

**ACTION COMMITTEE
ON COURT OPERATIONS
IN RESPONSE TO
COVID-19**



PROGRESS REPORT

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Canada 



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MESSAGE FROM CHIEF JUSTICE WAGNER

Since its inception in May 2020, I have had the pleasure of co-chairing the Action Committee on Court Operations in Response to COVID-19 with the Honourable David Lametti, Attorney General and Minister of Justice of Canada. The unprecedented challenges of the past year warranted engagement and coordination between the judiciary and governments from across Canada, while remaining mindful of our institutional boundaries and our respective duties to the public. From that perspective this collaboration has been a resounding success.

As well as being a forum to share concerns and best practices, the meetings of the Action Committee provide my judicial colleagues and I with up-to-date national information from top experts on the COVID-19 public health crisis as it unfolds. This has allowed us to support courts across the country as they work tirelessly to safely provide Canadians with access to essential justice services throughout the course of the pandemic.

Over the last year, the Action Committee worked closely with the Heads of Court Administration, the Public Health Agency of Canada and the Canadian Centre for Occupational Health and Safety to provide coordinated guidance to courts on a range of topics, including responding to the appearance of COVID-19 symptoms in the courtroom and safely resuming in-person jury trials. We have also supported courts in their increased use of virtual hearings by publishing a tip sheet on privacy, security and confidentiality considerations arising from virtual access to public hearings.

The Action Committee has benefitted from hearing from over 20 guest speakers including public health experts, representatives of the legal profession, and Indigenous justice specialists. We are extremely grateful to all those who took the time to share their perspectives and experience with us, as well as to our Technical Working Group, chaired by the Honourable J. Michael MacDonald, and our Secretariat, which have worked tirelessly to support all of our efforts.

As we enter what is hopefully the final phase of this public health crisis, we are also looking towards the future. Even before the pandemic caused access restrictions and trial delays across the country, our system faced a number of challenges that affected the ability of many Canadians, including our most vulnerable, to access justice. I look forward to continuing to work with Minister Lametti and the other members of the Action Committee in seeking ways to capitalize on the innovations of the past year to improve our justice system for generations to come.



MESSAGE FROM MINISTER LAMETTI

It is my pleasure to co-chair the Action Committee on Court Operations in Response to COVID-19 with the Right Honourable Richard Wagner, Chief Justice of Canada. The Committee has proven to be an excellent forum for collaboration and coordination between the government and judiciary in responding to the health crisis of the past several months.

Starting from the fact that the administration of justice is the primary responsibility of the provinces and territories, the Action Committee aims not to encroach on this responsibility, but rather to support and collaborate with those who must fulfill it. It was in this spirit that the Action Committee was established in May 2020 to aid Canada's chief justices, provincial and territorial Ministers responsible for Justice and attorneys general, heads of court administration, and other personnel responsible for the administration of justice.

The pandemic has greatly disrupted the daily operations of the courts and in doing so has shed light on pre-existing challenges regarding access to justice which, in turn, have been amplified and magnified by the crisis. In light of these concerns, the Action Committee has published resources on the disproportionate impact of the pandemic on access to justice for marginalized individuals and how to restore court operations in northern, remote and Indigenous communities, among others.

It will still be some time before the courts can function again at full capacity. Meanwhile, meeting the on-going challenges that they face, they are beginning to consider the future of the innovations that have been put in place to respond to the pandemic and related facility closures. The health crisis has accelerated, in certain ways, the process of court modernization by, for example, establishing greater accessibility through electronic filing, but it is necessary to ensure that any innovations that the courts maintain for the long-term increase access to justice more than they decrease it. At the same time, the pandemic will have long-term negative effects, such as increased delays in court proceedings. I look forward to continuing to collaborate with Chief Justice Wagner, our Action Committee partners, and provincial and territorial ministers responsible for Justice to support the courts in addressing these challenges.

