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Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the National Self-Represented Litigants Project, 2018/2019

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Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the National Self- Represented Litigants Project, 2018/2019

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Macfarlane

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1. Introduction

From 2011-2013, Dr. Julie Macfarlane studied experiences of self-representation in Canada in three provinces: Ontario, British Columbia, and Alberta.¹ She conducted detailed personal interviews and/or focus group interviews with 259 self-represented litigants (SRLs).²

After the publication of Dr. Macfarlane’s initial report in 2013, SRLs continued to contact the National Self-Represented Litigants Project (NSRLP). This led the research team to develop an “Intake Form” using SurveyMonkey³, in order to continue to collect information from SRLs across Canada.

While the data collected from the replies to the Intake Form is less detailed than the original study interviews, the questionnaire tracks SRL demographics using some of the same variables, such as income, education level, and party status. It also asks questions about the SRL’s experience with prior legal services, mediation services, and bringing a support person to court. The Intake Form also provides a window into SRL personal experiences through a final “open format” question.

The NSRLP is committed to continued reporting on the data we collect in this way from SRLs.⁴ This new Intake Report presents data from 173 respondents, collected between January 1, 2018 and June 30, 2019.

1 Funded by the Law Foundations of Ontario, Alberta, and British Columbia

2 The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants, 2013 - <https://representingyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf> at page 31

3 A widely-used software program. The Intake Form [is available here](#).

4 Our last report on intake data presented data from 66 respondents, collected from January 1, 2017 to December 31, 2017. See <https://representingyourselfcanada.com/srl-intake-report-2017/>

2. Who are SRLs?

The demographics reflected in the 173 Intake Forms submitted from January 1, 2018 to June 30, 2019 are similar to those of previous Intake Reports, and to the [original 2013 Study](#).

a. Gender and age breakdown

Of the 168 SRLs who identified their gender as male or female, 50% were female, and 48% were male (the remainder chose not to self-identify or not say).

Age data collected from the Intake Form indicates that 63% of respondents were over 50 years old, 21% were 40-50 years old, 12% were 30-40 years old and 3% were 25-30 years old. None of the respondents indicated that they were under age 25. While these results are generally similar to previous Intake Reports, there was an 8% increase in those who indicated they were over the age of 50, compared to the [2017 Intake Report](#).

These findings raise several questions, including the consideration of what factors might contribute to the lack of respondents under 25. This is a question we have asked before. It is possible that individuals under the age of 25 are less often engaged in family and civil disputes; it is also possible that they are choosing to resolve these disputes outside of the legal process, for example, by using online mechanisms such as Online Dispute Resolution (ODR)⁵. Further examination of this question, which reflects a consistent picture ever since the 2013 Report, would be valuable.

b. Party status

65% of intake form respondents indicated that they were the plaintiff or petitioner, while 34% indicated they were the defendant or respondent. This 2/3 to 1/3 split is also consistent with our previous data.

⁵ <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/dprs-sprd/res/drrg-mrrc/10.html>

c. Was the other side represented?

The majority of respondents (90%) told us that the other party was represented by counsel (in the 2013 Study this figure was 75%,⁶ and in the 2017 Intake Report it was 86%⁷). This means that, as in previous years, the vast majority of SRL experiences reported to us involve matters where the other side is represented by counsel, *at least for some of the time* (we do not have data on this).

d. Do you identify as a person with a disability?

Just under 40% of respondents identified as a person with a disability. This is significantly lower than the 47% of respondents who identified as a person with a disability in 2017.⁸ The higher number in 2017 may have reflected our outreach to people with disabilities at that time and the publication of our [Primer](#) for individuals seeking accommodations. Anecdotally, we know that there are still many individuals with disabilities struggling to find accommodations in the justice system.

e. First language

The majority of respondents reported that their first language was English (75%). Although 9 languages are listed as options, the next highest response was “Other” at 13%. French was the third most selected, at 4%. This is unremarkable given that our Intake Form is presently available in English only. In the coming year, NSRLP will be using a federal Department of Justice grant to translate some of our web-based materials, including the Intake Form, into French. Our ultimate goal is to make our all our resources accessible to Canadians in both official languages.

⁶ The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants, 2013 - <https://representingyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf> at page 31

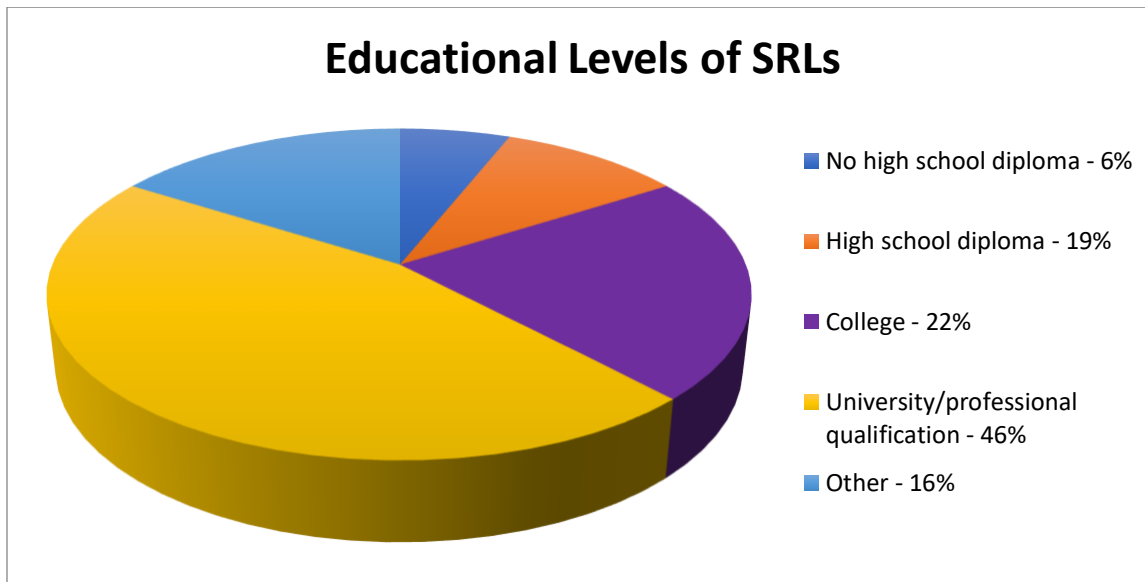
⁷ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 4

⁸ Asking respondents to self-identify as a person with disabilities is consistent with Canadian law. The Supreme Court of Canada has upheld a definition of disability based on personal perception. See *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Montreal (City)*; *Quebec (Commission des droits de la personne et des droits de la jeunesse) v Boisbriand (City)*, Can LII (2000) SCC 27.

f. Education levels

This group of 173 intake respondents continue to demonstrate a high level of education amongst SRLs. 46% have a university or professional degree, and 22% have a college diploma. These results are similar to those found in 2017, where 47% of respondents held a university or professional degree.⁹ The 2013 SRL Report indicated that 50% of respondents held a university degree, and a further 23% a college qualification.¹⁰

Fig. 1: Education Levels of SRLs



g. Annual income levels

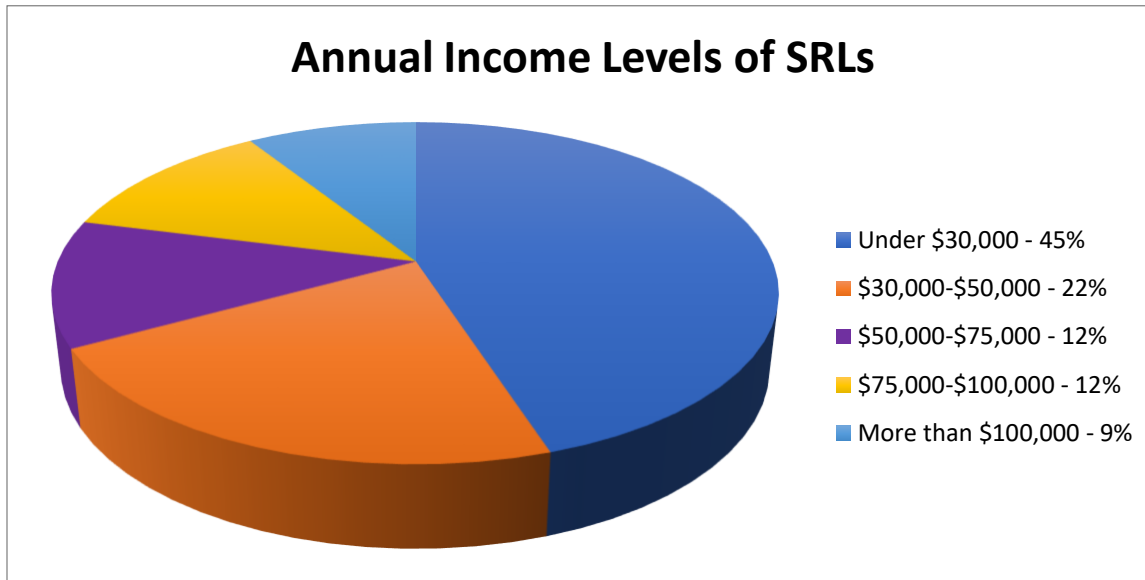
Responses to questions regarding annual income levels continue to show that the majority of those representing themselves report lower income levels (below \$50,000), with most of these below \$30,000.

⁹ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 6

¹⁰ The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants", 2013 - <https://representingyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf> at page 30

In the 2018-2019 results, 45% of respondents reported that their annual income was under \$30,000, and 22% reported an annual income of \$30,000-\$50,000.

Fig. 2: Annual Income Levels of SRLs



Also consistent with earlier reporting, 8% of respondents (also 8% in the 2017 Intake Report,¹¹ and 6% in both the 2013 Study¹² and the 2014-15 Intake Report¹³) report earning more than \$100,000. Of the 2018-2019 respondents who reported earning more than \$100,000 (n=13), 84% stated that they had worked with a lawyer at a prior stage in their case.

This data illustrates that the gap between those eligible for Legal Aid and those who are better able to afford some legal services continues to be very large, with even higher-income earners (those earning over \$100,000) facing difficulties being able to afford legal services for the entirety of their case.

11 Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 6

12 The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants”, 2013 - <https://representingyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf> at page 28

13 Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2014-2015 - <https://representingyourselfcanada.com/wp-content/uploads/2015/05/nsrlp-intake-report-2015.pdf> at page 3

Our socioeconomic data is consistent with other studies that have collected data on SRL income. For example, respondents in a 2018 Northern Ireland study (*Litigants in Person in Northern Ireland: Barriers to Legal Participation*¹⁴) found that the main reason people self-represent is because they could not afford to pay for legal services and did not qualify for legal aid.¹⁵ They described themselves as being “caught in the middle”.

h. Ethnic identity

Since our last Intake Report we have added a section on ethnic identity to our Intake Form. We recognize that this is a difficult and sometimes inappropriate question to ask (and this question is optional), but we want to begin to try to gather some data on this important factor in SRL demographics.

