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Legal Aid Service Delivery in Rural and Remote Communities across Canada: Issues and Perspectives in the Context of COVID-19

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HIGHLIGHTS

- This research involved both a literature review and telephone interviews with one or more respondents from each province/territory. Respondents were either directly involved in or had oversight of delivery of legal services in rural and remote areas of their jurisdictions.
- Legal services clients in rural and remote areas are predominately Indigenous persons, males with criminal law matters, seniors, and women with family law matters.
- The most common legal problems for these groups are criminal and family law-related, followed by housing/landlord-tenant issues and other poverty law matters.
- Difficulties associated with living in rural and remote locations include lack of connection to the Internet or ability to use it, lack of income to afford the necessary technology to engage with legal services, and lack of physical spaces or locations such as public libraries in which to use technology near their place of residence.
- The lack of public and private transportation in almost all jurisdictions is a primary obstacle to problem resolution.
- Partnerships with social, health and mental health organizations are essential for providing necessary services in rural and remote areas.
- Use of Public Legal Education and Information (PLEI) services (either online or in agency/public libraries) is often limited by users' ability to use technology and undertake research.
- The challenges to the provision of services in rural and remote areas are the lack of resident lawyers and judges, and availability of effective modalities for communicating with clients in lieu of face-to-face meetings.
- Despite the rapid adoption of technological solutions as a result of pandemic measures, providing services to technologically-challenged individuals in rural and remote areas will continue to require either in-person or low-tech (e.g., telephone or video) communication mechanisms.

EXECUTIVE SUMMARY

This report presents research findings on the delivery of legal aid and associated legal services to persons living in rural and remote areas of all provinces and territories. It is based on a review of the literature and interviews with 17 key respondents (with one or more from each jurisdiction) who were either directly involved in or had oversight of delivery of legal services in rural and remote areas of their jurisdictions. For the purposes of this project, the definition of rural and remote was:

Rural population: Persons living outside of the commuting zone of urban areas with 10,000 or more people.¹

Remote communities: Those that have a degree of isolation from neighbouring communities. The availability of commercial transportation between communities is a significant determining factor.

Key findings from the literature review and the key respondent interviews are shown below. Although listed separately, the findings should not be seen as solely derived from one or the other methodology, as there was frequent overlap and reinforcement between the two sources of information.

Key Findings from the Literature Review

- Legal services clients in rural and remote areas are predominately Indigenous persons, males with criminal law matters, seniors, and women with family law matters. The first two categories often overlap.
- The literature review highlighted difficulties with access to services and technology for many clients in rural/remote areas. Difficulties include lack of connection to the Internet, lack of income to afford or the ability to use technology necessary to engage with legal services, and lack of physical spaces or locations in which to use technology.
- Partnerships with other agencies – both for transportation and problem resolution – are key to providing necessary services in rural and remote areas. Various forms of partnership are described in the literature, including women’s centres, libraries, community legal clinics and community social, health and mental health centres.
- Promising technological approaches include apps for legal service users, and the installation of video suites in service locations to facilitate communication between legal service providers and clients.
- Two Canadian Bar Association reports suggest prioritizing the expanded use of remote proceedings and technology to support target groups in rural and remote areas. Other reports advocate incentivizing law students to practice in rural locations, developing stronger alliances with local non-legal service providers and providing mobile outreach services.

¹ See also the Statistics Canada definition of rural areas at: <https://www12.statcan.gc.ca/census-recensement/2021/ref/dict/az/Definition-eng.cfm?ID=geo042>

Key Findings from Interviews

- Primary issues were criminal and family law-related (approximately half the issues), followed by housing/landlord/tenant matters and other poverty law issues (each at approximately a quarter of issues)
- The degree to which the two official languages and several Indigenous languages are spoken varies considerably across the country, as does the availability of translation services – both formal and informal.
- The provision of minority language services related to legal processes varies considerably across the country.
- A shortage of lawyers and judges who live in the community, as well as options for communicating with clients in lieu of face-to-face meetings are two key challenges in the organization and funding of legal aid for rural and remote areas.
- Transportation – the lack of public and private transportation in almost all jurisdictions is a primary obstacle to problem resolution for residents in rural and remote areas.
 - Although PLEI services (either on-line or in agency or public libraries) are quite widely available, their use is often limited by users’ ability to use technology and undertake research.
 - There have been few monitoring and evaluation initiatives put in place to assess legal services provision in rural and remote areas.
 - The pandemic initially reduced the overall number of legal cases because courts were shut down. Therefore, overall service costs were reduced. As public health measures eased and courts resumed regular operations there were significant backlogs and long dockets in small communities, putting major stress on fly-in lawyers and local staff.
 - The use of remote technology became more common and accepted during the pandemic, and many aspects of remote delivery of legal services are convenient for both lawyers and clients. However, technological solutions are not a panacea for persons living in rural and remote areas. These clients often have poor access to the Internet, cannot afford technology and/or lack the technical skills to use it. These clients will continue to need assistance either in-person or with low-tech (e.g., telephone or video) mechanisms in the post-pandemic period.

PART A: INTRODUCTION

The objective of this study is to better understand the issues, challenges, and promising practices with regards to legal aid service delivery in rural and remote areas in Canada. The study aims to address the following research questions:

- What are the demographic characteristics of those accessing legal aid in rural and remote regions; the type of challenges they are facing and how have these challenges been addressed by legal aid plans?
- What are the legal needs of legal aid clients living in rural and remote areas?
- What are the type of legal services available for legal aid clients living in rural and remote communities?
- What are the types of technology available for legal aid clients living in rural and remote areas to access legal aid and the court system?
- To what extent do legal aid clients who speak a minority official language or Indigenous languages have access to services in their language of choice in rural and remote areas?
- What are the challenges legal aid plans are facing in providing legal services in rural and remote areas, and what initiatives have been put in place to incentivize/facilitate legal aid lawyers to provide services in rural and remote areas?
- What are the costs/funding available for providing legal aid in rural areas in comparison to urban centres, and has this been impacted by COVID-19?
 - How has COVID-19 impacted access to legal aid services and the courts for those who live in rural and remote areas?
- What is the impact of the increased use of technology in the provision of criminal legal aid in rural regions including:
 - The impact of increased government funding to improve Internet access in rural regions across Canada
 - The type of clients that are having the most difficulty with technology and the reason for these difficulties
 - The type of technology used by legal aid plans in providing legal services remotely to legal aid clients
 - The impact of these technologies on the relationship between legal aid lawyers, legal aid staff and their clients.

Two data collection methods were used to address the overarching objective and these research questions. The first was a review of the literature – primarily in Canada, but tangentially in other jurisdictions – on rural and remote delivery of legal aid and legal services. The bibliography that resulted from this review is in Appendix 1, and the findings are presented in Part C of this report.

The second method was key informant interviews. Telephone interviews were conducted with 17 key respondents from each of the provinces and territories. These respondents were either directly involved in or had oversight of delivery of legal services in rural and remote areas of their jurisdictions. They included executive directors and managing lawyers of provincial or regional Legal Aid offices and community clinics, executive directors with pro bono organizations and law foundations, and community engagement coordinators for legal aid bodies or law foundations. They were selected because of their knowledge of delivery issues to rural and remote areas of their province/territory, based either on their direct activities, their oversight role, and/or

their geographic location in the province or territory. While respondents were identified based on their experience relevant to this study, due to the small sample size their responses are not intended to be representative of any larger population of legal program administrators.

The interview guide (see Appendix 3) was built directly around the research questions, and was developed in interaction with the steering committee for this study and focussed on the three areas described above:

- 1) a description of clients in rural/remote areas, their needs and challenges;
- 2) service provision issues in rural and remote communities of their jurisdiction; and
- 3) impacts of the pandemic in their jurisdiction.

PART B: LITERATURE REVIEW

The focus of the literature review was on the demographics and legal needs of individuals in rural and remote areas, their relationship with and mastery of technology, the range and nature of legal/social services available to these populations, challenges in the delivery of these services, and the use of technology to provide legal services.