In conclusion, I would like to thank the members of the Action Committee, who have been extremely dedicated over the past year. I would also like to highlight the work of the Technical Working Group and the Secretariat who support the work of the Action Committee. Finally, I want to offer my sincere gratitude to the judges, provincial and territorial Ministers responsible for Justice and attorneys general, and court officials who have worked tirelessly throughout the pandemic to ensure that Canadians can continue to access a key pillar of our democracy, the courts.



ABOUT THIS REPORT

This report was commissioned by the Action Committee on Court Operations in Response to COVID-19 (the Action Committee or the Committee) to take stock of its work in the first year of its mandate.

This report is based on reflections of Action Committee members on the work accomplished, and draws from responses to a consultation survey circulated among provincial and territorial Ministers responsible for Justice in the existing federal/provincial/territorial (FPT) network; key partner organizations, including Heads of Court Administration (HoCA), the Canadian Judicial Council (CJC), and the Canadian Council of Chief Judges (CCCJ); and past and current members of the Technical Working Group that supports the Action Committee.

CREATION OF THE ACTION COMMITTEE

The courts are a pillar of Canada's democracy, an essential service to Canadians, and a critical support to family, social and economic activity. While courts have remained operational and have strived to maintain access to justice and the open courts principle throughout the COVID-19 pandemic, court operations across Canada have been severely curtailed due to the risks of transmission of the COVID-19 virus. To ensure the safety of court users and personnel, and to assist local and national efforts to contain the pandemic, court hearings in all jurisdictions have often been limited to the most urgent matters; new methods have been employed to facilitate remote hearings and the electronic filing of court documents; and rapid adaptations have been put in place to ensure that essential in-person court services and proceedings can be conducted safely, where local conditions permit.

To provide national leadership to support the work of provincial and territorial governments, courts, and court administrators in response to the challenges faced by the courts as a result of the COVID-19 crisis and related restrictions, the Chief Justice of Canada, the Right Honourable Richard Wagner, and the Minister of Justice and Attorney General of Canada, the Honourable David Lametti, established the Action Committee.

In addition to the Chief Justice of Canada and the federal Minister of Justice who act as co-chairs, current members include judicial representatives of the CJC and CCCJ; the Attorney General of British Columbia (B.C.); the Deputy Minister of Justice and Deputy Attorney General of Canada; the President of the Public Health Agency of Canada (PHAC); and the Executive Legal Officer of the Supreme Court of Canada.



MANDATE OF THE ACTION COMMITTEE

The Action Committee is mandated to develop national principles and parameters, facilitate information-sharing and communication across jurisdictions, identify common needs and solutions, and promote a nationally harmonious approach to restoring Canadian court operations that places the health, safety, and the best interests of the Canadian people at the forefront. In carrying out this mandate, the Action Committee upholds the fundamental values of the Canadian justice system, including respect for the constitutional principle of judicial independence, the separation of powers, and a recognition of the primary responsibility of provinces and territories for the administration of justice within their jurisdiction.

In particular, the Action Committee's [mandate](#) includes:

- Providing national guidance to support the restoration and stabilization of court operations in all jurisdictions;
- Supporting the alignment of practices, recognizing that community needs and corresponding responses may vary;
- Promoting effective communication, coordination and collaboration, facilitating information-sharing, and supporting the identification of common principles and best practices;
- Focusing primarily on the immediate need to restore and stabilize court operations (in-person judicial proceedings) taking into account minimum health and safety thresholds and appropriate long-term protocols to do so in a manner that protects the health and safety of court users and personnel;
- Ensuring the consistency of its national guidelines with parallel, medium-term planning toward the modernization of Canada's justice system and improvement of access to justice.

HOW THE ACTION COMMITTEE OPERATES

The Action Committee held its first meeting on May 8, 2020 by teleconference. After meeting on a weekly, and then bi-weekly basis, the Action Committee has held monthly meetings since July 31, 2020 via teleconference or videoconference. During these meetings, it discusses the effects of emerging public health guidance on the operation of the courts; hears from guest speakers on how different elements of the justice system are affected by the pandemic; and reviews and approves materials for publication prepared by its Technical Working Group pursuant to Committee guidance.

