

Developing Models for Coordinated Services for Self-Representing Litigants: Project Summary

Introduction

This report summarizes work done on the *Developing Models for Coordinated Services for Self-Representing Litigants* project (“the Project”). It is divided into three distinct component parts which cover off project responsibility for meeting its three core deliverables. These parts are:

1. An Access to Justice Map looking at issues and needs facing self-representing litigants as well as current services and service gaps;
2. A Proposed Service Vision and Program Design for Self-Help Centre; and,
3. A Proposed Evaluation Strategy for the pilot phase of Centre implementation.

Each of these component parts is the subject of a separate document included in this report package.

Context

The Project was developed within a broad and changing context characterized by (a) a widespread perception that an increasing number of litigants are going to court without counsel, and (b) an environment of new approaches to the provision of legal services to self-representing litigants (“SRLs”).

The emergence of “self-representing litigants” as an identifiable target group for services is a relatively recently development. Indeed, the acronym “SRL” did not even exist in the idiom of the court system five to ten years ago. SRLs present the system with challenges that typically do not arise when both parties have representation. Their “emergence” coincides with an emerging trend towards the “unbundling” of services where a lawyer provides specific discrete legal services while leaving other tasks for the client or others to perform. It also comes at a time of evolving social and institutional attitudes towards the presence of SRLs. Faced with these realities, the justice system here as elsewhere has had to respond with innovative strategies to ensure that people who represent themselves in court have access to justice.

In Vancouver and New Westminster, the Court Self-Help Centre Committee (“the Committee”) was formed in 2002 to address the issue of co-coordinating service delivery to self-representing litigants in Vancouver Supreme Court and the New Westminster Courthouse. The committee is an interagency initiative, and is composed of representatives of the Court of Appeal of B.C., the Supreme Court of B.C., Court Services Branch and Justice Services Branch (Ministry of Attorney General), Legal Services Society of B.C., Law Courts Education Society of B.C., B.C. Courthouse Library Society, Pro Bono Law of B.C., Community Legal Assistance Society of B.C., Department of Justice Canada – Research Section, Canadian Forum on Civil Justice.

The Committee began its work in 2002 at a time when it was increasingly clear that SRLs in areas such as Supreme Court family law or civil law faced enormous challenges obtaining the legal education, legal advice, and procedural assistance they required, in a timely fashion. During the life of the Committee, justice system responses to the challenges posed by SRLs in the court continued to evolve at a rapid pace. For example, progress was made at the Supreme Court level with the creation of some pro bono services, and the enhanced Family Duty Counsel project was established at Robson Street in Vancouver to assist SRLs to resolve their cases.

The Committee recognized there was a need to develop a collaborative and coordinated approach to the provision of either information or assistance to SRLs, particularly in areas such as Supreme Court family law and civil law. The Committee accordingly developed a strategy to examine the needs and develop a framework for the potential coordination and evaluation of service delivery to SRLs in the Vancouver Supreme Court and the New Westminster courthouse. The aim was to start the process to create a model to assist SRLs. The Committee’s decisions were based upon discussions or communications in British Columbia, as well as an examination of *pro se* services delivered in the United States, and several visits to *pro se* services in Seattle and Ottawa.

In 2003 the committee approached funders with a proposal for a three-phase research project. The committee subsequently obtained funding from the Law Foundation and from the federal Department of Justice for the project, *Developing Models for Coordinated Services for Self-Representing Litigants*. A team of research contractors was hired, to report the committee. The researchers began their work in November 2003 and completed it in March 2004.

Project components

The three component deliverables of the project were:

1. Development of an “access to justice” map identifying services currently available to SRLs, their issues and needs, services and service gaps;
2. Development of a pilot service model framework for addressing the needs of SRLs in defined priority areas and for how various stakeholder groups can participate in helping meet these needs; and,
3. Design of an evaluation strategy for pilot plan implementation.

The balance of this summary describes each of these components in greater detail.

1. Access to Justice Map: Gaps, Issues and Needs

The Access to Justice Map describes the network of services that currently provide assistance to SRLs at the Vancouver Courthouse Complex at 800 Smithe St. and at the New Westminster courthouse areas. The map identifies SRL services and gaps in relation to SRL issues, challenges and needs in both court locations.

The map includes information for both court locations about the following:

- The kinds of services offered,
- The types of problems experienced by clients,
- Existing co-operative links and referral patterns connecting service providers,
- Perceived gaps in services for SRLs,
- Perceived gaps in the way services for SRLs are being delivered,
- Perceived priorities for family and other civil law services in this area.

