

What Was Heard

Report of the Joint Action Forum

Edmonton, November 20, 2013

Alberta Justice and Solicitor General

June 2014

Contents

- Introduction 4
 - The Deputy Minister’s Promise..... 5
- Hearing from Canada’s Action Committee 5
- Summary of Discussions 6
 - Consensus was established..... 6
- Where more conversations are needed 7
 - Polarized views 7
 - Terminology 8
 - Unanswered questions 8
- Core Suggestions..... 8
- Outcomes 13
- Next steps 14
 - Contact..... 14
- Appendix: List of Participants 15
- Appendix: Presentation on Action Committee’s Roadmap for Change 19
- Appendix: List of Suggestions 28
 - Table One 28
 - Table Two 28
 - Table Three 29
 - Table Four 30
 - Table Five 31
 - Table Six 32
 - Table Seven 33
 - Table Eight..... 34
 - Table Nine 34
 - Table Ten..... 35
 - Table Eleven 36
 - Table Twelve 37
 - Table Thirteen 37
 - Table Fourteen 39

Introduction

On November 20, 2013, Alberta Justice and Solicitor General convened leaders in the civil and family justice system at a Joint Action Forum. The goal was ambitious: start a process that improves access to justice in Alberta's civil and family justice system. During the Joint Action Forum, participants were asked to take a citizen-centred approach to improving how Albertans experience the justice system, recognizing that to be successful and sustainable, reforms should address the root causes that create problems for Albertans seeking access to justice.

The facilitator explained the purpose of the Joint Action Forum this way:

- *Share information on the current state of civil and family justice in Alberta, and on what other groups are thinking and doing on this front*
- *Discuss a vision for a citizen-centred civil and family justice in Alberta*
- *Brainstorm what and how to get started on moving forward into a better future*
- *Draft a Collaboration Charter to enable us to move forward individually and together*

Alberta's decision to convene this gathering of justice system leaders acknowledges reforms in this area must be collaborative and involve a broad range of stakeholders from the start. While the Government of Alberta is accountable for administering the province's civil and family justice system, others such as the judiciary and courts, the legal profession, and administrative adjudicators have responsibility for various parts of it. Other stakeholders who also have a stake in the system include a network of service providers whose clients use or are affected by the justice system, and allied institutions such as the Alberta Law Foundation, law schools and law reform organizations. While a variety of non-government social service organizations were invited to attend, most did not do so and Alberta Justice and Solicitor General will take steps to make sure they have continued opportunity to be involved.

To all participants, thank you. The inaugural Joint Action Forum marks the beginning of important reforms in the civil and family justice system in Alberta and your contributions matter enormously. The Joint Action Forum demonstrated justice system leaders are aware of the need for change, understand the need is urgent, and are open to addressing big challenges with big ideas.

This summary report captures highlights from fourteen small group discussions that explored participants' views about a citizen-centred civil and family justice system and how we can work together to make the necessary improvements. This report draws directly from the words of participants, summarizing and thematically arranging the main conclusions participants reported to the group as a whole, and captures issues arising from the plenary discussions.

As you will see, many of the issues discussed during the Joint Action Forum raise important questions. Do we fully understand the root causes of what many people are now calling an "access to justice crisis"? Do we fully understand what Albertans want of their justice system? How do we overcome the "implementation gap" that has been observed in jurisdictions that have a hard time moving from talk to

action? We do not have answers to all of the issues and questions raised in the Joint Action Forum, but we do have the resolve to engage in the important conversations that will provide foundation for reform, and your observations and suggestions are welcome.

The Deputy Minister's Promise

Tim Grant, Deputy Minister of Justice and Solicitor General, made two significant commitments at the Joint Action Forum. First, Alberta Justice and Solicitor General promises to reconvene the Joint Action Forum participants in one year. Second, at the end of the first year of this initiative, we will have collectively moved forward important changes to improve access to justice for Albertans.

Hearing from Canada's Action Committee

The Joint Action Forum began with a presentation by the Honourable Justice Thomas A. Cromwell of the Supreme Court of Canada. Justice Cromwell chairs the Action Committee on Access to Justice in Civil and Family Matters, a national committee of justice system leaders, and Justice Cromwell spoke about the committee's final report [A Roadmap for Change](#).

The following diagrams illustrate the Action Committee's six principles to guide change and the nine goals it proposes for justice system reform.

Figure 1 Action Committee Roadmap Principles



Figure 2 Action Committee Roadmap Goals



Summary of Discussions

Consensus was established

Discussions at the Joint Action Forum made it clear a consensus is emerging about the foundations for reform, and that it reflects the conclusions of the Action Committee on Access to Justice in Civil and Family Matters. Many of the observations, comments, and suggestions raised during the small group and plenary discussions reiterated those provided by the Action Committee, and there was general agreement with the Action Committee’s statement of the problem:

“There is a serious access to justice problem in Canada. The civil and family justice system is too complex, too slow and too expensive. It is too often incapable of producing just outcomes that are proportional to the problems brought to it or reflective of the needs of the people it is meant to serve. While there are many dedicated people trying hard to make it work and there have been many reform efforts, the system

continues to lack coherent leadership, institutional structures that can design and implement change, and appropriate coordination to ensure consistent and cost effective reform. Major change is needed.”

Importantly, there was consensus that the need for change is urgent, and consensus about what Albertans need from their justice system.

What do Albertans need?

The discussions produced the following identified needs:

- Albertans need less complex, less costly, and less time-consuming ways to resolve legal problems.
- Albertans need help using the justice system. A “front door” to the justice system would provide several “triage” functions: diagnostic assessment of people’s problems; information, legal advice; way-finding guidance and referrals.
- Albertans need ways to resolve disputes, especially family disputes, without going to court. Services and options to prevent and resolve disputes should be in communities instead of courthouses.
- Albertans need legal, health and social services to come together and respond to their legal and non-legal problems.
- Albertans need more affordable legal services and a more diverse legal marketplace. Lawyers could unbundle services, and qualified non-lawyers could provide some types of services.
- Albertans need to understand and manage their conflicts and know more about the law and legal system. Education and skills development in school curricula should be a priority.
- Albertans need justice system leaders to work together and find ways to cross the “implementation gap” so justice system reforms can happen.
- Albertans need the justice system to pay more attention to the emotional experience of disputes so it can disengage adversarial points of view and resolve disputes more collaboratively.

Where more conversations are needed

Despite general points of agreement, and clear signals that participants are eager to get started on this important work, there were unsettled questions, requests for clarification and differences of opinion that indicate further conversations are necessary.