BY THE NUMBERS: COMMITTEE MEETINGS

- Number of Committee Meetings: 17 (as of June 2021)
- Number of guest speakers/presenters: 21



The Technical Working Group that supports the Action Committee includes a former Chief Justice of Nova Scotia, the Executive Legal Officer of the Supreme Court of Canada, the Commissioner for Federal Judicial Affairs, an Assistant Deputy Minister of the Ministry of Justice and the Attorney General of Saskatchewan (Courts and Tribunals Division) as a representative of HoCA, senior officials of the Canadian Centre for Occupational Health and Safety (CCOHS) and employees of Justice Canada. The Technical Working Group also consults with PHAC and the department of Health Canada. Justice Canada has created a Secretariat to support the work of the Action Committee and its Technical Working Group. Based on direction from the Action Committee, the Technical Working Group and the Secretariat develop the agenda for each Action Committee meeting, identify appropriate guest speakers to participate in discussions, and draft documents for the Action Committee's approval. The Action Committee is also assisted by the HoCA network in understanding how the pandemic has impacted court operations throughout Canada and in identifying innovative solutions and best practices to help restore or maintain these operations.

The Action Committee hears directly from guest speakers as needed on topics of interest. Speakers may include representatives of the judiciary, legal aid practitioners, Indigenous justice specialists, and other justice system participants from across Canada. Geographic representation of these speakers has been quite diverse: to date, speakers from seven provinces and one territory have appeared before the Committee. Speakers from two First Nations organizations have participated in Action Committee meetings.

ACHIEVEMENTS OF THE PAST YEAR

Action Committee members and partner organizations were asked to identify what they perceived to be the key impacts of the Action Committee from the first year of its mandate. These achievements are outlined thematically in the following sections, beginning with the collaboration and information-sharing benefits participating in the Action Committee brought to its members, followed by a discussion of the impact the Committee's publications had on both Action Committee members and partner organizations, and concluding with a brief examination of the value of the leadership role played by the Action Committee, as described by both members and partner organizations.

Strengthened Collaboration and Information-Sharing

The Action Committee was established in extraordinary circumstances, to respond nimbly to a crisis. The Committee's members are careful to respect Canada's fundamental constitutional principles, including judicial independence. Separation between the government and the judiciary is maintained so that the Canadian people can have confidence in the independence and impartiality of judicial decisions that affect them, and in the democratic accountability of government policy makers. Communication and coordination between government and judicial leaders can



nonetheless be critical, especially in a time of crisis, to ensure the continued functioning of the justice system. By incorporating the importance of judicial independence into the Committee's Terms of Reference and remaining mindful of this principle in all of its work, the Action Committee has demonstrated that respectful and necessary engagement can take place between government and judicial leaders in a way designed to uphold public confidence.

The Terms of Reference also recognize the constitutional responsibility of the provinces and territories for the administration of justice and that, consequently, "national guidelines cannot supplant the authority and leadership of appropriate provincial officials". Similarly, implementation of public health measures to respond to COVID-19 also falls within provincial and territorial jurisdiction. The participation of the Attorney General of British Columbia (B.C.), as well as that of provincially-appointed judges, ensured the perspective of provincial leadership was brought to the table and was a recognition of the vital need for federal/provincial/territorial (FPT) collaboration in addressing the challenges posed by the pandemic to court operations. As co-chair of a standing forum of Ministers responsible for Justice from across the country, the Attorney General of B.C. was able to represent his provincial colleagues as part of the Action Committee.

The Action Committee served as a reminder that for the different actors in the justice system to collaborate to respond effectively to a crisis, or to build a better system more generally, they need to understand each other's reality. The people closest to the courts, including members of the judiciary represented on the Action Committee, could see how the pandemic both created new challenges and shed light on existing challenges, amplifying their actual or potential impacts on the system. The pandemic also accelerated the pace at which some ongoing challenges were addressed, as courts worked to ensure their continued operation in light of the public health crisis.

Participating in Action Committee discussions permitted government representatives to better understand the challenges faced by courts across Canada as the pandemic progressed, thanks to the firsthand accounts of chief justices. This in turn enabled the federal Minister and his Deputy Minister to effectively brief their government colleagues on those challenges, by raising awareness of emerging priorities and reallocating resources accordingly within their department. The federal Minister and Deputy Minister were able to factor in and consider information shared by members of the Action Committee when determining whether legislation required amendment to respond to the pandemic. Action Committee representatives from the federal and provincial governments also brought the knowledge gained from Committee meetings and publications to discussions with their FPT counterparts.

Members of the judiciary also felt that the Committee's mandate to share information, and most notably best practices, all within a spirit of collaboration, was of paramount importance and had a positive impact on their work. The composition of the Committee

The importance of these information gathering and sharing functions should not be underestimated.

Action Committee member



ensured that new and compounded justice system challenges received attention at the highest level.

Judicial and government members of the Committee alike valued the direct, timely access to information from experts, which at times exceeded the access they normally would have had in their individual capacities. For example, they received routine briefings on the most recent pandemic metrics from a senior official from PHAC, and had the benefit of presentations from senior officials from Health Canada and the National Microbiology Lab in Winnipeg, all organizations with central roles in pandemic response.

The CCOHS also played a critical role in ensuring the accuracy of health and safety information in Committee publications. This collaboration meant health and safety practices and safeguards against COVID-19 transmission could be adapted to the unique setting of court operations. In addition to ensuring that leaders in the courts had up-to-date public health information, the Action Committee helped to ensure that officials from the health sector were able to gain an understanding of the pandemic-related challenges faced by the judiciary, and of the courts as an essential service more generally. Having this type of efficient cross-sector collaboration is a best practice for any future, similar committee.

Publications That Made a Difference

In the pursuance of its mandate, the Action Committee offers resources in the form of tip sheets, orientation principles and other guidance, to help courts adapt health and safety practices to the unique setting of court operations. This guidance is of a non-prescriptive nature, enabling chief justices, chief judges, justice ministries, and court personnel to develop protocols suited to the circumstances of individual courts and their communities.

To date, the Action Committee has published 11 tip sheets and 8 other tools to support courts in operating safely during the COVID-19 pandemic, as well as 2 guidance documents on addressing the longer-term impacts of the pandemic on the effective and just operations of the courts. These have included:

- orienting principles and tip sheets to protect the health and safety of court users and personnel during the pandemic, including a series of tip sheets on adapting the different phases and steps of a criminal jury trial;
- a communiqué to promote ongoing dialogue and collaboration between court and public health officials on COVID-19 testing, contact tracing and vaccination planning;
- an audit tool to assist relevant personnel in adapting small court spaces or identifying alternate facilities in light of occupancy restrictions and physical distancing requirements;
- a case study on streamlining processes for jury summons and selection in New Brunswick;



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- principles and recommendations on restoring court operations in northern, remote and Indigenous communities; and
- an overview document on the disproportionate impact of the pandemic on access to justice for marginalized persons.

BY THE NUMBERS: COMMITTEE PUBLICATIONS

- Number of Committee Publications: 21 (as of May 2021)
- Most Useful Publications as Ranked in Partner Surveys:
 1. Tip Sheets on Juries (jury summons; jury selection; phases and steps of a criminal jury trial; jury arrival and departure; sequestering, deliberation and release of the jury; and in-trial jury proceedings);
 2. Guidance on Protecting Court Personnel and General Practices for Sanitation and Disinfecting;
 3. Orienting Principles on Safe and Accessible Courts;
 4. Restoring Court Operations in Northern, Remote, and Indigenous Communities; and
 5. Open Courts: Confidentiality Tip Sheet.