Over 65% of the respondents identified as Caucasian. This was followed by the responses that were characterized as “Other” at 13%, and Asian or East Asian at 9%. Just 2% identified as First Nations. Going forward, NSRLP is very interested in finding ways to collect more data from First Nations individuals who represent themselves, in order to identify particular challenges and areas of difficulty for these communities.

3. Where are the SRLs in the sample appearing?

a. Civil/family litigants

Unlike previous reports, the majority of respondents (62%) in this sample said they were involved in a civil case. This is a change from the 2017 results, where 53% indicated they were family litigants and 47% said they were involved in a civil case¹⁶, and the 2013 Study, where approximately two thirds were family litigants¹⁷.

¹⁴ Litigants in Person in Northern Ireland: Barriers to Legal Participation, 2018 - https://www.ulster.ac.uk/_data/assets/pdf_file/0003/309891/179367_NIHRC-Litigants-in-Person_BOOK__5_LOW.pdf

¹⁵ *Supra* at page 16

¹⁶ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 7

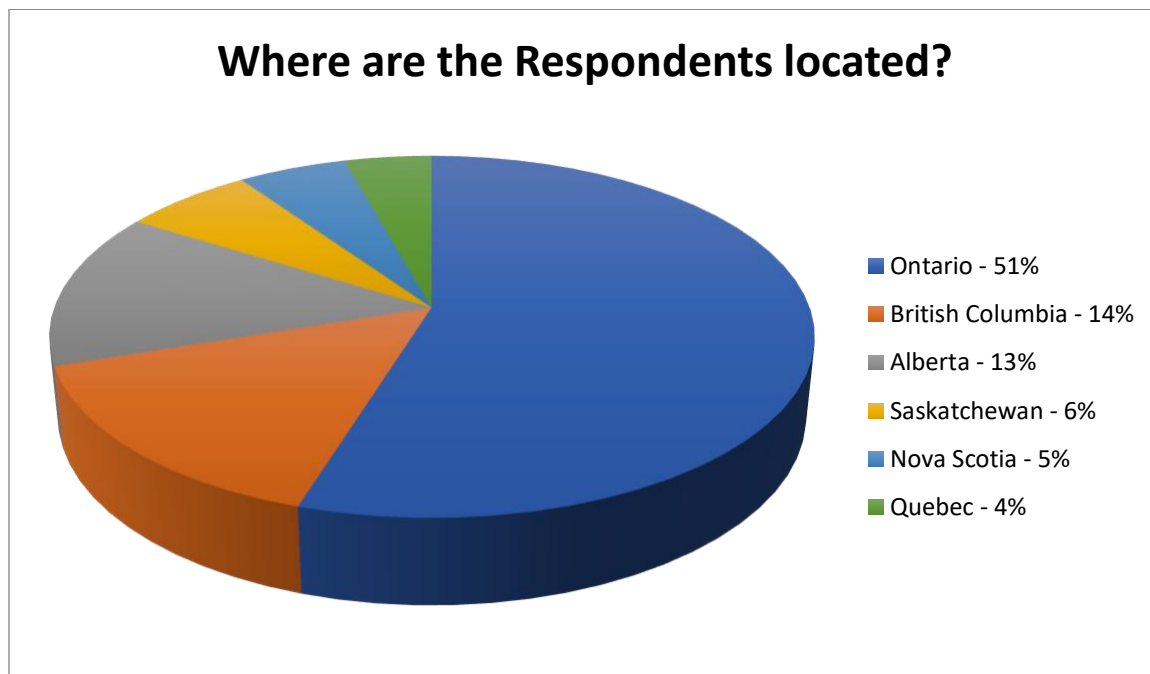
¹⁷ The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants”, 2013 - <https://representingyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf> at page 33

b. Provincial jurisdiction

By far the largest group, 51%, indicated that their matter was filed in the Ontario courts, followed by British Columbia (14%) and Alberta (13%). As in previous years, the data included a smaller number of respondents with matters before courts of other provinces: New Brunswick, Manitoba, Prince Edward Island, Newfoundland and Labrador, Yukon, Nunavut, and the Northwest Territories are all represented in the sample.

We recognize that NSRLP needs to continue to improve our outreach to SRLs across the entire country, in order to broaden the geographic base of the sample. We hope that this will improve with the establishment of NSRLP West¹⁸ in Fall 2019, and also hope that other regional chapters in the Maritimes and Quebec will follow.

Fig. 3: Where are the Respondents located?



c. Court level

The data from the 2018-2019 Intake Form show that 36% of cases were filed in the Ontario Superior Court of Justice. The jurisdictions with the second and third most cases represented in the sample were the Court of Queen's Bench

¹⁸ NSRLP West - <https://representingyourselfcanada.com/introducing-nsrp-west/>

of Alberta (10%), and the Supreme Court of British Columbia (9%). This indicates that the majority of respondents had matters at the trial court level.

SRLs are present in all types and levels of courts and tribunals. Cases within the sample were filed in provincial superior and supreme courts, small claims court, federal court, and a variety of administrative tribunals.