Polarized views

- Some participants said people without a lawyer should be prevented from using the court system, but others said the system should be adapted so self-represented litigants can better use it.

- Some participants recommended a “one-stop shop” service model for justice and allied social and health services; others suggested a “no wrong door” service model would be a more effective approach, because people seeking to resolve their problems take many different pathways to justice and rely on trusted intermediaries rather than justice system professions and institutions.
- Some participants said technology offers opportunities to provide information and online dispute resolution; others expressed concern that vulnerable populations will be excluded because of barriers to accessing this technology. With this in mind, technology services will also need to accommodate the need for in-person support.
- Some participants suggested collaboration happen using an advisory committee or information sharing network, and advised against creating a new legal entity; others advised more formal arrangements with decision-making ability.

Terminology

The words used in the discussions received attention from participants as well. While it was generally understood that our vision of access to justice should be broad because it is not defined solely as access to lawyers or the courts, participants wanted a clearer idea of what “access to justice” and “justice system” mean. Some participants had reservations about using the word “citizens” and preferred either “users” or “the public.” Finally, while the word “triage” was used frequently to describe the “front end” of an ideal justice system, concerns were raised that the military and medical meaning of the term invites confusion, and the word “triage” may not adequately represent the changes to the system that Albertans need.

Questions not yet answered

It was also clear that there are some significant unanswered questions that deserve further attention. Most of these focused on issues related to moving forward with the ideas discussed during the event. How should we work together to identify goals, make decisions, and implement changes? How will this work be funded, and how should resources be mobilized? As this initiative proceeds, focused discussions will need to address these and other issues where the way forward is not yet clear.

Core Suggestions

Participants were arranged into fourteen small groups who reported their main conclusions to a plenary of participants. Those conclusions are summarized and thematically arranged below.

Question: What would a citizen-centred civil and family justice system look like in Alberta?

Participants were asked to envision a citizen-centered justice system and describe what that would look like for Alberta.

Vision: Capable and informed Albertans

In participants’ vision of a citizen-centered justice system, Albertans would have the skills and information needed to avoid, manage, and resolve legal issues. Schools would train children about conflict resolution and educate them about the legal system. Helpful information would be available to

Albertans when they need it, including information about where to go for help. Information would be understandable, comprehensive, and address Albertans' needs by focusing on accomplishing tasks. It would be convenient, delivered online and in person.

Vision: Empower Albertans

It is envisioned that there would be inclusive, adaptive and flexible approaches to conflict resolution and that Albertans would also be better empowered to address the underlying problems motivating legal disputes. The justice system would be refocused to engage problems and issues early, assess them, initiate effective solutions, and help Albertans avoid court as much as possible. The justice system would be easy to understand and navigate, and the best, most effective courses of action would be available, clear, and convenient to use. This means the justice system would be transparent, so Albertans would know their options and know what services are available. Albertans using the justice system would be supported by current technology.

Vision: User-friendly dispute resolution

Courts and other dispute resolution options would focus on the needs of Albertans. They would be user-friendly; options, processes and transactions would be simplified, proportional, affordable, and timely, with cases managed from beginning to end. More generally, the justice system would accommodate Albertans' diverse needs and be responsive to communities.

Vision: Effective support systems are there when and where Albertans need them

Guidance and support would be available throughout the dispute resolution process and would help Albertans manage their case and navigate the system. An easily found **single point of entry to the system** would help Albertans deal with legal issues and their underlying non-legal problems. Service centres would provide integrated and coordinated multi-disciplinary services that give Albertans an early assessment of their problems, determine their needs, and provide on-site and referral services. Service centres would be conveniently located in communities, and Albertans would not have to enter the intimidating and adversarial setting of courthouses to access them.

Vision: Legal services are available to Albertans

In the vision of a citizen-centered justice system, **legal services would be affordable and available.**

Vision: Albertans have strong, supportive, informal pathways to justice

In the vision of a citizen-centered justice system, **courts would be a last resort**, especially for family problems, and the justice system would provide forms of dispute resolution that are more appropriate. Albertans would receive the help they need when they approach "**trusted intermediaries**" with their problems, and the system would have **strong links and overlaps with health and human services** whose professionals would be trained to understand legal issues and sources of assistance. Service delivery organizations would work together and with the public.

Vision: Stronger capacity for innovation

In the vision of a citizen-centered justice system, paradigm shifts would be possible. The system would have a **built-in capacity for change**, leadership to guide that change, and open channels of communication with Albertans and system professionals so collaborative innovations can occur.

Question: What “tipping points” can we start work on?

Participants were asked to identify actions to be undertaken immediately, and the discussions about what should happen next to improve access to justice resulted in a list of suggestions on a variety of topics:

Action: Create a “front door” for justice system services

It was suggested action be taken to create a “front door” for justice system support services to provide **prevention and early intervention services** and **alternative dispute resolution** so Albertans have options that make it easier to resolve their issues **without going to court**. This would involve “wrap-around services” and a **multi-disciplinary coalition of service providers** to address legal and non-legal problems. To implement this approach, two approaches were suggested: **use established intake centres**, such as Law Information Centres, and pilot a **new “justice service centre.”** In developing this “front door,” it was recommended that the initiative consider how Albertans take different pathways to justice when making a decision about whether to use a single point of entry (“one-stop shop” model) or multiple points of entry (“no wrong door, no wrong number” model). It was also suggested that an **inventory of existing services** building on the work of the Alberta Legal Services Mapping Project be developed, shared and updated.

Action: Redesign the family justice system from the ground up.

Participants suggested family justice reform must be a priority, and that two key structural changes should be made in the system: a **“triage” system for families** would offer effective outcomes and options for dispute resolution that do not involve going to court, and a **Unified Family Court** would offer intuitive and effective processes for families that need to go to court.

Madame Justice Andrea Moen, Court of Queen’s Bench and Lynn Varty, Assistant Deputy Minister, Court Services committed to co-chair a committee leading family justice system reforms.

Action: Give tools to self-represented litigants

Action be taken to develop a range of **tools for self-represented litigants**. These include checklists, online resources, video, courses and workshops, and review of court forms services provided by supervised paralegals.

Action: Educate the public

It was suggested government departments work together to **include legal literacy and conflict management in the school curriculum**, and action be taken to inform the public about intake centres, prevention and early intervention services and alternative dispute resolution options. There were also suggestions participants work together to develop topics and materials for the Alberta Law Information Society’s website.