1. Legal Services Users

The literature on the demographics and legal needs of legal services clients in rural and remote areas indicates that they are predominantly Indigenous persons, males with criminal law matters, seniors, and women with family law matters. Cohl and Thomson state that rural and remote areas are comprised of a disproportionate number of single mothers, Aboriginal people, people with low educational attainment and elderly, disabled or unemployed individuals.² The literature reviewed suggests that in some cases these issues can be closely related. For example, in an article about enhancing access to justice for women in rural and remote areas of BC, Skinnider and Montgomery state that women living in remote areas and who decide to leave the family home are at increased risk of experiencing multiple forms of disadvantage, such as debt, housing, employment, social assistance, additional family problems, and legal actions.³

In other situations, the legal issues can be more diverse. Referring to legal needs encountered in the voluntary clinics that travel to Puvirnitug and Salluit in Nunavik in the period 2017 – 2019, Beudet-Centomo and Leggett-Bachand stress the multiplicity of legal issues, including family law, administrative law, general civil wills and estates, child protection and consumer law.⁴

In terms of the extent to which technology is used by legal service users in rural and remote areas, a 2021 Council of Canadian Academies study emphasizes the “digital divide” between Indigenous communities and non-Indigenous communities. The authors argue that while the digital divide often refers to urban regions

² Cohl, Karen and George Thomson, *Connecting Across Language and Distance: Linguistic and Rural Access to Legal Information and Services* (Toronto: Law Foundation of Ontario, December 2008) [The Connecting Report-2008 \(1\).pdf](#)

³ Skinnider, Eileen and Ruth Montgomery, *Enhancing Access to Justice for Women Living in Rural and Remote Areas of British Columbia: Reviewing Practices from Canada and Abroad to Improve Our Response*. For International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR). (2019) p. 12. [BCLF-WA2J-Report-Final.pdf \(icclr.org\)](#)

⁴ Beudet-Centomo, Chloé and Nancy Leggett-Bachand. *Justice Pro Bono. Clinique juridique bénévole au Nunavik Puvirnitug et Salluit - Mai 2019. Rapport et observations de Justice Pro Bono* p. 4. <https://justiceprobono.ca/wp-content/uploads/sites/2/2019/10/rapport-justice-pro-bono-puvirnitug-et-salluit-2019.pdf>

having better connectivity than rural and remote ones, there is also a substantial connectivity gap between Indigenous communities (in urban as well as rural and remote areas) and non-Indigenous communities.⁵ However, this pattern may vary by province. A study by the B.C. Legal Services Society found that up to 90% of Indigenous family legal aid clients have smart phones.⁶ In a 2020-21 study of remote legal services in Alberta, Stevenson stated that the digital divide was identified by all survey participants and many resources online as the most significant barrier to access to remote legal services for marginalized individuals. She referred to a Canadian Radio-Television and Telecommunications Commission (CRTC) report that stated that all Canadians, whether at home, at work, or on the road, should be able to connect their phone using LTE and should have an Internet connection with access to broadband speeds of at least 50 Mbps download and 10 Mbps upload and access to unlimited data. The CRTC report states that nearly 86% of households overall have that level of service currently, but in rural areas only 40% do. The CRTC data shows that in First Nation communities, approximately 30% of households have Internet connections with the recommended speed.⁷

2. Service Provision

This section describes findings from the literature related to the legal services and related social/health services that improve accessibility and contribute to positive resolution of legal issues in rural and remote areas. It is important at the outset to frame the discussion of innovations within the context of the significant limitations currently imposed by poor or non-existent connectivity in northern and remote parts of the provinces and territories.

In 2021 Legal Aid BC published a literature review and final report on achieving digital equity in access to justice, authored by Kate Murray.^{8,9} The literature review describes BC's "urban-rural divide" in connectivity, and refers to similar patterns nationally:

... province-wide connectivity trends do not extend evenly to households in rural and Indigenous communities. Nationally, Statistics Canada reports that households in rural areas are almost twice as likely to not have home Internet access and are almost 10 times more likely to cite Internet quality as the reason for not having Internet at home (Statistics Canada, 2019d). In BC, only 36% of rural communities and 38% of rural Indigenous communities have access to 50/10 Mbps Internet speeds (Government of British Columbia, 2021a). Download speeds are slower in rural communities than in urban areas; in 2015, BC's rural download speeds were, on average, 6.1 Mbps slower than in urban communities (KPMG, 2019). In recent research with indigenous

⁵ Council of Canadian Academies Waiting to Connect: The Expert Panel on High-Throughput Networks for Rural and Remote Communities in Canada. (2021), p. xxiii. https://cca-reports.ca/wp-content/uploads/2021/10/Waiting-to-Connect_FINAL-EN_digital.pdf

⁶ Skinnider, Eileen and Ruth Montgomery. International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR). Enhancing Access to Justice for Women Living in Rural and Remote Areas of British Columbia: Reviewing Practices from Canada and Abroad to Improve Our Response. (2019), pp 62-63. [BCLF-WA2J-Report-Final.pdf \(icclr.org\)](https://www.bclrf-wa2j-report-final.pdf)

⁷ Stevenson, Flora. Remote Legal Services to Low-Income Albertans: Challenges and Best Practices. Final Report. Alberta Law Foundation June 30, 2021, p.16. <https://albertalawfoundation.org/wp-content/uploads/2022/08/RemoteLegalServicesinAlbertaReportJuly122021.pdf>

The CRTC report to which she refers is at Canadian Radio-Television and Telecommunications Commission, Broadband Fund: Closing the Digital Divide in Canada (2021)

⁸ Murray, Kate M. Digital Equity in Access to Justice: A Review of Literature May 2021. <https://legalaid.bc.ca/sites/default/files/2021-07/KMurray%202021%20ADE%20Literature%20Review-Full%20Report-FINAL.pdf>

⁹ Murray, Kate M. Achieving Digital Equity in Access to Justice: Final Report, October 2021. https://legalaid.bc.ca/sites/default/files/inline-files/Murray_2021_LABC_Achieving_Digital_Equity_Final_Report_0.pdf

communities across the province, the Union of BC Indian Chiefs (UBCIC) has described how many rural communities' outdated and substandard connectivity infrastructure results in "limited bandwidth and poor reception causing interruptions in both Internet and telephone services" (UBCIC, 2020, p. 15).¹⁰

In her final report, Murray also summarizes statistical data about the challenges experienced by different socio-economic categories of users drawn from a survey of BC residents for the Achieving Digital Equity study:

*Looking for legal information online presents challenges for those in lower income households, especially among those 65 and older.... When compared with those in moderate to high income households, it becomes even clearer that those in lower income households are less inclined to look for legal information and help online, are less confident in their ability to find and understand that information (including where to start looking and not being confused or overwhelmed by the information found) and are less apt to have a private space to use the Internet for this purpose. This survey also found that formal education (completion of post secondary schooling) is related to increased confidence, trust, and willingness to search for legal information online.*¹¹

The services offered to clients in rural remote locations include – but are not limited to – full legal aid representation by staff and private bar lawyers for adult and youth criminal matters, civil applications (e.g., child protection, family matters, and in some cases immigration and refugee matters.)¹² While approval of legal aid for these types of matters is universal for persons who meet the income requirements in their jurisdiction, the key issue is the range of services available in rural and remote areas to facilitate access to legal aid, and/or to provide alternative or complementary assistance to resolve both the primary and related issues.

The literature describes service settings and modalities that address a wide variety of legal issues and may be effective in connecting users in rural and remote areas to needed resources. Abramowicz praises the Ontario community clinic model for providing a range of services, "... under one roof, as part of a coordinated, holistic response to the legal needs of the poor in a particular community."¹³ Insofar as these clinics are situated in all regions in that province, there is at least the potential to serve clients from remote locations in these communities. Many of the clinics have additional satellite offices to facilitate service to a broader geographical area. For example, the Keewaytinok Native Legal Services Clinic is based in Moosonee, Ontario, but lawyers travel to Moose Factory (across James Bay) once a week to provide legal services to those in the First Nations community.

In a review of access to justice for women living in rural and remote areas of BC, Skinnider and Montgomery describe an extensive array of justice services in B.C. (e.g., PLEI, legal advice and representation services, provincial justice services, and supports for advocacy services). The authors note that although there is some

¹⁰ UBCIC. (2020). Concerns Expressed by the UBCIC Membership in Relation to COVID-19, & Requests for Advocacy and Recommendations for Policy Reforms. The Union of BC Indian Chiefs. [UBCIC_COVID-19_Report_-_Without_appendices.pdf](https://d3n8a8pro7vhmx.cloudfront.net/UBCIC_COVID-19_Report_-_Without_appendices.pdf) (d3n8a8pro7vhmx.cloudfront.net)

¹¹ Murray, loc cit at note 33, p. 15.

¹² For background matters covered by Legal Aid, see Research and Statistics Division and Legal Aid Directorate, Dept of Justice Canada, 2021, Legal Aid in Canada 2019-2020, page 10. https://www.justice.gc.ca/eng/rp-pr/jr/aid-aid/1920/docs/RSD_RR2021_Legal%20Aid%20in%20Canada%202019-20.pdf

¹³ Abramowicz, Lenny. "The Critical Characteristics of Community Legal Aid Clinics in Ontario." Journal of Law and Social Policy 19. (2004): 70-81 <https://digitalcommons.osgoode.yorku.ca/jlsp/vol19/iss1/5>, p.78

literature that focusses on access to justice for Indigenous women in rural and remote areas, the literature is much more limited in relation to other minority groups. A sampling of public legal information services includes the Justice Education Society, Clicklaw B.C., Courthouse Libraries B.C., People’s Law School, Battered Women’s Support Services and Parent Support Services. Legal advice and population services include community-based services provided by B.C. Legal Services (now Legal Aid BC), Access Pro Bono, Family Justice Centres and advocacy/research services. Although physical outreach services to specific rural/remote locations are usually not formally defined, a few services such as Community Partners of Legal Aid BC have explicitly been designed for that purpose.¹⁴ In addition, many services such as Battered Women Support Services are provided in small or rural communities around the province.

