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# TOWARDS THE FUTURE FOR LEGAL AID AND LEGAL AID PROFESSIONALS

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# LEGAL AID & LEGAL AID CLIENTS

- Legal aid plans are government funded
  - Most plans have a mandate to deliver quality, cost effective and efficient services
  - 80% of funding goes towards staffing (LAS) and similar percentages across the country for staff and/or private bar certificates/contracts
  - There are many gaps in service and many citizens who cannot access legal aid services
  - Few low-cost alternatives
  - Legal issues and client needs are becoming increasingly complex
- Legal aid clients are particularly vulnerable:
    - Language issues
    - Literacy issues
    - Mental Health issues
    - Addiction
    - Poverty
    - Indigenous Clients (Gladue and self-determined systems)
    - Racialized Communities (IRCAs)

# REINVENTING CRIMINAL JUSTICE

- Every year in Canada, police, courts administration, corrections, judiciary, Crown, and legal aid gather to tackle a particular issue related to the criminal justice system
- At the 2022 14th National Criminal Justice Symposium, the theme was: **Post-Pandemic Opportunities in Criminal Justice**
- Re-inventing Criminal Justice: The Fourteenth National Symposium - Final Report (<https://icclr.org/publications/re-inventing-criminal-justice-the-fourteenth-national-symposium-final-report/>)

# REINVENTING CRIMINAL JUSTICE CONTINUED

## CROSS-SECTORAL COLLABORATION, PROBLEM-SOLVING, AND REDEFINING THE CRIMINAL JUSTICE ROLE

- INTERSECTORAL ROLES OF JUSTICE, HEALTH AND SOCIAL SECTORS
- UNPRECEDENTED COLLABORATION AND COORDINATION OF THESE SECTORS DURING THE PANDEMIC
- SHARPENED UNDERSTANDING OF THE INTERCONNECTED AND LIMITED NATURE OF JUSTICE-RELATED SOLUTIONS RELATIVE TO OTHER SOCIAL DETERMINANTS OF HEALTH
- JUSTICE SYSTEM CANNOT BE A CATCH-ALL DEFAULT SOLUTION FOR BROADER SOCIAL ISSUES

# REINVENTING CRIMINAL JUSTICE CONTINUED

CROSS-SECTORAL COLLABORATION, PROBLEM-SOLVING, AND REDEFINING THE CRIMINAL JUSTICE ROLE

- COORDINATION NETWORKS ESTABLISHED DURING PANDEMIC MUST BE SUSTAINED AND BROADENED
- CLOSER COMMUNICATION AND COOPERATION MUTUALLY BENEFICIAL AND PRODUCTIVE
- FURTHER STRENGTHEN AND INSTITUTIONALIZE THESE TIES TO MAKE THEM SUSTAINABLE
- TERMS OF ENGAGEMENT TO MAXIMIZE PRINCIPLED ENGAGEMENT AND DEFINE BOUNDARIES

# REINVENTING CRIMINAL JUSTICE CONTINUED

MANAGING THE RISKS AND UNIQUE OPPORTUNITIES OF TECHNOLOGY

- SECURITY AND PRIVACY CONCERNS RELATED TO VIRTUAL APPEARANCES REQUIRE SUSTAINED ATTENTION

# REINVENTING CRIMINAL JUSTICE CONTINUED

## MANAGING THE RISKS AND UNIQUE OPPORTUNITIES OF TECHNOLOGY

- CONCERNS OVER UNAUTHORIZED PARTICIPATION IN OR ELECTRONIC CAPTURE OF VIRTUAL PROCEEDINGS, SECURITY OF INFORMATION, AND RISKS TO VICTIMS AND WITNESSES (E.G., OFF-CAMERA INTIMIDATION), WHILE RECOGNIZING THAT IN-PERSON PROCEEDINGS ARE THEMSELVES NOT IMMUNE TO SUCH CONCERNS.
- THERE IS A NEED TO ESTABLISH AND ADDRESS ACTUAL RISKS, WHILE AT THE SAME TIME DISPELLING OTHER CONCERNS WHICH MAY NOT BE BASED IN FACT.

# REINVENTING CRIMINAL JUSTICE CONTINUED

## MANAGING THE RISKS AND UNIQUE OPPORTUNITIES OF TECHNOLOGY

- COMMON TECHNOLOGY CHALLENGES DEMAND CONSIDERATION OF SHARED SOLUTIONS.
- ALL JUSTICE SYSTEMS REPRESENTED BY PARTICIPANTS AT THE SYMPOSIUM FACE PANDEMIC-ERA CHALLENGES OF IMPLEMENTING MODERN DIGITAL TECHNOLOGY TO FACILITATE APPEARANCES, ACCELERATE INFORMATION AND DATA SHARING, IMPROVE ACCESS TO JUSTICE, AND IMPROVE GOVERNANCE OF JUSTICE PROCESSES.
- THERE IS ROOM FOR GREATER FPT COORDINATION TO CREATE COMMON VIRTUAL AND INFORMATION ENVIRONMENTS, SHARE TECHNOLOGY WITH JUSTICE PARTICIPANTS, AND INCREASE BUYING POWER.
- THERE IS ALSO A STRONG CASE FOR NATIONAL FUNDING AND NATIONAL STANDARDS OR OUTCOMES ON DIGITAL EVIDENCE MANAGEMENT AND ELECTRONIC DISCLOSURE, PRIVACY, AND SECURITY, AND MORE GENERALLY ON JUSTICE TECHNOLOGIES.