While Action Committee publications are shared through existing networks such as HoCA, the CJC and the CCCJ, this information was also consolidated and made accessible to the public on a web portal hosted by the Office of the Commissioner for Federal Judicial Affairs (<https://fja.gc.ca/COVID-19/index-eng.html>). The Action Committee is indebted to the Commissioner for Federal Judicial Affairs Canada for agreeing to develop, host and maintain this portal, which has been cited as a key success factor in enhancing the impact of the Action Committee's work.

Health and safety information produced by the Action Committee can also be found on the CCOHS web portal (<https://www.ccohs.ca/covid19/courts/general-practices/>). More basic information is provided on the Department of Justice website at <https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/ac-ca/index.html>.

With respect to the achievement of results, Action Committee members and partner organizations felt that the Action Committee's publications had a positive impact on their work in three main ways: by promoting dialogue, by coordinating and highlighting best practices, and by creating benchmarks for action.

Promoting Dialogue

For some FPT Ministers and senior justice officials, the Action Committee's publications were useful starting points for discussions with chief justices within their respective jurisdictions on the needs and challenges associated with maintaining and restoring



court operations. The reverse was also true: Committee publications, and in particular the tip sheets, were convincing tools for members of the judiciary when they were conferring with their provincial justice ministries on measures required to ensure safe court operations. Documents related to public health measures in the courts were also raised in the course of discussions with bargaining agents.

Both co-chairs of the Action Committee, the Chief Justice of Canada and the federal Minister of Justice, regularly engage with many other organizations, such as FPT entities, bar associations, and judicial councils. Both have received positive feedback in these forums about the leadership role of the Action Committee and the usefulness of its publications. As a result of the knowledge gained from the diverse group of stakeholders attending Committee meetings, they are also in a better position to share with these partner organizations what they have heard about challenges and best practices. The co-chairs can direct anyone with further questions to Committee publications for additional information and to solicit feedback for the purpose of promoting further dialogue.

Coordinating and Highlighting Best Practices

It would have been very difficult for any single court or jurisdiction to have obtained as many ideas or to consider that standard to aim for when designing operations.

Stakeholder survey response

From its first meeting, part of the Action Committee's *raison d'être* was to identify the most consequential stresses on the justice system stemming from the pandemic and to coordinate action to resolve them. Based on advice from the Technical Working Group, the Action Committee triaged priorities in the early days of the pandemic, a process that resulted in high-level health and safety guidance and guidelines related to jury trials being among the first publications of the Action Committee.

From the earliest days of the pandemic, many jurisdictions across Canada formed committees to deal with the challenges COVID-19 posed to court operations. Like the Action Committee, these committees were cross-sectoral in nature and included various participants such as court administrators, public health colleagues, bar associations, trial lawyers, prosecution services, colleagues from Legal Aid and others. These committees were vital in developing potential courses of action and feasible, consensus-based solutions.

The Action Committee was well-placed to raise awareness of some of these local efforts at the national level. This was accomplished by promoting information-sharing and communication among the different actors in the justice system and by highlighting in its publications those provincial or local solutions that might serve as best practices. An example of this was the case study "[Automated System for Jury Summons and Selection: The New Brunswick Experience](#)," which a number of respondents selected as one of the most useful Action Committee documents. Publications highlighting best practices assisted jurisdictions at earlier stages of their planning process by informing



Given the leadership and composition of the Action Committee, the Committee is being listened to at provincial/territorial levels.

Stakeholder survey
response

recovery efforts, providing key considerations for the resumption of virtual and in-person proceedings, and in some cases, minimizing the need for individual courts to create documents where Committee publications already addressed an issue that crossed jurisdictions. The tip sheets on jury trials and the [court audit tool](#), including another [case study from New Brunswick](#), for example, had a significant impact on the establishment of off-site jury facilities in another province.

