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## Reaching Out With Research: Engaging Community in Mapping Legal Service Accessibility, Effectiveness and Unmet Needs

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## **REACHING OUT WITH RESEARCH: Engaging Community in Mapping Legal Service Accessibility, Effectiveness and Unmet Needs**

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## ABSTRACT

Emerging international research demonstrates that high economic and social costs accrue when individuals cannot access timely and effective resolutions to legal problems. Canadian research also shows that most people lack knowledge and understanding of legal rights, legal processes and services, and experience significant barriers when attempting to seek legal information and assistance. Within the Canadian justice community there is strong interest in engaging all relevant stakeholders in collaborative processes of research and policy development. This paper discusses how community-based mapping research can facilitate such engagement in compiling evidence that informs the development of legal processes and services that are more accessible, effective, efficient and fair. Community-based mapping research goes beyond recording details of geographical dispersement to include multiple perspectives on service accessibility, effectiveness and gaps within the context of local/regional social networks and relationships. Examples of Canadian projects are utilized to illustrate the application of this approach and its power to build both evidence and stakeholder networks. At the same time, the challenges of meeting all of the collaborative engagement and action for change goals are recognized.

## INTRODUCTION

Civil justice systems are fundamental and far-reaching components of democratic societies, providing essential definition to inter-personal relationships, and structured processes crucial to the maintenance of citizens' rights and the peaceful resolution of private disputes. The past decade has seen international re-affirmation of the importance of ensuring accessible and effective civil justice processes and services accompanied by increased awareness of the need for high quality evidence-based socio-legal research to inform policy and programme development (Genn, 1999; Genn, Partington & Wheeler, 2006; Lord Woolf, 1996; Parker, 1998; Task Force on Systems of Civil Justice, 1996).

Responding to this recognition, emerging international research provides strong evidence that high economic and social costs accrue when individuals cannot access timely and effective resolutions to legal problems (Currie, 2005, 2007; Pleasence, Balmer & Buck, 2008; Stratton & Anderson, 2008).<sup>1</sup> This research also shows that most people lack knowledge and understanding of legal rights, processes and services. Concurrently, there is increasing recognition that policy and programming in all sectors is more effective when informed by evidence-based research and co-designed with all relevant stakeholders including service providers and users (Bradwell & Marr, 2008; Legal Action Group, 2007; Parker & Gallagher, 2007). Responding to this context, there is now strong interest within the Canadian justice community to engage relevant stakeholders in collaborative processes of research and policy development.<sup>2</sup> This paper discusses how community-based

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<sup>1</sup> All of this research focuses on non-criminal legal matters. However, failure to find resolution also appears to increase the likelihood of involvement in criminal legal matters as either victim or perpetrator.

<sup>2</sup> The Canadian Forum on Civil Justice (the Forum) was established specifically to bring together the public, the courts, the legal profession and government in order to promote a civil justice system that

mapping research can simultaneously facilitate such engagement and compile evidence that informs the development of legal processes and services. Examples of three Canadian mapping projects illustrate the power of collaborative research to promote understanding of legal service needs and action to address them.

## WHAT WE MEAN BY COMMUNITY-BASED MAPPING RESEARCH

A community-based mapping research approach is a collaborative form of needs assessment derived from participatory research practice in the international development field. It recognizes, includes and values local knowledge as essential to understanding communities (Chambers, 1997; Parker 2006). Various kinds of ‘maps’ are created using any kind of locally available material to indicate people, services and other important factors in the community.<sup>3</sup> Maps usually record geographical dispersement, resource allocation, services, physical barriers and social networks and relations (Chambers 1994, 1997, 2006).<sup>4</sup> This approach has much to offer researchers and policy-makers interested in community and user engagement in collaboration and co-design.<sup>5</sup>

This form of mapping research pre-dates the wide availability of Geographical Information System (GIS) technologies. The generation of GIS maps can facilitate creation and sharing of community-based needs mapping. However, while the inclusion of cartographic maps among the products of a community mapping project is almost always useful, it is not an essential component of the approach, which aims to accurately identify community needs and promote locally appropriate action to meet these effectively. Chambers (2006) warns that GIS maps generated from pre-existing data and disengaged from community involvement should not be confused with the community-engaged mapping research process.

A basic recognition of mapping research is that local people possess valuable knowledge and are capable research collaborators (Chambers 1994).<sup>6</sup> The

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is accessible, effective, fair and efficient. The Forum is currently compiling *Creating Collaborative Alliances for Change*, a dynamic resource for the justice community that will provide a searchable, step-by-step guide for justice community collaborations. This resource will be posted to the Forum website when completed. For news, publications and project details visit: <http://cfcj-fcjc.org/news/>.

<sup>3</sup> In international development practice, maps may be drawn on the ground or paper and sticks, stones, clay etc used to indicate the features. Using similar methods with materials suitable to engage diverse local groups is also useful in developed countries (Chambers, 2002)

<sup>4</sup> The literature concerning participatory action practices in International development is extensive. Chambers (1994, 1997, 2006) is well known in the field and provides detailed overviews of mapping research practices, including explanations of various branches of international development research, such as rapid rural appraisal (RRA) and participatory rural appraisal (PRA) that have made important contributions to mapping research tool kits.

<sup>5</sup> It is the principle of engagement and process of collaboration that are defining. Different terms may be applied, such as co-design, environmental scan, mapping needs assessment.

