

Evolving Legal Services Research Project

EXECUTIVE SUMMARY

PART ONE: Background and Purpose of the Study

Origin of the project

Canadian jurisdictions, including Ontario and BC, are increasingly exploring and relying on limited legal assistance programs as a method of providing legal services to people who cannot afford legal services. Increased rationing of publicly-funded legal services has meant that public legal education and information (“PLEI”), either on its own or in conjunction with other unbundled legal services, is required to fill an increasingly larger role in meeting the legal needs of poor people and people with modest means. Yet we know relatively little about the extent to which PLEI is an effective legal service: for what types of clients, for which kinds of legal problems, and in which circumstances, can PLEI provide the most robust assistance.

Community Legal Education Ontario (CLEO) sought and received funding from the Law Foundation of Ontario (“LFO”) to conduct Phase 1 of a research project – the Evolving Legal Services Research (“ELSR”) Project – to explore the effectiveness of PLEI throughout the continuum of legal services delivery in Ontario and British Columbia. CLEO has now completed the Phase 1 deliverables – a comprehensive review of the relevant literature and, building on the literature review, a well-developed research plan for Phase 2.

Statement of the problem

We know that civil justice problems are ubiquitous. We don’t know, however, what types of interventions (including PLEI) can best assist people to effectively navigate the justice system and achieve just and lasting outcomes. In terms of what we know specifically about the effectiveness of PLEI, domestic and international studies to date have largely focused on client satisfaction and/or the reach of the PLEI materials, rather than the impact of PLEI on outcomes.

Put simply, we have “canyons in our knowledge base” regarding the effectiveness of evolving legal services. Studies evaluating the effectiveness of PLEI are “desperately needed”¹ and will both help guide critical resource allocation decisions and assist service providers to better meet legal needs. Two recent national reports on access to justice have emphasized the need to enhance our collective capacity to develop evidence-based best practices through sound research.²

¹Laura K. Abel, “Evidence-Based Access to Justice”, 13 *U. Pa. J. Law and Social Change* 295 (2010), at p. 309.

²Action Committee on Civil and Family Justice, *A Roadmap For Change* (October 2013); CBA Access to Justice Committee, *Reaching Equal Justice: An Invitation to Envision and Act* (Canadian Bar Association: December 2013).

The Evolving Legal Services Research (“ELSR”) Project will start to fill this critical evidentiary gap in Canada. The Project will answer two research questions:

How is PLEI effective in increasing meaningful access to justice and assisting people to address their legal problems?

In what circumstances is PLEI effective when provided primarily on a stand-alone or self-help basis and when is a fuller continuum of legal services including PLEI required?

Purpose

The research will increase our knowledge concerning where PLEI is relied on as a primary form of legal services delivery as well as where PLEI is used in conjunction with other legal services along a continuum of legal services. The study will provide a wealth of qualitative and quantitative data on the factors or characteristics that contribute to PLEI’s effectiveness in supporting positive outcomes in a range of circumstances.

PART TWO: Study Overview

The ELSR Project will be led by CLEO working in partnership with the Institute for Social Research at York University, and in collaboration with the Canadian Forum on Civil Justice, and the staff of the research sites. The research will be carried out at sites in Ontario and British Columbia that provide PLEI as a stand-alone service or as part of a continuum of legal services.

This three year study will encompass four stages:

- research protocols and survey instruments will be developed collaboratively by members of the research partnership (ELSR team and site staff) and pilot tested at one research site before being finalized
- data will be collected over a 19-month period using a mixed qualitative and quantitative methodology
- collected data will be analyzed
- results will be reported and disseminated

PART THREE: Research sites

The research for this project will be carried out at at least two sites in Ontario and at least one or two in British Columbia. A range of selection criteria has been developed for the sites, including:

- a large number of the legal problems addressed at the site must fall into one of four categories: (1) income security; (2) family breakdown; (3) housing; or (4) discrimination and human rights

- many of the users/clients are low-income Canadians with serious civil legal problems
- failure to resolve these problems has serious consequences for the user/client
- PLEI has been relied on as a means of addressing the needs of its users/clients; PLEI is well developed and widely distributed
- the site is receptive to facilitating an on-site researcher who is able to develop a “thick” description of the practices and legal culture at the site
- the site will have a designated contact person to liaise with researchers from the Evolving Civil Legal Services Research Project

PART FOUR: Research Methodology

Qualitative Data Collection

The qualitative data collection will commence with the ELSR researcher attending the research partner site for a period of six weeks to develop a detailed ethnographic “thick” description of the PLEI service provider. The focus will be on the nature of the PLEI legal service delivery, the user/client base, how users/clients interact with the project site, how the client and their problem flow through the process, the staffing and environment, and the relationship between the PLEI and the other services offered to clients. This information will be used to create a “journey map”, a visual diagram of the typical steps an individual goes through in accessing PLEI services and resolving legal problems at the project site.

Clients of the research partner site will be recruited into the study by staff at the research site. ELSR researchers will then obtain client consent and will follow the client (for up to 12-18 months depending on the legal problem) through their journey to resolve their legal problem. This qualitative data collection with clients/users will include a questionnaire and semi-structured interviews. The interviews will generate details about the specific nature of the client/user’s legal problem, their choice of legal service site, their demographic profiles, the depth and scope of the legal services used, the points along the legal continuum that PLEI was accessed, and their perspectives on the procedures and outcomes in resolving their legal problem and the role played by PLEI.

It is anticipated that the case studies will include a variety of experiences with PLEI along the legal services continuum. For example, in Ontario, a woman with a child custody issue may attend at a Family Law Information Centre (“FLIC”) and take no further steps, or she may be referred to (and attend) the LAO Family Legal Services Centre and/or mediation, and/or she may choose to file proceedings or negotiate a resolution on her own. She may access PLEI at one or more points in this journey. The role of PLEI will be studied in all of these different circumstances. The qualitative data collection will focus in particular on demographic/ ethnographic factors and the subjective experiences of the individual research participants.

Quantitative Data Collection

The quantitative methodology involves the creation of a “civil legal services event index” that will score the client’s experience with PLEI, including its effectiveness in helping them to resolve their legal problem. The data for this index will be drawn from the clients/users interviewed in the qualitative interview process.

The purpose of the index is to establish, in addition to the contextually rich qualitative research, a quantitative basis for making assessments about the effectiveness of PLEI, either on its own or in conjunction with other legal services, in a diverse range of circumstances.

The premise is that meaningful access to justice is sometimes achieved by relying on informal, less one-on-one, and generally less expensive legal services -- but sometimes not. The ELSR Project will generate empirical findings that provide information as to the type of circumstances or cases where less-intensive (and generally less expensive) services support or lead to quality outcomes.

A unique and innovative feature of the quantitative data collection is that each case will be reviewed by a subject-area legal expert, who will assess the quality of the process and outcome in each file. Accordingly, the experience of PLEI will be assessed not only in terms of client satisfaction and perception but also through professional review. The indicators or criteria for objectively measuring “quality procedure” and “quality outcome” are explained in the research plan and will be developed further in collaboration with the partner sites.