After its initial set of publications, the Action Committee turned its attention to other, at times more complex priority needs of the justice system, such as the disproportionate impact the pandemic was having on marginalized individuals and on northern, remote and Indigenous communities. Speakers representing these justice system participants shared their experience and advice with the Committee. The resulting two publications, [Restoring Court Operations in Northern, Remote and Indigenous Communities](#) and the [Disproportionate Impact on Access to Justice for Marginalized Individuals – An Overview](#), seek to provide practical recommendations for courts working to address these matters.

Creating a Benchmark for Action

Decisions on the implementation of public health measures in the courts have been primarily based on provincial or local health orders and judicial direction. However, according to some respondents, the sharing of national health guidelines (for example, via Committee tip sheets), as well as a national-level endorsement of provincial or local best practices, helped achieve a considerable level of consistency across the country to keep Canada's courts safe and operating. Court personnel were able to compare what they were proposing or had implemented already with what was being promoted by the Action Committee, and with the creative practices the Action Committee was highlighting from other jurisdictions. Taken together, the Action Committee publications had the net effect of providing an informal, unofficial benchmark against which individual courts could measure their own efforts. It was also validating for those jurisdictions whose procedures were singled out as best practices; it drew attention to the significant leadership efforts being undertaken to keep courts open in jurisdictions all across the country.

The Committee's composition, and its direct access to public health expertise, lend it an inherent credibility in many quarters. As a result, court personnel have been able to use Action Committee guidance in publications as a suggested starting point for identifying appropriate requirements—again, a form of informal benchmarks—in discussions with provincial health and justice ministry colleagues. Requests for assistance in implementing public health measures and changes to the physical environment of the courts could be linked with these requirements as part of a business case or rationale, with the added benefit of the considerable weight of the Action Committee behind them. In this way, the Action Committee's publications served as a means to promote



nation-wide accountability for results within the scope of its mandate—“to move the yardstick forward,” as one member put it.

Finally, taken together, the publications of the Action Committee provide a valuable “Canadian snapshot” of what the courts are doing across the country to respond to the pandemic. These documents will form part of the historical record when the collective Canadian response to the pandemic is assessed, and will help to ensure that the courts can start from pre-existing, clear and accessible guidance should a similar crisis be encountered in the future.

Leadership in a Time of Crisis

The Action Committee played a strong and critical leadership role in the development of Court COVID safety practices as well as the communication and broad implementation of those practices.

Stakeholder survey response

The Action Committee’s leadership role was frequently characterized as its most important impact. According to some respondents, the Committee inspired public confidence in the justice system during the pandemic, including in the early days of greatest uncertainty. Having the Chief Justice of Canada and the federal Minister of Justice serve as co-chairs demonstrates the gravity of the situation and the importance senior officials place on health and safety as the courts work to adapt and restore operations. While any individual member of the Action Committee has the experience and authority to serve as a

spokesperson in such a crisis—and does so in his/her own jurisdiction—bringing together federal, provincial and judicial leaders centralized key messaging in a compelling way.

Leadership in a crisis also involves educating, informing and, if necessary, seeking to change behaviours and attitudes of the general public or a target audience (in this case, justice system participants). This report has discussed the impact that sharing information amongst Committee members and via Committee publications has had on court operations. The Committee set a positive example for coordination and communication; it led by example in promoting information-sharing across jurisdictions. As one respondent noted, with the Committee being an innovation itself, it inspired creative action in a difficult context. While necessity and expediency may have helped drive some institutional change such as the transition to remote hearings, the Committee’s openness to non-traditional ways of working reportedly promoted attitudinal change in some cross-sectoral working groups at the provincial and territorial levels as well. In some jurisdictions, the extent of cooperation exceeds pre-pandemic levels. As one respondent put it, “without the Action Committee’s leadership, there would have been a sense of a void or vacuum in preserving the continuity of court operations during the pandemic” and a perceived or actual risk that core institutions responsible for that continuity would be “working in isolation, or even at cross-purposes.”



