

# The Why, What and How of expanding Access to Justice Innovation and A2JBC's Role: A report from the A2JBC Funding Working Group

November 8, 2018

Access to Justice BC (A2JBC) has asked a working group on funding<sup>1</sup> to recommend a strategy for how to qualitatively expand the amount of private funding (both philanthropic and corporate) currently invested into access to justice innovation; and to consider the implications of this strategy (if any) on ongoing A2JBC infrastructure, including funding for A2JBC beyond 2019.

## WHY?

1. **We have an access to justice crisis in Canada.** We don't know a lot about user experience in the justice system,<sup>2</sup> but from what we do know, few people with legal problems are using the formal legal system.<sup>3</sup> Only seven percent appear before courts or tribunals.<sup>4</sup> Only nineteen percent obtain legal advice.<sup>5</sup> The rest seek help from friends, family, or an advocacy group like a union.<sup>6</sup> Only 55% report their problems have been resolved,<sup>7</sup> and only 54% feel the outcome was fair.<sup>8</sup> Canadians generally can't afford the formal system, don't understand it, or don't feel welcome by it.<sup>9</sup> Alternative dispute resolution is not filling the gap because much of it has come to resemble the court processes it was originally designed to replace.<sup>10</sup> The justice system is particularly poor at serving the needs of Indigenous people,<sup>11</sup> and people with low income.<sup>12</sup>
2. **People are suffering as a result and so is the Rule of Law.** At some point in their lives most Canadians will experience an "everyday" legal problem related to a consumer purchase, a debt, their job, their neighbour, or their family.<sup>13</sup> Many will peacefully work it out. But many others will lump it, live with stress and anxiety and the toll it takes on their emotional and physical health,<sup>14</sup> or lash out in violence and encounter the criminal justice system.<sup>15</sup> As we watch civil discourse in the US unravel, we take great pride in our ability to work things out in Canada. But the truth is the health of our own justice system needs immediate attention.
3. **Government and Law Foundation resources alone cannot fund the necessary innovation.** In BC, there are shining examples of innovative solutions that remove barriers to access, but in aggregate they are not up to the urgency and scale of the problem.<sup>16</sup>
4. **A justice investment boom is emerging, but BC is not well positioned to take advantage of it.** Globally, 1,400 companies are working to disrupt the legal business and have raised US\$1 billion.<sup>17</sup> The legal industry is \$30 billion in Canada and \$600 billion in the US, and presents a major opportunity for entrepreneurs.<sup>18</sup> Global law firms are setting up incubators and competing to fill them with companies that will change the way lawyers practice.<sup>19</sup> More and more private, philanthropic, and impact investors are looking to invest in dramatic change.<sup>20,21</sup> In 2017, investors directed \$1.2B towards Indigenous communities in Canada.<sup>22</sup> The Federal government has set aside \$1.3B for strategic innovation.<sup>23</sup> BC's justice system is not set up to embrace innovation and investment — it has no tradition of empirical measurement and has been slow to adopt technology.
5. **The world is changing quickly — disruption may happen with or without justice sector participation.**<sup>24</sup> At least one observer says the legal industry is entering a brave new world, and the old one is not coming back.<sup>25</sup>

## WHAT?

In order to create the conditions under which BC can attract major investment into its justice system, the working group recommends the following course of action:

1. **Map the experience of users in the justice system, especially the 81% who don't use it.**
  - 1.1. **Start collecting far more data about how users experience the justice system in BC.** Why do 81-93% choose not to engage the formal legal system, and what new systems, services and products can be tailored to meet their needs outside conventional systems?

For those who do enter the formal system, understanding their needs better would help improve traditional services.

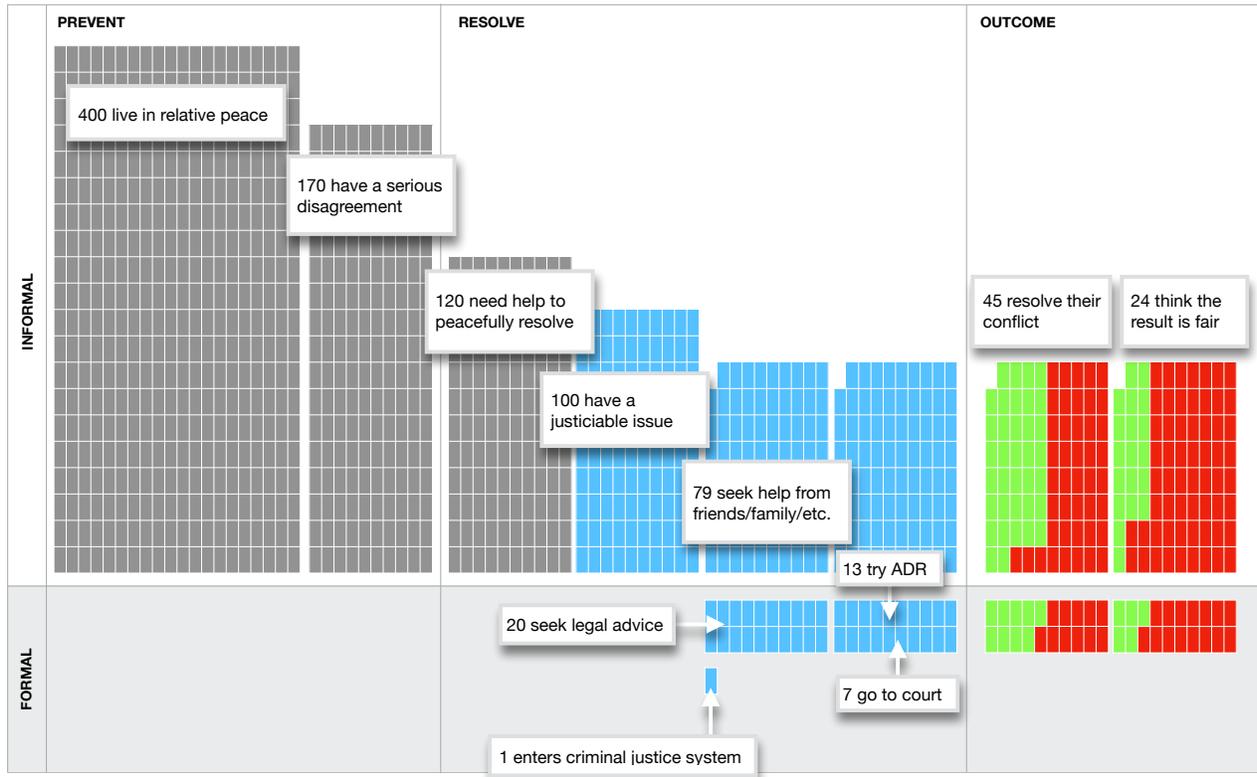
Observe the highest standards of data privacy and adopt forward-thinking models of data ownership.
  - 1.2. **Conceive of the justice system from a user's perspective** — as the system users navigate when they need help preventing or peacefully settling their differences.