<sup>6</sup> The participatory research literature tends to use the terms participatory, collaborative, action and partnership research interchangeably. The same is true of discussions about stakeholder engagement and co-design processes. The Forum takes the position that careful consideration should be given to what is understood by these terms. We define our approach as collaborative using the definition: *Working together in a cooperative, equitable, and dynamic relationship, in which knowledge and resources are shared in order to attain goals and take action that is educational, meaningful, and beneficial to all. It is understood by this that research is conducted with, and not on the community, and that all collaborators have different, but equally important knowledge and*

metaphor of the map remains important whether or not an actual map is part of the research product. As an image, a map presents information without necessarily evoking a hierarchical relationship of knowledge creation and there is a sense that a map is dynamic and can be continually added to and adjusted.<sup>7</sup>

When understanding of effective ways to meet community needs is required, there are both practical and philosophical reasons to take a mapping approach. At the practical level, encouraging community members to engage in the process ensures the inclusion of important information that outside researchers might overlook. Using some of the international development tools for the literal creation of community maps can overcome the conceptual and language barriers to providing input that some population members face. Including the experience and perspective of all groups and levels of stakeholders necessary to a successful change process promotes understanding, ownership and buy-in to recommendations concerning actions needed to bring about positive change (Chambers, 1994, 1997; Frampton, Kinsman, Thompson, & Tilleczek, 2006).

At the philosophical level, the concept of creating a map suggests a process that recognizes multiple, interrelated factors and relationships, including differences in economic and social power (Chambers, 1997; Frampton et al, 2006). Specifically concerned with research to bring about change by engaging with institutions that exercise power, Frampton et al (2006) offer this definition of mapping:<sup>8</sup>

The series of social relations that intrude into and shape local everyday worlds can be mapped out through critical social analysis in institutional ethnography and political activist ethnography work. This mapping is not a neutral or disinterested mapping but is instead an engaged and reflexive map making from the standpoints of the oppressed. This mapping out maintains an indexical (context-dependent) and reflexive (mutually determined) relation to oppressed people's social experiences. This mapping out of social relations is not simply a technical matter, as it is also very much a political and social undertaking. (p. 33)

Action for social change inevitably involves relations between powerful institutions and less powerful organizations and individuals, some of whom are systematically socially excluded. The recognition of unequal power is therefore an integral part of mapping research philosophy and practice, which is situated within a broader, critical knowledge orientation to research (Morrow, 1994). The position taken is that all knowledge including research is socially constructed and mediated and cannot be completely neutral. Proponents pose a virulent critique of traditional ('positivist') research philosophies that claim disengagement from research 'subjects', increases

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*resources to both share with, and gain from each other.* This definition allows collaborators to consider and define the ways in which they can effectively work together and contribute.

<sup>7</sup> This is particularly true of maps drawn on the ground or captured by GIS software; however Parker (2006) points out this has not been true throughout much of the history of cartography. The ready availability of GIS software and secondary population data also create a temptation to produce quick "mapping" that violates the collaborative principles of community mapping by failing to engage with community members.

<sup>8</sup> Frampton et al (2006), provide interesting discussions that situate mapping methodology in the context of well-established sociological theories and methodologies including neo-Marxist, phenomenological, ethnomethodological and social movement schools of thought. Well-known Canadian sociologist Dorothy Smith discusses mapping as part of an approach to "institutional ethnography," validating mapping approaches as effective tools for understanding institutional organization (pp.18-26), which is of importance to mapping research concerning systems of justice.

objectivity, and minimizes bias (Frampton et al, 2006; Gartrell & Gartrell,1996; Kirby & McKenna,1989; Morrow, 1994).<sup>9</sup>

The critique of traditional approaches argues that disengagement produces research conducted *on* rather than *with* the people who have the most pertinent insights into the social context of the issue concerned. Reported findings tend to judge the social lives and conditions of researched groups, especially those in subordinate social positions. Research findings are incomplete at best. Viable solutions to social problems are not generated and communities, especially marginalized groups, have become reluctant to engage with researchers taking a positivist approach.<sup>10</sup>

Community-based mapping is designed to work with the members of researched communities throughout the research and policy development processes, building engagement, developing appropriate research methodologies, and finding and implementing effective policy and programme solutions.

## COMPLEXITIES INHERENT TO MAPPING RESEARCH

Mapping research is intended to create engagement across power divisions with the community at the centre. Such a process is inevitably complex and challenging. As Parker (2006) conveys, it is always a work in progress requiring dynamic and innovative methods. Committed to change, this approach to research cannot be expected to be a perfect process but must embrace risk of failure as part of the path to eventual success. Both Chambers (2006) and Parker (2006) point to the danger of accidental failure to meet the promises made to communities involved in mapping projects. They also express concerns about the potential for cooptation of the approach, especially tokenism in the process of inclusion and failure to return useful and constructive knowledge to the collaborating community.

The realities of practice do not make it easy to ensure fully representative engagement, quickly return research results to communities, or ensure constructive responses to findings and recommendations.<sup>11</sup> To guard against token or co-optive 'mapping,' repeated reflection is recommended on three defining measures of a true collaborative process offered by Parker (2006, p.47). Community mapping is:

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<sup>9</sup> Proponents of these oppositional epistemological positions have engaged in debate since the foundation of sociology (Curtis & Petras, 1970; Li & Singh Bolaria, 1993). Although the debate is not laid to rest, the last five years have seen research funders and policy makers in Canada and elsewhere increasingly advocating collaborative engaged approaches (see Bradwell & Marr (2008) for example).

<sup>10</sup> It is not possible to fully develop these concerns within this paper, however, a number of the works cited are specifically occupied with these issues and the conduct of collaborative and engaged approaches to research (Chambers, 1997; Church, Bascia & Shragge, 2008; Frampton et al, 2006; Kirby & McKenna, 1989; Stratton & Jackson, 2008). Furthermore, in Canada, as a response to the negative impact of traditional approaches, Aboriginal peoples have developed specific protocols for the conduct of research within their communities (Royal Commission on Aboriginal Peoples, 1993).

<sup>11</sup> Stakeholder engagement is beset with difficulties requiring a discussion beyond this paper. Reports developing these issues are currently being drafted by the Forum.

1. A collective attempt to represent a range of community members within a localized geographical scale.
2. Concerned with both process and product; how participants work together and negotiate issues of place and representation is as important as the map itself.
3. Striving to be inclusive, empowering and transparent.