In the US context, Statz describes community rural librarians as a form of access that Access to Justice scholarship has so far largely neglected. She refers to one librarian in a very rural location who would be open to sponsoring a legal clinic one evening a week, claiming that it is accessible and is a setting in which rural residents feel comfortable.¹⁵

The role of libraries and librarians as sources of legal assistance for self-represented litigants or limited scope retainer litigants has been strongly advocated in Canada as well, both generally and in relation to rural and remote areas. Bilson, Lowenberger and Sharp refer to the work of John Malcomson¹⁶ and state:

Malcomson argues for ‘the approach of technology with a helper’ where an intermediary, such as a librarian, is connected with the technology, and can thereby improve a patron’s access to it. This is especially necessary given the aforementioned lower level of literacy and inadequate technological skills among some individuals in rural and remote areas. Seeking assistance from an intermediary is crucial for SRLs [Self-represented Litigants] and LSR [Limited Scope Retainer] clients using online legal resources in rural and remote areas. Since SRLs (and by extension, one can imagine, LSR clients) generally only identify legal problems with the assistance of a service provider, a trusted intermediary’s guidance with offline legal resources can be just as valuable.¹⁷

In a 2015 report for the Community Advocacy and Legal Centre in Ontario on the role of librarians and A2J outreach, Michele Leering described eight steps in a provincial “scaling-up project,” the last of which was:

Sharing of our emergent knowledge about how to overcome the barriers in rural and remote communities and build strong partnerships by uploading information to the PLE [Public Legal

¹⁴ Tim Roberts and Associates. Helping People Navigate the Justice System: An Evaluation of Community Partners (Part 1) Legal Aid BC (2022). https://legalaids.bc.ca/sites/default/files/2022-02/Evaluation-of-Community-Partners-Report-Part-1-%28Jan2022%29_0.pdf

¹⁵ Statz, supra at note 7, p. 45.

¹⁶ Malcomson, John, Voices from the Field: “Needs Mapping Self-Help services in Rural and Remote communities”. British Columbia: Supreme Court Self-Help Information Centre, 2008 at p. 11

¹⁷ Bilson, Beth, Brea Lowenberger and Graham Sharp, “Reducing the ‘Justice Gap’ Through Access to Legal Information: Establishing Access to Justice Entry Points at Public Libraries”. *Windsor Yearbook on Access to Justice* 99, 2017 CanLIIDocs 49, <https://canlii.ca/t/790>, p. 111.

Education] Learning Exchange. A special section of the PLE Learning Exchange devoted to libraries could be very helpful.¹⁸

A report from Ontario's Boldness Project widens the discussion of partnerships even further as an effective way of serving individuals in rural communities, stressing the advantages of team models used in the health field to provide holistic care to serve the elderly and persons with mental health needs. The report states that by leveraging the community networks of rural communities and working collaboratively with service-providers in other fields (e.g., in providing joint transportation services, it may be possible to reach out to people who would otherwise go without support.¹⁹ A report by the Canadian Centre for Policy Alternatives advocated a "one-stop shop" delivery model to meet a cross-section of legal needs, including direct representation for those outside financial eligibility for legal aid, or where the matter is not covered by legal aid:

If a one-stop shop is established, priority should be given to including rural and Northern Manitoba, where either there are no services currently available, or the gap in service delivery is significant as compared to urban centres. This could mean making use of technology and developing a digital access to justice strategy. The use of satellite clinics and operations in a hub and spoke model of one-stop shops may also present opportunities to increase services across a broader population of Manitobans.²⁰

In a 2014 review of legal aid in Newfoundland and Labrador, John F. Roil recommended that the Legal Aid Commission partner with other agencies in a different way i.e., in the use of information technology:

The Commission needs to improve its information technology structure and develop more modern approaches to service delivery. Communication in remote areas should be a priority and partnering opportunities with other stakeholders in the justice system should be sought to share costs. More web page information would be an important tool in communicating with the public not only the various services available, but also profiles or information on the experience and skills of its representatives. The LAMIS [Legal Aid Management Information System] system must be reviewed to ensure it is still relevant, user-friendly and up to date.²¹

Discussing service provision challenges in rural and remote areas, Baxter & Yoon review four sets of policies to promote legal practices in these markets. They include location incentives to lawyers to practice in rural and remote areas (as exist in Manitoba), place-based education targeting applicants with pre-existing ties to rural and remote communities (as practiced by Lakehead University in Thunder Bay), succession planning/recruitment

¹⁸ Leering, Michele, Librarians and Access to Justice Outreach: Project Report and Resources, for Community Advocacy and Legal Centre, October 2015, p. 14. www.communitylegalcentre.ca/news/2015/librarians-and-access2justice-report.pdf

¹⁹ Canadian Forum on Civil Justice. Rural & Remote Access to Justice: Application Research (2015). Prepared for the Rural and Remote Access to Justice Boldness Project, p.14

²⁰ Fenske, Allison, Beverly Froese. Justice Starts Here: A One-Stop Shop Approach for Achieving Greater Justice in Manitoba. Canadian Centre for Policy Alternatives Manitoba. November 2017, pp 80-81. <https://mra-mb.ca/publication/justice-starts-one-stop-shop-approach-achieving-greater-justice-manitoba/>

²¹ Roil, John F. External Review of Legal Aid in Newfoundland and Labrador, Volume 1. St. John's: Government of Newfoundland, March 2014, p. 109. <https://www.gov.nl.ca/jps/files/publications-pdf-legal-aid-review-march2014.pdf>

within law firms, and network building to link lawyers in a way that allows them to offer a broader and more flexible array of legal services in a given locale (e.g., Alberta’s SoloNet Pilot Project).

The authors stress that lawyers’ substantive areas of practice matter as much as their physical location. They state that:

... general incentive programs of the type deployed to date are likely to be blunt instruments that would better serve rural and remote clients by targeting specific practice areas where localization matters the most ... Second, location incentives might build in considerations about recruits’ geographic scope of practice by including bonuses for individual lawyers or law firms that provide legal services across a certain range of practice specialties. Similar strategies of “practice bonusing” have been employed in the health care field with some success.²²

Legal Aid BC’s Community Partners program funds part-time workers in social agencies in rural/remote areas across the province who assist individuals to resolve their legal problems either through referral to a Legal Aid office, to PLEI resources, or to social agencies.²³

A 2015 Canadian Bar Association report stressed the need to set what they refer to as “coverage and eligibility benchmarks”, i.e., standards. A sample coverage benchmark

“... prioritizes assistance to persons at site and those with complex needs. This includes people with a disability, people in remote areas, people from non-English and/or non-French backgrounds, homeless people...”²⁴

One of the sample eligibility benchmarks was

... legal aid providers must take into account special circumstances making it difficult to obtain legal assistance. Special circumstances include language or literacy problems, intellectual, psychiatric or physical disabilities, a person’s remote location or status as a prisoner, or where the person is otherwise at risk of social exclusion.²⁵

A CBA report from 2021 described how remote proceedings have generally been successful in meeting many of the needs of courts, administrative tribunals, other dispute resolution bodies, mediators and arbitrators during the COVID pandemic:

²² Baxter, J. & Yoon, A. “No Lawyer for a Hundred Miles? Mapping the New Geography of Access of Justice in Canada”. Research Paper No. 74 Vol. 10/ Issue. 16/ (2014). What is access to justice? Osgoode Hall Law Journal, 52(1). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2513871

²³ Tim Roberts and Associates, *supra* at note 13, *passim*

²⁴ Canadian Bar Association, “What do we Want? Canada’s Future Legal Aid System: Background on National Legal Aid Benchmarks” (2015), p.64 https://www.cba.org/getattachment/Sections/CBA-Access-to-Justice-Committee/Resources/Resources/2015/What-Do-We-Want-Canada%E2%80%99s-Future-Legal-Aid-System-e/Benchmarks_Backgrounder.pdf

²⁵ *Ibid*, p. 80.

Generally there is a recognition that remote proceedings have been successful – especially for appeals, matters with lesser monetary value and less complex matters. Videoconference platforms for remote mediations, arbitrations and hearings, while not always ideal because of technical challenges, ensure some level of continuity for the justice system. Working remotely also increases access to justice by eliminating geographical and financial constraints for some parties (income loss for time off work, travel costs, etc.).