Action: Improve legal services and the legal profession

The legal profession should be engaged in a discussion about system design and transformation. This would investigate options for **alternative service delivery**, promote use of **limited scope retainers**, and **re-examine restrictions on the practice of law**. Action should also be taken to **improve legal service providers’ ability to assist clients**, and equip legal service providers with tools and resources (e.g., mediation training and dealing with high-conflict personalities) so they can help Albertans avoid going to

court when court is not necessary. It was also suggested **professional standards** require lawyers to give clients a package that gives them something to use when they represent themselves.

Action: Collaborate to develop informal justice pathways

The system needs to invest in and develop a **culture of collaboration**. To begin, participants can liaise with the health system to **implement medical-legal partnerships**, and locate justice services in community libraries, family centres, and family care clinics.

Action: Learn more and evaluate.

Leaders in the system need to improve what is known about litigants, including self-represented litigants and vulnerable populations such as people with mental health issues and children. The initiative should **recruit systems design experts** to help understand the pieces of the system and map their connections, including options, processes and the services available to people. It should research and develop non-adversarial dispute resolution options, and use evaluation methods to determine what is working, test assumptions, and set direction.

Action: Attach resources to priorities

It is clear that priorities should be set using the national Action Committee *Roadmap for Change*, and that the justice system should **use resources where they have the most value**. This includes reassigning resources to improve front-end services that help Albertans resolve their problem before going to court, wherever possible.

Question: How should we collaborate?

Finally, participants were asked to react and provide comments on the draft Collaboration Charter that was circulated before the event.

Working together: Membership

Participants indicated they expect core institutions - the Canadian Bar Association, Law Society of Alberta, Alberta Justice and Solicitor General, and the Courts - to lead the initiative, and they expect Alberta Justice and Solicitor General to administer the initiative's ongoing activities. However, participants also indicated **membership should be broad**, represent social and cultural diversity, and include front line service organizations, external experts, members of the public, and users of the justice system. The general support for increasing the number of participants to gain other perspectives and resources was balanced by concern that this would become unworkable.

Working together: Collaboration and governance

Several **potential components of a collaboration mechanism** were the dominant focus of discussion: a provincial steering committee, several ad hoc working groups, a network of local access to justice committees, and the administrative support of participating organizations. However, participants had different views about how the collaborative structure would function, envisioning it as either:

1. a broad network to share information and best practices;
2. an advisory committee that generated recommendations; or

3. a committee or group capable of making decisions, so priorities and goals could be set, projects funded, resources allocated, and work done.

Reflecting these options, there were also differences of opinion about the level of formality the group should have. Some indicated it should be a formally constituted organization; others preferred a loose alliance of participants with an organic structure, allied by a shared statement of principles and values.

Working together: Decision-making

While participants agreed collaboration should **proceed by consensus**, and decision-making processes that involved voting are incompatible with this vision, at the conclusion of the event there continued to be questions about the appropriate decision-making processes and the accountability and reporting mechanisms. It was agreed that these and other governance issues would require some work after the day of the Joint Action Forum.

Outcomes

Alberta Justice and Solicitor General convened participants at the Joint Action Forum with the goal of developing an action plan, and while that did not happen during the day of the event, participants' exploration of the issues and proposals for improvement have laid the foundation for further conversations. For example, participants signalled common agreement with the principles and goals reported in the national Action Committee *Roadmap*. They also demonstrated a commitment to the issue, indicated a strong desire to work together, and identified topics for further exploration. Crucially, a joint commitment was made to have Justice and Solicitor General and the Court of Queen's Bench lead a project to reform the family justice system.

To help set priorities for action, the facilitator identified six themes based upon the suggestions received during the day, and prepared a presentation to show the weight of attention the 14 tables paid to each theme. The following table is based upon that presentation.

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Availability of affordable and essential legal services						x			x					
Education, providing accessible information, and marketing our message	x	x	x		x	x				xx		x	x	
Simplification of court and other processes							x	xx						
Triage: early resolution of problems, and courts as last resort	x	x	x	x	x	x	x	x			xx	xx		xxx
Recognize diversity of communities; citizen-centered; one size will not fit all		x		x					x				x	
Multi-disciplinary approach; service delivery leaders working together	x		x	x	x				x	x	x		x	

While participants expressed uncertainty that these themes accurately reflect where the initiative should place priorities for action, the chart shows Joint Action Forum participants paid significant attention to three aspects of their vision of Alberta's future justice system:

1. a "triage" function at the "front door" of the system that helps people avoid litigation;
2. an educational function that helps people resolve their conflicts and use the justice system when they need it; and
3. a problem-solving function that uses multi-disciplinary teams to help Albertans.

Next steps

More work is needed to develop an action plan for Alberta, and Alberta Justice and Solicitor General commits to take a leadership role in the reforms to come. There are some initial actions that are being taken following November 20, 2013.

The foundation for reform of the **family justice system** is already being laid. This initiative adopts the recommendations of the Action Committee as a framework for the project, specifically the recommendations of the Prevention, Triage and Referral Working Group and the Family Justice Working Group. The outcome that we are seeking from this initiative is that Alberta's family justice system will be open, responsive, cost-effective and will put the needs of children and families first, while assisting families with the early and final resolution of disputes. Meetings are being planned for Spring 2014 to start discussions among multi-disciplinary partners. Many of the priorities identified above fall under this initiative.

There is also work being done to improve the civil claims process. Participants at the Joint Action Forum heard from Minister Jonathan Denis about plans to explore changes to the Provincial Court Civil Division, also known as small claims court.

The lively discussions at the Joint Action Forum made it clear that we need to think carefully about how to **structure our collaboration** and how we shall work together to improve access to justice for Albertans. Alberta Justice and Solicitor General plans to convene a group of Joint Action Forum participants to discuss the shape and intent of that collaborative structure. This structure will also set the stage for how other initiatives led by other participants will be shared.

Additionally, there must be a way in which Albertans are engaged in the discussions about reform. One of the guiding principles set by the Action Committee is to put the public first. This can only be done where the public can voice and share their thoughts on how to improve the civil and family justice system.

With respect to better understanding the diversity of communities, one significant theme was the increasing recognition of the role of mental health in the civil and family justice systems. We need to increase our awareness of how mental health affects how people interact with the civil and family justice systems, as well as the impact of those systems on people's mental health. Work among participants and other interested parties will be done to start creating greater awareness and recognition on this issue.

Contact

This is a collaborative effort that cannot proceed without the support and involvement of many contributors. For further information on this initiative, or to submit comments and suggestions, please contact A2J@gov.ab.ca.

Appendix: List of Participants

Alberta Justice and Solicitor General thanks the following individuals and their organizations for participating in the Joint Action Forum on November 20, 2013. They are named in alphabetical order.