To be appropriate for the research issue and community involved, each mapping project must be individually tailored. This is a process of collaborative exploration to create new understanding and as such it cannot be expected to be a perfect process. Experience suggests the following components are essential for successful mapping outcomes:<sup>12</sup>

- *Continuous and diverse community involvement* throughout the planning, data collection, analysis, dissemination, and action phases. Ways must be found for the full diversity of the community to be represented among the research collaborators if the resulting knowledge is to be considered complete, reliable and valid.
- *Community ownership and access* of the data and the resulting products is paramount. The community must have free and easy access to the project knowledge, but research participants must also be protected from any harm resulting from their involvement. Confidentiality issues and storage of raw data need to be agreed at the outset and strictly adhered to.<sup>13</sup>
- *Multiple forms of evidence* are needed to create a full understanding of the research issues. The goal is the formation construction of a mosaic (map) that can inform subsequent action for change. Typically, mapping will include accumulating and documenting the state and usage of existing resources along with community perspectives about those resources. Available facts and figures will be collected, observations will be made and interviews will be conducted to capture relevant social contexts and relations.
- *Appreciative inquiry*, a process that sets out to highlight existing community strengths and effective practices (Ludema, Cooperrider & Barrett, 2001) should be utilized. This approach engages community members in identifying what works and how success can be built upon to achieve needed change. The result is a mapping report that avoids the appearance of delivering negative judgement and instead provides a constructive statement of conditions along with suggestions for improvement where need is identified. Appreciative inquiry helps everyone involved to see and understand how things 'work' in people's daily lives and generates knowledge that points to the paths of action for transforming social conditions (Frampton et al, 2006).

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<sup>12</sup> The identified components are drawn in part from the work of Chambers (1994, 1997, 2006) and Parker (2006) and also from the experience gained from the author's involvement in the three mapping projects used as illustrations later in this paper.

<sup>13</sup> In Canada, all university employees and all researchers formally partnering with universities are required to submit research plans to a Research Ethics Board. Confidentiality and protection of participants from harm are key concerns. Typically, neither large organizations (such as governments) nor small community organizations, have such requirements. It is strongly recommended that all research collaborations develop a set of ethical guidelines to govern their work.

- A *collaborative agreement* (written, oral or both as is appropriate to the collaborating community) is created to record decisions about all aspects of the mapping project. This agreement should include ethical commitments about the gathered data and created knowledge.

## **REACHING OUT WITH RESEARCH: MAPPING ACCESS TO LEGAL SERVICES**

*So to me, what you would need, what would be helpful ... is gathering together what all the resources are .... And then once you know – everyone in the system would then hopefully have access and would know what resources were available in the system. So that would be accomplishing step one. And then step two is, OK, how do you make those available to members of the public? .... And then to me ... the ideal situation would obviously be to have a trained person, not a lawyer but whether you would called them trained like a paralegal or something like this, at the court house. And a Legal Aid paid employee at the court house that would field all kinds of questions about, you know, “I’ve got a Landlord Tenant” or “I’ve got a Family” or “I’ve got a Custody”... there must be thousands of potential questions. And then that person, having/knowing, what all the resources are would be able to say well, you’re here in [city] and there’s a pro bono clinic run through Legal Guidance and here’s the phone number and here’s the web site .... [and] you should go and see the Landlord Tenant Advisory Board and here’s their address and here’s their phone number and so forth. And then that person would sit there all day long, basically, directing members of the public to the appropriate resource .... And how you accomplish that? ... Really - in the end - what you are talking about is government money .... And there you go.<sup>14</sup>*

### ***Mapping Research: The Potential for Understanding Legal Service Delivery***

The above quote from a Canadian justice community member recognizes a need for a process of engagement to systematically compile, share and act upon information about existing legal services. A mapping approach provides an effective tool in keeping with that vision because it is flexible, committed to inclusion, designed to address power hierarchies and intended to promote change. For the Canadian justice community, mapping has the potential to:

- bring together and build up networks of all the stakeholders involved in developing, providing and using legal services for the purpose of sharing knowledge and collectively identifying action for constructive change;
- understand relative distributions of populations and legal services, including the identification of hard-to-reach groups;
- identify and enhance existing programs and services that work well;

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<sup>14</sup> This quote is taken from transcript #287, a justice community participant in the *Civil Justice System and the Public*, a national collaborative project undertaken by the Forum between 2001 and 2006. Details of this project, the research methodology and publications are available at <http://cfcj-fcj.org/research/cjisp-en.php> .



- indicate where existing services can be better coordinated and interrelated to provide holistic programs;
- shift resources where duplication is identified;
- identify where service gaps exist and the type of new programs that will most effectively meet this need; and
- identify needed changes to current law, rules and practice.

### ***Mapping Research: The Challenge of the Justice Community***

In Canada, responsibility for justice systems and associated legal services is divided among federal, provincial, territorial and sometimes municipal jurisdictions. At the provincial level, these responsibilities are often split between two government ministries. There are different legal processes and associated service delivery for matters of criminal, civil, family, and administrative law.<sup>15</sup> Consequently, the legal processes and services are very complex and difficult to understand – for legal professionals as well as the public.

Mapping research demands a network approach that includes all stakeholders. For coordinated legal service delivery this will typically involve diverse groups among the public, funders, multiple levels and departments of government, court administrations and associated services, judiciary from several different courts, the private Bar, Legal Aid, community legal clinics and various other funded or *pro bono* legal services, law reform organizations, public legal information and education providers, and community services that offer legal information or related support.

Working collaboratively and inclusively among this multitude of diverse stakeholders will always be challenging. The attempt represents a major culture shift for the justice community. Justice community organization presents some specific challenges to mapping research practice that confront some of the theoretical assumptions. Mapping within the justice community requires the following issues to be recognized and addressed:

#### *A local map is only part of the access to justice picture*

Mapping local knowledge about legal services is clearly an essential part of understanding community based access to justice issues. However, the fragmented, multi-jurisdictional complexity of service provision results in a lack of information and understanding about what services are locally available. Canadian research shows that even providers may not be fully informed about services offered by their own organization and accurate knowledge concerning other services is generally low (Gander, Lowe & Stratton, 2005; Lowe & Stratton, 2004; Stratton, 2006; Malcolmson & Reid 2004). This lack of local knowledge is one of the barriers to access to justice that must be recognized if an accurate map of existing services is to be created. It is essential, therefore, that the mapping team undertake considerable background research to pre-establish which services are actually in the community, and the locations of other services covering the community but not physically present. A

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<sup>15</sup> Canada also strictly observes distinctions between the terms 'legal information', 'legal advice', and 'legal representation'. Only a lawyer, or someone working under the supervision of a lawyer, may provide advice or representation. The line between information and advice can be quite rigid (for example assistance with legal forms is generally interpreted as providing advice). This further serves to complicate service delivery and confuse the public.

complete mapping of access to justice issues will require that large organizations (such as ministries concerned with justice services, court services and legal aid organizations) also engage in internal mapping. The full access to justice picture only emerges when the various service maps are compared and combined with observational, experiential and population data. However, an initial action outcome of the mapping is achieved when the researchers share the basic service information with the local community.

*Legal culture is hierarchical, adversarial and competitive*

Systems of justice are organized as hierarchical structures and this is reflected in everything from the physical construction of courthouses and other buildings to the role distinctions and communication relationships among stakeholders. Mapping research provides a voice to people who lack power, but the hierarchy of justice community relationships raises some interesting considerations:

- Mapping philosophy is to work from community roots upward, but to reach many of the front-line people providing justice and legal services, researchers must gain entrance to the institutions employing them. Stakeholder buy-in and collaboration at the top of the hierarchy is therefore indispensable. Furthermore, although members of the judiciary are situated at the top of the justice hierarchy, concern for preserving their independent role greatly limits their opportunity to speak out publicly about justice reform. However, judges, like security staff and court counter clerks at the other end of the of the court hierarchy, are quintessential observers of public interaction with justice system services. In the context of the justice hierarchy, stakeholders working within the system, perhaps even more than the service users, need safe spaces and processes that allow them to share their valuable knowledge and experience with impartial researchers.
- Mapping theory also tends to favour researchers from within the researched community and it is important that researchers have an understanding of the systems, communities and issues of inquiry. It is equally important that they have autonomy from any individual stakeholder involved in either the collaborative or the change process required. While findings must be fully accessible, the researchers must be in a position to protect the raw data and ensure absolute confidentiality. With thought and careful planning these conditions can be achieved.<sup>16</sup>
- Collaborative research for change is founded on a belief in a knowledge exchange dialogue that identifies common ground and action that benefits all. Western legal systems are founded on a tradition of oppositional debate in which one side 'wins' the argument and the other 'loses' it. Justice community engagement in mapping research demands a profound shift in cultural tradition that can be difficult and uncomfortable.
- An additional element of the win-lose culture is that many justice services, especially those offered by community-based non-profit organizations,

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<sup>16</sup> This point merits more discussion than is possible here. The project examples later in this paper note how researcher independence was achieved.

perceive that they are in competition for funding dollars. They fear evaluation or assessment research that might conclude duplication of services. The collaborative and transparent principles of mapping help to alleviate these fears, especially when service providers are involved in identifying the strengths on which to build and what is needed to further enhance the services they can currently provide. Nevertheless, moving to a model of collaboration for both funding acquisition and service delivery is often very new ground to discover and embrace.

- Bringing about constructive change entails generating and confronting critique. Complex systems inevitably have flaws, but many individuals employed within them dedicate their lives to working for just outcomes. It is generally these dedicated individuals who will do the difficult work of hearing the criticism and attempting to address it. In a culture given to win-lose argument, it is vital that collaborators separate organizational critique from the individual representative. The collaborative should be informed about each others' organizational mandates, cultures and restrictions, agreeing to a respectful process of communicating critique to collaborators before it is made public.

*Service users should be at the centre of the map; but how do we get them there?*

It is more difficult to identify and engage people who have or are using legal services than it is to find those familiar with health or education service providers.<sup>17</sup> There are a number of factors that contribute to this:

- Most of us engage repeatedly with the latter two service areas for ourselves and family members, but many of us do not access legal or court services even when we do have a legal problem (Currie, 2005, 2007; Pleasence, Balmer & Buck, 2008; Sandefur, 2007).
- Legal matters, legal services and the users are all diverse and understanding service effectiveness requires input from a representative range of services and people.
- Both providers and users wonder whether the legal system is too complex for users to be meaningfully involved.<sup>18</sup>
- People who are involved in a legal matter, whether criminal or non-criminal, may be reluctant to talk about it or fear that negative comments will be detrimental to the help they need from the legal services involved.
- Both providers and users may have concerns that involvement will breach confidentiality, although in practice, autonomous researchers and standard research protocol can ensure this is not the case.
- The viability of also including people who have not yet used services must be weighed depending on the focus, purpose and resources of a project.
- Gaining the attention, interest and trust of service users and non-users requires, more than anything else, an investment of time. Research intended

<sup>17</sup> The same observations have been made in the UK (Legal Action Group, 2007). Based on our experiences, the Forum is currently drafting a report, *Finding the Public to Talk With*, which we hope to make available during 2009.

<sup>18</sup> Research that has involved users refutes this perception. This is especially true of the CJSP project where well over 100 court service users were involved in interviews and focus groups. See publications at <http://cfcj-fcjc.org/publications/cjsp-en.php>.

to inform policy is too often undertaken with insufficient time for public engagement.<sup>19</sup>

The Forum research experience indicates that the assistance of legal and social service providers is the most effective way to identify service users. When providers are themselves engaged in the research they are willing to draw it to the attention of clients and facilitate contact with the researchers. Importantly, people who the service has to turn away because they are ineligible for or misinformed about services are also contacted in this way. Other successful methods used in the CJSP research included courthouse tables and coverage by local print and radio media.<sup>20</sup> The mapping process should allow multiple ways for the public to be involved such as interviews in-person or by telephone, focus groups, case studies and self-report observers.

Engaging lay persons in research about legal matters and services will likely always be challenging. It is, however, essential and possible to achieve.