Electronic filing of court documents (via secure drop box, online portals, emails, etc.), as well as payment of court fees by telephone are widely seen by lawyers as major steps forward. Virtual witnessing of wills and powers of attorney was also a welcome change.²⁶

Among many recommendations, the report concluded:

All dispute resolution bodies (courts, tribunals, boards, etc.) should permanently implement the following measures to improve access to justice, modernize and address long-standing challenges in the justice system:

a) Remote (video, online, telephone) proceedings should be available for settlement conferences, examinations for discovery, various hearings, motions, trials and appeals. Remote proceedings should continue especially for procedural, uncontested, shorter and less complex matters. While the court, tribunal or other dispute resolution body should ultimately decide if a matter is to proceed remotely, the parties should be given an opportunity to be heard and present their position on proceeding remotely.

b) Electronic filings (via secure drop box, online portals, email, etc.) of court documents and acceptance of service by email.

c) Ability to remotely view hearings, trials or motions via an online platform (e.g., Zoom, YouTube) (subject to addressing the concerns outlined in this report).²⁷

These recommendations should also be seen in the constraining context of the “digital divide” that exists in most northern and remote locations, as discussed in section 2 (p. 7) of the current report.

A report by the Canadian Forum on Civil Justice provides several examples in BC, Manitoba and Ontario of intake and financial supports in training law students to increase the professional presence of lawyers in remote areas. For example,

²⁶ Canadian Bar Association. No Turning Back: CBA Task Force Report on Justice Issues Arising from COVID-19. 2021),pp 8-9. https://www.cba.org/CBAMediaLibrary/cba_na/PDFs/Publications%20And%20Resources/2021/CBATaskForce.pdf

²⁷ Ibid, p. 25. At pages 9 and 10 of the same report, a number of concerns were raised, e.g., complex, sensitive matters with many witnesses and experts are more difficult to conduct remotely; the need to adopt remote measures to address access, child support and preservation orders; e-hearings by professional regulatory bodies were effective for certain types of disciplinary matters but not as effective for complex ones involving allegations of physical or sexual assault; For criminal matters normally held in a courtroom, counsel can walk to the prisoner’s dock for a short discussion; online platforms make it harder for bullied, abused or less outspoken individuals to speak up in family law cases; seniors can struggle with technology; lawyers may have difficulty visiting a hospital with an outbreak to see a dying client to sign a will; informal remote proceedings can create a lack of appreciation for the seriousness and decorum of the justice system.

The approach to increasing the professional presence of lawyers in Northern Ontario has been difficult. Instead of financially incentivizing students or young lawyers to move from the city to rural areas, Lakehead University, located in Thunder Bay, created its own Faculty of Law in 2013 to source and train lawyers who have rural backgrounds, and are more likely to stay and practice in the communities they have ties to. This model of legal education follows a "place-based" methodology that meets the challenges of placing lawyers in rural areas by sourcing them from those areas to begin with.²⁸

In northern parts of jurisdictions, in addition to the problem of connectivity in rural and remote areas, the challenges of remote delivery can be related to the weather (e.g., it is too cold for travel), to local customs (e.g., people are away hunting or fishing), or to availability of facilities. Consultation and coordination with local authorities are therefore essential. In a description of service delivery to Kuujjuaq and Puvirnitug in Northern Quebec, Chloé Beaudet-Centomo and Nancy Leggett-Bachand described advance contacts with secretary-treasurers in small community offices, who would promote the impending visit of volunteer lawyers and notaries to their local council and local radio. For their part, the visiting lawyers would commit to two consecutive sessions in the communities to ensure continuity of the dossiers they were handling.²⁹

Another more local approach to servicing remote areas is the Wellington County Mobile Legal Service, a law van that operates in outlying communities and is staffed by outreach workers with Skype connections to a lawyer, paralegal and community legal worker.³⁰ A similar mobile service serves outlying areas near Montreal.

The Boldness Project is specifically designed to address justice challenges in rural and remote communities in five regions of Ontario. Its many project activities include:

- Enhancing legal professional presence and capabilities
- Providing more varied legal services and services in more areas of law
- Creating alliances with health care providers
- Erasing geographic boundaries between four clinics to expand the client service menu
- Identifying and training "Sheila's" in rural and remote areas (i.e., trusted persons to help individuals with legal issue identification and connection to legal resources)
- Creating an app that will allow a range of users to improve their access to justice.³¹

The literature offers many examples of innovative uses of technology to address legal needs in rural and remote areas. Writing from an international perspective but with clear relevance to most Canadian jurisdictions, in 2021 the Open Society Justice Initiative developed a guide for legal service providers about technology that can be used to provide legal services remotely. In addition to describing various types of accessible technology, the

²⁸ Canadian Forum on Civil Justice. Rural & Remote Access to Justice: A Literature Review (2015). Prepared for the Rural and Remote Access to Justice Boldness Project., p.45.

²⁹ Supra at footnote 4, p. 3.

³⁰ Law Foundation of Ontario. Fueling legal help for rural and remote communities. July 13, 2021, p.2

³¹ Supra at footnote 1, pp. 20-21.

guide describes best practices for protecting client data and privacy online, and for managing access to courts during the pandemic.³²

The Boldness Project in Ontario describes various applications that might be used effectively on smart phones to serve as a prototype for a “rural access to justice” app. The examples are drawn from many countries (e.g., Canada, Australia and the U.S.) and include both law-related (e.g., legal dictionary, location of nearest legal aid office) and medical apps (e.g., location of mental health centres or medical clinics). The main function of each app, its uses, and strengths and weaknesses are described.³³

PART C: RESPONDENT INTERVIEWS

This part of the report outlines the findings from the 17 semi-structured interviews. The interviews included questions about legal services clients, the services that are provided, and the impacts of COVID-19. They are qualitative descriptions based on the experience of the persons interviewed.

1. Legal Services Users

1.1 Characteristics

This section presents key respondents’ descriptions of the demographic characteristics of typical legal aid clients in rural and remote areas. Indigenous people are identified as a primary clientele or group in virtually all jurisdictions, except for two eastern jurisdictions where overall Indigenous populations are small. Indigenous people form the dominant clientele group (over three-quarters) in the three northern territories and a significant clientele group in northern and more rural parts of most provinces. Interviewees reported that these Indigenous clients are usually young males ages 20 – 35 requiring criminal representation.

Seniors are often characterized as having proportionately higher legal aid needs in rural or remote areas than in urban areas. This is seen in part to be a result of the tendency for younger people moving to urban areas for employment or leaving temporarily to work in camps. In addition, in rural areas in the north, younger family members are often temporarily absent while working in camps. This means that seniors are unable to rely on younger members of their family for assistance in completing forms, accessing forms, using technology, or for transportation when they are no longer able to drive.

Interviewees also noted that women are a significant clientele, primarily in family law issues, and often in the context of abusive relationships and/or with significant economic challenges. In several jurisdictions, women with family law issues form the second most frequent category of applicant. In two jurisdictions they are the largest clientele group. One of these jurisdictions reported a high proportion of women in drug-related cases.

Immigrants were not noted as a significant client group in rural areas, except in three jurisdictions, two of which had sub-jurisdictions where there is significant agricultural fruit production. Similarly, LGBTQ2S+ individuals

³² Burnett, Matthew (Open Society Justice Initiative) and Marlon Manuel (Legal Empowerment Network), eds. Providing legal services remotely: a guide to available technologies and best practices. 2021. [https://namati.org/wp-content/uploads/2021/01/Providing-Legal-Services-Remotely A-Guide-to-Available-Technologies-and-Best-Practices.pdf](https://namati.org/wp-content/uploads/2021/01/Providing-Legal-Services-Remotely-A-Guide-to-Available-Technologies-and-Best-Practices.pdf)

³³ Canadian Forum on Civil Justice. Rural & Remote Access to Justice: Application Research (2015). Prepared for the Rural and Remote Access to Justice Boldness Project.

were not identified by respondents as a significant client group; however, this identifier is not part of any application process, so case volumes may be understated.

1.2 Legal Needs

The two highest categories of legal needs identified by interviewees (regardless of whether they are formally covered by legal aid) were criminal and family law cases, each of which was identified by approximately half the respondents. The most common criminal offences mentioned were assault, theft, break and enter, possession of stolen property, and shoplifting.³⁴ Family matters often include domestic violence issues, with some respondents noting a possible increase in family violence as a result of COVID-19 public health restrictions. Child support was also an issue noted in many family matters.

Housing issues were emphasized by approximately a quarter of the respondents, with several factors that are involved:

- A “tsunami of evictions” as COVID restrictions on evictions have been lifted.
- The rise in housing values, and related increase in rental rates.
- Homelessness that results in some cases when tenants lack the money to pay increased rents.
- The rush to buy houses in rural areas to escape COVID.
- People moving to rural areas because they can afford the rental costs. This has had a side-effect of increasing landlord and tenant matters generally in rural areas.