See Figure 1. Such a system consists of both users (demand) and suppliers of justice services (supply). It has a number of dimensions: formal and informal; prevent and resolve; rights-based and non-rights-based. The majority of the system is informal, but not by design. Much of the system is private not public.

Note that the justice system is sometimes described, not from a user's perspective, but as the collection of justice services<sup>26</sup> A2JBC has embraced a definition of the civil and family justice system that goes beyond courts to include all services that “enabl[e] people to avoid, manage and resolve civil and family legal problems and disputes.”<sup>27</sup>

Courts play an essential role in the justice system but are only one small part of it. Courts are guardians of the rule of law. Court processes develop case law over time. Courts protect vulnerable citizens from the State's power. Courts are open to public scrutiny. For alternative ways to resolve disputes, courts are an essential backstop. But from the perspective of the user courts handle only 7% of justice system by volume, and the vast majority of the justice system operates elsewhere.
  - 1.3. **Begin with collecting user experience data on the informal parts of the system.** The formal institutions are already moving to identify and coordinate data.<sup>28</sup> For the informal system (estimated to be 81-93% of it), find people at the places they turn to first when they seek advice about how to prevent or peacefully resolve differences (e.g. internet, churches, doctors, faith leaders, elders, accountants). There is some existing research on “pathways to justice” but research networks are still small and informal. Make more use of modern survey tools and methods,<sup>29</sup> including lessons learned from a transformation now underway at Statistics Canada.<sup>30</sup>
  - 1.4. **Embrace Indigenous user perspectives** not just for Indigenous people but for all people in BC. Dominant perspectives about justice systems allow separation of “justice” issues from other aspects of life. Many First Nations would prefer to speak of justice in terms social harmony, dispute resolution, peacemaking, and healing.<sup>31</sup>

Figure 1. Mock up of the justice system from a user's perspective<sup>32</sup>



2. **Formally invite entrepreneurs and investors to bring their solutions to BC or build their solutions in BC.**

- 2.1. **Bring existing solutions to BC** by creating an inventory of innovations and technologies, profile them for BC service providers, vet them so they can be trusted,<sup>33</sup> and match user need, service provider and vendor where appropriate.
- 2.2. **Bring new solutions to BC** by using UX data as market research to attract entrepreneurs and investors, by building and offering up an eco-system of subject matter experts, technologists, and investors who are all ready and willing to co-create, and by formally courting select private, public, charitable, and hybrid investors (see below). Embrace youthful energy and social enterprise to tackle all the problems even the tough ones.

Based on what we know now about user experience in the justice system, the early opportunities are likely to correspond with the biggest categories of everyday legal problems. Consumer, debt, employment, 'neighbour', discrimination, and family issues collectively represent 80% of Canadian disputes.<sup>34</sup>

Profile BC's labour and real estate advantages compared to US tech centres.<sup>35</sup>

3. **Create tailored strategies and investment pitches for what we know of potential investor interests.**

Interviews suggest a broad spectrum of investors would invest if the conditions were favourable.

Our job would be to create tailored strategies and investment pitches for what we know of those conditions, ensuring at all times that the source of investment is suitable for the type of service (e.g. for some services it may only be appropriate for the investment to be public).

For example:

- 3.1. **Private capital** will invest wherever there is unmet need and a financial return.<sup>36</sup> Some private capital will see opportunity to invest in change, not the status quo, and invest in dramatic change, not tinkering. Interviews suggest opportunities in the following areas: guided pathways for family separations<sup>37</sup>; online dispute resolution for employee and supplier disputes at technology companies<sup>38</sup>; employment law for the sharing economy<sup>39</sup>; simple rules for simple arbitrations<sup>40</sup>; most common everyday legal issues<sup>41</sup>; free virtual law office in a box for pro bono legal advice<sup>42</sup>; expedited probate of wills and estates if no caveat<sup>43</sup>; online dispute resolution for internet domain disputes<sup>44</sup>; block chain for document disclosure<sup>45</sup>; and services for reconciliation, personal growth, truth-seeking, and peace-making<sup>46</sup>.
- 3.2. **Philanthropic capital** will invest to help solve the social problems in their mandates (e.g. improving family well-being or protecting children at risk), make something happen faster than if government acted alone, add value to government efforts, or help to build a stronger case to take to public or private investors. The “Skills for Changing Families” initiative suggests that private foundations and local philanthropists are motivated to invest because of poor personal experiences in the family justice system (“It shouldn’t happen to anyone else”), a conviction that something must be done to improve the well-being of children and families, research that underscores the negative impact on a child’s trajectory of an adverse childhood experience, and because leaders of the family justice system (who may be able to implement sensible change) are inviting their participation. Charities that invest in mental health may also be natural allies because of the known adverse emotional impact of the litigation experience and the over-representation in the justice system of people with mental health issues.
- 3.3. **Local firms** will invest in local projects as champions for their own customers, employees and suppliers, for profile, in order to be on the front end of change, and because this space gives them an opportunity to be their “best self”.<sup>47</sup>
- 3.4. **Social impact investors** will invest wherever there is a social return on investment as well as a financial one (or at least a return of investment).
- 3.5. **Provincial, federal, and local governments** will invest in order to stretch public dollars, stem increases in the costs of service, offer better or wider services for the same investment, demonstrate and encourage innovation, and enhance dispute resolution within the public service (e.g. employees, suppliers). For illustration: Reduce the cost of civil litigation and administrative tribunal hearings (especially at Crown agencies); shorten document disclosure in criminal justice system (in response to the SCC decision in *Jordan*). The provincial government has created the online Civil Resolution Tribunal for strata and small claims disputes, recently extended the CRT’s jurisdiction to include minor motor vehicle claims,<sup>48</sup> and have recently issued the Artificial Intelligence (AI) Justice Challenge.<sup>49</sup> The Federal government has announced a \$1.3B federal strategic innovation fund.<sup>50</sup> Both orders of government have expressed interest in the notion of social impact bonds.
- 3.6. **Legal technology companies** will invest in order to find new markets for existing products, repurpose existing products for new markets, find new services for