### LEGAL SERVICE MAPPING: THREE EXAMPLES

In Canada, interest in mapping was driven by the perception of an increase in individuals proceeding to court without legal representation and the expectation that numbers of self-represented litigants (SRLs) will continue to increase.<sup>21</sup> This concern highlighted the necessity to understand the reasons for the growth of SRLs and the needs of these individuals. A focus on difficulties SRLs face in accessing the courts and associated legal services has emerged as a strong theme in recent Canadian research and was the instigator for *Mapping Services, Gaps, Issues and Needs* (Malcolmson & Reid, 2004), and the *Alberta Self-Represented Litigants Mapping Project* (Stratton, 2007), the first two mapping examples described. Findings from these projects served to underline the need to better understand the full range of legal services available and the *Alberta Legal Services Mapping Project (in progress)* takes on this challenge.

The three examples, sequential in conduct, vary markedly in scope, resources, specific purpose and time frame but are strongly linked through knowledge sharing and network building. Separately and together they illustrate the power and value of mapping research that learns from, shares and builds upon its own process.

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<sup>19</sup> This was true of two of our example projects (Malcolmson & Reid, 2004; Stratton, 2007), and is reflected in the small number of users participating.

<sup>20</sup> It is also worth noting that the Alberta Law Reform Institute successfully involved lay persons in surveys and focus groups to inform reform of Rules of Procedure. Having research information tables in public libraries and shopping malls are other possibilities for connecting with the general public.

<sup>21</sup> There is an growing amount of systematically gathered experiential evidence that there is a definite increase in the number of litigants attempting to negotiate criminal and non-criminal justice systems without a lawyer. However, it is important to note that there are as yet very few reliable statistics concerning SRLs. Distinctions are sometimes made between people who are unrepresented in a civil case because they cannot retain a lawyer (URL), people who choose to represent themselves (SRL), and an accused who is not represented in a criminal case (URA). In the USA the term 'pro se' is often used. For the purposes of this paper, the term SRL is used to include anyone attempting to address a legal matter without a lawyer in criminal, civil, or family matters.

## ***Mapping Services, Gaps, Issues and Needs in British Columbia***<sup>22</sup>

*Developing Models for Coordinated Services for Self-Representing Litigants: Mapping Services, Gaps, Issues and Needs* (Malcolmson & Reid, 2004) is the report on the mapping research process undertaken by the British Columbia Self-Help Committee (SHC). The SHC is a large collaborative that includes representatives of many civil justice stakeholder groups. The committee formed in the wake of drastic provincial service cuts, concerned about the increasing number of litigants attempting to use the BC Supreme Court without legal representation. The SHC wished to propose a centre that would provide free legal information and assistance to SRLs attempting to access the Supreme Court for civil and family matters. In the spring of 2003, the Executive Director of the BC Law Courts Education Society shared the fledgling idea and a draft funding proposal at a *Civil Justice System and the Public* (CJSP) Partner Symposium. The need for evidence to support the idea was identified and subsequently, the CJSP Research Coordinator became a member of the SHC and the initiative became a case study for the CJSP project.

Every step of the ensuing process involved the input of the collaborative. Reaching agreement among so many contrasting perspectives was sometimes challenging, but committee members continued their dialogue until different viewpoints were successfully negotiated and the project moved forward. From the outset, a clear three-stage plan of action was developed:

1. Researchers were hired to compile an “access to justice” map documenting details of the network of services providing assistance to SRLs with a civil justice case at the Vancouver and New Westminster Courthouses.
2. Based on the mapping report, a *Proposed Service Vision and Programme Design* was written for the purpose of establishing a coordinated service model (self-help centre) to meet the needs of SRLs.
3. An evaluation model was designed to commence as soon as the pilot centre was operating.

A commitment was made to taking a client-centred perspective and making all reports available to the public. Independent researchers with knowledge of the justice system were hired with autonomous funding to conduct research aimed to capture the following information:<sup>23</sup>

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

<sup>22</sup> Mapping and evaluation reports for this project, along with full details about the British Columbia Supreme Court Self-Help Information Centre can be accessed at [http://www.lawcourtsed.ca/Self\\_Help\\_Information\\_Research/](http://www.lawcourtsed.ca/Self_Help_Information_Research/) .

<sup>23</sup> Funding for the research and subsequent evaluation was provided by the Research Division of Justice Canada, which had no other involvement in the project. The SHC fell under provincial jurisdiction.

The information informing the map included the background knowledge about services of the collaborative committee members and 54 in-depth interviews: 21 with direct service providers to SRLs; 26 with justice system, policy maker and advocacy key informants; and seven with SRLs who had dealt or were dealing with Supreme Court matters (Malcolmson & Reid, 2004).<sup>24</sup>

The mapping report was enthusiastically received by the SHC and the wider justice community, which generally lacked examples of evidence-based research. Supported by the mapping information, the project received start-up funding and widespread community support. In 2004, the BC Ministry of the Attorney General approached the SHC, proposing to take a more active lead role in funding and establishing the pilot centre, essentially managing the centre from within the court services structure. This offer of early active government involvement represented a culture shift in relations between government and community based groups and was a learning process for all involved. The SHC recognized that to meet their ultimate goal of several permanent self-help centres, provincial government buy-in was positive and necessary. Government representatives acknowledged that collaboration was a new tradition for them. An agreement was negotiated that facilitated the establishment of a pilot self-help centre while retaining a strong continuing voice for a community-based steering committee.<sup>25</sup>

In April 2005, the BC Supreme Court Self-Help Information Centre opened in the Vancouver courthouse.<sup>26</sup> The Evaluation Report (Malcolmson & Reid, 2006) and anecdotal feedback show it to be a resounding success in helping to meet the needs of the public, and also as an example of “a very successful and creative partnership between government, BC courts and several non-governmental agencies within the justice system” which became a model that has been shared across Canada.<sup>27</sup>

### ***The Alberta Self-Represented Litigants Mapping Project***<sup>28</sup>

In 2005, also responding to concerns about the needs of SRLs attempting to negotiate the court system, Alberta Justice formed an SRL Advisory Committee made up of a wide range of justice and other community stakeholders. As part of the process of deciding how to best address the needs of SRLs, a delegation from

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<sup>24</sup> The SHC Mapping was conducted within approximately three months. This short time frame limited the ability of the researchers to identify and involve SRLs. However, the inclusion of advocacy informants helped to increase the desired client-centred input.

<sup>25</sup> The formal agreement can be accessed at <http://216.197.122.213/documents/Research/MEMUNDERSTANDING.pdf>.

<sup>26</sup> The web page for the SHC can be found at <http://www.supremecourtselfhelp.bc.ca/>

<sup>27</sup> The interim and final evaluation reports are available at [http://www.lawcourtsed.ca/Self\\_Help\\_Information\\_Research/](http://www.lawcourtsed.ca/Self_Help_Information_Research/). The quote is taken from a News Release of the BC Ministry of the Attorney General, June 30, 2005, “Centre provides free legal information and assistance.” Since that time BC has pushed ahead with recommendations generated by Task Forces on Family and Civil Justice and is establishing Justice Access Centres (which are expanded models of the pilot centre) in several BC locations.

<sup>28</sup> The final report for this project can be accessed at <http://cfcj-fcjc.org/publications/mapping-en.php#srl>. Information about the resulting Law Information Centres (LInCs) can be found at <http://www.albertacourts.ab.ca/CourtServices/LInCLawInformationCentres/tabid/275/Default.aspx>. An evaluation report (PRA Inc., 2008) is available at <http://www.albertacourts.ab.ca/LinkClick.aspx?fileticket=QjhUHa9XvVY%3D&tabid=280&mid=881>

Alberta Justice visited the recently established British Columbia Supreme Court Self-Help Information Centre. Subsequently, Alberta Justice adopted the Self Help Committee (SHC) process as a good practice model and took the lead to facilitate local collaboration. Alberta Justice asked the Forum to assist in introducing the concept of mapping and the SHC model to sub advisory committees in three Alberta centres.

Local committee members and the central Advisory Committee supported the creation of a mapping report of SRL services currently available, along with identification of gaps in existing services. They also strongly agreed that there was a need for increased coordination of services and felt that a self-help centre might be an effective medium to begin addressing identified needs.

Because of the independent and non-partisan mandate of the Forum, sub-committee members asked that this organization apply on their behalf to the Alberta Law Foundation (the Foundation) for funding to conduct the mapping project. Alberta Justice undertook to match any non-government funding received. Soon after the initial decision of the sub-committees to apply for funding, Alberta Justice found funding potential within their current 2006-2007 fiscal year to establish between one and three pilot self-help projects at Alberta courthouses. There was no guarantee the same opportunity would exist in the subsequent year and so the timing was critical. Alberta Justice took a straightforward approach in informing the sub-committees of the situation, and members appreciated the transparency. Stakeholders did not want to lose the chance of establishing self-help services and it was agreed that the mapping process should take place as quickly as possible.

In July 2006, the *Self-Represented Litigants Mapping Project (SRLM)*, designed to document the range of government and non-government legal services and supports available to SRLs in three regions of Alberta, received \$82,875 from the Foundation, which was matched by Alberta Justice.<sup>29</sup> This shared funding arrangement was a fresh approach that brought community and government to the table as equal economic partners in ownership and power over the project. Overseen by the Forum, a twelve-member research team was hired to conduct the SRLM. Data collection and analysis were completed between July and November 2006, with a draft report submitted in mid-December and finalized in January 2007.

The SRLM had the following objectives:

- To meet with government and non-government service providers to determine the range of legal and related support services currently available to SRLs with criminal, civil and family matters that could potentially come before an Alberta court.<sup>30</sup>
- To systematically record details about available services, including eligibility and access details, in a database format that would be shared with stakeholders so as to increase accurate and effective referrals.

<sup>29</sup> The decision to map the Edmonton, Red Deer and Grande Prairie regions was informed in part by data provided by Alberta Justice and agreed among the advisory and community sub-committee members. One of the sub-committees originally formed in Calgary, but the ongoing construction of a new courthouse there was not conducive to mapping or establishing a centre in the time frame.

<sup>30</sup> There was recognition that SRLs would also need assistance with matters falling under Administrative Law. However, Canada's federal and provincial tribunal system is wide ranging and complex and it was decided that the timelines precluded addressing this area.

- To examine patterns of referral and coordination among existing organizations providing legal and social support services to SRLs.
- To determine problems and issues faced by SRLs in accessing offered services.
- To analyze both SRL and service provider needs and perspectives on existing services, identifying and/or confirming the geographically specific service needs of SRLs, and identifying appropriate ways to address service gaps, problems, and challenges in being self-represented.
- To identify priority areas for service delivery to SRLs and ways in which these can be effectively met, especially by building on current good service practices.

A variety of methods were used to obtain these information components:

- Searches to identify current services for SRLs (several hundred via Internet portals, Google searches and print directories).
- Interviews with representatives of organizations providing legal and/or important social support services to SRLs (Number of services mapped were: Edmonton 66; Grande Prairie 76; Red Deer 32).
- Interviews with members of the judiciary (seven interviews).
- Interviews with SRLs (four interviews)<sup>31</sup>.
- Researcher observations.

The prior consultations with justice and community service agencies established a strong foundation which facilitated participation in the SRLM. Despite the short time frame, the SRLM met its stated objectives. The project also generated several unanticipated findings that challenge prior assumptions and have proved valuable:

- The level of difficulty experienced in identifying and accessing accurate information about legal services, even by the highly educated, trained researchers who were facilitated by many supportive contacts in key organizations. This researcher observation posed a compelling challenge to assumptions that failure to access services is primarily due to low literacy or social competence.
- The (sometimes profound) gaps in the knowledge of service providers about the details of their own programmes and other services offered by the overseeing organization was hard news to hear for some stakeholders, who nevertheless accepted the evidence as indicating a need for improvement.