Housing issues can in many instances be seen as coming under the rubric of poverty law matters. Other issues related to poverty law include income assistance, workers compensation and employment insurance, all of which involve the need to access government services. Collectively these types of matters were mentioned by approximately a quarter of the respondents. The respondents felt that these problems are often exacerbated by the lack of government services in rural areas, the lack of public transportation and the lack of mobility generally of persons with little income. One jurisdiction holds “ID Clinics” to help individuals obtain ID cards. Service providers sometimes find that homeless individuals lose their cards because of their transient circumstances. Another jurisdiction reported a significant number of matters related to estates, in part a reflection of aging populations in rural areas.

1.3. Language

The degree to which the two official languages and various Indigenous languages are spoken varies considerably across the country. Since their frequency of use relates closely to service delivery practices in these languages, both aspects are dealt with in this section. On the West coast it is rare for Indigenous speakers to require translation, as most individuals have sufficient mastery of English. There is some translation of legal aid pamphlets into Indigenous languages. Migrant farm workers may occasionally require translation assistance.

In Alberta there is a small fund for hiring interpreters and translators in court, principally used for occasional cases involving immigrant workers. In other situations where Cree is required (e.g., in initial discussions) people

³⁴ Although homicide, sexual assault and robbery comprise a small percentage of overall cases, they comprise approximately a quarter of the collective legal aid budgets in Canada. Approximately three-quarters of these offences are committed by males. This data and an overall review of legal aid cases for 2019-20 in Canada can be found at: <https://www.justice.gc.ca/eng/rp-pr/jr/aid-aide/1920/index.html>

in the community are often able to assist. Language needs are not considered a major issue in rural and remote areas of Saskatchewan, especially compared to urban areas. In some cases, individuals who speak neither official language will settle in rural communities and work in bars or small retail establishments, but their needs for translation services are considered minimal. There is a French legal clinic in partnership with French-speaking lawyers in the province, but there is not a significant demand for the service. In Manitoba CanTalk is used to access translators, especially in the north of the province. Counsel may take on cases requiring French, but they are less likely to do so if a trial is involved, so Legal Aid Manitoba provides an interpreter when necessary. Few judges can do trials in French, but at the Court of Appeal level, the court is better able to deal with such language requirements.

Ontario respondents felt it is rare to have translation requirements. Often family members can translate if, for example, the case involves an Ojibway speaker. Translators have also been used for Mexican Mennonite immigrants who speak Low German. There have been very isolated requirements for Spanish, Arabic or Urdu translation, which can be accessed through head office. Where a French speaker is required, a translator can usually be accessed from another clinic. In northern areas of Quebec, all services are available in French and English. Although currently there are no lawyers who speak Innu-aimun, trials are conducted using translators where required. New Brunswick is a bilingual province, so cases can proceed in both official languages. In the one Indigenous community of Epsipiqtoq there are currently no Indigenous court workers or navigators. Similarly, in Nova Scotia there are pockets of Indigenous language needs, for which an interpreter can usually be provided at trial. In Nova Scotia there is adequate access to lawyers who speak French (either in Nova Scotian communities or in Moncton, which is considered accessible even though in New Brunswick) and judges in Nova Scotia are often bilingual. In PEI most francophones are bilingual.

There is a significant need for interpreters in remote areas of Labrador, especially in north coast communities where English is not a first language for many persons who speak Innu-aimun or Innu-aimun (a dialect of the Cree language). In family court parties often need to bring their own interpreter. These needs also exist in slightly larger communities such as Happy Valley-Goose Bay (Southern Labrador) or Wabush (Western Labrador).

The North presents a varied picture in terms of language needs. In the Yukon, language does not appear as significant an issue for Indigenous individuals as it is in other jurisdictions, either in courts or in accessing other justice services. It can be more of an issue for French speakers in remote locations, but the need does not arise frequently. In the Northwest Territories, despite there being numerous Indigenous languages, the key informant for that jurisdiction estimated that less than a tenth of litigants present with a language barrier. Currently one lawyer speaks fluent Tlicho (a dialect spoken close to Yellowknife), and court workers are often available to assist with language needs.

In Nunavut, it was reported that 89% of residents speak either Innu-aimun or Innu-aimun, and 87% speak English. The respondent for this study estimated that three times per circuit there might be a session using concurrent translation, and occasionally as many as half of the sessions require it.³⁵ The respondent noted that knowledge of legal language terminology among community-based translators is very low, so while they may be helpful for assisting with general translation needs, they are not equipped to handle translation in formal court procedures. On any given day in Nunavut there is a proceeding with concurrent translation. If it is a court proceeding, it will typically have a court translator. If it is simply a private meeting, a court worker may be used instead.

³⁵ The number of sessions varies according to the size of community, number of overall cases, and number of special sittings for longer matters (e.g., lengthy preliminary hearings for homicides).

Occasionally a community member will undertake this task and will point out where a concept may not be understood by a client.

1.4. Access/Technology

Respondents highlighted several key characteristics of clients who have the most difficulty with access to legal services and/or with technology.

The largest single observation about technical challenges to consumers of service does not relate to users' inherent abilities, but to where they live in relation to the availability of Internet and wifi. All respondents emphasized that large areas in the north of the provinces or in the territories lack any Internet access. In some areas in Quebec and Manitoba there are currently plans to increase connectivity, but they may take several years to complete. There is also some hope that the StarLink satellite may effectively deliver broadband Internet over far wider areas than traditional cellular technology.

Legal services clients often have multiple problems that make effective use – or any use – of technology problematic. The first is that they simply cannot afford technological devices. As one respondent noted, “for people who have technology it’s amazing, but for those who lack technology, it’s a barrier.” One respondent in an eastern province estimated that up to 45% of clients do not have cell phones or computers. However, this pattern may vary from province to province; as noted earlier, a B.C. study found that up to 90% of Indigenous family legal aid clients have smart phones.³⁶

The Saskatchewan respondent noted that before the pandemic many clients did not even have email addresses, but that situation has become less frequent. Also, the interviewee noted that before the pandemic “... everybody thought in-person service was best.” However, during the early days and weeks of the pandemic telephone usage increased significantly (although Zoom was felt by many to be too complex), and the greater use of telephone over in-person contacts has been maintained.

Seniors live in rural and remote areas in slightly higher proportions to overall population than in urban areas. According to key respondents, seniors also frequently lack the technological skills to use phones or computers in an effective way to overcome the disadvantage of distance.

An additional issue noted by several respondents is the lack of space and resulting lack of privacy for effective use of technology. One said that the provincial government in their jurisdiction is intending to expand a system of kiosks in the courts in which individuals can use their devices, but he felt it would be overwhelmed by the number of users, again compromising privacy.

Getting documents submitted and reviewed has remained a problem for many clients and service providers. One respondent said that they will often refer rural/remote clients to libraries to get documents scanned. When public services were shut down at times during the pandemic, even that solution was not possible, as libraries were often closed. The service-provider then had to explain to rural/remote users how to photograph and submit each page of a document separately, as most users lacked a printer with which to scan the entire document.

³⁶ See footnote 3.

2. Service Provision

2.1 Challenges

Transportation is a key problem for many users who lack vehicles, and even for many who do have vehicles. This is because the distance to be travelled is often very significant, and because many locations in the north have only fly-in access. The lack of public and private transportation was identified in almost all jurisdictions as a primary obstacle to problem resolution, often second only to the legal matter itself. Even in some areas that would be described as rural, (e.g., in parts of Nova Scotia), a drive of two hours to a service location is not unusual, and for persons without a vehicle, the need to hitchhike could add considerably to access time. In more remote locations (e.g., Labrador) a visit to meet a lawyer (or for a hearing), involves also paying for a hotel. In some locations physical access is only by plane.

Partnerships with other agencies – both for transportation and for problem resolution – are key to providing necessary services in rural and remote areas. Prior to the pandemic in B.C., persons with a legal matter involving health issues (e.g., residential treatment) could sometimes use a coordinated transportation service. Also in B.C., a program called Community Partners placed workers in social agencies serving remote areas, which facilitated more effective referrals of legal problems to legal aid or assisted individuals to resolve issues on their own or with the help of other agencies.³⁷ Ontario has also made effective use of partnerships with other community agencies to address issues that are common to both legal and social domains. These partnerships have included legal clinics, health and mental health centres, United Way, Choices for Change and Addiction, community centres and Indigenous Friendship Centres or band offices. As one respondent stressed, “with these types of partnerships we can develop deep, sophisticated referrals for clients.” In Northern Quebec, Indigenous health clinics are the most common location for fly-in lawyers and court workers to meet with clients or other persons with legal needs. Communication to arrange meetings is often through social media messaging.