existing platforms, create new products for unmet legal need, to engage and develop employees<sup>51</sup>, and to appeal to promising young engineers in a tight labour market. BC technology companies not currently working in legal tech will be interested in applying what they know to the justice space.

- 3.7. **Big data companies** will invest for the prospect of new innovations and technologies they can take to their enterprise clients, for new applications for existing technologies, and because clusters or networks of businesses, universities and investors provide more efficient exposure to potential customers.<sup>52</sup>
- 3.8. **A growing number of entrepreneurial lawyers** want to figure out how to integrate technology in order to reduce costs, increase customer satisfaction, and find and serve markets of unmet need.<sup>53</sup> **Solo and small firm lawyers** want to find new clients,<sup>54</sup> reduce the time they spend on non-billable work,<sup>55</sup> and find a healthier work-life balance. **Larger firms** are at risk because they are spending only 1% on R&D and may invest in shared innovation fund.<sup>56</sup> **Financially successful lawyers**, particularly in BC's smaller markets, are looking for investment opportunities. **All lawyers** are motivated by benevolence and the traditional value of service to clients.<sup>57</sup>

Lawyers arguably have easier access to markets of unmet need than non-lawyers do: non-lawyer firms in the US like Legal Zoom are accused of unauthorized practice<sup>58</sup> and violating ethical rules about fee-splitting and referral fees<sup>59</sup>.

4. **Look to serve the unmet needs of low-income people with a combination of investors:** publicly-funded legal aid, philanthropic investors who see alignment with mission; social impact investors who see role for social venture in delivering services (e.g. Tom's shoes one-for-one delivery model); public investment that has been re-directed from avoided costs from big civil and criminal trials; and commercial investment when serving the vulnerable can advance a commercial business case.<sup>60</sup> Rely on the leadership and experience of the Law Foundation and the organizations in this space it has funded over the years.
5. **Set five-year stretch targets and measure performance.** For illustration: increase the percentage of people who resolve their disputes from 55% to 65%. Increase the number of people who resolve and report their resolution as fair from 54% to 65%. Increase speed to resolution. Lower average cost to resolution. Attract \$200M in outside investment. Save \$100M in public expenditures or expected increases in public expenditures. Find \$100M to help vulnerable people who are in the formal justice system.

Lawyers will want to increase the percentage of people who seek legal advice from 19% to 35%.

British Columbians are especially concerned about crime: decrease the number of un- or poorly-resolved civil disputes that become criminal disputes.

## HOW?

1. **Align key justice system players and public/private/hybrid investors around a commitment to the "What".**
2. **Create a collaborative innovation space that will bring together public and private sector innovators from different sectors to refine and implement the "What".**

Structure the entity as a public-private partnership (P3).

Choose a model or variation on a model that most suits this strategy — whether it is a hub, a lab, an accelerator, an incubator, or something else.

Embrace, if appropriate, existing innovation efforts like the BC Family Justice Innovation Lab, and UVIC's A2J Centre for Excellence — perhaps through shared infrastructure.

One group of law and technology leaders is proposing two concepts: The BC Law Lab, and the Solutions Funnel.

The BC Law Lab would see itself as contributing to an A2J movement by bringing together influential people from inside and outside the justice system who truly want change. Such a group would rally around a common, compelling vision:

[Something like] “We want to listen and learn as much as we can from people in BC about their experiences, good and bad, in the justice system. We want to share that information broadly in order to inspire the innovation, investment and technology that will help solve our access to justice crisis. A legal investment boom is emerging, and we can position BC to take full advantage of it. By demystify the crisis with user experience data it will become clearer for BC's innovators, builders, and investors to see how they can help tackle it. The justice system is ripe for disruption; if we don't lead the disruption and benefit from it, someone else will. We will be bold, inventive and experimental, and embrace the art of the possible and the views of outsiders to the justice system.”

The Solution Funnel would be an open eco-system-based innovation platform that captures and sorts ideas so the promising ones can be built. The capture feature is like a giant electronic suggestion box open to everybody, placed physically and virtually at the front lines of where people seek help, and fed by anybody who wants to contribute helpful data.<sup>61</sup> The sort function is, at first, a small team with some semi-automation that puts ideas into buckets or clusters, and then all participants rate each idea.<sup>62</sup> The build function, at first, is a small team that matches a highly rated idea to the talent and capital that will design and build it.<sup>63</sup>

The Solutions Funnel is different from other efforts to drive innovation and technology in the legal industry like the [Legal Innovation Zone \(Ryerson\)](#), [NextLaw Labs](#), [Legal Hackers](#), [Global Legal Hackathon](#), and Georgetown's [Iron Tech Lawyer Competition](#). It is 100% user focussed—job one is to capture data on the user experience. All solutions inspired by the Solutions Funnel will be driven by demand and unmet need. There is nothing like it in BC, Western Canada, or the Pacific North West.