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<sup>31</sup> Time was again a barrier to increasing SRL involvement. There was, however, considerable input from community-based advocate services, especially outside of Edmonton, and it must be remembered that these participants are lay persons who themselves are potential users of legal services. Although the number of participating SRLs was small, the contribution was far reaching. One participant carefully recorded her journey through the system and has subsequently allowed the Forum to publish a nationally distributed article (Arshad, 2007) that has received requests for inclusion in legal education programmes.



- The collective input of participants, most especially from the judiciary and community service providers, combined to allow a nuanced picture of SRL characteristics. Seven broad groups of SRLs were identified challenging a tendency to assume that SRLs were either low income or vexatious litigants.<sup>32</sup>
- That proximity to a major centre does not equate with access to services. The region outside of Red Deer is mostly within a 30 minute to two hour drive of Red Deer, Edmonton and/or Calgary – close proximity by Canadian standards. However, this proved to be the most underserved of the mapping regions, lacking actual services, networks among existing providers, and access to viable transportation for community members. Consequently, a central self-help service cannot alone address SRL needs; at a minimum such a service must include outreach components.

Law Information Centres (LInCs) were opened inside the Edmonton and Red Deer courthouses in April 2007 and the Grande Prairie courthouse in June 2007. In keeping with the recommendations in the mapping report, the LInC staff are able to help SRLs with information about legal services, basic legal research, filing out forms and understanding general court procedures and the Red Deer LInC has begun community outreach services. Positive evaluations of the LInCs have been conducted (PRA Inc., 2008) and the centres are now considered permanent, with a fourth opening in the new Calgary courthouse in January, 2009.

### ***The Alberta Legal Services Mapping Project***<sup>33</sup>

The *Alberta Legal Services Mapping Project* (ALSM) currently in progress, is a large-scale collaborative action research initiative to create a province-wide “map” of legal services that provide the Alberta public with information, education, legal advice, legal representation and/or other support or assistance related to all types of legal problems. The map will include the central services offered by *pro bono* initiatives, clinics, public legal education services, courts, tribunals, legal aid, the private Bar and social services relevant to the needs of users of the justice system. It will include services related to civil, family, criminal and administrative justice, and involves funders, government, legal service providers, educators, law reform organizations, the Bar, the judiciary, courts administration and the public in the collaborative process.

The impetus for this four-year project derives directly from the positive stakeholder response to the SRLM report. Participants and other stakeholders were pleased with the amount of detailed and pertinent information produced during the brief mapping period and recognized the need for similar, but expanded information from across the province – specifically encompassing private Bar as well as SRL services and including matters related to administrative law. In particular, the Alberta Law Foundation (the Foundation), the community-based funder for the SRLM,

<sup>32</sup> The seven groups, fully described in (Stratton, 2007) are SRLs : with an overall lack of social resources; low income with some social resources (such as education); living with an additional social barrier that interferes with access (such as a disability); unable to find an available lawyer; previously but no-longer represented (usually due to lack of funds); in matters where representation is supposed to be unnecessary (like small claims); who could access representation but prefer not to (a very small minority).

<sup>33</sup> Details of the ALSM are available from <http://cfcj-fcjc.org/research/mapping-en.php> . These include the project proposal, project charter, research instruments, first interim report, and regular updates.

appreciated the potential of mapping research for providing evidence to inform long term legal services. The Foundation invited the Forum to apply for funding to develop a comprehensive proposal to map all legal services available across Alberta. The Forum took up this invitation, submitting a proposal in May 2007 with a budget of \$1,302,776 for the full project. In June 2007, the Foundation provided \$651,388 indicating their hope that other stakeholders would provide the remaining half of the budgeted cost.<sup>34</sup> Subsequently, Alberta Justice has provided \$325,694 representing 50% of the budget for the first years of the project with renewal for the third and fourth years anticipated.

The collaborative structure for the ALSM builds on that established with the SRLM. Due to its independent status and collaborative mandate, the Forum has again agreed to administer project finances, recruit and supervise researchers, and protect confidential data. Working in association with an Advisory Committee of approximately 25 legal service and community stakeholders, project development is overseen by eight Research Directors representing the Forum, the Foundation, Alberta Justice, Solicitor General, Legal Aid and community legal clinics working with a team of researchers. Advisory Committee members are generally people in senior organizational positions who are able to facilitate the participation of others within the organization they represent. As each of the 11 Alberta judicial districts are mapped, community-based working committees will be formed to ensure that front-line local stakeholders are fully involved as active collaborators.

The ALSM is underway, beginning with a pilot phase in the Calgary region that has now provided a first interim report with information valuable to the fourth LInC, which opened in the courthouse in January 2009. As with the SRLM, a multiple method approach is being used to obtain the information required to create a comprehensive map that includes:

- Searches to identify and create basic profiles of all current legal related support services in each judicial district.
- Secondary data such as service statistics, evaluation studies, user surveys or satisfaction polls, lists of available legal information materials and initiatives.
- Comprehensive interviews with representatives of key organizations providing legal and/or support services designed to understand the scope, process, strengths and gaps in service delivery. The number of service providers interviewed will be decided by the collaborative members.
- Interviews with members of the judiciary and private Bar.
- Interviews, focus groups, case studies (as appropriate) with service users and members of the public who have legal problems.<sup>35</sup>
- Researcher observations and test clients.
- GIS software to compare population distributions and data from the services mapping.

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<sup>34</sup> There are other contributions to resources to be noted. The University of Alberta provides space to the Forum via a contract arrangement that enabled the establishment of the Forum in 1998. A project the size of the ALSM required additional space for staff and the Foundation gave approximately \$90,000 to the University for renovations and occupancy of space for the ALSM.

<sup>35</sup> All methods of engaging the public noted earlier will be employed. The Calgary community committee is providing enthusiastic help in engaging service users and 14 contacts generated by four services are currently being pursued for interviews.