4. What kind of help do SRLs seek?

a. Have you worked with a lawyer to represent you at any stage in the case in which you are now self-representing?

Of those who responded, 68% stated they had worked with a lawyer at some point during their current case. This is exactly the same percentage as reported in the 2017 Intake Report.¹⁹ It is higher than the 2013 Study figure of 53%,²⁰ but shows the same underlying trend: many people who are now self-representing began with a lawyer representing them, but at some point, became unable to expend any more funds on legal assistance.

b. If you worked with a lawyer at any stage of your case, in what capacity were they retained?

Respondents were asked whether their previous lawyer was retained through a private firm, was a Legal Aid lawyer, or worked *pro bono*.²¹

- The 2018-2019 results show that 81% of SRLs who had previously retained legal counsel did so through private firms. This is a 20% increase from results in 2017, which indicated that 61% of respondents hired counsel from private firms.²²

¹⁹ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 8

²⁰ The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants”, 2013 - <https://representingyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf> at page 31

²¹ Private firms regulate their own rates. Some lawyers accept Legal Aid certificates which are issued to individuals, based on financial and legal eligibility, and are used to pay for a lawyer to represent an individual for a certain number of hours. ([See here](#))²¹ Some lawyers will work *pro bono*, meaning they do not charge for their services.

²² National Self-Represented Litigant’s Project, “Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017” (2018) at 9, online (pdf): <<https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf>>

- Just 11% of those who had previous legal representation did so via a legal aid certificate (down from 15% in 2017). The low numbers accessing legal aid are not surprising, given that the income eligibility requirement to qualify for legal aid is so low that it is increasingly difficult to obtain, leaving many people with very low incomes unable to access public assistance.²³ Difficulties obtaining legal aid in Ontario are likely to continue as a result of recent cuts to legal aid in that province.²⁴

In the 2013 Study, 64% of respondents told us that they sought *pro bono* services once they became self-represented.²⁵ Our Intake Form asks only if *pro bono* services have been received, and the data shows a dramatic decline in this figure since we began to collect Intake Forms:

- In the 2015-2016 Intake Report, 58% reported receiving *pro bono* services²⁶
- In the 2017 Intake Report, 24% reported receiving *pro bono* services²⁷
- In 2018-2019, just 7% reported receiving *pro bono* services

It is unclear what has caused this sharp decline, or what variables in this particular sample group of 173 SRLs may be at play (for example, the majority of respondents are from Ontario, which experienced a 30% cut in legal aid services in 2019²⁸). However, the precipitous nature of this decline suggests at minimum that *pro bono* services are either less broadly available or less widely used than in previous years.

²³ For instance, in Ontario, if you are a single person, to qualify for family or civil Legal Aid your annual income must be lower than \$17,731. <https://www.legalaid.on.ca/will-legal-aid-pay-for-my-lawyer/>

²⁴ <https://www.theglobeandmail.com/canada/article-legal-aid-ontario-to-cut-funding-for-bail-hearings-toronto-clinic-in/>

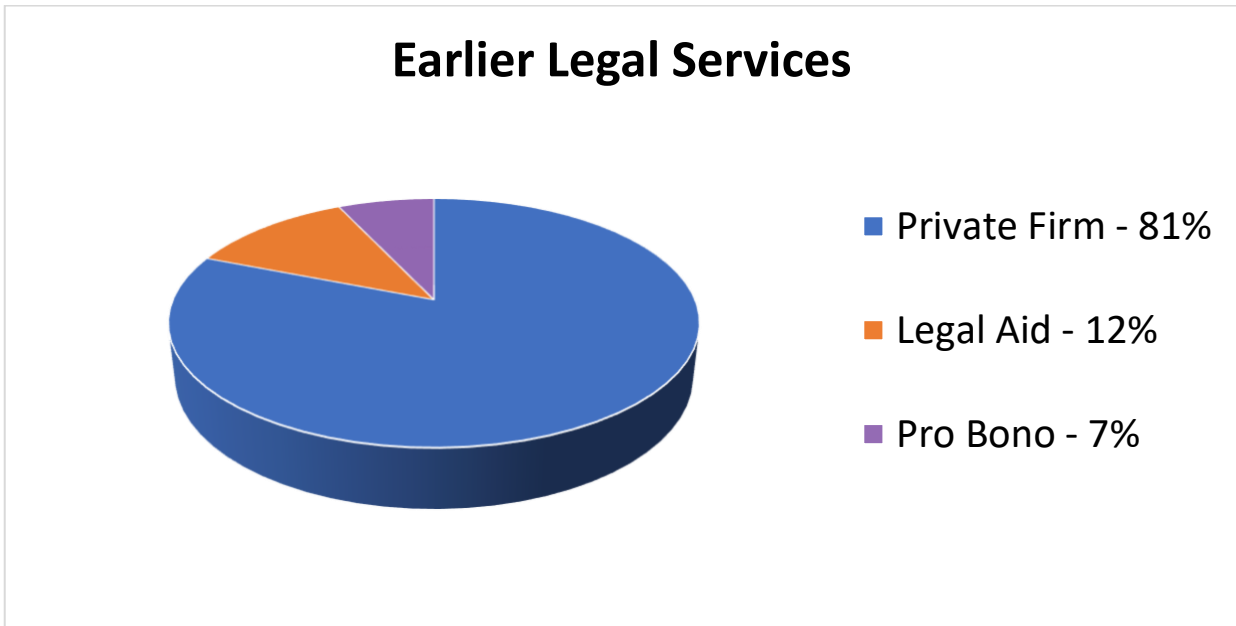
²⁵ The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants”, 2013 - <https://representingyourselfcanada.com/wp-content/uploads/2015/07/nsrlp-srl-research-study-final-report.pdf>

²⁶ Tracking the Continuing Trends of the Self-Represented Litigants Phenomenon: Data from the National Self-Represented Litigants Project, 2015-2016 - <https://representingyourselfcanada.com/wp-content/uploads/2017/02/Intake-Report-2015-2016-FINAL1.pdf>

²⁷ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 9

²⁸ <https://www.cbc.ca/news/canada/ottawa/ontario-legal-aid-funding-cut-1.5095058>

Fig. 4: Earlier Legal Services



c. If you previously worked with a lawyer, how satisfied were you with the services you received?

This is a new question added in 2017 and reported on here for the first time. Respondents were asked about satisfaction with any earlier legal services they received *in this case* (in which the respondent is now self-representing).

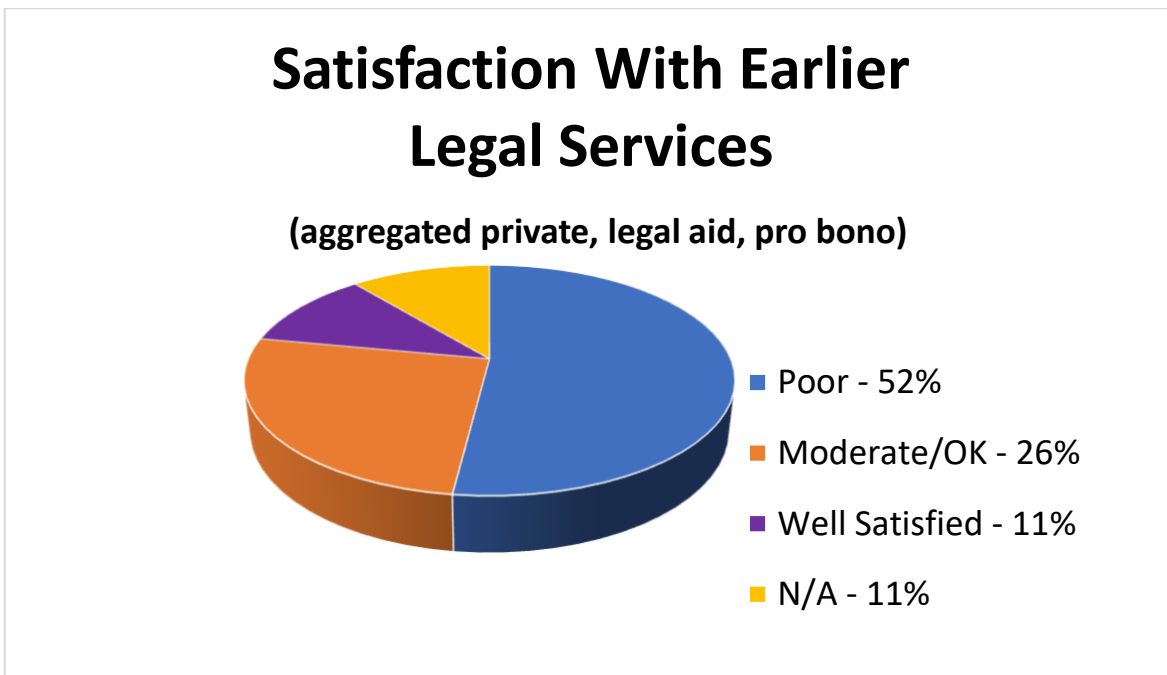
In this sample of 173 SRLs, 68% (n=111, see above at 4 (a)) said they had worked with a lawyer at an earlier stage in this case. Of that group, slightly more than half (52%) said the services they received were “poor”, 26% answered “moderate/ok”, and just 10% responded that they were “well satisfied” with the services they received.

In our Intake Form prior to 2017, respondents were asked about their satisfaction with any earlier legal services they had received in *any case/matter*. This specifically included legal assistance *before* the matter in which they were now self-representing, for example, a wills and estates matter or a conveyancing transaction. Between the 2013 Study and our 2015-2016 Intake Report we saw a rise in the number expressing themselves to be dissatisfied:

- In 2013²⁹, 35% of respondents said that their earlier experience with legal services had been “poor”
- In 2015-2016³⁰, this rose to 43%

In the 2017 Report, in response to our new question (satisfaction with any prior legal representation *in this case* in which you are now representing yourself) 65% gave a “poor” rating. The 2018-2019 data shows a small increase in satisfaction (the “poor” rating went down to 52%). Nonetheless these numbers are very concerning, suggesting widespread dissatisfaction with prior legal services, most of which would have been privately paid for (see Fig 4 above).

Fig. 6: Satisfaction With Earlier Legal Services



²⁹ *Supra*

³⁰ Tracking the Continuing Trends of the Self-Represented Litigants Phenomenon: Data from the National Self-Represented Litigants Project, 2015-2016 - <https://representingyourselfcanada.com/wp-content/uploads/2017/02/Intake-Report-2015-2016-FINAL1.pdf> at page 9

d. Were you offered unbundled services by the lawyer you retained earlier?

Unbundled services,³¹ also known as limited scope services, are legal services offered by a lawyer for only part(s) of a client’s legal matter, as agreed upon with the client. Unbundled services are a more affordable way to purchase legal services, as opposed to traditional full scope retainer agreements, where the lawyer handles the whole matter.

Unbundled services were accessed by 29% of respondents, a modest increase of 4% from 2017.³² Another 47% sought out these services, but did not have success obtaining them (the 2017 figure was 55%).

e. If you were offered unbundled services, how satisfied were you with these?

Of those who obtained unbundled services (29%), 50% rated the service as “poor”, and 25% marked “moderate/OK”. The remaining 25% stated that they were well satisfied, which is a significant increase from zero in 2017³³. It is unclear – and worrisome – why so many SRLs were largely unsatisfied with unbundled legal services, which are often seen as an important component in improving Access to Justice. However, this significant increase in the 2018-2019 Intake Form suggest that there have been improvements in litigants’ experiences of unbundled services overall.

We will be adding a question to the Intake Form to address the reasons for the respondents’ dissatisfaction (and satisfaction) with unbundled services. Anecdotally, we have heard many SRLs complain that the hourly rate is still very expensive.

³¹ The Nuts & Bolts of Unbundling: A NSRLP Resource for Lawyers Considering Offering Unbundled Legal Services - <https://representingyourselfcanada.com/wp-content/uploads/2016/11/Nuts-and-Bolts-FINAL.pdf>

³² Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 12

³³ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 12

f. Have you tried to find unbundled services without success?

Of those responding to this question, 48% said they had sought out unbundled legal services without success. We anticipate that as the number of lawyers who offer unbundled legal services increases, the number of SRLs who cannot access them will decrease.

The remaining 52% had not sought out unbundled services. However, it is possible they were unaware of this option when engaging legal services. Depending on satisfaction (see (e) above), we anticipate that as awareness of unbundled services increases among SRLs, the number of people who say that they did not try to find a lawyer who would offer unbundled services is likely to decrease.

g. Have you been offered mediation services?

Dropping significantly from 2017³⁴, where 45% of respondents reported having been offered mediation services, only 34% of respondents (n = 51) in 2018-2019 indicated such. In 2017³⁵, 46% of respondents reported they had actually used mediation services. This was not the identical group who reported being offered it, suggesting some SRLs actively sought out mediation.

In 2018-2019, 34% of total respondents said they had used mediation. Consistent with the 2017 results, 10% of the respondents who had used mediation services said they settled their dispute in full, while 15% reported settling in part, and 75% reported not settling.

h. How often do you bring a support person with you to court appearances?

This question was asked for the first time in 2017. The percentage of those stating they have *never* brought a support person to court with them decreased very slightly from 59% in 2017³⁶ to 57% in 2018-2019. The 2017 data was discouraging, suggesting that two thirds of respondents are either unaware of the possibility of bringing a McKenzie Friend, or do not feel that

³⁴ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 13

³⁵ *Ibid*

³⁶ *Ibid*

the relative costs and rewards of asking someone to accompany them were worthwhile. The small decrease in those saying “never” may suggest that these attitudes are slowly changing. Consistent with last year’s data, 21% of SRLs reported that they *sometimes* bring a support person with them to court.

i. Do you introduce your support person as a “McKenzie Friend”?

Self-represented litigants have the right to ask the presiding judge if they can bring a “McKenzie Friend³⁷” with them to court. This person is permitted to sit beside the SRL at the front of the courtroom. A “McKenzie Friend” can provide a great deal of support during a proceeding or hearing; for instance, they can organize documents, take notes during the appearance, and provide emotional and moral support.³⁸ NSRLP has [tried to provide support materials](#) for SRLs making such an application.³⁹

The 2017 Intake Report⁴⁰ results showed that only a small number (12.5%) of respondents reported introducing a support person as a “McKenzie Friend”. In 2018-2019 we saw a significant increase (to 22%) in those who reported introducing their support person as a “McKenzie Friend”. While noting that only 14% of our respondents filed in BC courts, this may be slightly affected by a pilot project in the BC Provincial Court⁴¹ to permit SRLs to bring a support person or McKenzie Friend to court.

The NSRLP will continue to promote the adoption of a “McKenzie Friend” protocol by courts in Canada⁴², with a hope that these numbers will increase. For the time being, however, it is clear that most SRLs go to court alone.

³⁷ *McKenzie v McKenzie* [1970] 3 WLR 472.

³⁸ The McKenzie Friend: Choosing and Presenting a Courtroom Companion - [“The McKenzie Friend: Choosing and Presenting a Courtroom Companion”](#).

³⁹ <https://representingyourselfcanada.com/canadian-cases-on-mckenzie-friends/>

⁴⁰ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 13-14

⁴¹ Support Person Guidelines - <https://www.provincialcourt.bc.ca/about-the-court/court-innovation/SupportPersonGuidelines>

⁴² [“The McKenzie Friend: Choosing and Presenting a Courtroom Companion”](#).

5. SRL Stories: Qualitative Data

We invite SRLs completing the Intake Form to give us additional details – in a final open response question – about their personal experiences with self-representation, and to offer any tips they have for other SRLs going through the court process.

Negative experiences

Many respondents detailed their experiences as being stressful, and emotionally trying:

“Extremely draining emotionally. kafkaesque tasks. Not heard. bullied. definitely need more hands-on assistance to not feel so alone.”