3. **Cultivate technology competency and entrepreneurship in lawyers and others in the justice system.** One young lawyer told us he could find very few resources and that it took him a long time to find the right solutions for his practice. Law schools and regulators are beginning to believe lawyers need much better training and knowledge in how to use technology.<sup>64</sup> The Federation of Law Societies of Canada has proposed amending the Model Rules of Professional Conduct to include technical competency as a component of the definition of “competency”.<sup>65</sup>
  - 3.1. **Create law and technology workshops for law students and articling students.**
  - 3.2. **Add “operating a digital practice” to the Professional Legal Training Course.**
  - 3.3. **Integrate technology and innovation into the Law Society's Small and Solo Practice Management course.**

- 3.4. **Offer graduate-level, CPD-credit, courses for lawyers, particularly young lawyers**, who want to learn about the business of law or to become more entrepreneurial and integrate technology into their practices. The lack of business knowledge in running a solo or small practice is one of the least diagnosed pain points in the justice system. The curriculum should also include new lawyering skills that are necessary to advise clients in the age of reconciliation.

## **ROLE FOR A2JBC?**

As justice system leaders, A2JBC and its member organizations can act as powerful catalysts to make this happen.

The strategy is entirely consistent with A2JBC's mandate. Its members are leaders of key mainstream institutions in the justice system.<sup>66</sup> A2JBC aspires to be a social impact alignment network. It is seeking cross-sector endorsement of the Access to Justice Triple Aim that has three measurable elements – improved population access to justice, improved user experience and improved costs. A2JBC already favours moving away from conventional approaches and has embraced collaboration, user-centred design, being experimental, and the importance of measurement. A2JBC has other initiatives underway that support the strategy: its working group on unbundling,<sup>67</sup> and its measurement working group that has developed an Access to Justice Measurement Framework for measuring the Triple Aim. The strategy advances the justice development goals to which A2JBC subscribes.<sup>68</sup> The strategy also advances some of the strategic plans of A2JBC network organizations.<sup>69</sup>

Specifically, members of the A2JBC Leadership Group could show leadership, acting as a group, through their own organizations, and individually, in the following ways:

1. **Endorse the why, what and the how** – as a group and as individual members.
2. **Operate as a rain maker or an executive producer**, by offering up networks and connections that can help advance the strategy, by leading a fund-raising campaign, by helping to frame and make investment pitches, by supporting applications to technology or innovation funds, and by connecting people and ideas under A2JBC's "big tent".
3. **Serve as a bridge between innovators and the mainstream justice system**. A2JBC is a network of justice system stakeholders that together represent a substantial market for public and private sector innovators. Offer innovators access to those markets through A2JBC by celebrating successes and communicating lessons learned. Invite innovators to present ideas at A2JBC events.
4. **Volunteer to test existing technologies or emerging solutions**, where appropriate.
5. **Collect and share openly user experience data**.
6. **Commission the collaborative space** to build solutions or run contests to build solutions, where appropriate.

Implications for A2JBC beyond 2019 TBD.

## ENDNOTES

<sup>1</sup> Lawrence Alexander, GLGZ Law (Chair); Don Avison, CEO Law Society of BC; Melanie Mahlman, President Victoria Hospitals Foundation; Jane Morley, Strategic Coordinator A2JBC; Allan Seckel, CEO Doctors of BC; and Thomas Spraggs, Spraggs & Co.

<sup>2</sup> The best data we have about user experience in the justice system is the seven year study by the Canadian Forum on Civil Justice: [Everyday legal problems and the cost of justice in Canada - Overview Report \(2016\)](#): “This study is based on a national random sample of over 3,000 Canadians aged 18 years of age and older conducted through telephone interviews between September 2013 and May 2014. The purpose of the study was to examine the public’s experiences with the justice system, and in particular, the kinds, methods of dealing with, and costs associated with everyday legal problems in Canada. An everyday legal problem is a problem arising out of the normal activities of people’s daily lives that has a legal aspect and has a potential legal solution. The problem is therefore justiciable and could be resolved within the formal legal system, although it may be more sensibly dealt with in other ways. A defining feature of this research is that it looks at legal problems from the point of view of the people experiencing them. Put simply, it takes a “public first” perspective. The study was designed with a methodology that is generally consistent with other national legal needs studies conducted in Canada and elsewhere, primarily so as to yield weighted data that is not only instructive on its own, but also that is useful from a comparative perspective.”

There is also some anecdotal research in Trevor C.W. Farrow, “[What is Access to Justice?](#)” 51:3 (2014) Osgoode Hall LJ 957 at 974. This study took place over an eight-month period between November 2012 and May 2013. Subjects were approached in person, in selected public places in the Greater Toronto Area, by a team of two or three student researchers. They were invited to answer open-ended questions. 99 of 494 subjects approached participated in the interview process, amounting to a 20% participation rate. Of the 99 interviews, 70 were audio recorded, 20 were videotaped, and 9 were neither audio recorded nor videotaped but the interviewers took written notes. To elicit relatively diverse opinions and ideas about access to justice, interviews were conducted at 17 public locations.

See also a new report by the [Institute on Research on Law and the Family](#).

The lead author for the CFCJ and Osgoode Hall LJ reports says no one yet has much data (personal communication with author).

There is also some US data on the civil legal needs of low-income Americans (see [Justice Gap 2017](#)). Seven of every 10 low-income households have experienced at least one civil legal problem in the past year. 70% of low-income Americans with civil legal problems reported that at least one of their problems affected them very much or severely. Low-income Americans seek legal help for only 20% of their civil legal problems. Many who do not seek legal help report concerns about the cost of such help, not being sure if their issues are legal in nature, and not knowing where to look for help. Low-income Americans will approach LSC-funded legal aid organizations for help with an estimated 1.7 million civil legal problems. They will receive legal help of some kind for 59% of these problems. They will receive enough help to fully address their legal needs for only 28% to 38% of them. More than half (53% to 70%) of the problems that low-income Americans bring to LSC grantees will receive limited legal help or no legal help at all because of a lack of resources to serve them. Eighty-six percent of the civil legal problems faced by low-income Americans in a given year receive inadequate or no legal help. Of the estimated 1.7 million civil legal problems for which low-income Americans seek LSC-funded legal aid, 1.0 to 1.2 million (62% to 72%) receive inadequate or no legal assistance. In 2017, low-income Americans will likely not get their legal needs fully met for between 907,000 and 1.2 million civil legal problems that they bring to LSC-funded legal aid programs, due to limited resources among LSC grantees. This represents the vast majority (85% to 97%) of all of the problems receiving limited or no legal assistance from LSC grantees.

