manitoba), leading to poorer outcomes for Indigenous people • Mismatch between Western and Indigenous legal traditions and cultural values, leading to poorer outcomes for Indigenous people • Distrust of the legal system by Indigenous people, due to colonial history and discrimination • Geographic isolation (more than 60% of Indigenous people in Manitoba live on reserve, many located in remote areas), affecting access to legal services
Newcomers to Canada	<ul style="list-style-type: none"> • Need for assistance with multiple problems due to problem clustering (legal needs associated with the resettlement process for newcomers may include assistance with refugee claims, detention and deportation reviews, and citizenship applications; and legal representation at immigration hearings) 	<ul style="list-style-type: none"> • Newcomers may experience difficulties in obtaining documentation (e.g., birth certificates/identification, other government-issued papers) needed to address legal issues • Language and cultural differences may make it more difficult for newcomers to understand and navigate Canada's justice system and access legal resources • Mismatch between Canadian and newcomers' legal traditions and cultural values, leading to poorer outcomes for newcomers • Newcomers may lack awareness of legal services available to them
People with physical or mental health conditions and/or disabilities	<ul style="list-style-type: none"> • People with health conditions or disabilities require a combination of supports (legal, social, health, housing) – may require legal services to be coordinated with health and other services 	<ul style="list-style-type: none"> • Fragmented health, social, and legal service sectors can inhibit resolution of legal issues • Stigma/shame/discrimination around mental health issues can hinder access to services • Those with mental health issues can experience challenges in securing legal representation (and legal aid approval) for mental health-related cases, particularly appeals before the Mental Health Review Board
Precarious workers (i.e., those working in jobs with some form of insecurity, such as low wages, lack of benefits, atypical employment contracts, etc.)	<ul style="list-style-type: none"> • Precarious workers are more vulnerable to employment issues – may be less able to refuse unacceptable working conditions and more exposed to abuses (discrimination, harassment, intimidation); require support in exercising employment rights, accessing EI benefits, and navigating complex appeal processes 	<ul style="list-style-type: none"> • Precarious workers have poor access to due process in cases of unacceptable or unsafe working conditions • Precarious workers may experience greater difficulty (compared to those in more stable employment) in accessing EI benefits and navigating appeal processes; marginalized workers are less likely to qualify for EI benefits and may have less ability to challenge unfair employment practices

Table 10: Unique needs and access to justice challenges for groups vulnerable to disproportionate experience of legal issues		
Vulnerable groups	Unique legal needs	Access to justice challenges
Women, in particular those affected by IPV	<ul style="list-style-type: none"> • Need for assistance with multiple problems due to problem clustering (e.g., co-occurrence of IPV with other problems, such as relationship breakdown, employment, housing, and/or financial issues) 	<ul style="list-style-type: none"> • Lack of awareness of the law and their legal rights regarding family law issues • Lack of legal professionals (particularly in rural and remote areas) who have expertise in IPV-related issues • Fear and mistrust of the police and the child welfare system may discourage women experiencing IPV from seeking assistance
*Sources: (Fenske & Froese, 2017; Marchiori, 2015; Mosher, 2015; Virdi, 2016; Walken, 2007)		

These unique access to justice barriers do not necessarily occur in isolation, but can intersect in a variety of ways, as the following observations indicate:

- ▶ Indigenous people in Manitoba experience rates of poverty above the provincial average.
- ▶ Newcomers in Manitoba experience rates of poverty above the provincial average.
- ▶ Young workers, women, racialized persons, immigrants, temporary migrant workers, persons with disabilities, Indigenous persons, and non-status workers are more vulnerable to job loss/insecurity.
- ▶ Women are more likely than men to be employed in temporary or part-time work.
- ▶ Indigenous and newcomer women experience IPV/family violence at higher rates than the general population/other women (Fenske & Froese, 2017; OECD, 2015; Statistics Canada, 2017b).

7.0 Measurement of access to justice in family and civil law: examples of access to justice metrics and approaches from other jurisdictions in Canada

The literature emphasizes the importance of measuring civil and family justice, and identifies a need for coordinated justice metrics strategies (Access to Justice BC, 2019; McCashin et al., 2018; McHale, 2017; OECD & Open Society Foundations, 2016; University of Saskatchewan, n.d.-a; University of Saskatchewan College of Law, 2018). The development of access to justice metrics is expected to result in improved ability to measure the effectiveness of justice initiatives and lead to better informed service delivery, and increased transparency and accountability in the justice system (McCashin et al., 2018).