The map laid a foundation for establishing the range of needs experienced by SRLs which the service would seek to address.

Methodology

Mapping began with the goal of gathering necessary data on the following:

- Characteristics and needs of SRLs
- Services provided to SRLs
- Areas of law where needs and services are concentrated
- The ability of SRLs to access these services
- Levels of demand for SRL-related services
- The degree to which SRL needs are met

The project team conducted 54 interviews for the mapping phase. The interviews provided coverage of major service areas, stakeholder interests, interested community groups and SRLs themselves. The first block of interview was conducted with direct service providers to SRLs and major “stakeholder” groups: 21 interviews. Twenty-six informants were then interviewed from the justice system, the policy-making arena, and advocacy groups who have contact with potential or actual SRLs. Seven SRLs were also interviewed, all of whom had dealt or were dealing with Supreme Court matters. Interviews were transcribed, segmented and analyzed. The mapping exercise showed where services are located, how and when service providers interact with one another, and the de facto overall pattern of service delivery for SRLs. It also showed where gaps exist in this pattern.

Gaps and Issues

Informants indicated that a coordinated and collaborative approach is essential to address the needs of SRLs. The court environment is seeing the emergence of project-based services for SRLs in different locations and at different times. From the client’s perspective, services are fragmented. In many instances these projects are the result of changes to the service environment, in particular the cutbacks to legal aid services. Clients who in the past would have had access to legal representation are now proceeding on their own, with or without the benefit of summary advice. The multiplicity of separate, time-limited project services was perceived by project informants as creating its own set of challenges for SRLs.

There was consensus among informants that the court system presents an unfamiliar and complex set of procedures for many SRLs. While some SRLs do quite well in the system, the majority of SRLs have difficulty managing their way in and through this system. Being an SRL has its challenges at all levels of court but SRLs in Supreme Court face particular challenges trying to understand and use the documentary process. No matter how well an SRL may be prepared, the experience of being in court is seen as being a demanding and difficult experience.

Many respondents commented on the way in which SRLs do not understand the process they are involved with. Service provider informants reported spending a great deal of time responding to procedural questions. The need for adequate preparation for court procedures was stressed in particular by justice system personnel who interact with SRLs in and around the courtroom. While some capable SRLs can fill in forms with online assistance, many others fail to complete forms correctly. In addition, SRLs do not understand the “big picture” of what their legal matter entails and do not know what to expect in the courtroom or how to conduct themselves when they get there.

Needs

Project research in phase one indicated that SRLs have a multiplicity of needs in relation to their court action. These needs include:

- Understanding the structure and operation of that part of the justice system where they intend to pursue a resolution of their legal problems;
- Identifying specific legal issue(s) and relevant legal options;
- Completing necessary court forms and other documents;
- Conducting relevant legal research associated with self-representation;
- Getting prepared to speak to legal issues in court;
- Appearing in court or in chambers to self-represent; and,
- Doing necessary follow-up to court appearances.

In addition, the mapping revealed the importance to SRLs of

- continuity of service, and

- direct and personal contact with those providing services.

Priority areas of law

The mapping indicated that the main areas where service needs are concentrated are, in order:

- Family Law
- Judicial Review
- Debt/Bankruptcy
- Probate
- Other Civil

2. Self-Help Centre: Proposed Service Vision and Program Design

This project component focused on the development of the service vision and service plan for a Self-Help Centre for Self-Represented Litigants in Family and Civil Matters.

Work within this project phase determined what the model should look like for co-coordinating self-help services for SRLs at the 800 Smithe St. and New Westminster courthouses. It also was to develop a detailed strategy, including evaluation, for the implementation of a pilot project on coordinated self-help services at both courthouses;

The researchers' initial task was to interview service providers from the agencies and institutions that have contact with SRLs in Supreme Court in civil and family matters. The goal was to obtain information about the ways in which the agencies may be able to collaborate to meet the needs of SRLs as the latter had been identified in the *Access to Justice* map. Would creating a collaborative network assist SRLs and assist the agencies involved? What would such a network look like and what would be the best way to build it?

Service Vision

To address needs identified in the *Access to Justice* map, a unified service model for SRLs must be established. The service model must have its own identity based on a collaborative arrangement linking different service providers. It must strive for continuity of service to SRLs through direct and personal contact. It must provide necessary communication and

coordination functions amongst those currently offering services to SRLs. And it must offer needed outreach functions in regard to other community-level resources available to SRLs.