“Many times, I have been about to throw in the towel. The time involved in research, learning the legalese, stumbling on procedures, learning there is case law and then if nothing applies turn to parallel case law.”

Respondents often detail the difficulty they have had working with the vast amount of documentation during the trial process:

“It was a nightmare jumping through all the legal hoops. Extremely time-consuming and inefficient. The forms you have to fill are ridiculous. One cannot make head nor tail of these forms. They are not user-friendly.”

We continue to see SRLs feeling that the legal system is stacked against them when they are without representation and without a legal education:

“It was a lot of pressure to deal with the prospect of [handling] everything by yourself, and that the defendant will be represented with the most experienced lawyer that they can find.”

Respondents continue to comment about the personal financial impact of the process:

“I'm terrified but like countless SRL's such as myself I've run out of personal funds and don't qualify for assistance before the legal paperwork was prepared.””

“In my search for procedural guidance and unbundled services with a lawyer, I find it extremely upsetting when I'm told to, "let it go" because it's going to cost too much to fight for what I believe is wrong. I hate feeling scared to death and deterred by the fact that if I fight and fail to "win" that I may have to pay for the cost of opposing counsel's fight against me. You can't afford to pay for your own counsel to fight for you, but you'll be made to pay their legal expenses, by law....”

We also continue to hear from many respondents that they mistrust the legal system, judges and lawyers:

“That negative experience with the legal system has led me to not trust the system or those in it. The more I read the more I distrust the system.”

Others feel there is a widely-held bias against SRLs in the legal system:

“I am treated as though being self-represented is inherently an abuse of process. I have not had trouble with legal arguments, I have had problems with process and procedures which are either obscure or informal which has left me at a disadvantage.”

“Further, the Tribunal’s conduct of blindly supporting lawyers and disregarding a SRLs evidence and submissions is obvious bias and abuse of power or improper exercise of jurisdiction.”

Some SRLs provided feedback on the many challenges faced in maneuvering through the litigation process:

“During that process, I realized that what was holding me back was knowledge of process. I know my case, but I don't know how to counter the defendant's legal maneuvering in court.”

“It is extremely unfortunate that very little hands-on services and support are available to people who are most vulnerable”

“On Appeal I was unrepresented...with me was interpreter who unknown legal matters and due to my linguistic problem I has no opportunity using legal words for raise the doctrine Res judicata or relative to that but in my simple words”

Tips and advice for other SRLs

As in previous reports, many SRLs offered tips and advice for others to learn from. We continue to hear from SRLs who are eager to provide advice to those who are in similar circumstances. This includes tips on understanding court documents, interacting with court staff, judges and lawyers, providing evidence, and advice regarding emotional and mental challenges.

Those who have brought a support person with them to court continue to express the importance of a “McKenzie Friend”:

“Do what it takes to take care of yourself and find a McKenzie friend -- I had one and it helped me tremendously in court just knowing that someone was there for me for support”

Although others point to the limits of the “McKenzie Friend” concept:

“the “McKenzie Friend” concept sounds reasonable on the surface, but presenting a case involves public speaking and moral support is not enough. A litigant should be free to select anyone they want to speak for them”

A number of respondents offered words of encouragement to other SRLs on how to remain strong while enduring the court process. For example:

“Find resilience to fight especially when times are tough and you have a few losses- keep the big picture in mind and keep fighting for the truth and justice -especially when it is hard and you feel like giving up ..keep going.”

As we saw in the last (2017) Intake Report, tips for other SRLs have become increasingly concrete and practical:

“Patience and knowledge are key. Reading and absorbing every legal resource, procedure, rule and then attempting to absorb and apply the information are helpful. University Law Libraries, Private law library accessed with permission for research, your local court house has a public computer you can search by name or case type in order to find similar case reference numbers.”

“Start a binder. Put everything in the binder. I think training for court counter staff and judges should include hearing from self-reps about their experiences.”

“Know the Rules of Court, updates and Practice directions forwards and backwards.”

“Before researching case law, do some Google searches to see if you can find commentary on the particular aspect of the law your case involves. Many lawyers and judges have written scholarly articles on particular facets of the law. This can save a tremendous amount of time.”

Many SRLs also offer advice on how to manage the emotional element of representing yourself:

“Try to keep the emotion out of your presentations. After you have written something for the court, go through it and delete adjectives and adverbs, and especially qualifying words like ‘very,’ ‘extremely,’ etc. Emotions will not win the day. Good facts and solid legal arguments may.”

“As an SRL I can never allow myself to feel downtrodden for that would become the beginning of a downward mental spiral that would be inescapable. Each defeat teaches me to learn more, which in turn leads to more learning and so on and so on.”

Positive experiences

While many SRLs detailed the challenges of navigating the legal system alone, a smaller number described positive experiences and conveyed positive messages:

“We were very courteous and cordial with the opposing counsel, but we remained very, very vigilant and held our ground. He tried to trick us a few times, but we were able to protect ourselves. The judge was also very kind, fair, and personable. There were even times when we were all laughing at something or another.”

There were several respondents who detailed the difficulties of accessing information they need and want. Some refer directly to the NSRLP website:

“As I cannot continue to pay for legal services any advice or articles relating to self representation and process and procedure would greatly help.”

“I am the defendant in an upcoming Civil claim. I cannot afford a lawyer, and I sure wish I had found this website long ago”

“I am looking for a comprehensive guide for SRL to help me with the court process. I will search your website to information that will help me in my court case. I need help and I find it to be a very lonely position to be in.”