Canada’s Action Committee on Access to Justice in Civil and Family Matters has recently attempted to develop common indicators for measuring access to justice. In December 2019, the committee released a report documenting the results of their survey of several global/international and national access to justice metrics projects, including approaches implemented or recommended by the Hague Institute for Innovation of Law, the Organisation for Economic Co-operation and Development, the Open Society Foundation, and the World Justice Project, as well as national access to justice measurement efforts being undertaken in Australia, Canada, the United States, and the United Kingdom. In comparing these access to justice initiatives and projects, the committee identified the ten “common” indicators, which “can be considered as a starting point for A2J [access to justice] measurement in Canada” (Action

Committee on Access to Justice in Civil and Family Matters, 2019b, p. 1). These indicators are briefly outlined below.

1. **Types of justiciable problems.** As justiciable civil and family problems go beyond what may be ordinarily considered “legal” problems, it is important that access to justice metrics initiatives capture the full range of legal problems experienced by Canadians (including all categories of commonly-experienced problems identified in Section 2.0 of this report).
2. **Help sought and others involved.** This indicator involves gathering information on whether and what supports (both formal and informal) are used by individuals in the justice process.
3. **Resolution processes and other problem-solving behaviour.** This indicator involves gathering information on the actions that people take to solve their problems (i.e., tracking use of legal services and/or individuals’ choice of options for resolving legal issues, such as those outlined in Section 3.0 of this report).
4. **Outcomes/conclusions both in fact and type.** This indicator involves gathering information on the extent to which problems are resolved. In addition to assessing whether issues are completely resolved, abandoned, or ongoing/persisting (or whether outcomes are unclear), some access to justice metrics projects also measure strategies used to conclude the issue, the types of justice represented by the outcome, the transparency of the outcome, and the extent to which outcomes are satisfactory and/or favourable.
5. **Perceptions of quality, fairness, accessibility, and appropriateness of both the process(es) and outcome(s).** This indicator involves assessing perceptions of both process quality and outcome quality (i.e., evaluating perceptions of fairness and satisfaction with processes and outcomes), and may also involve assessing perceptions of cultural appropriateness (which the committee notes “will be very important to consider in the Canadian multi-cultural and plural legal context” (Action Committee on Access to Justice in Civil and Family Matters, 2019b, p. 38)).
6. **Cost and impact in terms of economic expenses (including relocation), time spent, and negative effects on health, substance abuse, and relationships.** This indicator involves measuring costs to individuals in a broad sense, considering not only financial expenditures incurred, but also non-financial costs related to dealing with the legal issue, including time spent and impacts on physical and emotional health.
7. **Personal factors, including awareness of law, process, and support, and legal capability and confidence.** This indicator involves measuring the extent to which individuals understand their issues, rights, and responsibilities; know where to obtain information and support; and have confidence in their ability to achieve a fair outcome.
8. **Legal needs and unmet needs.** This indicator involves measuring whether individuals’ legal needs were met or not met (or whether the extent to which needs were met was unclear), and may also involve assessing whether individuals encountered difficulties in getting support.
9. **Barriers and obstacles faced.** This indicator involves assessing whether individuals have encountered specific barriers to access to justice, such as language and disability-related barriers. The committee emphasized that, in Canada, specific barriers for Indigenous peoples must be considered; indicators must be developed considering factors such as “trauma, fear, distrust of the justice system, distrust of legal professionals, preference and barriers for access to customary or traditional legal systems, and feelings of dissonance

about participating in colonial legal processes given rights to self-determination and sovereignty,” which may prevent access to justice for Indigenous people (Action Committee on Access to Justice in Civil and Family Matters, 2019b, p. 39).

10. **Disaggregated demographic information.** In accordance with the United Nations Sustainable Development Goals, the committee recommends that access to justice data be disaggregated across ten categories: indigeneity, ethnicity, race, immigration and refugee status, disability, sex, gender, income, mental health, and geographic location (Action Committee on Access to Justice in Civil and Family Matters, 2019b).

Metrics projects/initiatives relevant to the Canadian context

Table 11 compares a number of metrics, performance measurement, benchmarking, and index projects/initiatives that have been developed for the Canadian context (with the exception of the World Justice Project). These include:

- ▶ the Access to Justice Framework developed by Access to Justice BC;
- ▶ the outcome measures developed by LAM;
- ▶ civil justice indicators used by the World Justice Project;
- ▶ performance measures developed by Legal Aid Ontario (LAO);
- ▶ the Canadian Bar Association’s National Benchmarks for Public Legal Assistance; and
- ▶ Justice Canada’s Access to Justice Index Project for administrative law.

Some of these initiatives are specific to civil and family law, while others are more general or specific to other areas of the law, but may offer relevant considerations in the development of civil and family metrics.