The comprehensive map resulting from the ALSM is expected to:

- Gather and organize information about existing Alberta legal services into a geographically specific, searchable, publicly accessible database and lead to a commitment to maintain and update this resource.
- Provide population-related legal service information identifying strengths, gaps and effective ways to address unmet legal needs that can inform the development of funding and programming over the next decade, and also assist in identifying needed changes to current law, rules and practice.
- Facilitate the development and maintenance of information networks among service providers that lead to improved service coordination, more accurate referrals and future collaboration in service design.
- Serve as a model approach to addressing legal service needs across Canada.<sup>36</sup>

## **A SUMMARY OF KEY FACTORS IN SUCCESSFUL JUSTICE COMMUNITY MAPPING**

As previously discussed, each mapping research initiative must be designed to meet the specific needs of the research issue and community involved. The first and second projects outlined above were successful because they delivered needed information in a way that was embraced by the communities involved and led to action that established concrete programme responses. Neither process was perfect, but both were effective. Resonating with diverse stakeholders they also stimulated interest in further applications of collaborative mapping as the very significant investment of money and time in the pioneering ALSM attests. Although the three projects varied considerably in scope and resources, they share a set of factors that are key to successful justice community mapping collaborations:

- *An access to justice vision.* Each project began because one or more justice community stakeholder had a vision of improved access to justice, an idea (at least in part) of how that might be accomplished, and the will to work with others to that end. Mapping research is merely a tool to be applied; a vision of constructive change is the important foundation of the collaborative philosophy necessary to achieve successful outcomes.
- *A belief in the value of the proposed research.* For successful mapping, the vision must be coupled with strong belief that the mapping research will provide valuable information to the stakeholders involved. Initial communications must be clear and concrete about the benefits of the proposed research. However, it has been the experience of the Forum that even the early exchange of information among prospective stakeholders is powerful in demonstrating the benefits of collaborative mapping and helping to identify the common goals disparate stakeholders actually share.

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<sup>36</sup> A smaller mapping process is currently underway in BC and a Civil Legal Needs Assessment in Ontario. Both groups are involved in discussions with the Forum which is planning to coordinate a shared meeting with the ALSM team.

- *A commitment to collaboration* is an essential of successful mapping research. Collaboration can take many forms; what is key is that there is a clear and shared understanding among the collaborators of what is expected. A commitment to the importance of the research process and understanding that this takes time is necessary. Regardless of the size of the project, the collaborative must work out an agreement that sets out the group's understanding of the process, goals, and commitment entailed in the project.<sup>37</sup>
- *A commitment to being honest and realistic.* The Forum experience suggests that being honest about all aspects of a collaborative project is possibly the most important factor in the overall success. Every research project and every collaborative group will have imperfections in outcome and tensions within the process. Researchers must be honest about what can realistically be achieved within the time and resources available to the project. Both strengths and limitations of the proposed methodology need to be clearly presented to the collaborating group from the start. In turn, collaborating stakeholders must be straightforward with each other about their organizational cultures, mandates and roles. It is important not to promise more than can be achieved and the group must decide on realistic objectives, timelines and deliverables. Honesty allows the collaborative to make informed decisions, to work through any tensions, and come to feasible agreements. On the other hand, lack of transparency and unrealistic expectations and time lines tend to lead to serious difficulties.
- *Researcher Autonomy* was noted earlier as critically important given the hierarchical organization of the justice system. Organizations and individuals asked to take part in the research must be convinced that they can trust in the confidentiality and integrity of the research process. The three projects described here had research teams with the autonomy to ensure the protection of confidentiality and to report negative findings. Independent researchers with collaborative experience must be sought, and researchers and justice community members must share their respective expertise in order to design appropriate methodology.
- *Shared Funding arrangements* between community and government funding sources was a feature of all three example projects. This was new practice that grew out of the collaborative approach. The arrangement facilitated hiring independent researchers and served to equalize power between large and small stakeholders. No stakeholder was in a position to insist 'our way or no way.' Furthermore, the fiscal investments of stakeholders necessary to action outcomes indicated genuine engagement with the collaboration.
- *Dissemination and follow-up action plan.* Mapping research is intended to generate action for change and projects should include a specific plan to share knowledge throughout the process as well as follow-up to promote response to ensuing recommendations. The example projects all included an agreement that the mapping reports would first be reviewed by participants for accuracy, and then made publicly available. The recommendations of the two

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<sup>37</sup> The SHC had a Project Charter ( [http://www.lces.ca/documents/research/scshic\\_charter.pdf](http://www.lces.ca/documents/research/scshic_charter.pdf) ). The ALSM Project Charter is available at <http://cfcj-fcjc.org/research/mapping-en.php> .

completed reports have informed specific programme initiatives and continue to contribute to ongoing evaluation and development of those programmes. The ALSM is committed to produce reports periodically throughout the span of the project so that action can commence as soon as possible.

## IN CONCLUSION

Justice community mapping is relatively new in Canada and as yet there are few documented examples. As the ALSM unfolds there will doubtless be new discoveries and insights that add to our knowledge and expertise in taking this approach. This paper should be considered as part of the ongoing exploration and process of sharing knowledge as we create it. So far collaborative mapping has produced research of great benefit in efforts to improve access to legal services for Canadians. However, economic, political and geographic contexts are dynamic and varied and what has been possible and appropriate in British Columbia and Alberta may not be feasible everywhere.

When the goal is social and institutional change, there can be no guarantees of success even for the best designed research and policy. The collaborators involved in the example projects recognized the limitations and the challenges along with the successes; they acknowledged the hard and time consuming work involved, but almost without exception committed to continuing collaborative approaches to research, policy and programme development.<sup>38</sup> The impact of the global financial crisis that has emerged since this paper was first drafted is uncertain. It might result in cuts to justice funding or provide opportunities for new initiatives. Either way it is possible to argue for investment in evidence-based research that identifies where service priorities should lie and the most effective way to meet recognized needs. It will be important to increase understanding of the comparative social costs – that is of providing access to legal services versus failing to do so as begun by Pleasence et al (2008). Finding more effective ways to engage service users and potential users in research and policy programmes is a necessary component of developing that knowledge.

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<sup>38</sup> While there are sometimes tensions and challenges to work through I am not aware of any member of these collaboratives who has not wanted to continue to work with collaborative processes.

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