The NSRLP hears from many SRLs directly through our public email (representingyourself@gmail.com). We generally receive up to 30 messages a week, with more sent directly to Professor Macfarlane, and other messages posted on the NSRLP Facebook page or in comments on the website. These messages seek assistance with a wide variety of matters. Many SRLs find it difficult to find forms, complete forms, or to choose which forms are appropriate in their circumstances. Oftentimes they are looking for assistance with research, and for review of their materials. The number of emails we receive is an indication of the desire of SRLs to understand the legal process and to effectively resolve their matters. The NSRLP is unfortunately unable to provide legal advice (including the review of any documents) but we do try to direct SRLs to applicable and useful resources (often our own NSRLP Primers) and give general information in an attempt to provide assistance and support.

6. Conclusions

a. Income levels

Similar to our previous data, the majority of respondents continue to report low (below \$30,000) annual incomes, although a significant proportion earn closer to a middle-class income, or higher. This result again supports the hypothesis that legal services are not viewed as affordable over the mid to long-term, even by individuals in higher income brackets.

b. SRLs with disabilities

A large number of 2018-2019 respondents identified as a person with a disability. Canada-wide data from 2017 reports an estimated 6.2 million Canadians over the age of 15 being limited in their daily activities due to an

impairment.⁴³ For those coming alone to the courts, a disability of any kind represents an often overwhelming additional obstacle.

c. Beginning with counsel and running out of funds

Many SRLs (68%) reported that they had at one point in their case had the assistance of a lawyer. This reinforced a key finding of the 2013 Study: the costs of legal services (especially where these accumulate over time) mean that many cannot afford to continue to pay for them. Many respondents described the major financial pressures that are placed upon them when seeking representation. We are seeing the same trend over the past two years as in previous reports: individuals are significantly depleting their resources in order to initially hire legal representation, but ultimately end up representing themselves when they reach the limit of their budget.

d. Earlier experiences with legal services

A significant number of respondents who received earlier legal services describe themselves as being disappointed with those services, with a majority (52%) responding that the services rendered were “poor”.

e. Continuing to look for legal assistance

The results of the 2018-2019 Intake Report show once again that SRLs are actively seeking alternative, affordable legal services. However, the numbers reporting successfully accessing *pro bono* services are worryingly lower than previous reports, in a downward trend (just 7% in this new Report, compared to 24% in 2017, 58% in 2015-16 and 64% in 2013).

Unbundled services were accessed by 29% of respondents, a modest increase of 4% from 2017⁴⁴. Another 47% sought out these services, but without success (the 2017 figure was 55%).

⁴³ Statistics Canada. [Canadian Survey on Disability, 2017](#)

⁴⁴ Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the Self-Represented Litigants Project, 2017 - <https://representingyourselfcanada.com/wp-content/uploads/2018/04/Intake-Report-2017-FINAL.pdf> at page 12

The level of satisfaction with these services remains low, with 50% describing their experience as “poor” (compared to 52% describing all previous forms of legal assistance as “poor”). We shall try to collect more detailed data on why in our next iteration of the Intake Form.

f. Experiences with mediation

While we saw a rise in the use of mediation reported by SRLs in 2017, this report shows a decline in the 2018-2019 sample in both those reporting being offered mediation services (down to 34% from 45% in 2017) as well as those who actually used mediation (down to 35% from 46% in 2017). Mediation services have been subject to cuts in some jurisdictions, including Ontario⁴⁵. In addition, 75% reported that their experiences with mediation did not result in full or partial settlement. This resonates with our anecdotal data from SRLs, who often complain that they did not understand the purpose of mediation, or how to adequately prepare.

Access to and use of mediation by SRLs is a critical issue if settlement is to be encouraged and supported by the justice system. The decline in usage reported for this sample group suggests continuing and further barriers to SRLs accessing and using mediation services effectively.

g. Advice for other SRLs

We continue to see respondents providing detailed and useful advice for other SRLs. This includes tips for completing court documents and paperwork, how to prepare for court appearances, and how to conduct legal research and present arguments. Respondents also provide encouragement to other SRLs on how to manage stress and pressure while navigating the legal system.

h. Poor experiences of the justice system and of self-representation

We continue to hear from many respondents who have had negative experiences engaging with the legal system. Several SRLs described feeling defeated and overwhelmed, while others describe a feeling of intrinsic bias against them. Many SRLs continue to describe feelings of frustration and

⁴⁵ <https://www.lawtimesnews.com/news/general/legal-aid-ontario-to-cut-14.5m-from-clinic-system/266875>

stress, particularly in regards to the financial costs of legal assistance and the pressures of representing oneself.

i. Ongoing commitment to Access to Justice

Despite their negative experiences, we consistently find that respondent SRLs retain a commitment to improving Access to Justice for both themselves and others. 99% of these 173 respondents asked to be added to NSRLP’s mailing list to receive notice of blogs, new resources, and more.

* * *

The intake procedure at the NSRLP is an ongoing process. We will continue to modify our Intake Form questions to respond to the changes we observe, and the growth of new subject areas which require investigation.

If you have questions about any of the data presented here, please contact NSRLP at representingyourself@gmail.com. We appreciate the information provided by all our respondents and do our very best to reflect it authentically and comprehensively in these regular Intake Reports.