<sup>3</sup> See Canadian Forum on Civil Justice, [Everyday legal problems and the cost of justice in Canada - Overview Report \(2016\)](#); and Trevor C.W. Farrow, “[What is Access to Justice?](#)” 51:3 (2014) Osgoode Hall LJ 957 at 974.

<sup>4</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 9.

<sup>5</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 9.

<sup>6</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 9.

<sup>7</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 11.

<sup>8</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 11.

<sup>9</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 7. See also p. 3: “Largely because of cost, very few Canadians will be able to afford to resolve these types of legal problems – particularly if they try to use the formal justice system. Getting legal help is expensive. Average hourly legal fees can amount to hundreds of dollars. If you do need to go to court, a relatively short proceeding can cost tens of thousands of dollars. Legal aid is only available for the very needy and even then, not for many everyday legal problems.”

See also Gillian Hadfield, [The Cost of Law: Promoting Access to Justice through the \(Un\)Corporate Practice of Law](#): All-in user costs include recognizing they have a legal right, finding and choosing a lawyer, obtaining legal advice, evaluating and understanding that advice, implementing that advice, and errors or waste if advice was poor.

The Average fee for a two-day civil trial is \$31,330 (See Going Rate). The median after-tax income of Canadian families is \$53,500 (Stats Canada). By contrast the MSP fee schedule for a 12 hour brain surgery is \$5,286 (MSC).

<sup>10</sup> M. Jerry McHale, “ADR 2.0 Rethinking Dispute Resolution,” presentation, to 2017 BCAMI Symposium, Trends and Opportunities in ADR: Much of ADR looks like the system it was designed to replace. The process has come to resemble the complexity and combativeness of litigation, another stop in a conventional court process. Clients want problems solved, not necessarily legal rights enforced: “just give us a process where we can get a fair answer for \$10K”. Parties can get together and agree to do whatever they want. There are few services offered for dispute prevention, reconciliation, personal growth and peace-making.

<sup>11</sup> See DOJ [JustFacts](#). Indigenous people are overrepresented in Canada’s criminal justice system as both victims and offenders. Indigenous people are overrepresented as crime victims, especially females. Indigenous people are overrepresented as homicide victims and accused. Indigenous adults and youth are overrepresented in custody. Overrepresentation in custody is more pronounced for Indigenous females.

<sup>12</sup> See Canadian Bar Association, [Reaching equal justice: an invitation to envision and act \(August 2013\)](#): “The reduction in federal spending overall, increased complexity in the substantive law and growing demands for criminal legal aid have placed pressure on legal aid providers to ration services – in a way often inconsistent with the general public policy values of the underlying program. In some places, people qualify only if they are living at subsistence levels (social assistance), leaving out the working poor. Eligibility rates do not keep pace with inflation and budgetary targets are often met by offering legal aid for fewer matters, to fewer people, or only partial assistance or repayment requirements.”

<sup>13</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 8.

<sup>14</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 16. Note also that there is a disproportionate impact on the most vulnerable [get cite]. Other societal costs include public safety, maintenance of social and commercial order, loss of public confidence in the administration of justice, erosion of the Rule of law [get cites]. Other State costs include increased costs for social assistance, loss of employment, health care costs physical and mental health [get cite].

<sup>15</sup> [Everyday legal problems and the cost of justice in Canada](#) at p. 8.

<sup>16</sup> List examples, including the impressive work funded by the BC Law Foundation.

<sup>17</sup> See [Let the law-tech wars begin](#). See also [\\$200M In Two Months Says Investors No Longer Snubbing Legal Tech](#): “Time was when legal tech startups couldn’t take a meeting with a major investment firm. Big New York and Silicon Valley investors turned up their noses, seeing insufficient upside in legal technology investments. Well, times have changed. Need proof? Just look at the last two months — nearly \$200 million in new investment in legal technology in May and June.” See also [Legal start-up LawPath bags investment from US giant as growth rate soars](#): “Australian legal technology start-up LawPath has raised capital from US private equity-backed online legal services giant LegalZoom, which will see the world’s largest legal tech player partner with the Aussie firm for Asian expansion. LawPath was founded in 2013 and has grown to provide legal services to 60,000 local clients, mainly in the start-up sector, who use it for legal tasks such as starting a business, registering trademarks and creating legal documents. It has also evolved to become an online marketplace where legal firms pitch for work submitted by prospective clients.”

<sup>18</sup> See [Let the law-tech wars begin](#).

<sup>19</sup> See [Let the law-tech wars begin](#). Dentons is the law firm that is furthest down the road. It launched NextLaw Labs in 2015. IBM is one of its partners. NextLaw has 10 portfolio companies, including three with Canadian connections, Beagle Inc., FileFacets and ROSS Intelligence. It also has a venture capital arm with a mandate to invest in such technology. Allen & Overy’s (UK) has Fuse. Mishcon de Reya LLP (UK) has the MDR Lab incubator. Canada’s Osler Hoskin & Harcourt has invested at Ryerson’s Legal Innovation Zone (LIZ). Osler’s has put up development dollars into Codify, for example, which is developing technology to better track legislation and regulation.

<sup>20</sup> See for example, Morgan Stanley, Institute for Sustainable Investing, [Sustainable Signals: The Asset Manager Perspective](#), and [Sustainable Signals: The Individual Investor Perspective](#). In 2016, there were \$8.72 trillion of assets under professional management that uses sustainable investing criteria (up 33% since 2014). Seventy-one percent of active investors are interested in sustainable investing. These percentages are higher for millennials (84%) and women (76%). Eighty-nine percent of asset managers are familiar with sustainable investing.