In Saskatchewan, both the John Howard Society and Elizabeth Fry Society were mentioned as important resources for clients in prisons. The interviewee noted that a client’s legal problem may be “a drop in the bucket” compared to needs such as housing in remote areas. Partnerships with agencies serving those needs are critical (for example the organization Scattered Site in La Ronge³⁸ in the province’s north).

Informants in the three territories stated that Indigenous court workers are the primary source of assistance for persons with legal issues that are being brought to the courts. Mental health workers – where they exist – may also indirectly assist with legal issues that are impacting mental health.

In Nunavut, in addition to court workers who were described by the respondent as “the face of legal aid” in that territory, many communities also have a justice committee (for diversions of person with a criminal offence), and a few have specialized services (e.g., a spousal abuse service in Rankin Inlet and an “On the Land” program in Clyde River³⁹). Communication to set up meetings is often by public radio, (but the purpose of the meeting – i.e., to discuss a legal matter – is never stated in the announcements on this medium).

³⁷ Tim Roberts and Associates. Helping People Navigate the Justice System: An Evaluation of Community Partners (Parts 1 and 2) Legal Aid BC (2022). https://legalaid.bc.ca/sites/default/files/2022-02/Evaluation-of-Community-Partners-Report-Part-2-%28Jan2022%29_0.pdf

³⁸ A program run by the Kikinhak Friendship Centre in La Ronge, Saskatchewan. It primarily serves social, health and housing needs of the local population. For more on this program, see <https://www.facebook.com/groups/478934872171817/>

³⁹ The “on the Land” program is run by the Ittaq Heritage and Research Centre. For more on this program, see <https://ittag.ca/on-the-land/>

All jurisdictions have some type(s) of PLEI⁴⁰ services that help individuals to understand legal matters and issues, or to prepare for hearings. Except for some communication information sessions (e.g., at libraries), these services are not “delivered” to individuals person-to-person. They are therefore not limited by dissemination issues, but by people’s ability to use technology and undertake research. As noted in section 2.2, this is often problematic for many remote/rural clientele. Limited duration advice services exist in some jurisdictions. For example, New Brunswick has a family advice line⁴¹ that provides two hours of legal advice by a lawyer related to family law matters.

One respondent noted that funding for special initiatives to address legal matters – e.g., a restorative justice program – is often provided only for a year, but these types of projects usually require several years to become established. Longer-term funding would therefore be more effective to create a sustainable program.

2.2. Funding and Organization of Service Delivery

This section explores the related themes of organization and funding of the delivery of legal aid to rural and remote areas in the provinces and territories.

For the most part, funding for legal aid in rural and remote areas is not differentiated from general funding to support delivery throughout the whole jurisdiction, including fly-in circuits to northern communities. Depending on the jurisdiction, this means funding is either from a provincial law foundation (funded from lawyer trust accounts) and/or provincial/territorial governments, and/or the federal government. One respondent said there has currently been more federal funding because of federal government assistance nation-wide through COVID-19 relief funds to organizations and individuals. At the same time, delivery expenses in that jurisdiction have decreased because there have been fewer in-person meetings.

In Manitoba, significant provincial funding has recently been directed towards the installation of video suites in various social agencies and First Nations communities so that lawyers can more readily use video conferencing. In some locations, lawyers have also been able to access video systems used for Mental Health Review Board hearings. Video suites are also expected to be installed in RCMP detachments. In criminal cases this may be helpful for victims, but some accused persons may feel vulnerable in that setting. In an eastern jurisdiction, video suites have been installed in women’s shelters for victims of family violence.

The following challenges identified by respondents are closely interrelated.

2.2.1 Lack of Lawyers to Serve Remote Communities

Many communities are too small to provide a geographic base in which lawyers can make a living. Even where there is a sizeable regional population, it is often too dispersed to attract lawyers. For example, one prairie jurisdiction has a population of 500,000 in its central region, but only 12 lawyers to serve it. This problem is exacerbated by the “greying” of the bar (mentioned by half of the respondents in the study) and in some cases early retirement due to COVID.

⁴⁰ For a description and summary of selected PLEI services in each jurisdiction, see: <https://www.cba.org/For-The-Public/Public-Education-and-Information/Public-Legal-Education-and-Information-in-Canada>

⁴¹ The Family Advice Lawyer can explain how the court works, the rules of court, and the forms individuals must file in family law actions; or provide general information on family law matters. Appointments are 1 – 2 hours depending on the nature of the matter. See: <http://www.legalaid-aidejuridique-nb.ca/family-law-services/family-advice-lawyer/>

The lack of lawyers is pronounced in family law cases, which often require a lawyer for each side. A respondent in one small jurisdiction noted that lawyers are often pulled off family cases to attend to criminal cases, thus further lessening the overall availability of lawyers. Family law cases were also seen as less remunerative. A factor contributing to the loss of lawyers in Nunavut is the acute lack of housing in the territory. Even if applicants are on the list for housing for several years, they may not be successful, and therefore have to stay in sub-standard accommodation.

Several approaches have been used to address the lack of lawyers. The first – and most common – is to fly lawyers into communities on a regular circuit covering one or more remote communities. This approach is a necessary but expensive solution and can be problematic because of weather, and more recently because of reduced flights due to COVID. Accommodation can be a problem even in fly-in situations in the Yukon because there is competition with construction workers who also require housing. The fly-in expenses in Nunavik are less of a concern provincially because they are covered by the James Bay and Northern Quebec Agreement.

Several other approaches include:

- 1) Incentivizing lawyers to practice in smaller communities with a retention bonus over their base salary (in one jurisdiction amounting to an extra \$1,000/month).
- 2) Using presumptive core funding from the province for a regional clinic that serves a wide area. To access individuals in more remote communities, the clinic can arrange to have service outlets over a larger dispersed area. With core funding the clinic is less constrained by cost-per-client considerations.
- 3) Recruiting legal aid lawyers in “a mindful way” that ensures they will fit in a rural or remote setting. In some jurisdictions there have been efforts to recruit law school applicants who have come from a rural background and expect to practice in their community of origin.

2.2.2 Lack of Resident Judges

A resident judge is one who resides in the area in which he/she is sitting as a judge. This issue is closely related to the lack of lawyers, as the lack of a resident judge makes it less attractive (and less remunerative) for a lawyer to locate in a community. With a resident judge, it is easier to get litigation matters scheduled in a timely manner. As one respondent said in regard to an isolated community,

there is no one there to move the judicial machine forward. You can't just pop in to get a motion approved. If it's a fly-in judge, he/she will cut you off just to make it to the return plane on time. It's so hard for lawyers to get things done and sends a message that their work is not a valued part of the system.

Respondents did not discuss any recommendations to address this issue.

2.2.3 Communication with Clients

One respondent said that in the past lawyers were reluctant to communicate with clients unless they met in person. This placed a significant transportation burden on clients who lived remotely, and a time loss for lawyers if they had to travel to see the client. Since the pandemic there has been more flexibility, combined with the use

of efficient technology. For example, one respondent said they were testing a private drop-box⁴² mechanism that allowed them to connect with clients virtually at the click of a button, as well as record outcomes of the meeting. However, several respondents stressed that many clients do not have cell phones or Wi-Fi access, so partnerships with accessible community agencies (e.g., who can receive faxes of forms on behalf of clients) are often necessary. A respondent from a northern jurisdiction said that people in the bush often do not have phones, and the lawyer must physically search out the client in order to prepare for court.

2.3 Technology

The use of technology in relation to legal matters varies considerably depending on the user, purpose (transmitting documents or filing applications) and time-period (pre-COVID, COVID and post-COVID). The most fundamental divide is between clients' varying levels of technological capacities. Many respondents suggested this capacity is a question of income, as many poorer clients in rural/remote areas cannot afford Wi-Fi access, computers, or smart phones. To the degree that their location is remote (many Indigenous reserves and northern areas) or even just rural, they may not have Wi-Fi access. There is a danger, therefore, that increased reliance on technology by service providers and the legal system will create a "digital divide" that disenfranchises the most needy and disadvantaged clients – the very clients legal aid is intended to serve.

Service providers in several jurisdictions have created private spaces (e.g., in libraries, parent legal centres, Friendship centres, legal clinics or other service agencies) in which individuals can be helped to access the Internet or establish a video conference in order to connect with a lawyer, E-sign documents or communicate with court officials or at short hearings. One respondent noted that although libraries are often excellent partners for facilitating copying and transmitting documents, in smaller communities they may lack sufficient privacy for meetings between clients and lawyers who have travelled to the community. As an alternative, charitable organizations like the Salvation Army may have small but more private meeting spaces. However, for some clients there may be a stigma attached to meeting at the Salvation Army.