The model was also one of a discrete self-help service, with its own principles and protocols, its own communications image and outreach strategy. The relationship of the stakeholders with the service will be defined by sign-on to an initial memorandum of understanding. The model will have a client-centred focus and a user-friendly approach. It will have the capacity to assess where an SRL currently is and what needs to happen next. It will offer services that are objective in nature and provided by skilled, patient and experienced staff. Referrals will be made to outside resources when avenues for alternate dispute resolution were seen to be appropriate.

Based on the collaboration of stakeholders and service providers, the service model can be expected to provide greater continuity of service to SRLs with less risk of duplication while making the court system more accessible. This, in turn, can be expected to lessen the adverse impact on the justice system caused by litigants who are not properly resourced for the tasks and pressures that await them.

In specific terms, the service model will strive to assist people pursuing self-representation by providing them with the following:

- A central point of contact for information on the court system, procedures involved in self-representation, options and support services;
- Access to legal advice via different legal agencies;
- Access to educational resources capable of building skills and enhancing understanding of specific court procedures; and,
- Assistance with any legal research required.

Program Design

Governance

In the pilot phase the centre will be managed by a Stakeholder Management Committee comprised of representatives from groups that make a substantive contribution to the service model. It will meet on a regularly scheduled basis to review operation of the pilot project, deal

with questions and issues that arise, and make decisions regarding overall project direction.

Service elements

Recommended service elements within the model are as follows:

Information and referral: To provide SRLs with access to basic information on and orientation to the court system, procedures involved in self-representation, options and support services.

Education: To provide SRLs with the basics of moving a case through the court process: initial orientation to the court, the steps in a court action, what evidence is and how to get it into court, how to conduct a chambers motion and/or a trial, how to present in court and the mechanics of an appeal.

Access to legal advice: To provide access to legal advice and assistance at strategic points

Access to assistance with forms, organization and documents: To provide SRLs with access to hands-on assistance to help them organize their materials, complete forms and documents and draft affidavits.

Substantive legal information: To provide services to SRLs who may need or want more detailed legal information. SRLs will be referred to the Courthouse Library, where a librarian can assist them in finding the specific information they require.

Problem resolution outside of the court process: To refer where appropriate potential SRLs to dispute resolution mechanisms, such as mediation with Family Justice Counsellors.

Administrative issues

The recommended location for the centre is within the courthouse so as to maximize profile, accessibility and visibility.

The recommended staffing components are

- A time-limited (approximately four months) project manager to provide start-up expertise;
- A full-time coordinator position to be responsible for the centre's daily operations.

To the maximum degree possible and to facilitate proper administration of the centre, those employed by the project should have a common employer.

Implementing the model: steps and timelines

The project is recommending that a two-year pilot be implemented, pending pilot funding approval. The project proposes that a SRL Self-Help Centre be established at the Supreme Court location in downtown Vancouver in year 1. The project manager could begin work as soon as funding is confirmed and preferably by September 2004. A precise timetable would be elaborated for the second Centre's opening its doors to the public in the second year, based on what is learned from the evaluation of year 1 experiences at the Vancouver location.

The project proposes that the stakeholder management committee seek the support of all service providers to SRLs to ensure the ongoing sustainability of the two centres following the completion of the pilots in August 2006.

Service scope

The start-up model for the centre focuses on the provision of effective information, education and research assistance, and timely referrals for legal advice and assistance.

Given the extent of the need identified by service providers and SRLs for hands-on assistance with the completion of forms, exploring the possibility of expanding the centre's work to include this service is identified as priority task once start-up has been completed.

3. A Proposed Evaluation Model

An evaluation model for the pilot project will look, from a client-centred perspective, at the Centre's ability to address the identified needs of SRLs. The project's evaluation plan looks at the discrete components of the service model and tailors approaches unique to these components. Evaluation activities include analyzing statistical information gathered over the course of the pilot's operation, interviewing Centre stakeholders, administrators and staff, and gathering direct experience-based information from SRLs themselves to determine project success in meeting its objectives and in providing quality services that are useful to SRLs.

Centre evaluation will also be conducted with a view to assisting in making the service model sustainable and replicable. It will also incorporate the specific interest of the federal Department of Justice in legal aid accessibility and of the Canadian Forum on Civil Justice in improving communication between the public and the justice system.

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