<sup>21</sup> More and more charities and foundations want a social return from their endowment investments, not just from their grants (mission-related investing). Registered charities and charitable foundations in Canada must spend 3.5% of their investment assets on charitable activities or on gifts ([Center for Public Legal Education Alberta](#)). For the remaining 96.5% of assets they typically want to earn enough of a financial return so they can sustain the same grant making power over time. More and more foundations in Canada are moving to re-allocate 5% and 10% from their traditional investments in order to invest directly into social purpose ventures that will earn a financial return but also drive mission. Canada's 10,000 public and private charitable foundations have combined assets of \$40 billion (see [The tipping point for impact investing](#)). In the US, the Ford Foundation has recently pledged to spend \$1B of its endowment on mission-related investments over the next ten years. It says most of its work is grant making but 95% of its assets are financial investments, and it wants to begin to carefully and creatively harness the 95% in order to better serve its mission (see [Unleashing the Power of Endowments: The Next Great Challenge for Philanthropy](#)).

<sup>22</sup> See UBC's Sauder School of Business, Centre for Social Innovation and Impact Investing, [Impact Investing in the Indigenous Context: A Scan of the Canadian Marketplace Executive Summary March 2018](#): \$1.2B is the minimum universe of impact assets directed towards Indigenous communities in 2017 by government, community finance organizations (e.g. Aboriginal financial institutions), financial institutions, impact investment funds, and pension funds. This number doesn't include unreported funds directed by high-net-worth individuals, private foundations, development finance, non-profits, and cooperatives, or an expected \$13B in new capital accessible to Indigenous communities through ongoing land settlements.

<sup>23</sup> The federal [\\$1.3B federal strategic innovation fund](#) announced last July has a funding stream for networks to develop and demonstrate pre-commercial technologies that involve high degree of collaboration. For this stream, successful applicants can cover 100% of costs related to labour, overhead, subcontracts, direct materials and equipment, land and buildings necessary to carry out the activity, organizing network events, collaborative research, conferences and workshops, salaries, office equipment, professional services, overhead, and travel.

<sup>24</sup> See for example Canadian Lawyer, [Blockchain Reaction: Lawyers should fear blockchain](#). Property sales, title search, land survey vetting, verification of tax records, and registering ownership are now done without lawyers in some parts of the UK and Sweden. Late last year, the UK online property sales site [clicktopurchase.com](#) made news by completing the sale of a residential property only three days after it hit the market. Yet that wasn't the only unusual aspect of the approximately \$1-million sale. Enabled by a blockchain-based shared ledger that recorded the deal's details, the transaction itself reportedly took place in less than four seconds — and all without the need for a title search, land survey vetting or verification of tax records. In other words, it happened without a lawyer. Around the same time, Sweden's land registry authority announced it was using blockchain to cut to a few days from four months the time that passes between writing a purchasing contract to registering change of ownership. For the first time, mere mortals have used clever code to manufacture trust. With blockchain, the trust train is moving to a new place. Blockchain will hit the profession hard, rendering many legal services — including secured and commercial transaction, real estate registration and dispute resolution — obsolete. Suddenly, the people whom we currently pay to facilitate trust in commercial transactions — the clearing agencies, custodians and depositories, all of the existing infrastructure used to settle securities — are beginning to look a bit ancient and costly. See also [Australian Gov't Partners With IBM and Legal Experts to Build Smart Contracts Platform](#), and [20 top lawyers were beaten by legal AI. Here are their surprising responses](#).

<sup>25</sup> Quote from [get name]. See Forbes: [Lawyers and Technology: Frenemies or Collaborators?](#). "Technology is not a panacea but it is a potent collaborative tool enabling lawyers to expand legal access to an enormous swath of new consumers and to better service existing ones. [W]hile consumers and tens of millions presently denied access to legal services welcome the change, most lawyers don't."

<sup>26</sup> For contrast, see the definition of the justice system in the [Eighth BC Justice Summit report of proceedings](#) (at p. 3-4): "The elements making up the provision of justice and public safety in British Columbia are often referred to collectively as the "justice system." This term is useful in describing the formal processes involved in criminal investigations and associated court and corrections processes, as well as formal civil justice, family justice, and administrative justice processes. However, there are many other significant aspects of the provision of justice and public safety in our province which are not within the legally defined boundaries of the "system." These include a range of public and private service providers, non-governmental organizations, researchers and knowledge-workers, and linkages with other entities or sectors, cooperation with whom is critical for the sector's success."

See also the [Justice Reform and Transparency Act](#) which defines "the justice and public safety sector" as "the justice system, including, without limitation, programs or services, funded in whole or in part by public money, that contribute to the administration of justice or public safety in British Columbia" (SBC 2013, c. 7, s. 1).

<sup>27</sup> See Action Committee on Access to Justice in Civil and Family Matters, [Access to Civil and Family Justice: A Roadmap for Change](#).

<sup>28</sup> See for example the efforts of Jerry McHale and the UVIC Access to Justice Centre for Excellence.

<sup>29</sup> See for example: Google trends/keywords; [PollFish](#) which is a survey platform that reaches 511M consumers and delivers surveys online and via mobile apps on a global scale; TelCo data; and credit card data. See also [Alex Pentland, Social Physics: How Good Ideas Spread](#). A first step may be to engage a team of graduate students from UBC's Data Science Institute, and its [Data Science for Social Good](#), to mine additional insights from the dataset collected by the Canadian Forum on Civil Justice, and help us understand key data gaps.

<sup>30</sup> See: [Statistics Canada promises fewer surveys, more detailed portrait of Canadians](#). According to four senior Statscan officials, the agency is in the midst of a major transformation as it adapts to a world of big data collected by other government agencies as well as private sector actors such as banks, cellphone companies and digital-based companies like Uber. At its core, the shift means the agency will become less reliant on traditional phone surveys or having businesses fill out forms to report their sales data. Instead, Statscan is reaching agreements with other government departments and private companies in order to gain access to their raw data, such as point-of-sale information. According to agency officials, such arrangements reduce the reporting paperwork faced by businesses while creating the potential for Statscan to produce faster and more reliable information.

<sup>31</sup> See [Considerations for Achieving "Aboriginal Justice" in Canada](#).

<sup>32</sup> Mock up is for illustration and loosely based on data summarized in [Everyday legal problems and the cost of justice in Canada](#).

<sup>33</sup> Illustrations: here are companies that help bring down the cost of justice services while producing faster outcomes. Here are companies that do pricing and predictability, quality control, automating documents, reducing litigation costs, mobile evidence collection, entity management, share registries.

<sup>34</sup> Check interpretation. [Everyday legal problems and the cost of justice in Canada](#) at p. 8. Find out whether the data factors in the volume of activity within a categories (e.g. though family files may be fewer in number, within each file there's typically more activity which would make the dispute(s) more common than the data suggests). Some categories (again family) might also have bigger or more dire consequences than other categories (e.g. consumer) if unresolved or poorly resolved.

<sup>35</sup> A recent survey cites Canada's cheaper labor and real estate as examples of how Canada as a whole is a more affordable location than the United States, and that affordability is attracting companies like Facebook. See: [Toronto is the center of new technology jobs in North America](#).

<sup>36</sup> Some object to private investment into the justice system on the grounds that the justice system is the responsibility of the state, and private investment is therefore not appropriate. Two responses: Government resources alone aren't enough to fund the pace and scale of the necessary innovation; and, by volume most of the justice system is already private (93%).

<sup>37</sup> See for example the Pathfinder project that is starting with the Kamloops population and aims to build an online guided pathways to the resources, dispute resolution processes and services families need when separating. Explore potential collaborations with online child & spousal support calculators like [mysupportcalculator.ca](#) and [Divorcemate](#). Explore also potential synergies with a mental health joint project by HR firm Morneau Shepell and IBM, Kamloops large employers like School District, Health Authority, Highland Valley Copper, Thompson Rivers University, the City of Kamloops, New Afton, BC Lottery Corp, CN, Save on Foods, Cascades casino, or Arrow transportation. Investigate the health start up [Babylon Health](#).

<sup>38</sup> There is an investor who is interested in taking the Province's civil resolution tribunal and deploying it at Microsoft and other Vancouver-area technology companies.

<sup>39</sup> If the data shows, for example, that 36,000 women in BC under the age of 35 run online businesses that have to hire and fire employees, and that they would pay \$800 for each expedited employment contract with ADR but would not pay a \$5K retainer and wait weeks for service.

<sup>40</sup> If the data shows, for example, that 18,000 small businesses have disputes with partners or suppliers but want to resolve them quickly, preserve their business relationships, and would embrace a much simpler process and a much simpler set of rules. The essence of the rules could be: Everyone will have a fair hearing. Tell us what your evidence is—parties get to say what they want to say within the bounds of common sense. Entertain hearsay (like Admin tribunals) and trust Arbitrator to weigh appropriately. Affidavit evidence by default. No time arguing interlocutory. Story from one seasoned Arbitrator: two business partners were getting close to agreeing on a number but were stuck, and trusted the Arbitrator to pick a number based on intuition with no reasons. Simple rules arbitration may be suitable for helping to keep many categories of dispute out of the courts, including motor vehicle, wrongful dismissal, FN/corporate disputes.

<sup>41</sup> If the data shows, for example, that 23,000 people in Kelowna have consumer/debt/ issues and can afford something, but can't afford a \$5K retainer and an uncertain process.

<sup>42</sup> For example: there is an owner of a legal technology company that provides a virtual law office in a box (including video-conferencing, calendarizing, and immediate payment) who is willing to make the service available to free for any of BC's 10,000 lawyers who want to use it to provide pro bono legal advice.

<sup>43</sup> If the data shows, for example, that 1.4 million people will pay for a service that simplifies wills and estates (where appropriate) and to dramatically speed up probate process (95% are 'no caveat' and essentially tax filings).

<sup>44</sup> The British Columbia International Commercial Arbitration Centre has applied to extend its mandate for dispute resolution beyond the Canadian Internet Registry Authority to include all of ICANN name disputes.

<sup>45</sup> In a post-Jordan world, litigants can use existing technology to dramatically reduce the time it takes to do document disclosure for civil and criminal trials and save 40% of the cost.

<sup>46</sup> If the data shows, for example, that 800,000 people in BC want to avoid conflict-based, interest-based, or rights-based-based ADR and would instead prefer to pay money for services that promote reconciliation, personal growth, truth-seeking, and peace-making (ADR 2.0).

<sup>47</sup> Illustration: “we know people in our community who are suffering as a result of failing to peacefully resolve a civil dispute (our community lost two beautiful girls at Christmas time)”.

<sup>48</sup> [Province of BC Expands Civil Resolution Tribunal’s Jurisdiction](#).

<sup>49</sup> [Artificial Intelligence \(AI\) Justice Challenge](#).

<sup>50</sup> [Government of Canada launches Strategic Innovation Fund](#).

<sup>51</sup> For example: keep your employees engaged and motivated by providing opportunities for them to work on side A2J projects.

<sup>52</sup> For example: IBM recently invested in a Surrey/SFU health technology partnership called “[Innovation Blvd](#)”

<sup>53</sup> See Forbes: [Lawyers and Technology: Frenemies or Collaborators?](#): IT is creating business opportunities for entrepreneurs to disrupt the trillion-dollar global legal industry. Technology is ushering in the golden age of the legal entrepreneur. Technology is an integral resource in the legal delivery process. It is not replacing lawyers but it is contributing to the demise of traditional legal culture, replacing it with a diverse, competitive, customer-aligned, accessible, and cost-effective one where ‘legal professionals’ deploy technology and process to solve business challenges. Technology has upended predictable career paths and is recasting how, for whom, with whom, and on what terms many lawyers will work. In short, technology is changing legal culture and what it means to be a lawyer.

I’ve seen one estimate of the untapped potential for B2C legal services in North America as US\$80 billion (confidential business case). For some figures see note below.

<sup>54</sup> There are approximately 1.2 million practising lawyers in North America, 87,500 in Canada and 1.2 million in the US (see Federation of Law Societies of Canada, Statistical Report, 2012; and American Bar Association, Lawyer Demographics). The vast majority are providing good service but also looking for more business. At the same time 73 million Americans and 10 million Canadians opt out of professional help (See Passport GMD, Legal Services in Canada: ISIC 7411, Euromonitor International 2013; and Joshua Kubicki, “Make the \$400 billion for US Legal Market Size,” Commentary, Legal Transformation Institute, February 24, 2014). Of the 7 million US small businesses that face a legal issue each year, 60% do not use a lawyer (“The Legal Needs of a Small Business,” Newsroom, Legal Shield, 2013). The business case lies in connecting unserved clients with lawyers who need work.

<sup>55</sup> Lawyers spend only 2.3 hours (29% of an 8-hour workday) on billable tasks ([Clio Legal Trends Report 2017](#)). Lawyers will invest in technology that attracts new clients/files, reduces the costs of fixed fee or contingency work, addresses an acute paralegal shortage, and for competitive advantage. Lots of lawyers are feeling disenfranchised and hating what they’re doing because they can’t find a healthy and sustainable business model.

<sup>56</sup> See [Let the law-tech wars begin](#): Law firms better put a plate aside for innovation; otherwise, they might find themselves going hungry in the future, displaced by a legal upstart with a better way of feeding clients what they want. Industries such as telecom and biotech plow 10 per cent of revenues back into research and development. Typically, for professional services, it’s five per cent. However, law firms spend less than one per cent on R&D. Law firms, with all due respect, have been laggards. As such, the profession stands on the precipice of disruption.

<sup>57</sup> See work on culture shift by Nancy Cameron, Kari Boyle, Jerry McHale, and Jane Morley: The desire to serve clients well is a fundamental value that lawyers generally hold, and what motivates the lawyers/judges who get involved in access to justice issues. All lawyers aspire to serve their clients well, to excellence, and other fundamental values. See also Dan Jansen, a technology entrepreneur who is CEO of NextLaw Labs: Law firms are “service oriented,” the best way to change a lawyer’s behaviour is to have a client tell them they have to do something different, the profession’s salvation may very well be its clients ([Let the law-tech wars begin](#)). Other lawyers want to leave a legacy.

<sup>58</sup> Non-lawyer companies in the US like LegalZoom face accusations of unauthorized practice. Eight state bar associations have filed actions against LegalZoom for the unauthorized practice of law. Of those, one has been sent to binding arbitration (Arkansas), and one, in North Carolina, is still pending. The other six lawsuits have either been settled or dismissed, and LegalZoom is still providing documents to every state. In a nutshell, the plaintiffs have argued that LegalZoom’s decision tree makes legal analyses and provides advice, both of which are activities specifically limited to licensed attorneys (see [Technology and the Unauthorized Practice of Law](#)).

<sup>59</sup> LegalZoom, Avvo and Rocket Lawyer have been accused of flouting fee-splitting and referral fee rules. A joint opinion by three New Jersey Supreme Court committees has blacklisted three web-based services that match litigants with attorneys because of concerns over illicit fee-sharing and referral fees (see [Avvo, LegalZoom, Rocket Lawyer Declared Off-Limits](#), and [LegalZoom Allegedly Engages in the Unauthorized Practice of Trademark Law](#)).

<sup>60</sup> For example, the owner of a legal technology company that provides a virtual law office in a box (including video-conferencing, calendarizing, and immediate payment) is willing to make the service available to free for any of BC's 10,000 lawyers who want to use it to provide pro bono legal advice. One commercial advantage for the technology company: thousands of BC lawyers are trying the product and may decide to pay to use it for their regular practices.

<sup>61</sup> Collect constructive criticism from users at front line locations in a safe and encouraging way: if you're the boss what would you do? What would you fix?

<sup>62</sup> I need this. I would enjoy working on this. I would invest in this. I will try and find public funds for this.

<sup>63</sup> Feedback loop: solution gets communicated back to original suggestion.

<sup>64</sup> See Canadian Lawyer: [Tech competence a must](#).

<sup>65</sup> See Canadian Lawyer: [Tech competence a must](#).

<sup>66</sup> Note: members of the Leadership Group may be limited in their decision-making by the mandates and decision-making processes within their own organizations. However, they are leaders within their own organizations and can impact what those organizations do to align with and implement the strategic priorities of A2JBC.

<sup>67</sup> Note the working group on unbundling's recommendation to engage law students, lawyers, law professors and other justices system stakeholders in a dialogue about models of practicing law that increases access to justice and meets lawyer needs and goals for a different way to practice law.

<sup>68</sup> Consistent with Justice Development Goals but different:

Goal I: Refocus the Justice System to Reflect and Address Everyday Legal Problems. More user data. Fit for purpose services. Line up expenditures.

Goal II: Make Essential Legal Services Available to Everyone. Why just essential?

Goal III: Make Courts and Tribunals Fully Accessible Multi-Service Centres for Public Dispute Resolution. See if UX suggests this is what users want. Model may be expensive. Go to where the people are.

Goal IV: Make Coordinated and Appropriate Multidisciplinary Family Services Easily Accessible

Goal V: Create Local and National Access to Justice Implementation Mechanisms

Goal VI: Promote a Sustainable, Accessible and Integrated Justice Agenda through Legal Education

Goal VII: Enhance the Innovation Capacity of the Civil and Family Justice System

Goal VIII: Support Access to Justice Research to Promote Evidence-Based Policy Making

Goal IX: Promote Coherent, Integrated and Sustained Funding Strategies

<sup>69</sup> For example, the strategy can help the Law Society of BC discharge its statutory duty to uphold and protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons, and help advance its [2018-2020 Strategic Plan](#), especially its efforts to: Collaborate with other justice system organizations to identify issues within the justice system, such as document disclosure, mega trials, and advocacy skills and training that could be addressed to improve the delivery of legal services; Examine the underlying economic costs of the provision of legal services and the cost of accessing justice; Review regulatory requirements to ensure that they do not hamper innovation regarding or hinder cost-effective delivery of legal services; Develop educational materials about the role of a lawyer in the justice system and how lawyers advance the cause of justice; Seek opportunities to collaborate with Aboriginal groups; Examine "pro-active" or "outcomes focused" methods of regulation to complement the disciplinary process; Improve the mental health of the legal profession; and Develop initiatives to improve the retention rate of lawyers in the profession, including in particular Indigenous and women lawyers.

The Ministry of Justice is also working on an Access to Justice Framework.