In some northern jurisdictions where bandwidth is a major challenge, Indigenous Courtwork Program offices are the communication hub, and usually have phone, fax, email, and webcam capabilities. The pandemic facilitated a transition from requiring in-person court appearances to allowing phone-in or video conferencing for short appearances (e.g., a bail hearing or arraignment) and for many consultations with lawyers. Although there are some pressures to return to pre-pandemic modes of appearance, most respondents interviewed for this study felt that this transition is likely to become permanent, as short remote appearances or conferences have reduced costs enormously in many cases, especially in relation to fly-in court appearances.

Although there was awareness among respondents of projects to increase Internet reach, especially in the western half of Canada, in all jurisdictions there was a lack of clarity about the extent and anticipated time to completion of these projects.

2.4. Monitoring and Evaluation

Respondents were asked if sufficient research was being undertaken and/or if adequate data systems were available for effective monitoring and evaluation of service provision in rural and remote areas. Overall, their responses suggest that although some elements of service delivery are tracked in most jurisdictions, the purpose

⁴² A drop-box is typically a file hosting service that allows users to store and synchronize files. Other features are described at: <https://www.cloudwards.net/how-to-use-dropbox/>

is usually for file maintenance, rather than evaluation. Furthermore, these data do not usually distinguish service delivery to remote or rural users from urban users.

Some exceptions are the Community Partners evaluation in BC,⁴³ and Alberta Law Foundation’s study by Flora Stevenson on remote legal services to low-income Albertans.⁴⁴ In all other southern jurisdictions, the response was that there was no focus on rural/remote issues specifically, and in general, any data of case or client characteristics has been “mined” and analyzed to a very limited degree. In the Yukon, a new data system and reporting structure is being created and should be providing three years of data later in 2022 that will allow Yukon Legal Services to evaluate the changing seriousness/complexity of legal matters. It is not clear whether the data will be able to distinguish rural/remote delivery, but locations other than Whitehorse and Dawson City will likely fit this definition. Similarly, in the Northwest Territories, a new database was launched in 2021, but staffing issues may limit the capacity to undertake more refined analyses for several years. The communities and overall territory of Nunavut are remote, but at present there is very limited reporting capacity.

Part D: DESCRIPTION OF THE IMPACTS OF COVID-19

This section outlines interviewees’ perspectives on the impact of the pandemic in terms of costs to legal aid plans and the way services have been accessed. In the spring of 2020 through to February 2022 or later, many courts were closed due to public health restrictions. In most of the southern jurisdictions, this had the impact of lessening legal aid delivery costs. In some programs, the need to help people with technology or to access a court hearing remotely either kept costs constant or increased them. In terms of social impacts, respondents in Newfoundland and Labrador stated that the enforced isolation of many individuals in remote communities further increased their sense of vulnerability resulting from the initial criminal or family matter. In remote communities, there was also a local concern that outsiders might bring COVID into their community, so at best there was an ambivalent attitude towards those trying to serve legal needs.

As public health restrictions eased and courts resumed sittings, there were significant backlogs and long dockets in small communities. These backlogs have been exacerbated by the fact that courts might only sit every six weeks or at even longer intervals. The process of circuit fly-ins has been long and tiring, and it has resulted at times in frustration on the part of lawyers that they have not been able to manage files as effectively as they would wish.

There were varied reactions about the impacts of COVID on delivery of services in the longer term. Several themes emerged:

- The most impacted clients were those who had lost their jobs, were cut off from their family, were isolated generally, were of an older generation, and/or who are technologically challenged. They are the ones who are most dependent on in-person contacts in all phases of a case. It is these people who may have no technological hardware and who have the most trouble with online application systems, payment of court costs online (e.g., filing fees), or processes that are now conducted completely online (e.g., the Landlord and Tenant Board in Ontario).
- Many people with legal needs appear to be comfortable with connecting over the phone. However, having only one communication method does not help all types of clients. For example, the telephone may not be

⁴³ Tim Roberts and Associates, *supra* at note 9.

⁴⁴ Stevenson, *supra* at note 6.

the preferred mode for persons with learning disabilities. These individuals may be able to get help more easily with in-person filing procedures and may more easily be able to follow and interact during in-person hearings. In addition, in one jurisdiction where tenancy disputes are handled only by telephone, there have been reports of problems where individuals have run out of minutes, or have had a change of telephone number that they have not reported, or who use a free telephone app. In these cases, they may not have received notice of the hearing, and subsequently had default orders against them because they did not attend the hearing.

- Video-conferencing platforms like Zoom often require more discipline on the part of the client than a regular face-to-face meeting. Clients who have the technological knowledge to access these platforms also are often better resourced when using it (e.g., compared with a walk-in client), because information they require is often on their laptop and can easily be retrieved if needed in the online meeting.
- In many cases even people who can afford a cellular phone with access to the Internet may not be able to dial into a remote court hearing because of unreliable technological connections.
- In summary, the pandemic forced the legal system and clients to make technological adjustments in order to have their cases go forward. Some of these procedures already constitute “the new norm.” Other processes that proceeded with technology during the pandemic may revert to in-person processes. However, to the degree that the use of technology becomes more common for certain stages of legal proceedings, careful consideration needs to be made for persons in rural and remote locations who lack comfort, experience and/or equipment that would enable them to pursue a legal case using technology.

PART E: CONCLUSIONS

Moving forward, what should be the focus to create maximally effective service to persons with legal needs in rural and remote areas of the country? The findings from the two data collection methods used in this study lead to the following conclusions:

- Consumer types – the four primary needs groups in rural and remote areas are Indigenous persons, isolated women, seniors and tenants. These groups are not mutually exclusive. This study did not receive feedback that the needs of these groups are being ignored, but simply that ongoing outreach to them is important.
- Legal needs – criminal and specific family issues were identified as the main areas of need for rural and remote legal aid clients. While these have long been areas of need, housing-related matters were also emphasized by many respondents as a major emerging area of concern, due to shifts in the economy and the impacts of COVID-19. There is also a related and growing need for assistance in accessing government services.
- Language needs – for the most part, language needs have been described as manageable. Two areas where they are more prominent are in Labrador and in parts of Nunavut.
- Technology – this can be characterized as the largest area of change related to serving legal needs. It carries with it both major advances and efficiencies for deliverers of legal services and their clients in rural and remote areas, but also significant difficulties for pockets of consumers in those areas. There is a divide between those who can use technology to deal with processes remotely and thereby lessen the need for travel and in-person attendance, and those who lack cell phones, computers and/or the knowledge of how to use them. Thus, to serve rural and remote populations effectively, the employment of technological processes needs to be flexible, so that it is optional for some consumers. This issue is also related to the development of community partnerships (see next point).

- Partnerships between legal service deliverers and social or community agencies are important in order to maximize access for consumers in rural and remote areas. If service delivery is located in local community agencies for certain days, it reduces travel time for consumers (and providers in some instances), and may serve to connect users with additional services related to their case. Some health services provide transportation for their users, which could be advantageous for legal users in rural and remote areas.
- The use of Public Legal Education and Information (PLEI) materials did not feature as a significant component of the activities of legal services clients in rural and remote areas in this study. This may be associated with lesser use of technology among clientele, as reported by some respondents.
- The shortage of lawyers and judges who are located in smaller rural communities makes it difficult to consistently address legal needs in these areas. Approaches to incentivize lawyers or provide core funding for regional clinics are suggested.
- With few exceptions, respondents reported few monitoring and/or evaluation initiatives in their jurisdiction that might provide more information about rural and remote demand for services.
- The COVID-19 pandemic forced the legal system and clients to make technological adjustments in order to have cases proceed. In some cases, the use of technology to facilitate remote proceedings has been a boon and may become the new norm. However, as noted above, it is also a challenge for many clients, so across-the-board implementation is not advisable if the needs of rural and remote clients are truly to be met.

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<https://www.anrows.org.au/publication/seeking-help-for-domestic-violence-exploring-rural-womens-coping-experiences-state-of-knowledge-paper/>

Part B: Jurisdictional Information

British Columbia

PovNet (2021) "Find an Advocate Tool" (Resource to find advocates for people who need legal assistance outside of Vancouver): <https://www.povnet.org/find-an-advocate>.

Legal Aid BC https://lss.bc.ca/legal_aid/legalAidLocations_Map (An interactive map of various types of community-based or outreach services, some of which would qualify as legal clinics.)

Clicklaw. <https://www.clicklaw.bc.ca/helpmap/service/1019> (A listing of family justice centres in B.C.) Family Justice Counsellors do not provide representational services. Rather they are... "specially trained to help families with parenting arrangements, contact with a child, guardianship, and support issues. They can help parents resolve disagreements without going to court. They provide short-term counselling, mediation, emergency and community referrals and other free services."

Access Pro Bono. <https://accessjustice.ca/public/apbclinics.asp?province=BC> Contact info for 114 clinics in the province, most of which are included in the above sites. Also see wills clinic info at <https://accessprobono.ca/our-programs/wills-clinic>, and residential tenancy <https://www.accessprobono.ca/our-programs/residential-tenancy-program>.