Further description of the BC Access to Justice Framework, as well as other access to justice measurement/metrics initiatives currently underway or under development in Canada, can be found in Appendix B.

Table 11: Access to justice performance measurement indicators and metrics in use/suggested for use in Canada							
Metrics Theme	Dimension/ Sub-theme	Organization/initiative					
		BC A2J Framework components	LAM outcome measures	World Justice Project – Factor 7: Civil Justice	LAO performance measures	Benchmarks for Public Legal Assistance	Justice Canada A2J Index Project (administrative law)
Improved population access to justice	Prevalence of legal needs and legal problems	<ul style="list-style-type: none"> Prevalence of legal problems in the population Prevalence of unaddressed legal needs Public legal awareness 	<ul style="list-style-type: none"> Number of LAM applications received, year over year, by matter type 		<ul style="list-style-type: none"> Measure #4: Intakes served versus denied and referred Measure #7: complaints filed and founded (to identify unmet client needs and concerns) 		
	Response to legal needs	<ul style="list-style-type: none"> People’s choice of path to justice Legal information and education needs Legal advice needs Need for legal representation and other legal assistance Need for consensual dispute resolution processes 	<ul style="list-style-type: none"> Number of LAM legal matters issued, year over year, by matter type 		<ul style="list-style-type: none"> Measure #1: Cases and initiatives: services provided, average cost of initiatives (identify number of clients served and services provided) 	<ul style="list-style-type: none"> Public legal assistance service providers use discrete and systemic legal strategies and work in collaboration with non-legal service providers to offer a broad range of services – from outreach to after care – targeted and tailored to people’s legal needs, circumstances, and capabilities 	<ul style="list-style-type: none"> Parties’ ability to choose among a variety of processes/paths to justice as their case goes through the system (including choice between an administrative body’s informal and formal dispute resolution mechanisms)
	Fair and equitable access to justice	<ul style="list-style-type: none"> Accessibility of justice system – including geographical access, access for vulnerable groups Financial access to justice system Timeliness of access to justice system 	<ul style="list-style-type: none"> Distribution of legal matters regionally Task completion times for processing applications, issuing and accepting Certificates, processing lawyers’ accounts, processing client contribution contracts and payments, time to disposition 	<ul style="list-style-type: none"> People can access and afford civil justice¹⁷ Alternate dispute resolution mechanisms are accessible (i.e., affordable) 		<ul style="list-style-type: none"> Public legal assistance services are provided to individuals, families, and communities with essential legal needs who are otherwise unable to afford assistance 	<ul style="list-style-type: none"> Physical access (ability of parties to access offices of administrative bodies in person) Access through technology (ability of parties to participate in oral processes via tele/videoconference, consideration of literacy levels and disabilities in website design, etc.)
	Social and economic impact of access to justice	<ul style="list-style-type: none"> Social policy objectives Protection of people’s rights Public confidence in the justice system Public confidence in social institutions Gender equality Justice for Indigenous people Social and economic costs and benefits of access to justice 				<ul style="list-style-type: none"> Public legal assistance services in all provinces and territories are fully accessible, timely, high quality, culturally appropriate and cost-effective. Services will lead to evaluated meaningful participation and fair and equitable outcomes, and contribute to the empowerment and resilience of individuals, families and communities 	

¹⁷ “Measures the accessibility and affordability of civil courts, including whether people are aware of available remedies; can access and afford legal advice and representation; and can access the court system without incurring unreasonable fees, encountering unreasonable procedural hurdles, or experiencing physical or linguistic barriers”

Table 11: Access to justice performance measurement indicators and metrics in use/suggested for use in Canada							
Metrics Theme	Dimension/ Sub-theme	Organization/initiative					
		BC A2J Framework components	LAM outcome measures	World Justice Project – Factor 7: Civil Justice	LAO performance measures	Benchmarks for Public Legal Assistance	Justice Canada A2J Index Project (administrative law)
Improved experience of access to justice	User experience of access to the justice system	<ul style="list-style-type: none"> • Obstacles to access (distance, technology, affordability) • Eligibility to services • Affordability of services • Delays in accessing justice services and their impact 	<ul style="list-style-type: none"> • Task completion times for processing applications, issuing and accepting Certificates, processing lawyers' accounts, processing client contribution contracts and payments, time to disposition 	<ul style="list-style-type: none"> • Civil justice is not subject to unreasonable delays (measures whether civil justice proceedings are conducted and judgments are produced in a timely manner without unreasonable delay) • Court proceedings are conducted in a timely manner 	<ul style="list-style-type: none"> • Measure #4: Clients served vs. denied service (eligibility; to identify number of clients served and not served) • Measure #5: Stages when case file outcomes are achieved with clinic involvement (to identify stages when cases are resolved and impacts of early resolution) 	<ul style="list-style-type: none"> • Public legal assistance services are provided on a priority basis to individuals, families, and communities who are financially disadvantaged or are otherwise vulnerable to experiencing unmet essential legal needs 	
	Quality of user experience of justice system	<ul style="list-style-type: none"> • Quality of legal information and education • Trust and confidence in legal information • User empowerment • Quality of legal advice • Quality of legal assistance and representation • Quality of referral services • Experience of self-represented litigants • Quality of consensual dispute resolution processes 			<ul style="list-style-type: none"> • Measure #3: Service outcomes and client feedback (to provide an indicator of quality of services provided to clients) 	<ul style="list-style-type: none"> • Canadian public legal assistance systems are sustainably funded and provide comprehensive, people-centred legal services tailored to local, regional, provincial, and territorial circumstances to meet essential legal needs and contribute to the health and well-being of disadvantaged and low-income Canadians 	
	Effectiveness of responses to legal problems	<ul style="list-style-type: none"> • Effective resolution of legal problems • Mitigated impact of legal problems • Prevention of legal problems • Prevention of conflicts • Unmet legal needs and their consequences • Limits to the assistance received 		<ul style="list-style-type: none"> • Alternate dispute resolution mechanisms are effective (efficient, enforceable) 		<ul style="list-style-type: none"> • Public legal assistance service providers participate in collaborative service planning across this sector and are mandated and supported to innovate and to fulfill their integral role of ensuring access to justice and an effective justice system, working in partnership with all stakeholders 	

Table 11: Access to justice performance measurement indicators and metrics in use/suggested for use in Canada							
Metrics Theme	Dimension/ Sub-theme	Organization/initiative					
		BC A2J Framework components	LAM outcome measures	World Justice Project – Factor 7: Civil Justice	LAO performance measures	Benchmarks for Public Legal Assistance	Justice Canada A2J Index Project (administrative law)
	Appropriateness of justice processes	<ul style="list-style-type: none"> Fairness, equity, and impartiality of the process Cultural appropriateness Voice and participation 	<ul style="list-style-type: none"> Distribution of legal matters regionally 	<ul style="list-style-type: none"> Civil justice is free of discrimination (measures whether the civil justice system discriminates in practice based on socioeconomic status, gender, ethnicity, religion, national origin, sexual orientation, or gender identity) Civil justice is free of corruption (measures whether the civil justice system is free of bribery and improper influence by private interests) Civil justice is free of improper government/political influence Alternate dispute resolution mechanisms are impartial (free of corruption) 	<ul style="list-style-type: none"> Measure #8: Governance scorecard (evaluates effectiveness of the clinic board in their oversight of the clinic) 	<ul style="list-style-type: none"> Public legal assistance services in all provinces and territories are fully accessible, timely, high quality, culturally appropriate, and cost-effective 	<ul style="list-style-type: none"> Support/assistance offered by administrative bodies to self-represented litigants Training provided to staff members on treating clients with respect and duty to accommodate Administrative bodies' Codes of Conduct/Values/Ethics Establishment and monitoring of service standards by administrative bodies
	Justice outcomes for user	<ul style="list-style-type: none"> User satisfaction with outcomes of justice projects Compliance with court orders, judgments, and mediated agreements Post-resolution support User enhanced legal awareness Enhanced legal capability 		<ul style="list-style-type: none"> Civil justice is effectively enforced (measures the effectiveness and timeliness of the enforcement of civil justice decisions and judgments in practice) 	<ul style="list-style-type: none"> Measure #3 and #6: Service outcomes and client feedback (to identify results achieved/benefits to client or public and average cost to obtain results) Measure #7: Complaints filed and founded 	<ul style="list-style-type: none"> Services will lead to evaluated meaningful participation and fair and equitable outcomes, and contribute to the empowerment and resilience of individuals, families, and communities 	<ul style="list-style-type: none"> Parties' satisfaction with administrative body's processes/perceptions of usefulness Administrative process' contributions to distributive justice Monitoring and enforcement of outcomes Transparency of outcomes: clear communication to parties, publicly accessible decisions

Table 11: Access to justice performance measurement indicators and metrics in use/suggested for use in Canada							
Metrics Theme	Dimension/ Sub-theme	Organization/initiative					
		BC A2J Framework components	LAM outcome measures	World Justice Project – Factor 7: Civil Justice	LAO performance measures	Benchmarks for Public Legal Assistance	Justice Canada A2J Index Project (administrative law)
Improved costs	Per capita costs of justice system	<ul style="list-style-type: none"> Per capita costs of services Impact of new initiatives on per-user costs 			<ul style="list-style-type: none"> Measure #1: Cases and initiatives: services provided, average cost of initiatives (track average cost per case) Measure #2: Resource allocation (determine percentage of time and funds used to deliver direct legal services vs. administrative tasks and other functions) 		
	Per-user costs of services	<ul style="list-style-type: none"> Per-user costs by type of services Impact of new initiatives on per-user costs 	<ul style="list-style-type: none"> Average cost per case (payments made to private bar, tariff rates for LAM staff attorneys) Year over year cost comparison by matter type Administrative/management cost of LAM services 		<ul style="list-style-type: none"> Measure #1: Cases and initiatives: services provided, average cost of initiatives (track average cost per client) 		Costs to parties who access administrative process: <ul style="list-style-type: none"> Service costs: document filing fees, copying, interpretation services, disability accommodations, costs of accessing information Intangible costs: psychological impacts of process
	Other costs	<ul style="list-style-type: none"> Social and economic costs of unresolved legal problems Impact of unresolved problems on costs in other sectors 					

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Appendix A – Table of Canadian Civil and Family Legal Needs Surveys

Table 1: Legal Needs Surveys in Canada				
Survey	Date	Respondents	Population/scope and survey method	Survey details/ How survey addressed justiciable problems and legal needs
National surveys				
National Survey of Civil Justice Problems Ab Curie *Report does not include survey instrument Funded by: Department of Justice Canada	2004	<ul style="list-style-type: none"> n=4,501 low- and moderate-income Canadians 18 years and older 	<ul style="list-style-type: none"> 10 provinces Focus on respondents' experiences over past 3 years Survey conducted by telephone 	<ul style="list-style-type: none"> Respondents asked about experience with 76 specific problems While the term "legal" was not used, each question about a specific legal problem was designed to include legal content (i.e., wording developed for consumer, employment, and debt problems was narrowed to justiciable issues; family law issues such as divorce and child support are "unambiguously legal in nature") Problems grouped into 15 categories for analysis: consumer; employment; money and debt; income assistance; disability pensions; housing; immigration; discrimination; treatment by police; threat of legal action; family problems re: divorce, separation, children; other family-related problems; wills and powers of attorney; personal injury; and hospitalization Focus on problems that respondents defined as serious or difficult to resolve (rather than asking respondents to specifically identify their problems as legal problems) Follow up on three problems identified by each respondent (selected randomly) Limited information gathered about resolution of problems
Survey of Justiciable Problems in Civil Matters Ab Curie *Survey instrument in Appendix A, pages 91-115 Funded by: Department of Justice Canada	2006	<ul style="list-style-type: none"> n=6,665 general population 18 years and older 	<ul style="list-style-type: none"> 10 provinces Focus on respondents' experiences over past 3 years Survey conducted by telephone 	<ul style="list-style-type: none"> Similar in design to the 2004 National Survey of Civil Justice Problems, with increase to 80 specific problems Problems grouped into 15 categories for analysis (as outlined above) Focus on problems that respondents defined as serious or difficult to resolve (rather than asking respondents to specifically identify their problems as legal problems) After problem identification, survey sections included: follow-up on respondents' attempts to resolve problems, connections between the problems they had experienced, general non-legal impacts of experiencing justiciable problems, and general attitudes toward society and the justice system
Everyday Legal Problems and the Cost of Justice in Canada: Survey Canadian Forum on Civil Justice Survey instrument found here .	2014	<ul style="list-style-type: none"> n=3,263 general population 18 years and older 	<ul style="list-style-type: none"> 10 provinces Focus on respondents' experiences over past 3 years Survey conducted by telephone 	<ul style="list-style-type: none"> Survey undertaken as part of the Cost of Justice project (2011-2017), funded by the Social Sciences and Humanities Research Council of Canada, which sought to examine the costs of delivering, and not delivering, access to justice Problem categories: consumer, employment, debt, social assistance, disability assistance, housing, immigration, discrimination, treatment by police, criminal charges, family law problems (relationship breakdown), family problems (other, including guardianship and child support issues), wills and incapacity, personal injury, medical treatment, legal action, neighbourhood problems, and property damage

Table 1: Legal Needs Surveys in Canada				
Survey	Date	Respondents	Population/scope and survey method	Survey details/ How survey addressed justiciable problems and legal needs
Provincial/territorial/regional legal needs surveys				
Survey for study of summary legal advice services in Alberta Alberta Law Foundation	2018	<ul style="list-style-type: none"> n=7,552 legal clinic clients who received summary legal advice services 18 years and older 	<ul style="list-style-type: none"> Involved an initial and follow-up survey with clients from four legal clinics located in different parts of the province Initial survey administered in person to clients following clinic appointments 	<ul style="list-style-type: none"> Purpose and scope of the survey is narrowly focussed on clients of legal clinics and the impact of services received from the clinics. Legal problems classified into 25 types: divorce/separation; spousal support/child support; matrimonial property; parenting/custody/access; child protection/child welfare; wills/estates; welfare/social assistance; pensions/Canada Pension Plan/Old Age Security; human rights/civil rights; personal injury; motor vehicle accident; insurance; immigration; landlord/tenant disputes; housing; small claims; debts/creditor disputes; contract disputes; employer/employee disputes; workers' compensation/EI; Emergency Protection Order; tickets; bylaw; criminal; notary/Commissioner of Oaths Survey also gathered information on reasons for not using legal advice, and how respondents dealt with legal problems after receiving advice (Bertrand & Paetsch, 2018).
Civil Legal Needs of Lower and Middle-Income Ontarians Law Society of Upper Canada Pro Bono Law Ontario Legal Aid Ontario The Law Foundation of Ontario *Survey instrument found in Appendix, pages 79-99	2009	<ul style="list-style-type: none"> n=2,000 low- and middle-income Ontarians 18 years and older 	<ul style="list-style-type: none"> Households randomly selected from across seven regions of Ontario Quotas set for each region and for various age categories Survey conducted by telephone 	<ul style="list-style-type: none"> Survey undertaken as part of the Ontario Civil Legal Needs Project, the goal of which was to “build a detailed understanding of the civil legal needs of Ontarians of modest means and help uncover strategies to better meet those needs” (Law Society of Ontario, 2019). The project also involved focus groups with legal and social services providers, and a mapping exercise of existing services (Law Society of Ontario, 2019). Legal problems/issues grouped into 17 categories for analysis: consumer, employment, money or debt, welfare or social assistance, housing or land, immigration, discrimination/harassment, criminal, family relationship, wills and powers of attorney, personal injury, hospital treatment or release, legal action, disability-related, neighbourhood problems and property damage, real estate transactions, and small or personal business issues Survey also gathered information about: general perceptions about the Canadian justice system; causes of legal issues; legal assistance sought by respondents; usefulness of legal assistance received; resolution of issues and satisfaction with outcomes; availability of legal advice and information; impacts of problems; and awareness of specific legal services/organizations. *Survey asks respondents specifically about problems that may require legal assistance — in contrast to national surveys referenced above, which do not require respondents to identify their problems specifically as legal ones — so, the design of this survey may miss some identification of justiciable problems.

Table 1: Legal Needs Surveys in Canada				
Survey	Date	Respondents	Population/scope and survey method	Survey details/ How survey addressed justiciable problems and legal needs
Family law research in Nunavut Funded by: Department of Justice Canada *Survey instrument found in Appendix Two, pages 89-115	2003	<ul style="list-style-type: none"> • n=342 • general population 	<ul style="list-style-type: none"> • 5 Nunavut communities in total, varying in size • Communities selected from each of Nunavut's regions • Conducted by telephone 	<ul style="list-style-type: none"> • This research was undertaken to contribute to a better understanding of community-level uses and perceptions of family law, as well as unmet family justice needs. A survey of was carried out, along with other data collection methods (including data review, service inventory, and community interviews and meetings), to inform the research (Gallagher-Mackay, 2003). • The survey gathered a lot of information about household structure, and family justice issues — with a large emphasis on child custody and support (which is beyond the scope of the survey being designed as part of this research); however, the final survey section on public legal education may be useful for this assignment.

Appendix B – Access to justice measurement/metrics initiatives underway in Canada

Action Committee Metrics Working Group

The [Action Committee Metrics Working Group](#) is a sub-committee of the national Action Committee on Access to Justice in Civil and Family Matters. The working group has a mandate to “work toward inter-jurisdictional cooperation and coordination in the development of justice metrics” (Action Committee on Access to Justice in Civil and Family Matters, n.d.; University of Saskatchewan, n.d.-a). Under the sponsorship of the Action Committee on Access to Justice in Civil and Family Matters, the working group’s efforts contribute to *Roadmap for Change* recommendations 8.1 (“promote a national access to justice research and innovation agenda that is both aspirational and practical”) and 8.2 (“develop metrics of success and systems of evaluation”) (Action Committee on Access to Justice in Civil and Family Matters, 2013b).

Working group collaborators include representatives from multiple projects/jurisdictions, including:

- ▶ the Saskatchewan CREATE Justice project;
- ▶ the *Centre de Recherche en Droit Public*, at l’Université de Montréal (Quebec representation);
- ▶ the Canadian Forum for Civil Justice (Ontario representation); and
- ▶ the Uvic Access to Justice Center for Excellence (British Columbia representation).

However, membership is open to allow other interested jurisdictions to join (Action Committee on Access to Justice in Civil and Family Matters, n.d.; University of Saskatchewan, n.d.-a). It appears that the working group has played a role in both the BC Access to Justice Measurement Framework, and the Saskatchewan CREATE Justice initiative; however, the literature review could not discern the exact nature of this role/participation.

Access to Justice Measurement Framework – Access to Justice BC

To date, Canada’s most comprehensive initiative in establishing access to justice metrics is Access to Justice BC’s Measurement Framework. This framework was developed to “support a shared approach to monitoring and evaluating improvements in access to justice in British Columbia,” and was adopted by the Access to Justice Leadership Team in May 2017 (Dandurand & Jahn, n.d., p. 1).

The Access to Justice Measurement Framework was designed to assist justice system stakeholders in measuring success in achieving the Access to Justice Triple Aim, which defines the following key elements of access to justice:

1. improved population access to justice (which includes efforts to achieve equitable access among sub-populations, regions, etc.)
2. improved experience of access to justice (which includes efforts to develop legal capability and improve service quality)
3. improved costs (which includes efforts to ensure that costs are sustainable) (McCashin et al., 2018; Roberts et al., 2018)¹⁸

¹⁸ The Triple Aim approach was originally developed in the health sector, but has been adapted for use in relation to access to justice. The three elements of the Access to Justice Triple Aim are considered to be

For each of the three Triple Aim elements, the Access to Justice Measurement Framework identifies several dimensions and components (or indicators/measures). These are intended to guide data collection to support measurement of success in relation to each Triple Aim element. The framework does not, however, identify particular data sources or data collection methods;¹⁹ while the framework is intended to align the monitoring and evaluation efforts of justice system stakeholders in BC, it is also intended to be implemented in a flexible manner, as the framework articulates:

The goal is not to ensure that the impacts of all access to justice initiatives are measured the same way, using standardized indicators or a single methodology. In fact, given the varied nature of these initiatives, it is neither desirable nor possible to impose a one-size-fits-all outcome measurement model (Dandurand & Jahn, n.d., p. 4).

Overall, use of the Access to Justice Measurement Framework is expected to:

- ▶ facilitate monitoring of changes in access to justice for the BC population;
- ▶ guide evaluation of the impacts of access to justice initiatives;
- ▶ “contribute to positive system change by encouraging a logical, focused and transparent approach to measurement that informs justice system policy, programs and innovations;” and
- ▶ support efforts to “make the case for access to justice funding” through generation of data (Dandurand & Jahn, n.d., p. 3).

While the literature review was not able to determine the extent to which the Access to Justice Measurement Framework has been implemented/used to date, a recent article released by the BC branch of the Canadian Bar Association reports that the Access to Justice Triple Aim has been endorsed by over 50 justice system entities, including courts, tribunals, government, legal service deliverers, legal education organizations, and others (Bauman, 2019).

Saskatchewan CREATE Justice Initiative

The CREATE Justice Centre for Research, Evaluation, and Action Toward Equal Justice, located in the University of Saskatchewan College of Law, is an initiative that aims to centralize data and address key information gaps on access to justice topics (University of Saskatchewan College of Law, n.d.). In 2018, the Centre published a discussion paper with the aim of informing development and implementation of a justice metrics framework. The paper made the following recommendations in relation to the development of a justice metrics framework for Saskatchewan:

- ▶ The framework’s structure and content should be developed through a collaborative and consultative process, and aligned with the needs and interests of civil and family justice

interdependent, and must all be considered when assessing the effectiveness of access to justice initiatives (Dandurand & Jahn, n.d.; McCashin et al., 2018; Roberts et al., 2018).

¹⁹ One of the main criticisms of the Access to Justice Measurement Framework is that “several components of the framework do not include specific measures to inform data processes” (McCashin et al., 2018, p. 9). According to McCashin et al. (2018), the framework lacks clear direction for implementation.

system stakeholders, future users of the framework, and the public — in particular, marginalized or vulnerable individuals.

- ▶ The framework should be principle-based (i.e., representing stakeholders’ diverse needs and interests), implementation-ready (i.e., a practical tool that stakeholders can use from the outset, which “[addresses] challenges inherent in data collection and analysis,” and establishes not only what to measure, but how to measure it), and sustainable (i.e., establishing measures with the potential to reveal patterns and trends over time).
- ▶ The framework should be kept up-to-date and should “keep up with the metrics and data collection practices used in other jurisdictions” (McCashin et al., 2018).

The literature review was unable to determine the current status of efforts to develop the justice metrics framework for Saskatchewan; however, CREATE Justice’s efforts in relation to the [Justice Sector Data Inventory, Evaluation, and Toolkit](#) project may be worth highlighting. Focussing on justice sector stakeholders involved in resolving everyday legal problems in Saskatchewan, the project’s purpose is to “understand the data collection practices of justice sector actors, the type of data that is being collected, and how data is being used to inform service delivery and justice system improvements.” Intended results include:

- ▶ development of “a descriptive inventory of the state of data collection, analysis, and use for the Saskatchewan justice sector;” and
- ▶ identification of “common trends, issues, gaps, and opportunities for improvement” (University of Saskatchewan, n.d.-b).

The project is currently in its second phase, which is to conduct a legal needs assessment for Saskatchewan. A legal needs survey is in development, and when conducted, will be Saskatchewan’s first legal needs survey (University of Saskatchewan, n.d.-b).

The Accès du droit à la justice (ADAJ), Quebec

[Accès du droit à la justice \(ADAJ\)](#), or the Accessing Law and Justice Research Project, brings together a large number of researchers and partners from the institutional sector, academia, the legal profession, and community groups to “address the law and accessibility issue” through collaborative research hubs and projects (ADAJ, 2019a). Hub 7: [Justice Statistics](#) aims to address the “absence of reliable statistics on the functioning of the court system” (ADAJ, 2019b). While this project is not necessarily about establishing access to justice metrics, it is concerned with ensuring that reliable data is available to support justice system measurement/evaluation efforts (McHale, 2017).

Measuring the Impact of Legal Service Interventions, Ontario

The Canadian Forum on Civil Justice has received a \$25,000 research grant from the Law Foundation of Ontario to carry out a longitudinal impact study aimed at:

- ▶ assessing the effectiveness of different types of legal service interventions on the outcome of particular types of legal disputes, and
- ▶ measuring long-term impacts on the health of clients, as well as the “costs and benefits over time of access to legal help when resolving disputes” (Canadian Forum on Civil Justice, 2019).

The *Measuring the Impact of Legal Service Interventions* project (2019-2020) represents the first phase of this study. It is expected that this phase of the study will “lead to a better and more accurate understanding of how different types of legal interventions impact the outcome of a dispute,” helping the public to make informed decisions when dealing with their legal problems, and governments and legal service providers in making decisions related to legal services (Canadian Forum on Civil Justice, 2019).

Out-of-Pocket: The Costs of Family Law, University of Victoria

The Access to Justice Centre for Excellence at the University of Victoria has developed the Out-of-Pocket tool, which helps to calculate the costs incurred by individuals and families during a family law dispute. Out-of-Pocket is an interactive tool, based on stories of typical family law scenarios. The tool allows users to input variables (province or territory of residence, distance from courthouse, annual income, type of representation – lawyer or self), and produces a dollar value on, as well as explanations for, the out-of-pocket costs incurred (including costs of the case and other financial impacts) and the impact on the individual’s stability (University of Victoria, 2018).

Multi-jurisdictional metrics committees

In addition to the initiatives described above, the literature highlights the work of the following two multi-jurisdictional committees that are working to develop justice metrics/performance measures: the Federal/Provincial/Territorial (F/P/T) Assistant Deputy Ministers’ Metrics Committee, and the Western Canadian Data Analytics Task Group.

Convened in 2015, the F/P/T Assistant Deputy Ministers’ Metrics Committee was tasked with exploring how work related to justice metrics can be coordinated nationally. With a working group of representatives from four Canadian jurisdictions: Ontario, Alberta, Nova Scotia, and British Columbia, the committee began work on assembling a table of justice measures (McHale, 2017); however, the literature review was unable to determine the current status of this committee or its metrics-related work.

The Western Canadian Data Analytics Task Group was convened in 2016 by the governments of British Columbia, Alberta, Saskatchewan, and Manitoba. According to McHale (2017), the group was working to “[assemble] an inventory of current justice performance measures that are publicly reported” in their respective jurisdictions (p. 7). However, as with the F/P/T Assistant Deputy Ministers’ Metrics Committee, the literature review was unable to determine the current status of this group or its inventory work.