STRATEGIC ACTION PLAN FOR THE POLICY SECTOR

Initiative # 2

Strengthen the Ability to Measure, Evaluate and Report on the State of the National Justice System

Team Report

December 10, 2002

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1.0 Introduction

The Challenge

Historically, the goal of developing useful measures with which we can speak knowledgeably about changes in the justice system has been illusive. Over the recent past there have been efforts to measure specific parts of the justice system in consistent and meaningful ways. To this day, however, there is no one tool which can consistently report on changes across all aspects of the justice system.

The Strategic Action Plan had set out a task, Initiative #2, to advance current capacity for reporting national indicators on the overall justice system. It was felt that more needed to be done in order to provide the Department of Justice with some way to report on and describe meaningful changes that occur in the justice system over time.

The challenge faced in creating meaningful measures on the state of the justice system is that, in order to reflect the work of the justice system, a reporting system would need to include numerous indicators that are well beyond the Department of Justice Canada's area of responsibility. It needs to include a whole range of indicators across all levels of government, from the community and from non-governmental agencies.

With the realities of constitutional responsibilities and the current roles between all levels of government, community agencies and NGOs that have evolved over time, the task of accurately measuring every component of the system becomes daunting, seemingly impossible.

Mapping the Justice System

In facing this challenge, the team decided that the essential starting point was a map of the justice system which would provide a conceptual framework. This framework needed to include the principles or objectives against which we would ultimately want to measure the justice system, as well as the core institutions and practices of the justice system in addition to environmental elements such as policy drivers, social conditions, emerging issues and a host of others which contribute to the context in which the justice system functions.
The resulting model of the map (See Appendix 1) attempts to illustrate some of the interactions among these elements that account for the framework:

- Core component measures of the justice system;
- Environmental elements which have strategic relevance to a justice system;
- Principles of the justice system that provide high-level measures of the justice system.

The team decided to take this big-picture approach rather than the more common approach of simply pooling the readily available indicators and accepting the partial picture they provide. The advantage of this model is that it makes it easier to include elements of the justice system that are not usually adequately considered like the role of the non-profit and private sectors, emerging civil events and regulatory law. However, it must be stressed that the resulting model includes elements for which

indicators and data may not be available. In preparing to create an actual report on the state of the justice system, a next step would require determining the availability of different measures for each element in the justice system map.

A First Iteration

To build a model which would include every facet of the justice system would be a project requiring the combined efforts of many people, spanning many years and requiring considerable resources. Due to the ever-changing nature of the justice system and society generally, it is a process that would never be completed. The model we have undertaken to build is primarily a first iteration in which we collectively identified important indicators and issues that will provide process measures as well as outcome measures.

There are many more components that can be added, all of which would contribute to the robustness of the model. It should be noted, however, some variables we identified will not have data or information currently available. Nevertheless, we felt it was important to identify them as being relevant to reporting on the justice system in Canada. While Canada has vast amounts of data available on various elements of the justice system and society, there are still many gaps which could be filled over time.

The map developed to this point contributes to the development of a measurement and reporting tool that can provide a better understanding of the justice system and of the interrelations between principles, outcomes, institutions, processes and the environment. Against this backdrop it will be possible to develop meaningful reports on the state of the justice system.

2.0 Core Indicators

The core indicators are comprised of the system and organizational activities that make-up the justice system.

- Legal Services (Crowns, Private Bar, Paralegals, Prosecutors): Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

- Justice Government Programs: Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

- Administration of Justice: Criminal, Civil and Regulatory

- National Security Infrastructures: Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

- The Constitution, Statutes, Legal Framework Regulations: Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

- Courts and Tribunals: Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

- Policing and Enforcement Regulations: Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

- Sentencing, Corrections and Parole: Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

- Non-Government Organizations (NGOs): Criminal, Civil and Regulatory (includes federal, provincial and municipal data)

3.0 Environment

Environmental issues reflect the broad range of social, economic and political events which impact significantly upon the working of the justice system. These issues can be represented by quantitative measures as well as by more subjective sources of information that can affect the behaviour and direction of the justice system.

Listed below are simply examples of the type of issues which would comprise the environmental measures when reporting on the state of the justice system.

- NGOs
- Demographics
- Diversity
- Family
- Political Environment
- Physical and Mental Health
- Economy
- Media
- Natural Environment
- Victimization
- Galvanizing Events
- Public Values
- Community and Society
- Social Government Programs
- Level of Fear
- International Community
- Innovation
- Education

4.0 Principles of Justice

The challenge of reporting on the state of the justice system resulted in considerable discussion among the team on the feasibility of such a task. The team understood well the dilemma resulting from the development of such a report—the identification of variables to be included or excluded is, outside of basic core services, a subjective exercise. In reality, the list of indicators, outcomes and processes that need to be measured across all levels of government, volunteer agencies, community groups and non-government agencies would be nearly impossible to complete. On-going changes in the system and in society require constant revisions and updates.

In working through this task, the team adopted a layered approach consisting of the identification of core measures and the analysis of strategic environmental issues. Together, these two layers would be clustered together to inform an overall analysis of the justice system as represented through a number of stated principles (See Appendix 2). **These principles are not exhaustive and they reflect the thinking of this particular team only**. These principles, like the list of indicators and issues that can be attributed to them, are very fluid.

The thinking of the team in designing this approach evolved from the premise that principles, like those identified for this Initiative, can provide a framework through which regular and meaningful reporting can be done in ways that reflect the diversity, complexity and content of the justice system in Canada.

Identification of Principles

Accessible

- Ensuring common understanding of, and broad access to, the justice system by all members of the community including non-participants as well as victims and accused;
- Providing reasonable access to programs and services in different regions and communities;
- Recognizing the diffuse interests of all communities, ensuring that the business of justice is accessible and available.

Adaptable

- Providing services and programs that are new and innovative;
- Attempting to effect changes in the system by introducing new ways of doing business that anticipate a changing environment and effect changes in the Justice system;
- Provision of alternatives to the formal justice model appropriate – for example Native Courts; restorative justice; alternative dispute resolution;
- New harms or crimes that need to be addressed; new initiatives; adequate implementation;
- Exploring complimentary approaches for greater effectiveness.

Effective

- Ensuring that costs of services are reasonable but commensurate with equity and justice;
- Ensuring that levels of service respond to need;
- Monitoring the size and scope of the justice system and balancing the effectiveness of achieving goals with efficient use of appropriate resources;
- Measuring the extent of unmet needs for services;
- Working with private sector and community sector service providers as appropriate to achieve goals effectively.
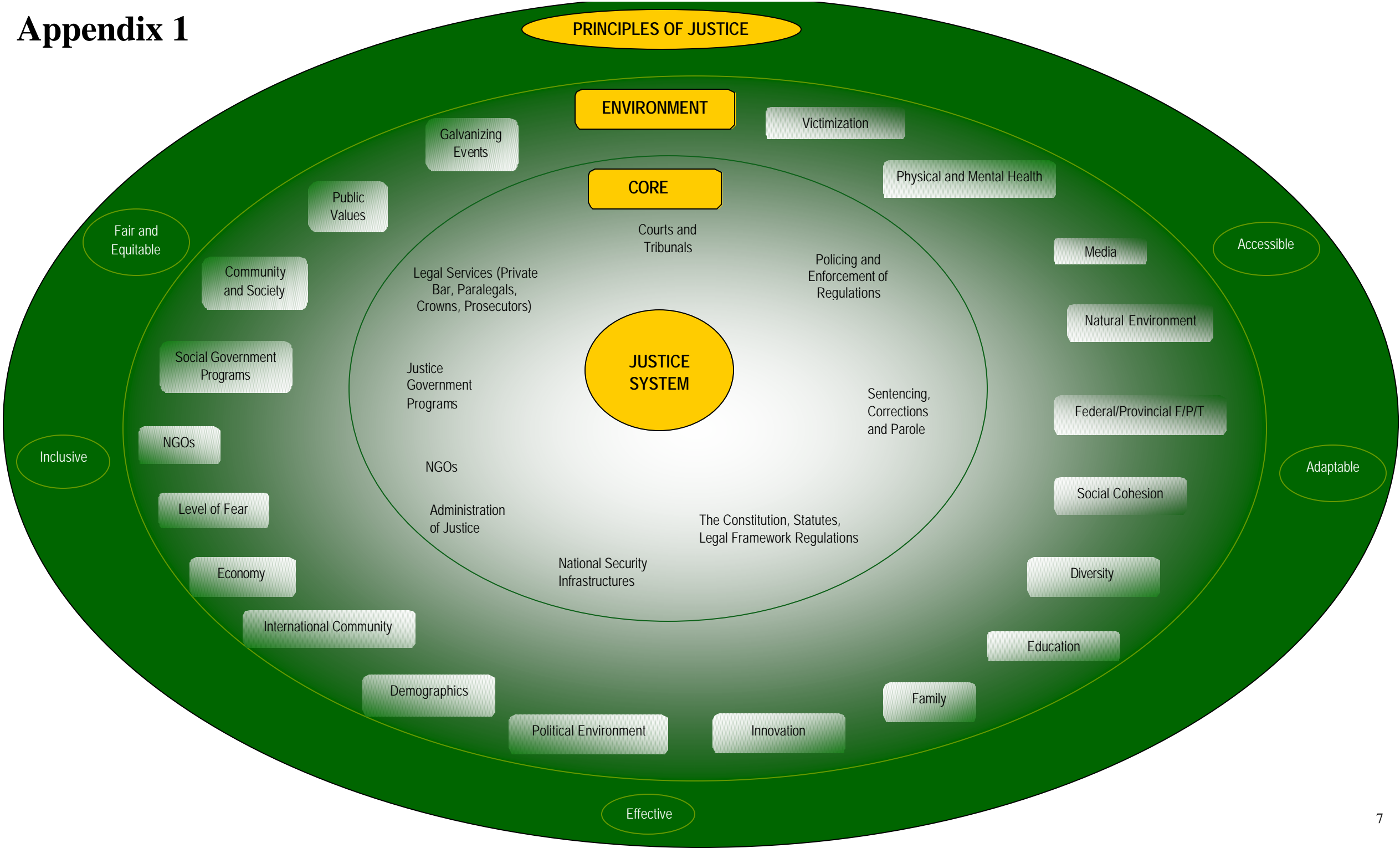
Inclusive

- Providing services and programs in ways that recognize the composition and needs of the community which is increasingly diverse and complex;
- Paying attention to the legal education and justice system needs of new Canadians and those from vulnerable groups;
- Diversity changes the patterns of communication that are required to reach the entire citizenry.

Fair and Equitable

- Identifying justice system outcomes and results that are in keeping with basic values and legislative frameworks in place;
- Ensuring that the application of the law is fair and impartial—all equal in eyes of the law;
- Ensuring that fairness, due justice, human rights and legal rights maintained and strengthened where appropriate;
- Ensuring populations are protected by the system and before the system. Justice initiatives must be communicated in a way that clarifies their values and social objectives.

Appendix 1

PRINCIPLES OF JUSTICE

ENVIRONMENT

Victimization

Physical and Mental Health

Galvanizing Events

CORE

Public Values

Courts and Tribunals

Fair and Equitable

Accessible

Media

Community and Society

Legal Services (Private Bar, Paralegals, Crowns, Prosecutors)

Policing and Enforcement of Regulations

Natural Environment

Social Government Programs

Justice Government Programs

JUSTICE SYSTEM

Sentencing, Corrections and Parole

Federal/Provincial F/P/T

NGOs

Inclusive

Adaptable

NGOs

Social Cohesion

Level of Fear

Administration of Justice

The Constitution, Statutes, Legal Framework Regulations

Economy

Diversity

National Security Infrastructures

International Community

Education

Demographics

Family

Political Environment

Innovation

Effective

Appendix 2

Clusters of Indicators and Environmental Issues and the Principles of Justice

The Measurement of Principles

For each principle of justice, there are indicators and environmental issues that can be clustered together to reflect the nature and composition of that principle. In combination, these clusters form the basis of measuring and analysing changes in the state of the justice system over time.

Accessible

> - Ensuring common understanding of, and broad access to, the justice system by all members of the community including non-participants as well as victims and accused;
> - Providing reasonable access to programs and services in different regions and communities;
> - Recognizing the diffuse interests of all communities, ensuring that the business of justice is accessible and available.

- Requests for legal aid

    - Approvals
    - Denials
    - Level of unmet needs

- Ratio of lawyers/population
- Cost-sharing levels
- Cost-sharing agreements
- Cost of communications

    - Media
    - ATIP
    - Outreach

- Number of crimes not reported to police
- Availability of programs in criminal, civil and regulatory areas of justice
- Serving rural or northern community
- Serving Aboriginal community
- Extent of unmet needs

    - Request for services denied
    - Number of communities not served

- Number of programs cut in previous year
- Dollars cut from programs in previous year
- Environmental issues on NGOs -- their activities and issues

    - Human rights
    - Legal education
    - B'nai Brith
    - Privacy
    - Refugee advocacy
    - Community advocacy
    - Community centres
    - Immigration services
    - Civil liberties
    - Small business associations
    - Amnesty International
    - Tax payers associations
    - Business and industry associations
    - Landlord/tenant

- Environmental issues on diversity
- Immigration levels and source countries
- Visible diversity in Canadian cities
- Languages spoken in Canadian homes
- Perceptions of the justice system by different segments of society
- Aboriginal people in Canada
- Environmental issues on family

    - Household composition (married, common-law, same-sex)
    - Family composition (single, two-parent, divorced)
    - Changing family structure in a changing landscape
    - Communications analysis of current media events

- Environmental issues on galvanizing events: Reporting and analysis of major social, economic and political events which impact upon the justice system

- Environmental issues on social government programs

    - SIN numbers in Canada
    - Aboriginal specific programming
    - Public legal and civic education
    - Organized crime and new arrivals in Canada

- Environmental issues on victimization

  - Activity of victimization groups
  - International comparison of victimization levels in Canada vs. international
  - Legislative and policy issues relating to victims i.e. creation of victim's rights
  - Public perceptions about victimization
  - Victim surcharge

    ➢ Dollars gathered
    ➢ Default levels
    ➢ Cost to enforce

  - Environmental issues on galvanizing events: Reporting and analysis of major social, economic and political events which impact upon the justice system

Adaptable

➢ Providing services and programs that are new and innovative;
➢ Attempting to effect changes in the system by introducing new ways of doing business that anticipate a changing environment and effect changes in the Justice system;
➢ Provision of alternatives to the formal justice model appropriate – for example Native Courts; restorative justice; alternative dispute resolution;
➢ New harms or crimes that need to be addressed; new initiatives; adequate implementation;
➢ Exploring complimentary approaches for greater effectiveness.

- Drop off in cases between police contact and court appearance

  - Number of diversion
  - Number of drop charge
  - Number of other

- Courts and tribunals outcomes by type of case

  - Number of decisions by type
  - Number of dispositions by type
  - Number of cases diverted
  - Number of cases dropped
  - Average fines

- Number of persons charged more than once by police (recidivists)
- Number of youth in contact with police
- Number of Aboriginal people in contact with police
- Number of parole and probation releases
- Number of parole and probation revocations

- Number of dangerous offenders
- Number of long-term offenders
- Number of repeat violators
- Number of suicides in prison
- Number of prisoners with AIDS
- Restorative justice programs

  - Number of programs
  - Funds spent
  - Number of people in programs

- Environmental issues on the political landscape
- Views of current outcomes in criminal and civil justice (sentencing, fines, appropriateness of punishment, the evolving role of state vs. individualism)
- Prevalence of zero tolerance for all aspects of justice, from criminal to taxation, to immigration, etc.
- Political values (growing conservatism in political arena)
- Environmental issues on the economy

  - Level of black market activity relative to GDP
  - Rates of tax compliance
  - Cost of crime to the economy
  - Regulations
  - Cost of regulations to efficiency and effectiveness of Canadian competitiveness
  - Comparison of Canada's regulatory environment to those in other countries as measured through world competitiveness
  - Canada's justice system (civil and criminal) and the business of the nation as measured through world competitiveness
  - Money laundering and responsibilities of financial institutions
  - Communications analysis of current media events

- Environmental issues on changing social values (movement of population to core social value quadrants as defined in the CROP survey, from participation to conservatism, nihilism, etc.)
- Environmental issues on the willingness of community to resolve its own conflict vs. immediately drawing on the justice system
- Environmental issues on innovation
- Drug courts
- Unified family courts
- Justice on-line
- Dispute resolution in civil and criminal issues

- Environmental issues on level of fear

    - Public levels of fear in Canada
    - Actual vs. perceived fear
    - Level of fear and crime levels
    - Trends in fear
    - Altruistic fear

- Measure of social cohesion as developed by Putnam

    - Level of volunteerism
    - Level of voting
    - Level of newspaper reading

- Environmental issues on natural environment
- System responses to issues such as clean water where public health is threatened
- Corporate polluting
- Special legislation to deal with environmental issues, specifically those relating to consumer and user protection, danger to health issues, international agreements
- Environmental issues on galvanizing events: Reporting and analysis of major social, economic and political events which impact upon the justice system

Effective

> ➤ Ensuring that costs of services are reasonable but commensurate with equity and justice;
> ➤ Ensuring that levels of service respond to need;
> ➤ Monitoring the size and scope of the justice system and balancing the effectiveness of achieving goals with efficient use of appropriate resources;
> ➤ Measuring the extent of unmet needs for services;
> ➤ Working with private sector and community sector service providers as appropriate to achieve goals effectively.

- Average cost per court case

    - Legal Aid
    - Private

- Representation in court

    - Number of judges, number of justices of the peace, Masters, etc.
    - Number of prosecutors (all levels of court)

- Length of the case

  - Number of appearances
  - Number of decisions

- Justice specific or related dollars on social and economic programs

  - Funding levels
  - Levels of services
  - Cost
  - Program type

    - Native court workers
    - Parole, probation services
    - Parenting education programs (evaluations)
    - Youth diversion programs (evaluations)
    - Crime prevention
    - Canadian firearms program
    - Family programs
    - Victim services
    - Mediation/diversion/alternative dispute resolution (ADR)
    - Community police
    - NGOs
    - Communication strategies
    - Human rights
    - Maintenance enforcement programs
    - CBA
    - Judicial councils
    - Regulations
    - International agreements (including UN)
    - Landlord reform
    - Copyright
    - Access to information
    - Privacy
    - Genetics
    - War crimes
    - PLEI

- Total justice spending by all government as a proportion of GDP
- Portion of total government spending on justice system committed to programs

- Cost of justice

  - Courts
  - Corrections
  - Police
  - Enforcement
  - Regulatory
  - Community
  - Agency
  - Government policy
  - Government programming
  - Legal aid
  - Private bar
  - Prosecutions
  - Legal services

- Number of people working in Justice

  - Courts
  - Corrections
  - Police
  - Enforcement
  - Regulatory
  - Community
  - Agency
  - Government policy
  - Government programming
  - Legal aid
  - Private bar
  - Prosecutions
  - Legal services

- Canadian Security Intelligence Review Committee

  - Number of people
  - Cost
  - Number of complaints
  - Number of investigations

- Military justice

  - Court
  - JAG function
  - Corrections
  - Police

    - Number of people
    - Cost
    - Number of cases

- New legislation

  - Introduced
  - Passed

- New regulations

  - Introduced
  - Passed

- Courts and tribunals

  - Volume of cases by type
  - Volume of people by type
  - Duration of cases from start of court date to end of trial by type
  - Duration of cases from charge to start of court date by type
  - Duration of cases from end of trial to decision by type

- Pleas

  - Number guilty
  - Number not guilty

- Caseload

  - Number of cases per court
  - Number of cases per judge
  - Number of cases per capita

- Number of cases reported by police

  - Violent
  - Property
  - Other C.C.
  - Traffic

- Number of cases cleared by charge by police
- Number of cases cleared otherwise by police
- Number of incidents and offences reported by non-police, agencies and regulatory: customs, immigration, taxation, environment, food inspection, fish and game
- Number of people in correctional systems by offence category

    - Adult and youth

        ➢ Custody
        ➢ Remand
        ➢ Community

- Average sentence length by offence category

    - Adult and youth

        ➢ Custody
        ➢ Remand
        ➢ Community

- NGOs – capacity

    - Number of agencies
    - Number of staff
    - Number of volunteers
    - Resources spent
    - Number of cases

- NGOs – Budget

    - Funds received
    - Funds spent
    - Funds via fundraising
    - Source of main funding

- Communications analysis of current media events
- Environmental issues on galvanizing events: Reporting and analysis of major social, economic and political events which impact upon the justice system
- Environmental issues on the international community
- Canada and the United Nations
- Canada and the European Union
- International agreements relating to justice issues

- Extradition
- Canadian participation in international court
- Immigration and crime
- War crimes prosecution

Inclusive

> ➤ Providing services and programs in ways that recognize the composition and needs of the community which is increasingly diverse and complex;
> ➤ Paying attention to the legal education and justice system needs of new Canadians and those from vulnerable groups;
> ➤ Diversity changes the patterns of communication that are required to reach the entire citizenry.

- Deportations due to security issues
- Denied entry to Canada due to security issues
- Number of incidents of reported national security incidents
- Preventive detentions
- Investigative hearings
- Environmental issues on galvanizing events: Reporting and analysis of major social, economic and political events which impact upon the justice system
- Maintenance enforcement programs (MEPs)

    - Number of cases
    - Number of people who paid
    - Number of recipients
    - Number of children
    - Number of seizures of property
    - Dollar value of property seized
    - Number of garnishments
    - Default rate

- Community service programs

    - Number of programs
    - Funds spent
    - Number of people in programs

- NGOs –Governance

    - Community board of directors
    - Private ownership (for profit)
    - Executive director
    - Paid vs. volunteer

- Environmental issues on NGOs -- their activities and issues

    - