

Windsor Yearbook of Access to Justice Recueil annuel de Windsor d'accès à la justice



Measuring Improvements in Access to Justice: Utilizing an A2J Measurement Framework for Comparative Justice Data Collection and Program Evaluation Across Canada

Brea Lowenberger, Heather Heavin, Jessica McCutcheon et Melissa Nelson

Volume 37, numéro 2, 2021

URI : <https://id.erudit.org/iderudit/1089757ar>
DOI : <https://doi.org/10.22329/wyaj.v37i1.7281>

[Aller au sommaire du numéro](#)

Éditeur(s)

Faculty of Law, University of Windsor

ISSN

2561-5017 (numérique)

[Découvrir la revue](#)

Citer cet article

Lowenberger, B., Heavin, H., McCutcheon, J. & Nelson, M. (2021). Measuring Improvements in Access to Justice: Utilizing an A2J Measurement Framework for Comparative Justice Data Collection and Program Evaluation Across Canada. *Windsor Yearbook of Access to Justice / Recueil annuel de Windsor d'accès à la justice*, 37(2), 337–358. <https://doi.org/10.22329/wyaj.v37i1.7281>

Résumé de l'article

L'amélioration de l'accès à la justice dans le système de justice du Canada est souvent la source d'inspiration des innovations ou de la modification des systèmes existants. Cependant, en l'absence d'un langage commun permettant de cerner et de définir les éléments de l'accès à la justice, et sans un cadre commun servant à orienter la mesure et l'évaluation des améliorations réalisées, il est difficile de mesurer l'efficacité de telles initiatives pour améliorer l'accès à la justice. Le présent document vise à contribuer au discours sur la mesure de l'accès à la justice en mettant en évidence un cadre d'évaluation de l'accès à la justice qui a été élaboré dans le triple but d'améliorer l'accès à la justice pour la population, d'améliorer l'expérience utilisateur en matière d'accès à la justice et d'améliorer les coûts. Nous démontrons également comment ce cadre a été utilisé pour la planification et l'évaluation du programme LISTEN en Saskatchewan, en illustrant comment il peut être adapté universellement à d'autres projets et initiatives partout dans le secteur de la justice.

© Brea Lowenberger, Heather Heavin, Jessica McCutcheon, Melissa Nelson, 2022



Ce document est protégé par la loi sur le droit d'auteur. L'utilisation des services d'Érudit (y compris la reproduction) est assujettie à sa politique d'utilisation que vous pouvez consulter en ligne.

<https://apropos.erudit.org/fr/usagers/politique-dutilisation/>

érudit

Cet article est diffusé et préservé par Érudit.

Érudit est un consortium interuniversitaire sans but lucratif composé de l'Université de Montréal, l'Université Laval et l'Université du Québec à Montréal. Il a pour mission la promotion et la valorisation de la recherche.

<https://www.erudit.org/fr/>

Measuring Improvements in Access to Justice: Utilizing an A2J Measurement Framework for Comparative Justice Data Collection and Program Evaluation Across Canada

Brea Lowenberger
Heather Heavin
Jessica McCutcheon
Melissa Nelson*

Improving access to justice in Canada's justice system is often the impetus for introducing new innovations or changing existing systems. However, measuring the effectiveness of these initiatives to improve access to justice is challenging without a common language to help identify and define the elements of access to justice, and without a common framework to help guide the measurement and evaluation of whether improvements are being realized. This paper seeks to contribute to the access to justice measurement discourse by highlighting an access to justice evaluation framework that has been developed with the triple aim objectives of improving population access to justice, improving user experience of access to justice, and improving costs. We also demonstrate how this framework has been used as part of the planning and evaluation of the Listen Project in Saskatchewan, illustrating how this framework can be universally adapted to other projects and initiatives throughout the justice sector.

L'amélioration de l'accès à la justice dans le système de justice du Canada est souvent la source d'inspiration des innovations ou de la modification des systèmes existants. Cependant, en l'absence d'un langage commun permettant de cerner et de définir les éléments de l'accès à la justice, et sans un cadre commun servant à orienter la mesure et l'évaluation des améliorations réalisées, il est difficile de mesurer l'efficacité de telles initiatives pour améliorer l'accès à la justice. Le présent document vise à contribuer au discours sur la mesure de l'accès à la justice en mettant en évidence un cadre d'évaluation de l'accès à la justice qui a été élaboré dans le triple but d'améliorer l'accès à la justice pour la population, d'améliorer l'expérience utilisateur en matière d'accès à la justice et d'améliorer les coûts. Nous démontrons également comment ce cadre a été utilisé pour la planification et l'évaluation du programme LISTEN en Saskatchewan, en illustrant

* Brea Lowenberger is the Access to Justice Coordinator for Saskatchewan and Director of CREATE Justice (the Centre for Research, Evaluation, and Action Towards Equal Justice) at the College of Law, University of Saskatchewan. Heather Heavin is an Associate Professor and Associate Dean, Research and Graduate Studies, and a member of the CREATE Justice Advisory Committee at the College of Law, University of Saskatchewan. Melissa Nelson is a former student research assistant at CREATE Justice and was a student member of the 2020 Dean's Forum on Access to Justice and Dispute Resolution. She is now an Associate Lawyer at Evolve Family Law in Saskatoon, Saskatchewan. Dr. Jessica McCutcheon is the Survey Research Manager and Specialist at the Canadian Hub for Applied and Social Research (previously Social Sciences Research Laboratories), University of Saskatchewan. She led the team that applied the A2J Measurement Framework for the first time in Canada through the Listen Project.

comment il peut être adapté universellement à d'autres projets et initiatives partout dans le secteur de la justice.

I. INTRODUCTION

One of the greatest mistakes is to judge policies and programs by their intentions rather than their results.

Milton Friedman

Innovations intended to improve the civil and family justice system abound across Canada, as do definitions of access to justice. However, whether an innovation is effective in improving access to justice may be a difficult proposition to substantiate. Differing definitions of what access to justice is may currently be a hindrance, but could create an opportunity for innovation. The premise of this paper is to demonstrate our assertion that the justice sector must commit to evaluate innovations in our justice system and, in doing so, commit to using a 'common' language of what constitutes access to justice, and a common measurement framework. A common language helps to ensure existing and new programs or processes are using similar definitions, which in turn, can help with better tracking of progress, and help to measure improvements within and among justice sector organizations and programs. Program improvements in the legal sector are especially difficult to measure due to divergent language and definitions. To this end, it has become increasingly necessary to develop a common evaluative framework applicable to all justice sector projects going forward. While no single measurement framework is perfect, the adoption of a *common* framework by justice stakeholders can serve to improve comparability between jurisdictions and projects, provide a transparent and common language for discussing dimensions of access to justice goals and achievements, and can help in the long-term objective of coordinating programs, projects, and collaborators within and between various jurisdictions. A common framework can also serve as an important tool for justice-related innovation developers across the country. The creation of an access to justice measurement framework also can be used as a tool for carefully thinking about the dimensions of access to justice that a new or existing project or program seeks to achieve, and helps in incorporating evaluation of the initiative at the outset, or during its ongoing design.

An Access to Justice Measurement Framework has been developed in Canada for the very purpose of encouraging justice program development and evaluation. An Access to Justice Measurement Framework (A2J Measurement Framework)¹ was developed and launched by Access to Justice British Columbia [A2JBC] in 2018. This paper aims to bring attention to this Framework, illustrating how the A2J Measurement Framework was implemented in a Saskatchewan-based access to justice project. The explanation of how this A2J Measurement Framework is being implemented on a program-specific basis is intended to illustrate how the Framework is transferable and applicable in the development and evaluation of any justice project. The explanation is also intended to encourage others to use, document, and share their application of the Framework. Particular attention is focused on the "user experience" dimension of the Framework since, until recently, asking for client or user experience has not received much attention in some justice sector program development and evaluation. Making a lasting difference

¹ A2J Measurement Framework, Figure 3 *infra* note at page 349.

in improving access to justice requires that individual programs *continue* to evolve and improve. Organizations and the justice sector collectively need a common understanding of how improvement can be defined and measured. In order to do this, *good intentions are not enough*: consistent use of the A2J Measurement Framework across the country – while continuously inviting critique and improvements of it – would enhance efficiency in the ability to collect comparative data, and thus measure improved access to justice in Canada.

Part II of this paper addresses why evaluation is important in the current context of the Canadian justice sector. Numerous national and provincial justice-focused organizations have called for better collection, analysis and application of justice data, and the development of justice metrics. With the current appetite for more and improved data collection and a commitment to evaluation, a commitment to a common evaluation framework and the use of a theory of change is both timely, and more efficient in being able to make comparisons across programs, and across jurisdictions. In Part III, we explain the proposed A2J Measurement Framework, providing a concrete example of how this Framework has been piloted in Saskatchewan in one of several program evaluations that have been undertaken through the University of Saskatchewan’s Centre for Research, Evaluation, and Action Towards Equal Justice [CREATE Justice] and the Canadian Hub for Applied and Social Research [CHASR] (formerly the Social Sciences Research Laboratories). The program evaluation that is highlighted is of the Public Legal Education Association of Saskatchewan [PLEA] “Listen” Project, a project aimed at supporting survivors of sexual assault with free legal information and advice. In the case of the Listen Project, the Framework was used to inform the development phase of the project through the creation of a theory of change, and now, the ongoing evaluation of the project. Part IV concludes with reflections and recommendations – and an invitation to join us in coordinating justice data collection and evaluation across Canada through the adoption and application of the A2J Measurement Framework to other justice sector innovations that seek to improve access to justice in Canada.

II. WHY EVALUATION MATTERS AND WHY *GOOD INTENTIONS ARE NOT ENOUGH*

A. Justice Data and the Current Access to Justice Context in Canada

Continued success in addressing the access to justice crisis in Canada has been slowed by a justice metrics problem. The justice metrics problem has been defined as “a lack of reliable justice data, a lack of empirical research, and inconsistent metrics”, resulting in “an inability to measure the effectiveness of justice processes and programs.”² While there have been decades of research and advocacy intended to advance civil justice reform in Canada³, gaps in the collection of qualitative data, a lack of defined

² Clair McCashin, Alex Santos & Desirée Steele, “Civil and Family Justice Metrics: Towards a Framework for Saskatchewan” (The Sixth Annual Dean’s Forum on Access to Justice and Dispute Resolution delivered at the College of Law, University of Saskatchewan, 6 March 2018), online (pdf) <<https://law.usask.ca/documents/research/deans-forum/CivilandFamilyJusticeMetrics-PolicyDiscussionPaper.pdf>> at 2 [“Civil and Family Justice Metrics”].

³ See Ab Currie, “A National Survey of the Civil Justice Problem of Low and Moderate Income Canadians: Incidence and Patterns” (April 2005), online (pdf): *Research and Statistics Division, Department of Justice* <<http://cfcj-fcjc.org/sites/default/files/docs/2006/currie-en.pdf>>; Ab Currie, “The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians” (2006) at 91-115, online (pdf): *Research and Statistics Division, Department of Justice* <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07_la1-

objectives, and a lack of coordinated system-wide data collection, were cited as ongoing problems in two national touchstone reports; the Canadian Bar Association [CBA] *Reaching Equal Justice* report, and the Action Committee on Access to Justice in Civil and Family Matters' [the Action Committee's], *Roadmap for Change*.⁴ These two national reports were released alongside another touchstone report, the National Self-Represented Litigants Research Study.⁵ The *Reaching Equal Justice* report highlighted the poor state of justice data and metrics in Canada:

[W]e are unable to give definitive answers to even the most basic inquiries about barriers to access and we lack the capacity to pull together the fragmented data available to us into anything close to resembling a complete picture of access to justice.⁶

The *Roadmap for Change* report also identified the need for better-coordinated justice data, including establishing metrics of success in order to evaluate new and ongoing reform efforts, stating:

Reliable and meaningful metrics and benchmarks need to be established across all levels of the system in order to evaluate the effects of reform measures. We need better information in the context of increasing demand, increasing costs and stretched fiscal realities.⁷

rr07_aj1/rr07_la1.pdf> [Currie, "Legal Problems"]; Trevor CW Farrow, et al, "Everyday Legal Problems and the Cost of Justice in Canada: Overview Report" *Osgoode Legal Studies Research Paper* 57 (2016), online: SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2795672>; Lisa Moore, "Everyday Legal Problems and the Cost of Justice in Canada – Survey Data Report" (October 2018), online (pdf): *Canadian Forum on Civil Justice* <<https://cfcj-fcjc.org/wp-content/uploads/Everyday-Legal-Problems-and-the-Cost-of-Justice-in-Canada-Cost-of-Justice-Survey-Data.pdf>> [Moore, "Everyday Legal Problems"]; Lorne D Bertrand & Joanne J Paetsch, Summary of Legal advice services in Alberta: Survey Results From the Past Two Years" (May 2018), online (pdf): *Alberta Law Foundation* <http://www.crilf.ca/Documents/ALF_Clinic_Survey_Year_2_-_May_2018.pdf>; Environics Research Group, "Civil Legal Needs of Lower and Middle-Income Ontarians: Quantitative Research" (Toronto: Environics Research Group, 2009) at 79-99; Kelly Gallagher-Mackay, "Background Paper: Report on Family Law Research" (2003) at 89-115, online (pdf): *Department of Justice Canada* <http://cfcj-fcjc.org/sites/default/files/docs/hosted/18574-family_law_nu.pdf>; Kelly Gallagher-Mackay, "Background Paper: Report on Family Law Research in Nunavut." (2003), online (pdf): *Department of Justice* <http://cfcj-fcjc.org/sites/default/files/docs/hosted/18574-family_law_nu.pdf>.

⁴ Action Committee on Access to Justice in Civil and Family Matters, "Action Committee on Access to Justice in Civil and Family Matters. Access to Civil Family Justice: a Roadmap for Change" (October 2013), online (pdf) <http://www.cfcj-fcjc.org/sites/default/files/docs/2013/AC_Report_English_Final.pdf> ["Roadmap for Change"].

⁵ Julie Macfarlane, "The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants" (May 2013), online (pdf) <<https://representyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf>>.

⁶ "Roadmap for Change", *supra* note 4; Canadian Bar Association, "Reaching Equal Justice Report: an Invitation to Envision and Act" (November 2013) at 1-2, online <http://www.cba.org/CBAMediaLibrary/cba_na/images/Equal%20Justice%20%20Microsite/PDFs/EqualJusticeFinalReport-eng.pdf>.

⁷ "Roadmap for Change", *supra* note 4 at 23.

Justice stakeholders are thus recognizing that evaluation, what and how we measure, matters in meaningfully advancing access to justice – “[r]esearch on what exists, what works and what is needed, along with evaluations and metrics of success, will all be important aspects of building innovation capacity.”⁸

Since the calls to action in 2013, progress has been made on the justice data collection, metrics, and evaluation topic through a variety of national, provincial, and interprovincial efforts. For example, the Action Committee has launched Canada’s Justice Development Goals to align the work of organizations across the country:

Canada’s nine Justice Development Goals (JDGs) are a common framework to coordinate access to justice efforts, share innovation and measure our progress. The JDGs align the work of organizations large and small, in every province and territory, but do not prescribe a specific approach, recognizing that communities have different needs, expertise and resources. They are based on cross-sector research and consultation about effective strategies to improve access to justice across the country.⁹

These broad goals aspire to improve access to justice by calling on justice organizations across Canada to: (i) Address everyday legal problems; (ii) Meet legal needs; (iii) Make courts work better; (iv) Improve family justice; (v) Work together; (vi) Build capability; (vii) Innovate; (viii) Analyze and learn; and (ix) Improve funding strategies.

The Action Committee Metrics Working Group was also established in 2018, comprised of members from CREATE Justice, CFCJ, University of Victoria’s Access to Justice Centre of Excellence [ACE], and Accès au Droit et à la Justice [ADAJ]. In fact, CREATE Justice, ACE, and ADAJ were all announced following the Action Committee’s 2013 call for justice data collection and access to justice research, and the CBA’s 2013 call for several Canadian law schools to establish access to justice centres of excellence for access to justice research.¹⁰ A key outcome of the Working Group has been collaboration among its members, the Federal Department of Justice, and Statistics Canada at the preliminary stages of development of the *Canadian Legal Problems Survey*, which will result in national user-focused data collection.

⁸ *Ibid* at 22. Internationally justice stakeholders are teaming up with data scientists to support gathering information on legal needs and access to justice gaps and reforms, see: OECD and Open Society Foundations, “Legal Needs Surveys and Access to Justice” (2019) online (pdf) <<https://www.oecd.org/governance/legal-needs-surveys-and-access-to-justice-g2g9a36c-en.htm>>; Hague Institute for Innovation of Law, (2020), online: HiiL <<https://www.hiil.org>>. Domestically, Canada has implemented an Access to Justice index for its Federal Administrative bodies, see Canada, “Development of An Access to Justice Index for Federal Administrative Bodies” (Ottawa: Research and Statistics Division, 2017), online: *Government of Canada* <<https://www.justice.gc.ca/eng/rp-pr/jr/fab-eaf/fab-eaf.pdf>>.

⁹ Action Committee on Access to Justice in Civil and Family Matters, “Tracking our Progress: Canada’s Justice Goals in 2019” (2019) at 4, online (pdf) <http://www.justicedevelopmentgoals.ca/sites/default/files/canadajdg_report19_en.pdf>; also National Action Committee on A2J in Civil and Family Matters, “Measuring Access to Justice: a Survey of Approaches and Indicators in AJ2 Metrics Initiatives (2019), online <https://static1.squarespace.com/static/5532e526e4b097f30807e54d/t/5e277558be023a2a1d2a7dc9/1579644250923/a2j_indicators_reportactioncommittee.pdf>.

¹⁰ “Roadmap for Change”, *supra* note 4 at 123. Also motivated in Saskatchewan by members of the Dean’s Forum (See also: “Civil and Family Justice Metrics”, *supra* note 2.)

The work of the Action Committee and its Metrics Working Group has arisen amid other provincial efforts between law academics and the broader justice sector to address the topic and coordination of justice data and metrics and program evaluation. For example, in 2018, participants at the Dean's Forum on Access to Justice and Dispute Resolution in Saskatchewan workshopped adapting the A2J Measurement Framework for Saskatchewan justice sector initiatives.¹¹ In 2019, 50 British Columbian organizations endorsed the Access to Justice Triple Aim, which includes the three dimensions of the A2J Measurement Framework: improving population access to justice; user experience of access to justice; and, costs.¹² At the federal level, in 2020, the Social Security Tribunal of Canada endorsed and incorporated the A2J Measurement Framework in developing its own measurement framework.¹³ As momentum appears to be growing to adopt the Framework for evaluation purposes, it is important to ensure that the justice sector in Canada has access to the Framework and understands what it seeks to describe and measure.

B. Description of Evaluation and Justice Indicators

Justice metrics frameworks have been created to inform evaluations,¹⁴ but due to implementation challenges, including lack of resources, difficulties in data collection, and the complicated nature of data analysis, these frameworks are just beginning to be implemented in evaluations.¹⁵ Before describing the A2J Measurement Framework and how it was used as part of the planning and evaluation of the Listen Project, this section briefly summarizes, for the reader who is new to the topic, some key evaluation concepts: the definition of evaluation and justice indicators, the different categories of indicators, the sources of data of justice indicators, and finally, different types of evaluation approaches. Evaluation itself is defined as “a systematic assessment of the operations and/or the outcomes of a program or policy, compared to a set of explicit or implicit standards, as a means of contributing to the improvement of

¹¹ Clair McCashin, Alex Santos & Desirée Steele, “Follow-Up Report & Summary Notes On Civil and Family Justice Metrics: Towards a Framework for Saskatchewan (The Sixth Annual Dean's Forum on Access to Justice and Dispute Resolution delivered at the College of Law, University of Saskatchewan, 6 March 2018)” [unpublished] at 2, online (pdf): *University of Saskatchewan, College of Law* <https://law.usask.ca/documents/research/deans-forum/Followup_Report_Summary_Notes-Civil_and_Family_Justice_Metrics2018.pdf> [McCashin, Santos & Steele, “Follow Up”]. In Saskatchewan, the emphasis at the national level on justice data and metrics prompted a preliminary study looking at whether justice sector organizations within Saskatchewan are collecting data, what kinds of data are being collected, and utilized, and what organizations identified as impediments to data collection, analysis, usage and sharing between organizations. See CREATE Justice, College of Law, University of Saskatchewan, “Justice Sector Data Inventory, Evaluation, and Toolkit” (May 2019), online: *University of Saskatchewan, College of Law CREATE Justice Projects* <<https://law.usask.ca/createjustice/projects/justice-sector-data-inventory-evaluation-and-toolkit.php>>.

¹² See e.g., Provincial Court of British Columbia, “Why the BC Provincial Court endorses A2JBC's Triple Aim” (13 June 2019), online: *Provincial Court of British Columbia* <<https://www.provincialcourt.bc.ca/enews/enews-13-06-2019>>.

¹³ Government of Canada, “Social Security Tribunal Index Scores Measuring Access to Justice (updated 10 June 2020), online: *Government of Canada* <<https://www1.canada.ca/en/sst/innovation/a2j-framework.html>>.

¹⁴ *A Handbook for Measuring the Costs and Quality of Access to Justice* (2009), online: <<https://lawforlife.org.uk/wp-content/uploads/2013/05/handbook-for-measuring-the-costs-and-quality-of-access-to-justice-271.pdf>>.

¹⁵ Jerry McHale, “The Justice Metrics Problem' Background Paper” (Victoria, 3 March 2017) at 5, online (pdf): <<https://static1.squarespace.com/static/5532e526e4b097f30807e54d/t/590a60968419c273fe4dd99c/1493852311174/AC+Background+Paper+March+YVR+FINAL.pdf>> [*Background Paper*].

program or policy.”¹⁶ Measuring improvements in access to justice such as “fairness” and “equal access” may seem challenging to evaluate, but utilizing a framework containing such justice indicators invites performance to be measured in a context-specific and nuanced manner.¹⁷ Justice indicators, as defined by Yvon Dandurand, Kittipong Kittayarak and Alison MacPhail, are:

...indirect measures of elements that taken together can measure trends over time and progress towards specific goals ... [They] allow the synthesis of complex information to produce easily interpreted statements relating to change over time in any of the numerous aspects of the justice system’s performance. The most useful indicators of performance are typically those that can tightly link values, goals, activities and outcomes.¹⁸

There are different categories of indicators: “outcome or strategic indicators; output indicators; and input or activity indicators” – but all are relevant to performance management.¹⁹ *Outcome or strategic indicators* (e.g., increased client awareness of resources, increased access to legal services) can be system-wide indicators that apply to institutions such as police, judiciary, or prosecution.²⁰ They measure the effectiveness of systems against broad objectives of the justice system (e.g., public safety, fairness).²¹ *Output indicators* (e.g., # of clients, # of toolkits provided) measure the efficiency of institutions against their respective objectives.²² *Input indicators* (e.g., funding, staff, facilities) measure the “workload, activities and resources of specific institutions and the progress they make in the implementation of a policy, a programme, or a reform.”²³

¹⁶ Susan P Giancola, *Program Evaluation: Embedding Evaluation into Program Design and Development* (Los Angeles: Sage, 2021) at 4.

¹⁷ *Ibid* at 9. Jane H Aiken and Stephen Wizner, in their article “Measuring Justice,” argue that justice should be defined contextually, meaning that several factors, even though they are unquantifiable, should be measured. These factors include: (1) empathy and respect in the lawyer-client relationship; (2) types, methods, and outcomes of informal advocacy; (3) the outcomes (including substantive results and clients’ experiences) of legal representation compared to self-representation; and (4) the extent to which legal representation assists clients in better understanding and navigating the system. This is because, when measuring access to justice, what must be considered are “intangibles such as clients’ feelings about the services they have received, whether they were treated in a professional and respectful manner ... that contributed to their sense of having received substantive justice and procedural fairness.” Jane H Aiken & Stephen Wizner, “Measuring Justice” (2013) 1 *Wisconsin L Rev* 82. Also Amanda Dodge created access to justice metrics by compiling themes, definitions and recommendations arising from community consultations with marginalized community members, Amanda Dodge, *Access to Justice Metrics Informed by the Voices of Marginalized Community Members: Themes, Definitions and Recommendations Arising from Community Consultations*, (March 2013) online: (pdf): *Canadian Bar Association’s Access to Justice Committee* <http://www.cba.org/CBA/cle/PDF/JUST13_Paper_Dodge.pdf>.

¹⁸ Yvon Dandurand, Kittipong Kittayarak, & Alison MacPhail, *Justice Indicators and Criminal Justice Reform: A Reference Tool* (2015), online: <<https://icclr.law.ubc.ca/wp-content/uploads/2017/06/Justice-Indicators-and-Criminal-Justice-Reform-April-2015.pdf>> at 11.

¹⁹ *Ibid* at 12.

²⁰ *Ibid* at 13.

²¹ *Ibid*.

²² *Ibid*.

²³ *Ibid*.

The most effective indicators will be system specific.²⁴ Sources of data of justice indicators include administrative data, survey data, interview data, and observation data.²⁵ *Administrative data* is usually already being gathered in the course of work done by justice institutions, generally for management purposes. This type of data therefore comes from a convenient source and is usually more useful for input and output indicators.²⁶ *Surveys* and *interviews* are a good source of information when conducted properly and can be particularly useful in understanding a service or program from a user-perspective as they have insider knowledge. It should be noted that surveys of experts may not always be straight-forward.²⁷ The topic of justice indicators, including categories and sources of justice indicators, described above, has recently been explored in the justice arena,²⁸ as have types of evaluation.

Different types of evaluation that could help improve justice systems have been proposed and promoted by scholars and stakeholders such as Professor Gemma Smyth. For example, *formative evaluation* focuses on how a program model takes shape (its implementation and delivery), in order to improve the program itself.²⁹ Alternatively, there is *process evaluation*, which “documents the process of delivering a program”, including the types and quantities of services delivered, and the beneficiaries, resources, and problems with delivery.³⁰ There is also *summative evaluation* which analyses the outcomes on the target population and whether the project meets its objectives.³¹ Smyth also describes *participatory evaluation*, which includes individuals, communities, institutions, and other stakeholders in informing the evaluation process, rather than only experts who are not affected in the way that those who provide or access a program are.³² Using a participatory approach can therefore offer an insider lens on an evaluation team

²⁴ *Ibid.*

²⁵ *Ibid* at 31.

²⁶ *Ibid* at 32.

²⁷ *Ibid* at 35.

²⁸ Teresa Marchiori, “A Framework for Measuring Access to Justice Including Specific Challenges Facing Women” (2015) at 124, online: *UN Women* <<https://rm.coe.int/1680593e83>> (6 June 2018). Marchiori, for example, has analyzed justice indicators that have been used so far by government, civil society, and international organization actors. She uses the following criteria in the selection of proposed indicators: (1) the measurability of the indicators; (2) how easily conveyable the indicators are to the public; and (3) how capable the indicators are of capturing elements of access to justice that are particularly relevant to the group/sector of the population being examined (e.g., Women).

²⁹ Gemma Smyth, “Evaluating Systemic Advocacy: A Primer & Tools for Evaluating Systemic Advocacy in Ontario’s Legal Clinics, Report to the Law Foundation of Ontario” (Faculty of Law, University of Windsor, 2017) at 22.

³⁰ *Ibid* at 24.

³¹ *Ibid.*

³² *Ibid* at 31. Understanding and incorporating the experience of “users” of the justice system in access to justice reforms, while critically important, has only been undertaken in a limited number of studies over the past decade. See for example: Barbara Billingsley, Diana Lowe & Mary Stratton, “Civil Justice System and the Public: Learning from Experiences to find Practices that Work” (May 2006), online (pdf): *Canadian Forum on Civil Justice* <<https://cfcj-fcjc.org/sites/default/files/docs/2006/cjsp-learning-en.pdf>>; Mary Stratton “Balancing the Scales: Understanding Aboriginal Perspectives on Civil Justice” (May 2006), online (pdf): *Canadian Forum on Civil Justice* <<https://cfcj-fcjc.org/sites/default/files/docs/2006/stratton-balancing-en.pdf>>; Currie, *supra* note 3. Travis Anderson & Mary Stratton, “The Civil Justice System and the Public Justice for Nunavummiut: Partnerships for Solutions” (June 2008), online (pdf): *Canadian Forum on Civil Justice* <https://www.brandonu.ca/rdi/files/2015/08/Justice_For_Nunavummiut_Parnerships-for-Solutions_Report.pdf>; Mary Stratton, “Alberta Legal Services Mapping Project: An Overview of Findings from the Eleven Judicial Districts” (July 2011), online (pdf): *Canadian Forum on Civil Justice* <<https://cfcj-fcjc.org/sites/default/files/docs/2011/mapping-final->

and during the evaluation process. In sum, each of these types of evaluation are important and offer the above specific benefits, but special attention should be taken to implementing a participatory approach, when possible, in order for evaluators to design an evaluation with perspectives from those providing and accessing the service. The next section describes the A2J Measurement Framework, which incorporates both high-level and more specific indicators that can be used in a variety of the aforementioned types of evaluation.

C. Description of the A2J Measurement Framework

There is no consensus about the meaning and definition of access to justice.³³ In the absence of a common language or definition related to access to justice, Canadian justice stakeholders have struggled with vocabulary to describe what a “successful” system looks like, and to measure how it functions and its outputs:

The absence of shared views on what constitutes access to justice, what to measure, and how to measure it, hampers policy development and decision-making in the legal and judicial institutions central to the proper functioning of our democratic order.³⁴

A framework can therefore establish some shared values to guide a principle-based approach to measuring the performance of justice processes.³⁵ At the most basic level, a “justice metrics framework is a guide for

en.pdf>; Trevor CW Farrow et al, “Addressing the Needs of Self-Represented Litigants in the Canadian Justice System” (March 2012), online (pdf): *Canadian Forum on Civil Justice* <https://www.cfcj-fcjc.org/sites/default/files/docs/2012/Addressing%20the%20Needs%20of%20SRLs%20ACCA%20White%20Paper%20March%202012%20Final%20Revised%20Version.pdf>; David Northrup et al, “Everyday Legal Problems and the Cost of Justice in Canada: Survey” (June 2016), online (pdf): *Canadian Forum on Civil Justice* <<https://www.cfcj-fcjc.org/sites/default/files/Everyday%20Legal%20Problems%20and%20the%20Cost%20of%20Justice%20in%20Canada%20-%20Survey.pdf>>; Trevor CW Farrow, et al. “Everyday Legal Problems and the Cost of Justice in Canada: Overview Report” (2016) Osgoode Legal Studies Research Paper 57, online: SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2795672>; Ab Currie, “Nudging the Paradigm Shift, Everyday Legal Problems in Canada” (October 2016), online (pdf): *Canadian Forum on Civil Justice* <https://cfcj-fcjc.org/sites/default/files/publications/reports/Nudging%20the%20Paradigm%20Shift%2C%20Everyday%20Legal%20Problems%20in%20Canada%20-%20Ab%20Currie.pdf>; Moore, “Everyday Legal Problems”, *supra* note 3; Lisa Moore, “Spending on Everyday Legal Problems Report” (October 2018), online (pdf): *Canadian Forum on Civil Justice* <<https://cfcj-fcjc.org/wp-content/uploads/SPENDING-Everyday-Legal-Problems-and-the-Cost-of-Justice-in-Canada.pdf>>; Ab Currie, “Someone Out There Helping – Final Report Of The WellCoMs Mobile Van Project,” (December 2019), online (pdf): *Canadian Forum on Civil Justice* <<https://cfcj-fcjc.org/wp-content/uploads/Someone-Out-There-Helping-Final-Report-Of-The-WellCoMs-Mobile-Van-Project-by-Ab-Currie.pdf>>. Opportunities and challenges for user-focused data were recently outlined in Peter Chapman, et al “Grasping the Justice Gap: Opportunities and Challenges for People-Centered Justice Data” (2021) Pathfinders for Peaceful, Just and Inclusive Societies, World Justice Project Working Paper, online (pdf): <<https://www.justice.sdg16.plus/>>.

³³ Trevor CW Farrow, “What is Access to Justice?” (2014) 51:3 Osgoode Hall LJ online: <<https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=2761&context=ohlj>>; The Canadian Bar Association, “Access to Justice Metrics: A Discussion Paper”, (2013), online (pdf): <<https://static1.squarespace.com/static/5532e526e4b097f30807e54d/t/5ab18ecc562fa79af5f7ee7a/1521585870798/CBA+A2J+Metrics+Discussion+Paper+2013.pdf>>.

³⁴ *Ibid* at 2.

³⁵ *Ibid*.

data collection and empirical analysis that serves as a foundation for an overarching justice metrics strategy.”³⁶ The A2J Measurement Framework can be used as a starting point to develop and evaluate access to justice initiatives. This demonstrated need to measure performance, otherwise known as *access to justice metrics*, can be used to inform policy makers and help them make decisions by allowing comparisons to be drawn and to draw attention to improving access to justice.³⁷

Metrics can be further defined as “measures of an organization’s activities and performance, and are based on the organization’s established objectives, indicators or criteria for specific areas of accomplishments.”³⁸ Metrics will then be used to derive indicators, which can be combined into an index allowing for an overall measurement of the system or organization’s operation.³⁹ The Canadian Bar Association recommends the adoption of a set of principles to underpin the measurement process:

1. Comprehensiveness: The data gathered should be comprehensive, allowing assessment of performance against all objectives;
2. Consistency: Data should be gathered in a manner that is consistent, allowing comparison across different service types, service providers and pathways to justice;
3. Data is capable of aggregation and disaggregation: Data should be gathered in a way that is capable of aggregation and disaggregation;
4. Relevance: Data gathered should be relevant to the agencies and individuals providing it as well as to government objectives;
5. Timeliness: Data should be gathered frequently enough and released soon enough after gathering to retain relevance for decision makers; and,
6. Economy and simplicity: The simplest and least expensive data collection methods should be used.⁴⁰

The adoption of the A2J Measurement Framework by stakeholders in the justice system “will contribute to positive system change by encouraging a logical, focused and transparent approach to measurement that informs justice system policy, programs and innovations, and by generating data to assist in making the case for access to justice funding.”⁴¹ The Framework also serves two complementary purposes: (1) it provides “an overall measurement framework to monitor the experience of populations (and sub-populations) managing their everyday legal needs and in accessing the justice system, and provides evidence of the value (costs and benefits) of improved access to justice”; and (2) it provides “justice

³⁶ “Civil and Family Justice Metrics”, *supra* note 2 at 4.

³⁷ *Ibid* at 3.

³⁸ *Ibid*.

³⁹ *Ibid*.

⁴⁰ *Ibid* at 6-7 (emphasis added). See e.g., Susan MacDonald, “Development of An Access to Justice Index for Federal Administrative Bodies” (Ottawa: Research and Statistics Division, 2017), online (pdf): *Government of Canada* <<https://www.justice.gc.ca/eng/rp-pr/jr/fab-eaf/fab-eaf.pdf>>.

⁴¹ A2JBC Working Group, *Access to Justice Measurement Framework* (2016), online: <<https://ajrnotco.files.wordpress.com/2018/03/a2jbc-measurementframework.pdf>> at 3. Law Foundations may also play a role in facilitating and supporting access to justice and related data collection projects, see: Diana Searce, “Catalyzing Networks for Social Change: A Funder’s Guide” (2011), online (pdf): <https://jimjosephfoundation.org/wp-content/uploads/2012/01/Catalyzing_Networks_for_Social_Change.pdf> at 25.

system stakeholders with a shared frame of reference in order to align their efforts to monitor, evaluate, and learn from the impact of their respective initiatives to improve access to justice.”⁴²

The Framework was developed to help measure a population’s access to justice or particular initiatives. It “identifies key, logically related, dimensions of access to justice, each encompassing different elements for which number indicators (or measures) can be adopted or developed. Focusing on a subset of these indicators is all that may be required to monitor the impact of any given initiative, depending on its nature, scope, and specific goals.”⁴³ It was also created with what the developers call, building from the health sector framework, a “Triple Aim” approach. This is the simultaneous pursuit of three elements, as depicted below in Figure 1: (1) improving the *population’s access to justice*; (2) improving *people’s experience of the justice system* when attempting to resolve a legal problem; and (3) and ensuring that the *costs of providing access to justice are sustainable*.⁴⁴ The three elements are all connected and, at times, interdependent, so we recognize it is sometimes challenging to isolate the respective impact of various initiatives on the overall goal of improving access to justice.⁴⁵

Figure 1. Triple Aim Thinking: The Main Elements of the Framework⁴⁶



The first main element of the Framework, to *improve population access to justice*, is measured in relation to four key dimensions, as indicated below in Figure 2: (1) prevalence of legal problems; (2) response to legal needs; (3) fair and equitable access to justice; and (4) social and economic impact of access to justice.⁴⁷ The second major element of the Framework relates to the *users’ experience of access to justice*. It contains five dimensions, listed below in Figure 2: (1) user experience of obstacles to access to justice; (2) the quality of the user experience of the justice system; (3) the effectiveness of the justice system in addressing user legal needs and legal problems; (4) the appropriateness of the

⁴² A2JBC Working Group, *ibid* at 4.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid* at 5.

⁴⁶ Yvon Dandurand & Jessica Jahn, “Access to Justice Framework” (2020), online: <<https://drive.google.com/file/d/15gtf7TpqcTofY3XIyGR-BeK74CXlTeLq/view>> at 4.

⁴⁷ *Ibid.*

justice process; and (5) justice outcomes for the users.⁴⁸ Finally, the third element of the Triple Aim approach is to *improve costs* or, at the very least, to ensure that access to justice costs are sustainable. Three distinct dimensions, as depicted below in Figure 2, are included in this component: (1) per-capita costs of services; (2) per-user costs of services; and (3) other costs, including the costs of unmet legal needs on the costs of other service sectors.⁴⁹

Figure 2. The Main Dimensions of the Framework⁵⁰



The A2J Measurement Framework, inserted below as Figure 3, has the following characteristics. It is, as its developers describe:

- Value-based and relates to the moral imperative behind the need to improve access to justice;
- Multidimensional, capable of capturing the complexity of a broad collective-impact initiative;
- Flexible in order to enable learning about evolving goals, objectives, and strategies;
- Designed to offer sensible feedback to managers and policy makers; and,
- Including metrics that are intuitive, non-controversial and referring in clear terms to the outcomes the system is intended to deliver.⁵¹

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid* at 6. Note “Quality of user experience **of** justice system”, should be “Quality of user experience **in** justice system”.

⁵¹ *Ibid* at 7.

Additionally, it recognizes “a given population as a unit for concern.” This involves “specifying the population of concern for each potential dimension of the Framework and its related indicators.”⁵² Identifying these populations as a unit of analysis is important to target and focus programs and to gather accurate information.

Figure 3. Structure of the A2J Measurement Framework

Table 1 - Access to Justice Measurement Framework - Summary		
Elements	Dimensions	Components
Improving Population Access to Justice	Prevalence of legal needs/problems	<ul style="list-style-type: none"> Prevalence of legal problems in the population Prevalence of unaddressed legal needs in the population Public legal awareness
	Response to legal needs	<ul style="list-style-type: none"> People's choice of path to justice Legal information and education needs Legal advice needs Need for legal representation and other legal assistance Need for consensual dispute resolution process
	Fair and equitable access to justice	<ul style="list-style-type: none"> Accessibility of justice system for British Columbians <ul style="list-style-type: none"> Including geographical access, accessibility for Indigenous people, accessibility for people with mental illness, and accessibility for immigrants and refugees Financial access to justice system Timeliness of access to justice system
	Social and economic impact of access to justice	<ul style="list-style-type: none"> Social policy objectives Protection of people's rights Public confidence in the justice system Public confidence in social institutions Gender equality Justice for Indigenous people Social & economic costs and benefits of access to justice
Improving User Experience of Access to Justice	User experience of obstacles to access to justice	<ul style="list-style-type: none"> Obstacles to access (distances, technology, affordability) Eligibility to services Affordability of services Delays in accessing justice services and their impact
	Quality of user experience of the justice system	<ul style="list-style-type: none"> Quality of legal information and education Trust and confidence in legal information User empowerment Quality of referral services Quality of legal advice Quality of legal assistance and representation Experience of self-represented litigants Quality of consensual dispute resolution processes
	Effectiveness of justice system in addressing user legal problems	<ul style="list-style-type: none"> Effective resolution of legal problems Mitigated impact of legal problems Prevention of legal problems Prevention of conflicts Unmet legal needs and their consequences Limits to the assistance received
	Appropriateness of the justice process	<ul style="list-style-type: none"> Fairness, equity and impartiality of the process Cultural appropriateness Voice and participation
	Justice outcomes for the users	<ul style="list-style-type: none"> Outcomes of the justice process User satisfaction with outcomes of justice process Compliance with court orders, judgments, and mediated agreements Post-resolution support User enhanced legal awareness Enhanced legal capability
Improving Costs	Per-capita costs of services	<ul style="list-style-type: none"> Per capita costs of services Impact on new initiatives on per-capita costs
	Per-user costs of services	<ul style="list-style-type: none"> Per user costs by type of services Impact of new initiatives on per-user costs
	Other costs	<ul style="list-style-type: none"> Social and economic costs of unresolved legal problems Impact of unresolved problems on costs in other sectors

In the absence of any overarching research or data framework, data collected about the justice sector will likely be limited in scope to a small amount of quantitative data that can neither be shared, nor be useful to build upon results of future access to justice projects.⁵³ Therefore, organizations are left without any

⁵² *Ibid.*

⁵³ Jerry McHale & Kathryn Thomson, “Exploring a BC Justice Research Framework” (30 April 2016) University of Victoria Access to Justice Centre for Excellence at 3, online (pdf): <<https://static1.squarespace.com/static/5532e526e4b097f30807e54d/t/5730d9dd45bf216301740c0f/1462819298327/McHale+Thomson+Discussion+Paper+May+2.pdf>>.

way to demonstrate the measurable impacts.⁵⁴ There are seven related problems outlined by Jerry McHale, QC and Kathryn Thomson that the Framework seeks to resolve, each of which are outlined below, in turn: (1) a significant lack of data; (2) the narrow focus of any existing data; (3) a lack of defined objectives; (4) a lack of an empirical research tradition; (5) a lack of systemic coordination; (6) various administrative challenges; and (7) various methodological challenges.

The first problem is a *significant lack of data*. This includes “insufficient data, inconsistent data, and gaps in data.”⁵⁵ A lack of data means that “civil justice reforms are probably not being adequately tested, with the consequence that it is hard to ensure that such reforms are actually changing the system. Similarly, this absence of data makes it difficult to know what to change in the system to begin with.”⁵⁶ We are only beginning to understand the extent and nature of this gap, and the undeniable need to expand research and, more importantly, develop a measurement for capacity.⁵⁷ This is how the A2J Measurement Framework can help us – by not only providing a way to frame analysis, but to document results for future comparisons.

The second problem that McHale and Thomson describe is the *narrow focus of any existing data*. There are many organizations and sectors that keep statistics and data, yet these statistics are often narrowly focused and usually measure only outputs.⁵⁸ This narrowly collected data may “involve counting cases, orders, judicial sitting hours or the like, as opposed to measures to assess outcomes.”⁵⁹ This existing data will typically not tell us about the quality of the result or “the real impact of legal processes or programs on individuals attempting to access justice services.”⁶⁰ The Framework, in contrast, encourages focus on the quality and impact of the programs.

The third problem is a *lack of defined objectives*. If there is a failure to accurately and concisely define desired justice system outcomes, then there is a deficit of information. This is, despite some advancements that are being made, the situation we still find ourselves in currently in relation to data metrics in Canada.⁶¹ Canadian justice systems “have neither articulated broad system objectives nor established outcome targets for themselves.”⁶² The implied problem here is that we cannot measure our progress until we articulate exactly what the objectives are. As stated above, by utilizing a consistent framework like the A2J Measurement Framework that describes desired outcomes, there are consistent goals that projects can aim to tackle.

McHale and Thomson also identify a *lack of an empirical research tradition* in Canadian law schools and overall *lack of systemic coordination* as a key problem. A lack of systemic coordination relates to the idea referenced earlier, that existing data sets are “often incompatible with each other.”⁶³ Therefore, although there could be developed data and/or research on a subject, without a way to compare it to other areas, the data/research is not as useful as it could potentially be. There needs to be a way to compare

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid* at 4.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid* at 5.

research across jurisdictions in order to draw any meaningful conclusions. The A2J Measurement Framework does this by presenting a common set of goals and evaluation tools to make sure programs are working towards collectively agreed upon goals for the justice system.

The sixth problem is *various administrative challenges*. McHale and Thomson state that implementing the Framework would involve addressing the following administrative challenges:

- finding the resources needed to build research capacity and to actually make research an active priority;
- accommodating the disruption of modifying existing data collection systems;
- accommodating privacy rights and concerns;
- finding sufficient incentives for broad stakeholder participation; and,
- sustaining the long term commitments required to see a project of this scale through.⁶⁴

In order to effectively implement the Framework, these administrative challenges will have to be addressed.

The final problem is addressing *various methodological challenges* – that is, “[m]easurement of program outcomes or impacts can be inherently quite complicated.” For example,

- the meanings of outcome objectives like “effective”, “fair”, “timely” “affordable” and “success” are often highly contextual, nuanced, and at least partially subjective;
- there is little or no historical data to measure against or baseline data to compare with current performance levels; and,
- there [is] a very large number of variables involved and it can be difficult to establish a causal link between a service delivered or a given intervention and a particular outcome.⁶⁵

The A2J Measurement Framework can help address these challenges by providing a common frame of reference for outcome objectives. It can also help by potentially identifying causal links between services delivered, interventions, and potential outcomes.

For justice metrics to be successful, there are a couple of elements that must all come together. First, strong institutional leadership (whether it be an institute, non-profit, state government, etc.) and financial resources have been essential in “driving sustained development of measurement initiatives.”⁶⁶ Second, both top-down and bottom-up initiatives are critical to ensure success with data metrics.⁶⁷ Both of these elements have been identified from around the world as important to ensuring success in measuring access to justice initiatives. The next section will describe how the Framework was used to inform the

⁶⁴ *Ibid.*

⁶⁵ *Ibid* at 6.

⁶⁶ Tim Roberts and Associates Consulting, “Learning from justice metrics models in other jurisdictions” (May 2019) at 34, online (pdf): University of Victoria <<https://ajrndotco.files.wordpress.com/2019/03/2a1cbacejusticemetricsmodelsinotherjurisdictions-feb2019.pdf>>.

⁶⁷ *Ibid* at 35.

development of an evaluation plan for the Listen Project in Saskatchewan, while examining the usability of the Framework.

III. IMPLEMENTING THE A2J MEASUREMENT FRAMEWORK IN DEVELOPING THE “LISTEN” PROJECT EVALUATION LOGIC MODEL

A. Context and Description of Applying the A2J Measurement Framework to Justice Sector Projects

In 2018, a report of the Dean’s Forum on Access to Justice and Dispute Resolution (the Dean’s Forum) tackled the idea of adapting the A2J Measurement Framework to address access to justice needs in Saskatchewan. The authors found that Saskatchewan stakeholders have a desire for improved data to better inform service delivery and innovation.⁶⁸ They further confirmed that the barriers outlined above, specifically a general lack of data, lack of defined objectives, and a lack of a coordinated, system-wide data collection process, are present in Saskatchewan and need addressing.⁶⁹ The authors found that a coordinated justice metrics strategy in Saskatchewan has the potential to:

- (1) Evaluate performance to better inform service delivery;
- (2) Measure the effectiveness of justice reforms and new programs or initiatives;
- (3) Increase information sharing between justice stakeholders in Saskatchewan and in other jurisdictions;
- (4) Increase public confidence in the justice system by improving transparency and accountability; and,
- (5) Support collaboration, and help mitigate the effect of potentially conflicting approaches, by better understanding the system as a whole.⁷⁰

They also identified that in order to be effective, a framework should be: (1) *principle-based* in that it “represents the diverse needs and interests of stakeholders”; (2) *implementation-ready*, as in it “should be a tool for stakeholders [to] address the practical challenges inherent in data collection and analysis”; and (3) it should be *sustainable* since “long-term viability is essential if a framework is to be useful.”⁷¹ Some Dean’s Forum attendees reported that the A2J Measurement Framework was comprehensive,⁷² and there was a “general interest in pursuing a similar framework in Saskatchewan.”⁷³ However, stakeholders also thought more consultation would be necessary. Recognizing the Framework as a starting place, CREATE Justice endeavored to implement and test the A2J Measurement Framework in its coordination of the evaluation of the Listen Project.

The Listen Project is a federally funded initiative spearheaded by Saskatchewan’s Public Legal Education Association [PLEA]. Survivors of sexual violence are able to access two (2) hours of free legal

⁶⁸ “Civil and Family Justice Metrics”, *supra* note 2 at 2.

⁶⁹ *Ibid.*

⁷⁰ *Ibid* at 4.

⁷¹ *Ibid* at 14-16.

⁷² McCashin, Santos & Steele, “Follow Up”, *supra* note 11 at 2.

⁷³ *Ibid.*

information and advice from lawyers who have received specific training and supports to provide this service. With PLEA's existing relationship with CREATE Justice at the University of Saskatchewan, and their understanding and acknowledgement of the importance of collecting data to support or refute the effectiveness of a program, evaluation was identified at the outset of the project as necessary and was built into their funding request for the Listen Project. This provided the first opportunity in the country to use the A2J Measurement Framework for the evaluation of a legal service program. The Listen Project thus serves as the "litmus test" for assessing whether the A2J Measurement Framework can provide the guiding foundation for evaluating legal programs. PLEA and CREATE Justice worked collaboratively with a research unit on campus, CHASR, to incorporate the A2J Measurement Framework into an evaluation of the Listen Project. As a university-supported unit, CHASR can often provide non-profit agencies evaluation and other research services at comparatively lower costs than non-academic evaluation consultants. Other non-profits across Canada should consider reaching out to academic institutions to gauge interest and capacity in involvement with evaluation activities, particularly because evaluation data can often assist in securing further funding.

The initial step in evaluating the Listen Project was to identify if existing evaluations or theories of change had been developed. While projects to support survivors of sexual violence that are similar to the Listen Project have been launched in other areas of Canada (i.e., Ontario, Newfoundland), a prescriptive protocol for the delivery or evaluation of the program was not available. At its core, the Listen Project needed to provide legal information and advice to survivors of sexual violence; however, the way in which this is achieved was at PLEA's discretion. Past the immediate activity of providing legal information and advice, PLEA had not yet identified other desired outcomes. These circumstances called for the creation of a logic model to elucidate the program's flow and its theory of change, its component pieces, and its objectives. This would be beneficial for program evaluators, who would be involved with evaluating the program on an ongoing basis, but also for PLEA staff to fully understand the intricacies of their program and to ensure they implemented any measurement of key indicators into their workflow from the outset. Initially, the A2J Measurement Framework was considered within the context of the Listen Project. If the three high-level elements (i.e., improving population access to justice, improving user experience of access to justice, and improving costs) could not be conceptualized as being fundamental values within the program, then it would not have been considered as a valid approach when crafting the logic model. At its core, a "valid" evaluation measures what it is intended to measure and should be believable and true.⁷⁴ The linkages between the Listen Project's processes and objectives and the elements of the Framework needed to make intuitive sense, otherwise even the simplest test of validity (i.e., face validity – does the evaluation *appear* to measure what it is intended to?) would fail.⁷⁵ As the Listen Project provides any survivors of sexual violence with free legal information and advice, the access and cost components of the Framework were decidedly fundamental to the program. The project is available to any survivors regardless of demographic factors such as age, sex, religion, or ethnicity, nor on how much time has passed since the incident. The only qualifying criteria is that the incident occurred in Saskatchewan. The determination of whether improving the user experience was fundamental to the Listen Project was

⁷⁴ M Zohrabi, "Mixed method research: Instruments, validity, reliability and reporting findings" (2013) 3:2 Theory & Practice in Language Studies 254.

⁷⁵ G Auld et al, "Confirming the reliability and validity of others' evaluation tools before adopting for your programs" (2017) 49:5 J Nutrition Education & Behavior 441.

less obvious and was decided based on conversations with PLEA staff about how the program would operate. They explained that their program includes intensive training of lawyers related to sensitivity and diversity to ensure that services can be offered to all clients in a way that is non-discriminatory and respectful. They also had planned to introduce safeguards into the program to allow clients to change lawyers if they had a negative experience. Their goal was to empower the clients and providing a positive experience was critical to that objective.

For the logic model (see Appendix A), the A2J Measurement Framework was considered only in relation to the outcomes. That is, the program inputs and activities were listed solely based on program documents and staff discussion. The outcomes are divided into two streams. The upper half are paths taken by the Listen Project clients, while the lower half is the path taken by the program lawyers. The short-term outcomes for the clients were the objectives that were easily perceived by the program staff. These would be a direct result of clients' access to the Listen Project and would relate directly to improving population access to justice in the A2J Measurement Framework. In fact, the initial outcome of the program is to provide clients with easier access to legal advice. Throughout the program, staff, lawyers, or partner organization staff may also refer clients to other community supports (e.g., housing programs, counselling services, social services), and so an increased knowledge and awareness of these supports is also an initial outcome of the program. Once clients have access to legal advice through the Listen Project, they will gain increased knowledge of the legal system and have increased confidence in their legal advice as well as what legal steps to take regarding their incident of sexual violence.

Of course, the legal consultations do not occur in a vacuum, but are intrinsically linked to the interaction with the lawyer. To illustrate this, a shared box spans the divide between the outcomes of the clients at the top of the logic model and the outcomes of the lawyers at the bottom. It is intended that this interaction will occur in a respectful and non-discriminatory way to ensure a positive experience for clients (an important element of the A2J Measurement Framework). The short-term and intermediate outcomes for the lawyers were conceptualized in relation to both the improving access to justice and the improving user experience elements of the A2J Measurement Framework. They are responsible for providing quality advice to clients and receive training specifically related to sexual violence case procedures and options during their Listen Project training. However, they also need to ensure their clients receive advice in a safe and respectful environment, and so their training also includes a sensitivity/diversity component. As a result of their training, it is anticipated that they will have increased confidence to facilitate the two A2J Measurement Framework elements (i.e., improved access to justice and improved user experience). With experience, lawyers will be better equipped to generate context specific options and strategies for sexual violence cases, and in turn, can provide formative feedback for improving lawyer training and the overall service for clients.