LOOKING TOWARDS THE FUTURE

The Action Committee has played a national leadership role in supporting the safe operations of the courts over the past year. However, the COVID-19 crisis has laid bare many pre-existing fault lines in our justice system, and there will still be a need for this level of leadership as courts both continue to deal with the fallout of pandemic-related closures and begin to consider what recent innovations should be integrated into their operations post-pandemic. The Terms of Reference for the Action Committee indicate that it will operate as long as is necessary to respond to the court disruptions caused by COVID-19 and, based on the current situation, it is anticipated that its work will remain relevant well into, and quite possibly beyond, the next year.

The justice system must be both efficient and effective. How do we focus on the needs of our marginalized populations to ensure that they continue to have access to justice in an increasingly digital Court environment?

Stakeholder survey
response

Tailored Public Health Guidance for the Courts

As both increased vaccination of the population and the spread of variants of concern modify the public health landscape, the Action Committee will continue to address emerging health issues, as well as ensure that the guidance it has previously provided remains up to date. In addition, as courts begin to restore access more fully to their physical facilities, judges and court administrators have indicated they would benefit from guidance on how to do so safely. The Action Committee will turn its attention to this matter in the coming months.

Support for Addressing the Pandemic's Effects

As courts have transitioned towards a recovery and re-opening phase, the Action Committee has increasingly responded to this shift by addressing the far-reaching effects of the pandemic. Work in this vein has included, for example, considering how the pandemic impacted access to justice for marginalized persons, with additional studies focusing on the specific effects of the pandemic on northern, remote and rural communities, as well as linguistic minority court users. Looking forward, the Action Committee is mindful of the various populations that have been affected differently by restrictions to court operations, and will continue to integrate this awareness into the guidance it provides. The Action Committee will also continue to take stock of the work that is being done by other organizations operating in the justice sphere to ensure that its forward-looking work complements, rather than duplicates, what is being done by others.

The Action Committee has also started to consider the serious issue of delays caused by the pandemic, a topic that is of great concern for courts across the country. Many courts have implemented innovative solutions to address these delays, and the Action



Committee has started to consolidate these practices with a view to providing support to courts as they address this challenge.

Across the country, courts are beginning to take stock of, and determine how to move forward with innovations that were put in place to respond to the pandemic and related facility closures. Many of these practices reflect reforms that were proposed before the pandemic, and there is now a window of opportunity to build upon the current situation and make lasting changes to the justice system. However, the adoption of new technologies and approaches to dispute resolution raises fundamental questions about how these changes can happen in a way that increases, rather than reduces, access to justice. The Action Committee plans to consider these issues, identify and share the innovative solutions that are being put in place by courts across Canada, and consolidate recommendations for change leadership processes as the courts grapple with the many aspects of modernization that have been accelerated by the pandemic.

The pandemic has forced changes that have been required in the justice system for years, and courts across Canada have a unique opportunity to come out of this crisis stronger than ever. However, our justice system is complex, and the only way to effectively address the challenges it faces is for all players to work together. This was true before the spread of COVID-19, and is even more urgent now. To meet this challenge, the Action Committee will continue to bring together leaders from across the country to support recovery from the pandemic, as well as the long-term change that will increase access to justice for all Canadians.

A Template for Future Engagement

Should a future crisis arise, the majority of respondents agreed that the Action Committee represented a useful template for future engagement. One of the Action Committee's legacies will be its aforementioned approach to collaboration. As noted, the Action Committee demonstrated that the most senior government and judicial leaders could cooperate while respecting judicial independence and provincial/territorial jurisdiction. Moreover, many respondents felt that the experience has demonstrated that such collaboration is *required* to ensure timely changes are made and guidance issued. In addition, the inclusion of national-level health partners ensured that the Committee had access to timely, accurate information to share with court administrators and other officials. All of these features contributed to the Action Committee's success, and may be worth replicating in a future crisis. As a respondent observed,

The Action Committee represents a great template for future crisis management endeavours.

Stakeholder survey
response

It remains the case that most issues of court operations remain with the mandate and control of individual chief justices, judges and courts administration, and for good reason. The Action Committee has had to navigate a careful balance between providing national guidance and leadership during a crisis, while



recognizing its structural, constitutional and compositional limitations. It has done this quite successfully...

That is also part of the legacy of the Action Committee: its establishment points the way to the need for and possibilities inherent in such a body, while demonstrating the benefits that come from innovation.

CONCLUSION

The goal of this report was to take stock of the Action Committee's work in the first year of its mandate to inform discussions about the Committee's future. Based on feedback from Committee and partner respondents, in its first year, the Committee was successful in realizing those elements of its mandate that corresponded most closely with its focus on the immediate need to restore and stabilize court operations: facilitating information-sharing; the promotion of coordination and collaboration; promoting dialogue and effective communication more generally; identifying best practices in restoring and stabilizing court operations, some of which have been useful as benchmarks; and modelling leadership in a crisis. In its second year, if the work in progress is any indication, the Action Committee may gradually shift its attention to appropriate long-term protocols to sustain court operations in a manner that protects the health and safety of court users and personnel. Consistent with its mandate, the Action Committee will work to ensure the consistency of its national guidelines with parallel, medium-term planning toward the modernization of Canada's justice system and improvement of access to justice through sector-wide innovation and reform.

While regional and jurisdictional variation are integral to Canada's court system, Canadians have a strong interest in accessible and effective justice, an interest that is undiminished in a crisis such as the pandemic. The Action Committee has demonstrated that close and respectful collaboration can take place to meet this shared interest of Canadians, without impinging upon key principles such as judicial independence and provincial/territorial jurisdiction. This collaboration will continue. Above all, the Action Committee, like all of those responsible for the administration of justice in Canada, will continue to direct its energy and attention towards the greater goal of keeping Canadian justice system participants safe.



AN INVITATION TO ONGOING DIALOGUE

The Action Committee's work is ongoing. If you or the organization you work with have recently initiated or completed work on issues related to the Action Committee's mandate, and you feel this might be of interest to the Committee, the Committee would be glad to hear from you. The Action Committee is also always interested in feedback from members of the public and justice system participants: if you have questions or comments about this report or the work of the Action Committee, do not hesitate to contact the Committee at the following email address: AC-secretariat-CA@fja-cmf.gc.ca

ACKNOWLEDGEMENTS

The Action Committee wishes to thank the following:

The many speakers taking the time to appear before the Committee, including the Canadian Bar Association;
Heads of Court Administration (HoCA);
Federal Commissioner for Judicial Affairs;
Canadian Centre for Occupational Health and Safety (CCOHS);
Health Canada;
Public Health Agency of Canada (PHAC); and the
Technical Working Group and the Secretariat.

All those whose work during the pandemic has been dedicated to ensuring that our courts across the country can remain open; safeguarding trial fairness and access to justice; and prioritizing the health and safety of justice system participants. Your contribution and willingness to adapt to an ever-changing environment is recognized and valued.



ANNEX: PAST AND CURRENT MEMBERS OF THE ACTION COMMITTEE

Right Honourable Richard Wagner, Chief Justice of Canada (Co-Chair)

Honourable David Lametti, Minister of Justice and Attorney General of Canada (Co-Chair)

Two representatives of the Canadian Judicial Council:

Honourable Geoffrey Morawetz, Chief Justice of the Ontario Superior Court of Justice

Honourable Mary Moreau, Chief Justice of the Court of Queen's Bench of Alberta

Honourable Lise Maisonnette, Chief Justice of the Ontario Court of Justice and Chair of the Canadian Council of Chief Judges

*Honourable Terry Matchett, Provincial Court of Alberta & Canadian Council of Chief Judges (past member)

Honourable David Eby, Attorney General of British Columbia

Nathalie G. Drouin, Ad.E., Deputy Minister of Justice and Deputy Attorney General of Canada

Iain Stewart, President of the Public Health Agency of Canada

*Tina Namiesniowski, former President of the Public Health Agency of Canada (past member)

Renée Thériault, Executive Legal Officer, Supreme Court of Canada (member *ex officio*)