Kimberly Armstrong, Deputy Attorney General and Associate Deputy Minister, Justice and Solicitor General

David Aucoin, Executive Director, Alberta Law Foundation

Dee Ann Benard, Executive Director, Alberta Rural Development Network

Mark Benton, QC, Executive Director, British Columbia Legal Services Society

Susan Billington, QC, Policy and Program Counsel, Law Society of Alberta

John-Paul Ernest Boyd, Executive Director, Canadian Research Institute for Law and the Family

Michelle Christopher, Barrister and Solicitor, Mediator, Executive Director, Student Legal Assistance Clinical Programs Professor, Faculty of Law University of Calgary

Linda Chupka, Chief of Staff to the Deputy Minister, Justice and Solicitor General

Derek Cook, Executive Director, Calgary Poverty Reduction Initiative

Honourable Thomas A. Cromwell, Justice, Supreme Court of Canada

Angela Croteau, Director, Policy and Strategic Issues, Legal Aid, Justice and Solicitor General

Rhonda DaSilva, Executive Assistant to the Deputy Attorney General and Associate Deputy Minister, Justice and Solicitor General

Terri Davies, Director, Legal Representation and Quality Assurance, Office of the Child and Youth Advocate

Marian De Souza, President, Canadian Bar Association – Alberta Branch

Esther de Vos, Executive Director, Policy and Planning Services, Justice and Solicitor General

Erika Deines, Executive Director, ADR Institute of Alberta

Honourable Jonathan Denis, QC, Minister of Justice and Solicitor General

Kate Diakow, Director, Residential Tenancy Dispute Resolution Service, Service Alberta

Maryann Everett, Assistant Deputy Minister, Workforce Strategies Division, Alberta Enterprise and Advanced Education

Jerry Fawcett, Chair, Board of Directors, Alberta Legal Information Society

Kevin Feth, QC, President-Elect, Law Society of Alberta

Honourable Justina Filice, Assistant Chief Judge, Provincial Court of Alberta - Edmonton

Victoria Foster, Foster Legal Services

Jocelyn Fraser, Equity Ombudsperson and Practice Advisor, Law Society of Alberta

Honourable Hugh Fuller, Judge, Provincial Court of Alberta - Edmonton

Lois Gander, QC, Associate Dean, Academic Planning and Strategic Development, Faculty of Extension, University of Alberta

Judy Godlonton, Executive Director, Lethbridge Legal Guidance

Marie Gordon, QC, Gordon Zwaenepoel Law Office

Honourable Joanne Goss, Justice, Court of Queen's Bench of Alberta - Edmonton

Del Graff, Child and Youth Advocate, Office of the Child and Youth Advocate

Tim Grant, OMM, MSC, CD, Deputy Minister of Justice and Solicitor General

Cyril S. Gurevitch, QC, President, Canadian Bar Association – Alberta Branch

Suzanne Harbottle, Executive Director, Claims and Recoveries, Justice and Solicitor General

Louise Hayes, Manager, First Nations and Metis Relations, Alberta Aboriginal Relations

Patricia Hebert, Vice Chair, National Family Law Section, CBA

Dale Hensley, QC, Executive Director, Children's Legal and Educational Resource Centre

Jeff Hirsch, Thompson Dorfman Sweatman LLP

Larry Horeczy, Executive Director, Calgary Legal Guidance

Corinne Jamieson, QC, Legal Counsel, Court of Queen's Bench of Alberta

Carsten Jensen, QC, President, Law Society of Alberta

Honourable Rodney Jerke, Justice, Court of Queen's Bench of Alberta - Lethbridge

Margaret Keelaghan, Senior Managing Counsel, Calgary Legal Guidance

Angela Kerr, Director, Child Support Recalculation Program, Justice and Solicitor General

Debbie Klein, Executive Director, Edmonton Community Legal Centre

Loretta Klein, President, Alberta Association of Professional Paralegals

Gerald Lamoureux, Assistant Deputy Minister, Finance and Planning, Justice and Solicitor General

Fiona Lavoy, Director, Strategic Services, Justice and Solicitor General

Susan Logan, Executive Director, Mediation and Restorative Justice Centre

Diana Lowe, Executive Counsel and Deputy CEO, Court of Queen's Bench of Alberta – Edmonton

Peter Lown, QC, Director, Alberta Law Reform Institute

Caroline Madill, Program Development and Support, Justice and Solicitor General

Honourable Bryan Mahoney, Justice, Court of Queen's Bench of Alberta – Calgary

Ola Malik, Chair, Access to Justice Committee, Canadian Bar Association – Alberta Branch

Gillian Marriott, QC, Executive Director, Pro Bono Law Alberta

Honourable Terrence Matchett, Chief Judge, Provincial Court of Alberta

Linda Mattern, Assistant Deputy Minister, Acute Care and Population Health Division, Alberta Health

Brent McEwan, Assistant Deputy Minister, Consumer Services, Service Alberta

Wendy McGrath, Public Affairs Officer, Justice and Solicitor General

Honourable L.K. McLellan, Assistant Chief Judge, Family and Youth Court, Provincial Court of Alberta

Honourable Andrea Moen, Justice, Court of Queen's Bench of Alberta – Edmonton

Faye Morrison, Executive Director, Programs and Services, Court Services, Justice and Solicitor General

Honourable Marina Paperny, Justice, Court of Appeal - Calgary

Kathy Parsons, Executive Director, Central Alberta Community Legal Clinic

Julie Peacock, Director, Victims Services, Justice and Solicitor General

Rob Phillips, Executive Director, Consumer Programs, Consumer Services, Service Alberta

Suzanne Polkosnik, Vice President, Representational Services, Legal Aid Alberta

Marleen Poon, Solicitor, Legislative Reform, Legal Services, Justice and Solicitor General

Donna Purcell, QC, President, Alberta Civil Trial Lawyers Association

Diane Rhyason, Executive Director, Centre for Public Legal Education Alberta

Sue Rice, Project Manager, National Self-Represented Litigants Project, University of Windsor

Christopher Rickards, QC, President, Central Alberta Bar Society

Barbara Ritzen, Regional Director General, Prairies Region, Justice Canada, Aboriginal Law Service

Honourable John Rooke, Associate Chief Justice, Court of Queen's Bench of Alberta – Edmonton

Fiona Salkie, Acting Director, Policy and Legislation, Justice and Solicitor General

Kurt Sandstrom, QC, Assistant Deputy Minister, Legal Services, Justice and Solicitor General

Jacqueline Schaffter, QC, President and Chief Executive Officer, Legal Aid Alberta

Robyn Scott, Regional Manager, Native Counselling Services of Alberta

Benjamin Seigel, Family Law Coordinator, Student Legal Services

Mathew Steppan, Chief of Staff to the Minister of Justice and Solicitor General

Sue Stushnoff, Registrar, Court of Appeal

David Tavender, QC, Dentons

Don Thompson, QC, Executive Director, Law Society of Alberta

Barb Turner, QC, Director, Legal and Legislative Initiatives, Court Services, Justice and Solicitor General

Lynn Varty, Assistant Deputy Minister, Court Services, Justice and Solicitor General

Karen Wenckebach, Legal Counsel, Solicitors Unit, Department of Justice, Government of Yukon

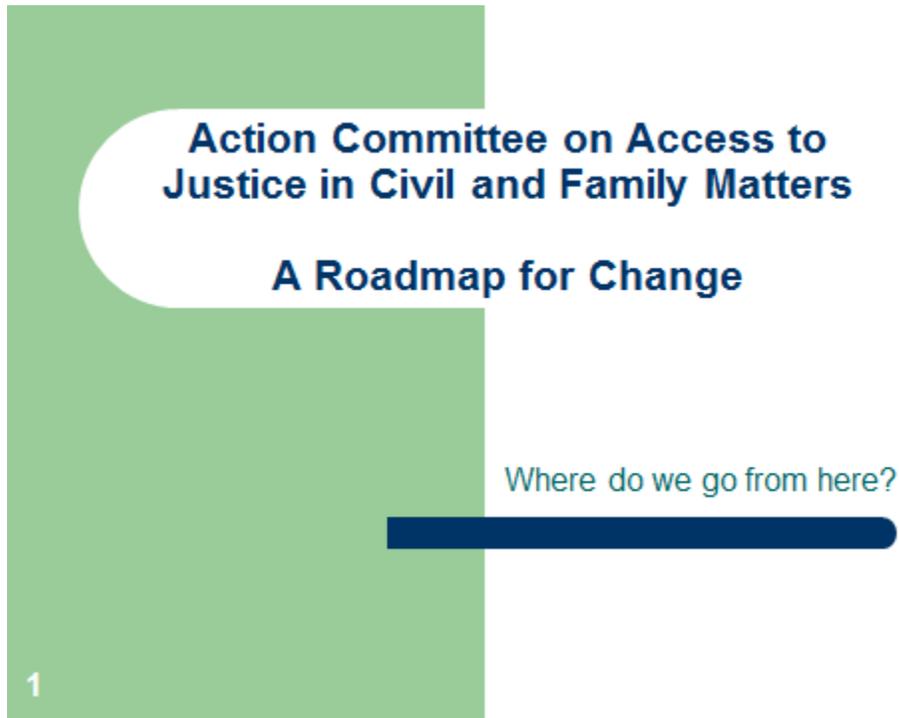
Jeffrey Wise, QC, Wise Scheible Barkauskas

Honourable Neil Wittmann, Chief Justice, Court of Queen's Bench of Alberta

Anthony Young, QC, Chair, Alberta Law Foundation

Donavon Young, Assistant Deputy Minister, Justice Services, Justice and Solicitor General

Honourable L.D. Young, Assistant Chief Judge, Provincial Court of Alberta - Calgary/Edmonton

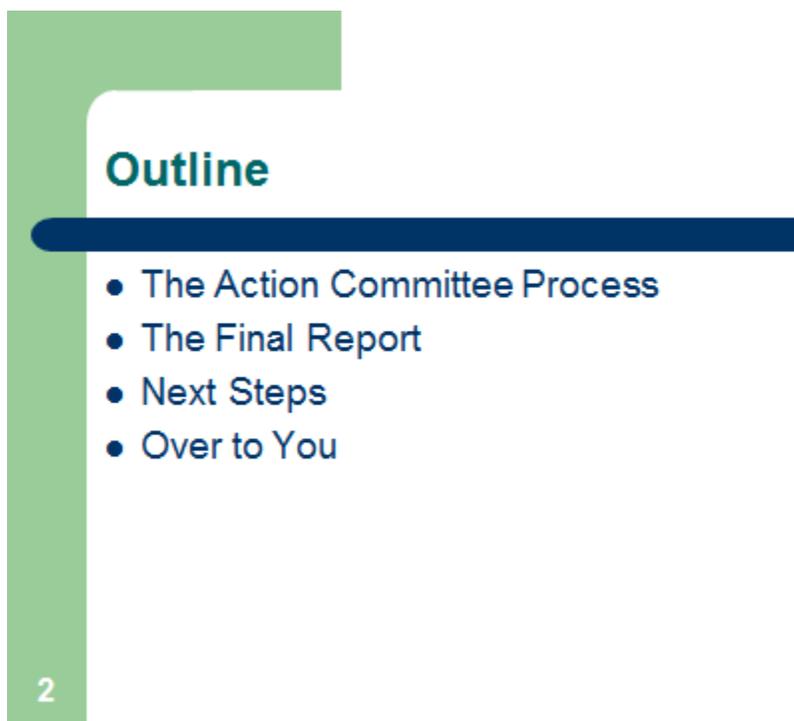


**Action Committee on Access to
Justice in Civil and Family Matters**

A Roadmap for Change

Where do we go from here?

1



Outline

- The Action Committee Process
- The Final Report
- Next Steps
- Over to You

2

I. Action Committee Process

- Established in 2008 at the invitation of Chief Justice McLachlin
- High level, broadly representative membership
- Four Working Group Reports
- Final Report Release

3

II. The Final Report

- The final report has three objectives:
 - A. To promote a broad understanding of **what we mean by access to justice** and of the **access to justice problem** facing our civil and family justice system
 - B. To identify and promote **a new way of thinking** to guide reform
 - C. To provide a **roadmap for change**

4

The Final Report

A. What Is Access? What Is The Problem?

5

What is Access to Justice?

- “We need a system that provides the necessary institutions, knowledge, resources and services to avoid, manage and resolve civil and family legal problems and disputes.”
- “The formal system is, of course, important. But a more expansive, user-centered vision of an accessible civil and family justice system is required.”

6

The Problem: Gaps in Access to Justice

- “There is a serious access to justice problem in Canada. The civil and family justice system is too complex, too slow and too expensive. It is too often incapable of producing just outcomes that are proportional to the problems brought to it or reflective of the needs of the people it is meant to serve.”
- **Major change is needed**

7

Impediments to Change

- “... [T]he system continues to lack coherent leadership, institutional structures that can design and implement change and appropriate coordination to ensure consistent and cost effective reform.”
- Innovation capacity
- Sustainable funding

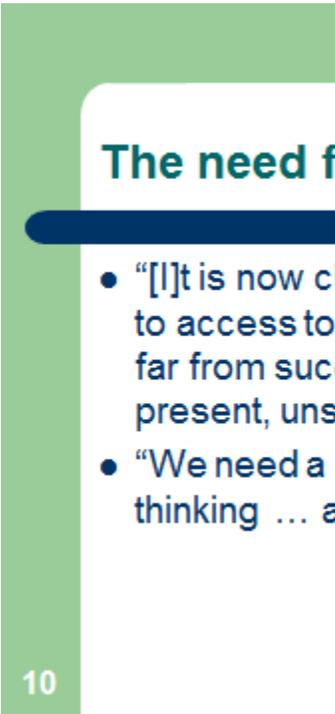
8



The Final Report

B. New Ways Of Thinking

9



The need for change in approach

- “[I]t is now clear that the previous approach to access to justice problems and solutions, far from succeeding, has produced our present, unsustainable situation.”
- “We need a fresh approach and new way of thinking ... a new culture of reform.”

10

Six Guiding Principles for Change

- Put the **Public First**
- **Collaborate** and **Coordinate**
- **Prevent** and **Educate**
- **Simplify, Make Coherent, Proportional** and **Sustainable**
- Take **Action**
- Focus on **Outcomes**

11

The Final Report C. The Roadmap For Change

12

Nine Points on the Road Map Innovation Goals

- Refocus on everyday legal problems
- Access to essential legal services
- Multi-service centres
- Family services

13

Nine points on the Roadmap Institutional and Structural Goals

- Local and National Access to Justice
Implementation Mechanisms
- Legal Education
- Innovation Capacity

14

Nine Points on the Road Map Research and Funding Goals

- Research to support evidence-based policy making
- Coherent, Integrated and Sustained Funding Strategies

15

III Next Steps

- Meetings across Canada
- January 2014 Colloquium
- Successor to Action Committee

16

IV. Over to You

- **Some questions:**
 - Do the leaders believe there is an urgent need for change?
 - What are the most important problems in access to justice, what are their root causes, and what are the most promising solutions?
 - What are the best ways for us to reach consensus on the problems, priorities and solutions?
 - What can we do to ensure a strong public voice in the process?

Appendix: List of Suggestions

The following suggestions were generated by small group table discussions and reported to all participants. They are provided here as they were submitted.

Table One

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Single point of Entry.
- Identify value, relevance and need of client. (Information, education).
- Service delivery leaders need to come together (with public involvement) in a structured way to drive and sustain change.

Question: What “tipping points” can we start work on?

- Utilize one or more already established intake centres to create a centralized initial point of contact and communicate this to the general public.
- Engage the entire bar in discussing system design and transformation, and in envisioning alternative service delivery, and examining restrictions on the practice of law.
- Supporting and promoting appropriate dispute resolution and educating people about these processes. Strategic and proportional use of resources – right time, right place, most value, changing the perceived “value.”

Question: How should we collaborate?

- Time limit: we will develop an action plan by _____.
- The working group needs to engage people at all levels of the system, who have different perspectives/experiences about what’s happening, what’s working, what’s not, what changes should happen.
- The people on the steering committee need to have “clearance” to make decisions on behalf of their group.
- Steering committee and members are signing up for a (specified/three-year) commitment.

Table Two

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- A system that assesses the problems Albertans are facing early on, before their legal problems are defined.
- Whatever is done is responsive to the needs of Alberta’s Communities.

- Market the new way of doing things.

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Unified family court.
- More work on mental health in the context of civil and family justice system (more info on who is appearing in court).
- Early prevention services (dispute resolution options before court).
- Wrap-around services that better serve Albertans beyond just their legal problem.
- Video of stories of “bad experiences.” More around parenting after separation.

Question: How should we collaborate?

- External expertise will help the alliance move forward in terms of its work, it will help the alliance strategically.
- Confirmation is needed regarding the leadership role of JSG.
- Structure of WG needs to be thought out more.
- Definitions of “access to justice” and “justice system” are necessary.

Table Three

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Courts as a last resort for Family Law matters.
- Web based comprehensive information understandable to everyone, and providing a good front end.
- For Civil matters, need more prescriptive rules about proportional processes: Alternative ways to resolve dispute. Simplify court procedures, make cheaper, faster.

Question: What “tipping points” can we start work on?

- Identify groups who are essential to working on Family Law steering committee.
- Co-ordinate points of entry, bring front end services together.
- Get buy-in from key participants; make a decision about either (1) single point of entry or (2) multiple points of entry; be aware people take different paths to justice so single point of entry is misleading. People come looking for help in different ways. Want to avoid person arriving at a service provider and being told “we can’t help you” (i.e., improved referrals).

- Need some partners to prioritize ALIS work and issues to work on and need money (people in this room could send ALIS information on what topic priorities should be).

Question: How should we collaborate?

- Give opportunity to send suggestions on draft after the forum.
- The group formed by this charter should connect with other groups working in their area.
- Need to enable everyone to have a voice, but not necessarily sit around the table to move the initiative forward.
- Move away from membership – talk about partnership.
- Move it to a collaborative model, not membership/voting.
- Include front line service organizations.
- How are meetings convened and for what purpose?
- Define consensus – it is not unanimity and does not involve a vote. It allows dissent/is a structure that is more loose.
- Need a funder at the table to ensure sustainable resources.
- Need clarity about role of secretariat – Ministry needs to have a core administrative/coordinative role, with it supported by partners. Needs financial support.
- Communication is critical.
- Needs wide consultation – website to collect and share ideas (needs financial resources).
- Need to have a conversation about how to let public have input.

Table Four

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Create obvious, timely and appropriate, points of priority and ensure it is the correct point of priority.
- A front-end multi-disciplinary system loaded with continued support in attempt to avoid duplication and delay.
- Move towards, inclusive, adaptive and flexible approach to problem resolution that empowers individuals. = Paradigms Shift

Question: What “tipping points” can we start work on?

- Adopt the proposed charter.
- Set priorities for action – priorities coming from the Report of the National Action Committee.
- Identify tools and supports and training needs to make available within the formal system. When identified, determine who is best positioned to deliver the service.

Question: How should we collaborate?

- Tie the innovative citizen-centric reforms referred to in purpose/goals/mandate to the recommendations of the NAC report.
- The initial members of the CCJA will be each of the participants and organizations here today.
- There should be 2 co-chairs. 1st from the formal (judiciary, etc.) the 2nd from the informal (NGOs, service providers, etc.) justice sector.
- Clarify decision-making process.

Table Five

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Education (early education) regarding conflict resolution, legal system in Elementary schools curriculum.
- Early intervention and assessment to keep issues that don’t need to be there out of the Court House. (Not all their issues are legal issues).
- Holistic Service Centres. Location: Away from downtown core and Court House (less stress, less expensive transportation). Multiple service providers in one location.

Question: What “tipping points” can we start work on?

- Unified family resolution system (including court, wrap-around services, duty council).
- “actively” promote use of limited scope services (retainers).
- Legal literacy & collaborative problem solving topics to be added to primary school (Minister of Justice connect with Minister of Education).
- Multi-stakeholder group to address family disputes (take these disputes out of the court).

Question: How should we collaborate?

- Endorse the Roadmap for Change.

- Simplify charter (commitment) to one page + shorten. Stakeholder organizations agree to collaborate + coordinate. Secretariat – how many resources? Who coordinates? Role expectations? Stakeholders may not have resources to commit. Level of resources required?
- Charter (commitment) mandate is unclear.
- Charter (commitment) refined to two streams – civil – family. [No consensus on this.] Further explore but avoid creating silos.
- Adopt name AJIC as described on p.20. Access to Justice Implementation commission vs. citizen Centred Justice Alliance Collaborative Action Charter.

Table Six

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Legal literacy (empowerment, education).
- Triage – (effective multi point triage). Coordinated entry point. Navigator to assist in selecting tree branches – (needs assessment).
- If you need legal help for essential legal services, that legal help is available. Define from citizens perspective on system.

Question: What “tipping points” can we start work on?

- Expand population in working group (steering committee).
- Brainstorm who might help develop “tree” of connections, referrals . Meeting to discuss what we are doing, connect pieces of system, all players. Need system analyst.
- Have great evidence based research. Implement and evaluate progress.
- Execute, need a pilot in the city.

Question: How should we collaborate?

- Focus on just family.
- Don’t want charter, but bare bone structure.
- Want working groups with specific tasks overseen by commission.
- Suggest changing “citizen centred.”
- Has to be organic. Can’t impose structure.
- [The Collaboration Charter is] too big. Fails.

- Working groups have guiding principles.
- Accountability is clear, need to be mechanism for recording and making sure actually got done.
- Working group measures metrics and what's happening.
- Need focused research, practical useful on the group.
- Who would be at the table:
 - public participation
 - target community groups
 - immigrants, mental health agency, Aboriginal, social workers, shelters, psychologist association clerk's office (front line people).
- get Joint Action Forum together again by Nov 2014.

Table Seven

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Simplify the fragmented family services currently available. Public should be able to enter the system. Be well-received, well receive assistance and guidance for their problem.
- The system must identify for the public/individuals as soon as possible. The issues and best course of action to follow (the triaged processes).
- Early resource reallocation to prevent from getting bigger and more expensive.

Question: What "tipping points" can we start work on?

- Form an action committee to identify the players and the systems (e.g., mental health), work with players to come up with recommendations, consolidate info, and consider amalgamating programs and focus on public-centred, streamlined process.
- Equip legal service providers with more tools and resources (e.g., mediation training and path finding) so they can better assist and guide people prior to entering the court system.
- Share best practices and leverage the work of others.

Question: How should we collaborate?

- Who should be at the table? Minister, judges and justices, court clerks, family justice services/court counselors, people in the trenches/frontline workers.
- How decisions should be made? We don't need a charter. We need the commitment of a group of people who are players that make the system work.

Table Eight

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Simplify court processes and make them citizen-centric, educating people about them from the start. (One-stop shop).
- Triage and front-end loading: Provide resources to resolve issues early, using a multi-disciplinary approach to identify social and health problems.
- Simplify options and processes, even if reducing fairness in some cases.

Question: What “tipping points” can we start work on?

- Umbrella, province-wide access to justice committee to drive change at macro level.
- Local access to justice committees to bring together local organizations and address local needs.
- Pilot justice services centre-community based, multi-disciplinary. Would be established by coalition of service providers, chosen by RFP issued by cross-ministry collaboration.

Question: How should we collaborate?

- Need users and clients as part of collaboration. Possible as part of advisory committee.
- Delete “will not be an advisory.” Not just advisory, but do need to gather and share information.
- Members should be organizations, not people.
- Need First Nation organizations. Need “social and cultural diversity” of members explicit in charter, e.g., immigrant issues, First Nation, LGBTQ, disabled persons, CNIB, Premier’s Council, academics (law deans, social work, sociology departments). College of social work, psychiatry.
- Minister may be better in advisory role, DMs/ADMs on committee.
- Need to clarify decision-making process. Does consensus require unanimity?

Table Nine

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- COMMUNITY BASED ACCESS. Ensure information and services available to Albertans. Know how to find services / information when needed, without barriers. (Example: away from courthouse).
- INTEGRATED COORDINATED SERVICES. Refer out to community services. Link to health and human services professionals (educate them on identifying legal issues and identify who to refer to). Triage.

- AFFORDABLE LEGAL SERVICES. Duty counsel. Legal Aid. Family Justice Services.

Question: What “tipping points” can we start work on?

- Create list of services that already exist and share it broadly. Lots of good programs already exist. Education helps.
- More front-end resources (duty counsel, family court counsellors, interpreters) – resolve so much before going to court.
- Take services out to community, put into libraries, family centres, family care clinics.

Question: How should we collaborate?

- Need to identify a “backbone agency” (schedules meetings, sets agenda, minutes). Likely department of justice – only one with enough resources and involved in most issues.
- Ask who (here today) is interested in continuing on – who has “the fire.” Once specific action plan identified, those folks will have to tie in to call in experts on specific issues.
- Report back to full table (all here) regularly, to ensure those that need to be involved, are.
- In charter, “purpose” should be what we ARE, not what we are NOT.

Table Ten

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Front end, multi-centric centres (triage). Supported by all Justice Services players. → to serve the public. Location - both within and outside courts (coordinated).
- Knowledge - what services are out there, what they’re doing, and who they’re serving, Market them. → knowledge at the system level: between systems:
 - Family, Criminal at Welfare.
 - Between Courts.
 - By legal profession and public (users) (police, etc.).
- Early neutral evaluation. Case Management. Info → ENE. Proactive from evaluation to examine what needs to be done by the parties and follow up. Heading off problems before they exist.

Question: What “tipping points” can we start work on?

- Create an expectation from the legal profession that they will provide a tangible from the service for people who become self-represented to walk away with.

- Create “ownership” for triage approach (committee or individual responsible for moving this along).
- Training for SRLs – an approach that incorporates educators, legal profession, that could be piloted in community.

Question: How should we collaborate?

- Confirm stakeholders and fill in the gaps (i.e., municipalities).
- Like idea of charter, but too complex. Need larger group and smaller working groups. (like advisory board/SC)decision-making consensual, not voted upon.
- Need to build implementation into plan –m resources may be an issue, and mandate of organizations (and link to their funding).
- How do we involve the public?
- How do we ensure accountability? Who is the group accountable to?

Table Eleven

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Need leadership to guide change and make sense of the legal system that is extremely complex. Need to understand citizen’s legal needs.
- Turn the system on its head. Need to focus on front-end triage as authorized by Court processes to legitimize services in the continuum of dispute resolution.
- Triage is critical to avoid, manage and resolve legal issues. Clarity of legal services available is needed. LINC has tremendous potential to lead the collection of organizations and services. Triage is front-end management for public awareness and organizational collaboration.

Question: What “tipping points” can we start work on?

- LINC should be rejuvenated as a legal info source, providing referrals, assistance with forms, community connections, collaborative solutions incl. Law Line initial point of contact providing navigation assistance.
- Leadership possibly by Canadian Bar Association, Law Society of Alberta, Justice and Solicitor General, courts in collaboration with front line orgs/providers.
- Need simplification in court processes to facilitate access to justice.

Question: How should we collaborate?

- Focus on shared statement of values not a new entity.

- End the repetitive study and move towards action.
- Leader could be office of Attorney General – key non-artisan law officer of province – with cross-ministry involvement, with collaboration of all other orgs such as Calgary Legal guidance and the Courts.
- Focus on engaged leadership for this initiative – not a formal new entity.

Table Twelve

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Development and identification of more robust non-controversial options.
- Education of public, bench and bar.
- Further consideration of recommendations from other jurisdictions and current report recommendations.

Question: What “tipping points” can we start work on?

- Develop strategy for the development of non-adversarial options including what exists already (e-scan, early adopters, full list of strategies and goals) and prioritize.
- Tying innovation models and frameworks to funding (analysis too).
- Invest and develop a culture of collaboration.

Question: How should we collaborate?

- Change “citizen” it doesn’t work, we suggest using the word public.
- Change tone from conflict to positive/respect, importance of building a framework, conflict resolution not part of charter but process instead.
- A good cross section of legal and non-legal representatives (e.g. bench, bar, GoA, family law, immigrant communities, minorities etc.).
- Redraft charter after meeting to incorporate all suggestions.

Table Thirteen

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Accessibility Acknowledging people are not similarly situated. Need to accommodate the various abilities, education skills, social context. Requires a multiple services approach: E.g. (1) Assign a person at walk a phone, internet, in person through the system from beginning to end – could be done via phone. E.g. (2) No wrong number, no wrong door (Australia). Training

intermediaries like social work or to identify legal problem and document hand referral to someone who can help. Need consistency in ability to access:

- use triage
- have navigators within the system
- use technology where possible (e.g., Skype).
- Fairness System is affordable. Transparency of process. Understandable as a human system e.g., training in human psychology that impacts a person in the system. People should be able to work through system – and understand. (Effective, Resolution, Timely).
- Coherence of Structure Recognition of the barriers of constitutional integrity that keeps structures from talking to one another. Look at legal system within the social context of individuals in system from legal aid to justices.

Question: What “tipping points” can we start work on?

- Organizational platform to move organizational change. Identify organization platform to bring about change. Includes funding. How to integrate across system; fullest breadth; from front line to top leaders. Reallocation of resources. Start small; set priorities and convey them. Requires a system wide analysis and understanding of processes to see full impact implications. Identify what focus is, priorities.
- Evaluation. Use evaluations to determine what’s working, clarify assumptions, set direction. Evaluations ought to be integrated, not one-offs but seen as providing insight and value to the full system – systems approach. Clarify what kinds of outcomes would be evaluated? Public, govt, front line.
- Liaise with health system. Introduce legal/medical opportunities, e.g., legal aid in hospitals. Often a conduit for young mothers to see legal resources can mean lawyers (duty counsel) working in different locations.
- Ensure children’s voices are heard. Judges are being asked to hear voices of children. Some resistance. Has its place. Children can get lost in system and have important contribution.

Question: How should we collaborate?

- Who would be at table?
- How would it be made?
- Determine purpose.
- Determine deliverables – e.g., a work plan – clearly concretely, stated purpose will drive structure and work groups.

- Is it a decision-making body or an advocacy body? The consensus should be around recommendations, priorities.
- Support to make this work needs to be recognized. E.g., administrative support, commitment to the process, funding, e.g., presented as a community issue/problem – look broadly for funding. The right resources to create, sustain a structure.

Table Fourteen

Question: What would a citizen-centred civil and family justice system look like in Alberta?

- Triage matrix needed and navigators needed. Help fill out forms – need gatekeepers. Focus on 1 window approach where there are people to assist. Online resources to be available. Need to be sensitive to those who don't have internet, literacy, etc. Research effectiveness (what is working and what isn't).
- Terminology use is not consistent. Citizen centered vs. client centered vs. user services.
- Too many non-legal issues end up in courts. Access to justice is not the same as access to courts.

Question: What “tipping points” can we start work on?

- Look at our current systems and compare to other systems that appear to be working. Can we restructure what we currently have?
- Need dedicated team/resources and have a lead. This needs to be established as a priority: need stakeholders to form the team; set goals prioritize, measurable outcomes; work out process; can form different working groups; coordinate research and evaluation; pilot projects.
- Need a Justice Lead to get this done.
- Self-represented litigants (SRL's). Perhaps have paralegals review their forms to ensure info is complete. Someone needs to supervise (e.g., lawyers). Have a checklist for SRLs before going to court (e.g., is there disclosure, complete info available). Create online videos/resources. Create a “trial prep course” for SRLs so they can be prepared.

Question: How should we collaborate?

- Remove draft from the document and move forward towards solutions and determine what working groups should be used.
- Many ways to involve the public if we have working groups, each will tackle how and want to involve the public.
- Break down the task into smaller pieces.

- Access to legal services – is this a better term? Need to be better defined. Need objectives. Fair process desired. Clients want problems solved, not necessarily in court.
- Quick, easy, cheap, high quality service desired.
- What matters can be taken out of court system? Look at trends and cases going to court.
- “Justice” What are we talking about? Needs to be defined.