IV. REFLECTIONS AND RECOMMENDATIONS: AN INVITATION TOWARDS COORDINATING COMPARATIVE JUSTICE DATA COLLECTION AND PROGRAM EVALUATION ACROSS CANADA

The A2J Measurement Framework is an exceptional starting place for organizations to apply when designing and implementing an evaluation model for any new, or existing justice sector initiative. The benefits of using a consistent Framework are detailed below and illustrate how a common framework is

necessary. As stated above, the Dean's Forum in 2018 looked at adapting the A2J Measurement Framework. Members of the Dean's Forum thought the Framework was comprehensive, and that it would be a good starting point for Saskatchewan justice sector initiatives.⁷⁶ However, it was also identified that, as a tool, it was not perfect. Dean's Forum stakeholders identified that they wanted "clarity around what elements of a framework would be prioritized (if any), what a framework is meant to facilitate, and what ... measuring justice is meant to accomplish".⁷⁷ Attendees were further interested in measuring the improving costs element holistically, taking into account not just financial costs to the user, but financial costs to the institution, and non-financial costs to the user.⁷⁸ In the context of the Listen Project evaluation, with the focus on improving the informational needs of sexual violence survivors through free access to trauma-informed legal advice, it is important to recognize that when evaluating a project's usefulness, careful thought must be brought at the outset to ensure that the elements of the Framework are applied with thought to the specific needs of the users of the project – here, for example, taking into account the gendered needs of those accessing services. It is also important to remember that when using the Framework to evaluate a program or single initiative, the reason a project such as Listen may be implemented, needs to be understood in the broader context of the obstacles, impediments, and lack of support for victims and, more acutely, gender-based victims, in certain existing legal processes. The application of an A2J Measurement Framework, or any measurement framework, is not a substitute for making substantive changes to the system. It is a tool that forces a program innovator to think carefully at the outset about what it is seeking to achieve, and apply the Framework with an emphasis on those elements it is seeking to achieve. This paper sought to illustrate how the Framework could be used, allowing more flexibility to further adapt the Framework to each project under evaluation.

Using a common framework, in this case, the A2J Measurement Framework, while not perfect, still comes with several advantages: First, using the A2J Measurement Framework will *make research more efficient*, both in terms of time and money, by not duplicating the work of others. In developing the A2J Measurement Framework, a research team has already taken the time to create a framework that organizes each component into dimensions and elements. Recreating this work would take a large amount of time and effort, not to mention a resulting cost.

Second, using the Framework makes it *easier to compare successes and failures across jurisdictions*. Researchers now have the ability to measure the same outcomes, and therefore create real comparisons. This is even better if you can use the same (or similar) metrics. By using a consistent framework, multiple projects can be tracked and evaluated almost simultaneously to provide information about the quality of each project. This will allow multiple jurisdictions and areas to learn from each other, and to work towards improving programs across the country.

Third, *better research quality* will undeniably result from using the Framework. It is often easier to identify gaps in someone else's work; therefore, researchers can look at the existing Framework and identify components that are missing (either in general or in a specific context). For example, with a medical-legal partnership project that involves inserting a lawyer into a clinic in an area that is populated by elderly residents, the specific needs of seniors in the dimension "fair and equitable access to justice" needs to be considered. Another consideration would be potentially improving the costs of healthcare

⁷⁶ McCashin, Santos & Steele, "Follow Up", *supra* note 11 at 2.

⁷⁷ *Ibid* at 3.

⁷⁸ *Ibid*.

delivery under “other costs.” Additionally, the general A2J Measurement Framework can be adapted to develop a framework that is *specific* to medical-legal partnerships, which is currently being considered by the National Measuring Impact Expert Advisory Committee for Medical-Legal Partnerships.⁷⁹ Researchers might need to add whole elements of “improving user experience of healthcare” and “improving health outcomes”, but these can be modelled on existing elements. The existing A2J Measurement Framework makes it easier to develop and reduces the chances of missing something critical.

Finally, using the same Framework across jurisdictions and disciplines will open the door to *more collaborative opportunities*. Using a shared Framework promotes discussion and interaction among research teams. A shared Framework also provides a starting point for the conversation, for example, asking the following questions of other research teams: what did you add or remove and why? How have you improved on the Framework? What other contexts does this apply in? What have you learned from using it that I can bring into my work? Additionally, it provides a shared language for researchers and for publication outlets, which reduces barriers to sharing information. Importantly, a shared Framework also promotes reflection on one’s own work by asking some of the following questions: why are we measuring this? Do I need this in my work? Why are we getting different results on this component? Why are we getting similar results despite hugely different contexts?

There is an incredible opportunity for innovation. Taking the Framework forward, it would perhaps be beneficial to investigate using it to launch a national data collection and comparison project.⁸⁰ This project could use the A2J Measurement Framework, as a common tool to evaluate and compare across jurisdictions. Ideally, a nationally adopted Framework would include adaptability for certain projects, and performance metrics requirements to begin to assign numerical values in certain categories that warrant a numerical score. If there were numerical metrics, even if this is perhaps only for the costs dimension, this would provide an efficient and rapid way to economically evaluate access to justice programs in Canada. While the A2J Measurement Framework provides a solid foundation for evaluating access to justice projects, it will need to be adapted if we want to use it at the national scale. This may include flexibility for different project aims, and for different “types” of projects, depending on their overall mission and purpose. It may also include assigning numerical metrics at least to some components to enhance efficiency in comparison between jurisdictions or over time. The A2J Measurement Framework provides a complete foundation for these future innovations to proceed, and to grow the Framework to the national level.

Finally, it is important to recognize that although there are many benefits to using the A2J Measurement Framework, not every element of the Framework will apply to every project. For example, a project focused on improving the experience of users undertaking a particular legal process may not be trying to increase awareness of this existing process to new users. However, the Framework provides flexibility, allowing the creation of evaluation models that adapt to the purpose of projects.

⁷⁹ Funded by Law Foundation of Ontario, the National Measuring Impact Expert Advisory Committee for Medical-Legal Partnerships is developing evaluation frameworks for such partnerships. The Committee is considering the A2J Measurement Framework in the development of its own evaluation tools.

⁸⁰ Since the Action Committee Metrics Working Group was also established in 2018, there has been interest in developing a cross-jurisdictional justice-sector project that could compare outcomes and impacts.

V. CONCLUSION

This paper has endeavored to explore *why* we need to evaluate programs with the A2J Measurement Framework, and *how* we can use it. An A2J Measurement Framework is needed to increase efficiency, as well as to enhance comparative justice data across jurisdictions. While many organizations, collaborations, and individuals are committed to responding on the access to justice crisis, it is difficult to know whether our innovations are successful, unless we can define, design, track, and evaluate the success of these interventions. The description of the Listen Project evaluation provides an example of how the A2J Measurement Framework can be used to inform program development and evaluation.

While the A2J Measurement Framework has some limitations, it allows for flexibility in its application, and brings an access to justice focus to existing evaluation frameworks that may be aimed at achieving other non-access to justice-related goals or objectives of the project. This being said, there is no need to completely reinvent the wheel. The A2J Measurement Framework is a great foundation to begin to inform more coordinated and consistent justice data collection and program evaluation across Canada. The A2J Measurement Framework provides a common language and begins to show how, with its flexibility, justice organizations across the country can evaluate justice projects for continuous improvement, and positively contribute to improving access to justice for users of the justice system.

Appendix

a. Listen Project Logic Model