# REINVENTING CRIMINAL JUSTICE CONT'D

## MANAGING THE RISKS AND UNIQUE OPPORTUNITIES OF TECHNOLOGY

- WITH HYBRID COURTS IN OUR FUTURE, THE CRIMINAL JUSTICE SYSTEM SHOULD EXPLOIT THE UNIQUE BENEFITS OF VIRTUAL SPACES, RATHER THAN SIMPLY OVERLAYING HISTORICAL IN-PERSON PROCESS.
- THE RISK OF “PAVING THE COW-PATH” IS VERY REAL.
- SYSTEMS DESIGNERS TO RECOGNIZE WHAT IN-PERSON AND VIRTUAL PROCESSES RESPECTIVELY INHIBIT AND ENABLE.
- IMPORTANT TO BUILD ON USER EXPERIENCE AND WORK WITH YOUNGER GENERATIONS OF PROFESSIONALS IN DESIGNING THE HYBRID SYSTEM THEY WILL INHERIT.
- THIS IS A CHANGE OPPORTUNITY, A CHANCE TO RE-EXAMINE AND IMPROVE EXISTING PROCEDURES/PROCESSES, WHICH WE SHOULD EMBRACE. WE SHOULD NOT ALLOW A DESIRE FOR PERFECTION TO PARALYZE PROGRESS

# TECHNOLOGY

- Technology has been disrupting major industries for decades now
- Law is no exception
- Legal Aid should be no exception

# BARRIERS TO USING TECHNOLOGY

- Resistance to technology by Courts Administration and the Judiciary
- Resistance to the use of technology by Legal Aid Staff
- Inadequate disclosure processes
- Inadequate filing processes
- Inadequate process to deal with administrative proceedings such as adjournments

# TECHNOLOGY A2J SOLUTIONS

- VIRTUAL BAIL

[HTTPS://WWW.PROVINCIALCOURT.BC.CA/ENEWS/ENEWS-15-04-2021](https://www.provincialcourt.bc.ca/ENEWS/ENEWS-15-04-2021)

- RURAL AND REMOTE VIDEO COURT ACCESS

- ONLINE LEGAL INFORMATION FORM GENERATION SOFTWARE

[HTTPS://STEPSTOJUSTICE.CA/](https://stepstojustice.ca/)

[HTTPS://FAMILYLAW.PLEA.ORG/](https://familylaw.plea.org/)

# INNOVATIVE SERVICE PROVISION

## INDIGENOUS JUSTICE SYSTEMS

- Indigenous led services:

- Child Protection, Bill C-92

- <https://www.cbc.ca/news/canada/saskatchewan/how-cowessess-first-nation-child-welfare-agreement-works-1.6095470>

- Indigenous Courts

- <https://albertacourts.ca/cj/areas-of-law/criminal/calgary-indigenous-court>

- BC: First Nations Justice Strategy

- <https://bcfnjc.com/landing-page/justice-strategy/>

- What is Legal Aid's role in Indigenous systems?

# INNOVATIVE SERVICE PROVISION CONT'D

## LEGAL AID PROFESSIONALS

- LAWYERS
- PARALEGALS/PARAPROFESSIONALS
- SOCIAL WORKERS
- MEDIATORS
- COURT NAVIGATOR ROLES
- COMMUNITY LEGAL WORKERS

# RESOURCES

- Canadian Bar Association The Canadian Bar Association (CBA) is the largest professional association for lawyers in Canada. Their mandate is to champion Canadian lawyers and Canadian law. They are the face, the voice, and the future of this country's leading legal minds.

FUTURES: TRANSFORMING THE DELIVERY OF LEGAL SERVICES IN CANADA

- [https://www.cba.org/cbamedialibrary/cba\\_na/pdfs/cba%20legal%20futures%20pdfs/futures-final-eng.pdf](https://www.cba.org/cbamedialibrary/cba_na/pdfs/cba%20legal%20futures%20pdfs/futures-final-eng.pdf)
- LEGAL FUTURES INITIATIVE TOOLS AND RESOURCES Available online at [www.cbafutures.org](http://www.cbafutures.org) unless otherwise noted
- TOOLS: Canadian Bar Association, Guidelines for Practicing Ethically with Information Technologies, online: <http://www.cba.org/cba/activities/pdf/guidelines-eng.pdf>
- Ethical Practices Self-Evaluation Tool, online: <http://www.cba.org/CBA/activities/code/ethical.aspx>
- Legal Futures Initiative, Futures Readiness and Self-Assessment Tool (see Appendix 3)

# OUR LAS TEAM





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THANK YOU!