

Envisioning Equal Justice Summit SUMMARY

Over 250 people from every province and territory and every part of the justice system attended the *Envisioning Equal Justice Summit*, held in Vancouver, April 25-27 2013. The CBA's Access to Justice Committee thanks those who made the Summit possible: the speakers, participants, volunteers, CBA National and BC Branch staff and our generous sponsors. This is a brief overview of events at the Summit.



Opening Session: Everyday Justice Reality Check

The Summit opened with a simulation offering a glimpse of the experience of living as a poor person for a one-month period, telescoped into one hour. Local volunteers acted as various service providers, including staff at a legal aid office, a shelter and the police station. Participants worked together in "family" units to try to meet their basic needs, hitting continual obstacles, including legal problems. Participants later spoke of feelings of constraint and exhaustion, frustration and line ups, the lack of options and impossible choices. Jamie Maclaren, the Executive Director of



Access Pro Bono in Vancouver made the connection between the experience of poverty and unmet legal needs. Chief Justice Thomas Crabtree of the BC Provincial Court spoke in moving terms of the need for courts to know their respective communities, and to listen to, learn about and respond to those needs in all reform efforts.



Participants referred back to this opening session throughout the Summit, on clients as users of justice services, on members of the public generally, and especially on the needs of individuals living in conditions of disadvantage and marginalization.

Opening Plenary

Dr. Melina Buckley, Summit Co-Chair, formally opened the Summit by encouraging participants to think and act as access to justice leaders and to use the event to come together as leaders, to share, learn, and then take what they learned and act upon it.



Amanda Dodge, a supervising lawyer at Community Legal Assistance Services for Saskatoon's Inner City (CLASSIC), presented a multi-media presentation, illustrating a Dark Sky/Blue Sky public view of the state of access to justice in Canada today and what it should be in the future. Maria Campbell, a Metis Elder and Trudeau Scholar and Dr. Patricia Hughes, the CEO of the

Law Commission of Ontario, then spoke about achieving inclusivity in



obtaining equal justice. Both stressed the importance of moving away from an “us/them” approach, avoiding the tendency to treat the public, particularly individuals living in disadvantaged conditions, as the “other”. They provided practical ideas for transcending this problem and working toward a justice system that prioritizes respect and reciprocity.

Dr. Buckley closed with a brief overview of what we know and don’t know about access to justice in Canada, urging participants to take a two-track approach: *think systemically, act locally*. This means working simultaneously to produce the best possible results for individual clients or the individual case AND to produce the best possible civil justice system.

Debate: Should there be a national “justice care” system in Canada?

Summit Co-Chair, John Sims, Q.C. moderated the lunchtime debate on the question: *should there be a national “justice care” system in Canada?* Alex Himelfarb, Director, The Glendon School of Public and



International Affairs, former Clerk of the Privy Council and Secretary to Cabinet, spoke in the affirmative. Sharon Matthews, Q.C., a partner at Camp Fiorante Matthews, Mogerman and Past President of the CBA BC Branch, spoke in the negative. With great wit backed up by hard facts, the pair explored the relative merits of a universal versus targeted social program approach to mitigating justice system inequality through enhanced legal aid.

Funding the Justice System – Getting Beyond the Rhetoric

The first full day of the Summit ended with an informal conversation about “the elephant in the room” – money needed to properly fund access to justice in tough economic times. Allan Seckel Q.C., the CEO of the BC Medical Association and former BC Deputy Attorney General, moderated the conversation. Steven Grumm, Director of the ABA Resource Center for Access to Justice Initiatives in Chicago reported on recent successes in increased funding in the US. CEO of the Law Foundation of Ontario, Elizabeth Goldberg shared strategies for increasing funding. A common theme was the need to go beyond “speaking to the choir” and look for ways to broaden the conversation.

Plenary 2 - Building Blocks for Equal Justice

Patricia Graham, Vice-President, Digital at Pacific Newspaper Group, Former Editor-in-Chief at *The Vancouver Sun* of Vancouver, conducted an editorial style interview of five innovators concerning key ideas for making the justice system work for everyone.

First, Dr. Ab Currie, a leading Canadian researcher formerly with Justice Canada and now with the Canadian Forum on Civil Justice, spoke about the paradigm shift of understanding and addressing *everyday justice*. Sarah McCoubrey, Executive Director of Ontario Justice Education Network, spoke about the need to see *law as a life skill*. Leading American expert, Richard Zorza of the Self-Represented Litigants Network in Washington D.C., introduced the concept of *transforming courts into access to justice institutions*. Karen Hudson, Executive Director of Nova Scotia Legal Aid, advocated for a regeneration of legal aid through *research, eligibility, advocacy, coverage and holistic approaches*. Allan Fineblit, CEO of the Law Society of Manitoba challenged us to think about the need to *alter the DNA of legal practice* through alternative business structures and models.