Description of these and other services available to women in remote/rural areas in B.C. is also available on pp. 27-41 of Skinnider, Eileen and Ruth Montgomery. International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR). Enhancing Access to Justice for Women Living in Rural and Remote Areas of British Columbia: Reviewing Practices from Canada and Abroad to Improve Our Response. (2019) [BCLF-WA2J-Report-Final.pdf \(icclr.org\)](#).

Alberta

Law Central Alberta: <https://www.lawcentralalberta.ca/en/help/legal-clinics-and-services>. This is a listing of all clinics not just in central Alberta, but throughout the province. Includes student-based clinics in Calgary and Edmonton as well.

Saskatchewan

Pro Bono Law Saskatchewan: Listing of 14 free legal clinics across the province: <https://pblsask.ca/free-legal-clinics/>

Manitoba

Legal Aid Manitoba. Listing of 12 Community Law Centres: <https://www.legalaid.mb.ca/contact/community-law-centres/>, see, for example, University of Manitoba Community Law Centre <https://www.legalaid.mb.ca/services/services-we-provide/criminal/u-of-m-community-law-centre/>

Ontario

Community Legal Education Ontario (CLEO): A Directory of Community Legal Clinics in Ontario (includes both geographic community legal clinics and specialty community legal clinics (e.g., Black Legal Action Centre, Injured Workers Community legal Clinic) https://www.cleo.on.ca/sites/default/files/book_pdfs/ontario.pdf

Annual reports of individual community clinics usually contain some demographic information about clients.

Quebec

Under "find a centre", lists community justice centres in each region:

<https://www.justicedeproximite.qc.ca/en/centres/quebec/>

Annual reports of individual community clinics in each region contain fairly consistent demographic information about users, e.g., type of contact (telephone, in-person), how heard about the centre, income level, age, level of education, gender, region, type of legal inquiry, language, e.g., for Quebec city:

https://www.justicedeproximite.qc.ca/wp-content/uploads/2019/06/Rapport_annuel_CJPQC_2019-Sansmarques-compressed.pdf or for Mauricie: https://www.justicedeproximite.qc.ca/wp-content/uploads/2019/06/Rapport_annuel_CJP-Mau_2019-compressed.pdf

New Brunswick

There is no specific information that supports outreach to remote locations in New Brunswick. Two locations for legal aid delivery are:

Fredericton legal advice clinic: <http://frederictonlegaladviceclinic.ca/>

New Brunswick Legal Aid Services Commission (criminal and some family) <http://www.legalaid-aidejuridique-nb.ca/home/>. The Commission's strategic plan is listed here, but does not address delivery to remote locations: [Strategic-Plan-strategique-2021-2024.pdf](#) (legalaid-aidejuridique-nb.ca).

Nova Scotia

Clinics are generally for legal info and advice. Actual legal aid representation through legal aid offices listed here: <https://www.nslegalaid.ca/legal-aid-offices/>

Selected service stats are contained in the 2019-2020 Annual report at pp 19-21, 24, 29, 32 and 35-36: <https://www.nslegalaid.ca/wp-content/uploads/2020/10/2019-20-Annual-Report-Approved-September-18-2020.pdf>

Prince Edward Island

No clinic program. Legal aid locations can be found here: <https://pe.211.ca/result/legal-aid-division-legal-aid-63737817>

Newfoundland and Labrador

Legal aid locations can be found here: <https://www.legalaid.nl.ca/contact.html>

Yukon

No clinic program. Legal aid services are described at the following website of Yukon Legal Services Society:
<https://legalaid.yk.ca/>

Northwest Territories

Legal Aid clinics are described in the 2019-2020 Annual Report of the Legal Aid Commission of the Northwest Territories at pp 18 and 29 in the following link. Selected service statistics are contained on pp 22-27.

<https://www.justice.gov.nt.ca/en/files/legal-aid-commission/Annual%20Reports/2019-2020%20Annual%20Report.PDF>

Nunavut

The three Nunavut legal aid clinics are described here: <http://nupli.ca/index.php/legalaid>

APPENDIX 1: INTERVIEW GUIDE

Jurisdiction: _____

Respondent: _____ Role: _____

Preamble: Clarify terms “rural” and “remote” (see footnote).

Part A: Description of the consumers of service, their needs and challenges in rural and remote areas of your jurisdiction	
1	Demographics: What are the demographic characteristics of persons accessing legal aid in rural and remote regions of your province/territory, and what types of challenges are they are facing? (Probe for women, Indigenous clients, seniors, immigrants). Other specific minority groups that face greater challenges in rural/remote areas?
2	Legal needs: What are the legal needs of legal aid clients living in rural and remote areas of your province/territory? (Probe: differences according to consumer types identified in Q.1); legal issues even if not covered by legal aid. Are there differing level of awareness of legal rights and procedures to access justice for certain groups?
3	Language: What is the extent to which legal aid clients who speak a minority official language or Indigenous language have need for services in their language of choice in rural and remote areas of your province/territory?
4	Access/Technology: What type of clients in your province/territory are having the most difficulty with access to services and/or with technology? What are the reasons for these difficulties? What types of social and/or cultural practices impede efforts to access justice? (Probe: differences according to consumer types identified in Q.1)
Part B: Description of service provision/issues in rural and remote communities of your jurisdiction	
1	Range of services: What are the types of legal and social services (including volunteer organizations) available for legal aid clients living in rural and remote communities in your province/territory, and how are they designed to meet the challenges and requirements of consumers described in Part A? (e.g., do some/any services specialize in delivery to consumer types identified in question A-1, or have proactive outreach strategies to link them to such services?) What, if any, policies create obstacles for potential clients seeking assistance?
2	Range of services: Of services mentioned in Q. 1, which might most effectively complement or be an alternative to legal representation? (e.g., social service referral systems, unbundled

	legal services, PLEI through public libraries and other information distribution strategies, “one-stop shops”; other community initiatives. Any innovative pilot projects or collaborations with other social/health services?).
3	Minority language: To what extent are services able to be provided to legal aid clients in a minority official language or Indigenous language in rural and remote areas of your province/territory?
4	Organization/funding of delivery: What are the challenges legal aid plans are facing in providing legal services in rural and remote areas of your province/territory, and what initiatives have been put in place to incentivize/facilitate legal aid lawyers to provide services in these areas? (probe this issue not only generally, but for lawyers serving specific client groups; probe situations where both parties need representation or assistance; probe law school recruitment practices to incentivize rural delivery)
5	Organization/funding of delivery: What are the costs/funding available for providing legal aid in rural areas in your province/territory in comparison to urban centres, and has this been impacted by COVID-19? Do you have examples of innovative legal service delivery mechanisms in your jurisdiction?
6	Technology: What are the types of technology available in your province/territory for legal aid clients living in rural and remote areas to access legal aid and the court system? What are the greatest technological challenges? Are there any rural A2J apps that are in common usage in your jurisdiction?
7	Technology/Internet: Has government funding and/or initiatives of private companies in your jurisdiction increased Internet access in rural regions, and if so, what has been the impact on the provision of legal aid? To what degree have any improvements been made particularly in Indigenous communities?
8	Technology: Have there been changes in the type of technology used by legal aid plans for providing legal services remotely to legal aid clients in your province/territory? For what types of matters or cases does remote technology work well/not well?
9	Technology: If (in question 8) there have been changes, what has been the impact of these technologies on the relationship between legal aid lawyers, legal aid staff and their clients in your province/territory?
10	Monitoring/evaluation: Is there sufficient research being undertaken and/or adequate data systems available for effective monitoring and evaluation of service provision in rural and remote areas to the target groups mentioned in A-1? If not, what are the priority needs? Are distinctions are made between “rural” and “remote”?
Part C: Impacts of COVID in your jurisdiction	

1	Costs: How has COVID-19 impacted the costs and funding available for delivering legal aid in rural areas in comparison to urban centres in your province/territory?
2	Access to services: How has COVID-19 impacted access to legal aid services and the courts for those who live in rural and remote areas in your province/territory?

The following definitions of “rural” and “remote” are suggested as rough guidelines:

Rural population: persons living in or outside of towns or municipalities outside of the commuting zone of urban areas with 10,000 or more people.

Remote communities: communities will be deemed remote based on the degree of isolation they have from other communities. The availability of commercial transportation between communities will be a significant determining factor.

They are drawn from p. 15 of the following report, which in turn references sources from other documents:

International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR). Enhancing Access to Justice for Women Living in Rural and Remote Areas of British Columbia: Reviewing Practices from Canada and Abroad to Improve Our Response. Eileen Skinnider and Ruth Montgomery. (2019) [BCLF-WA2J-Report-Final.pdf \(icclr.org\)](#)