Ms. Graham posed tough questions about who would benefit from proposed changes, whether those changes represented true innovations and whether the various trends suggested were compatible.

Plenary 3 – Building Capacity and Creating an Environment for Innovation

Marion Boyd, a Lay Bencher with the Law Society of Upper Canada and former Attorney General of Ontario, posed seven challenging questions to two international experts on justice innovation - Geoff Mulherin, Director of the Law and Justice Foundation of New South Wales and Sam Muller, Director of the Hague Institute for the Internationalisation of Law:



- What is success, and what does it look like?
- Which come first – a macro-justice or micro-justice approach? Is balancing between the two important to ensure positive change?
- Can you provide an autopsy of a successful justice innovation? An unsuccessful one?
- What conditions foster or impede innovation? What conditions contribute to a sustainable innovation process?
- What are the unique factors that distinguish justice system reform from other types of change processes?
- How can we ensure that justice innovation is inclusive?
- What tools and techniques should be part of our justice innovation ‘lab’?

Both speakers provided a wealth of concrete ideas about how justice innovation can be fostered and maintained.

Keynote address: Justice Thomas Cromwell



Justice Thomas Cromwell’s keynote address urged participants to both dream of a more just system and actively plan for its achievement. He emphasized the pressing nature of access to justice problems across Canada and his concern that “no one is driving the bus” for reform. Collaborative efforts will be essential to ensure that we take advantage of this rare window of opportunity, and, he cautioned participants, “don’t blow it”.

Workshops

Workshops were offered over the course of the Summit on a wide variety of access to justice topics, related to five streams; legal skills and service delivery options, program design, policy development, research and legal education, and papers from the National Action Committee on Access to Justice in Civil and Family Matters:

A.1 Access to Justice Metrics

A.2 Next Generation Approaches to Public Legal Education and Information

A.3 Measuring the Costs of an Inaccessible Justice System

A.4 Bridging Distances: Recent developments in administrative justice delivery

A.5 Access to Legal Services: Using Technology, Social Media and Online Tools

B.1 National Legal Aid Standards: Coverage, Eligibility, Quality

C.2 Moving Beyond Wise Words: A Focused Strategy for Family Law Matters

C.3 Measuring Effectiveness of Access to Justice Initiatives

C.4 Beyond the Numbers: Fostering High Quality Pro Bono

C.5 Law Students, Law Schools and Legal Education: an underutilized resource

C.6 The Ethics of Access to Justice Reform: Framing the Challenges

D.1 Tension at the Border: Pro Bono and Legal Aid

B.2 Innovations in Legal Aid Service Delivery – I

B.3 Reorienting Legal Practices to Increase Access

B.4 Simplification or Re-engineering: Defining the Role of the Courts in Ensuring Access

B.5 Building an Early Resolution Services Sector

C.1 Innovations in Legal Aid Service Delivery II: Inclusivity

D.2 Taking Assistance to Unrepresented/Self-Represented Litigants to the Next Level

D.3 Toward a National Access to Justice Research Strategy

D.4 Whither the right to counsel?

D.5 Building Access to Justice Communities



Closing Plenary

Finally, participants were asked to consider the question - “Justice System Change: Why is it so hard?” It has been 17 years since the CBA released its *Systems of Civil Justice Task Force* report and countless other reports have followed. Specifically,

- why isn't the justice reform agenda more advanced?
- how do each of the stakeholders in the system contribute to promoting or stalling the reform agenda?
- how can those involved break out of institutional roles to achieve the common goal of making the justice system more accessible?



Mediator Colleen Cattell, Q.C., of Fitzpatrick Mediation in Vancouver, asked participants to think about unseen or unspoken interests at work. She used an iceberg, with the tip above the water to represent expressed positions, and the bulk under the surface possibly unarticulated interests or fears at play. A brief skit amplified these perspectives for various justice system participants. Participants then worked in small groups to identify “underwater” issues and propose a strategy for a systemic solution to the equal justice problem. The notes left behind were summarized in a separate report under four

main headings: Public engagement/Political Profile, Need for Innovation and Collaboration, Changing Legal Service Delivery, and External Factors.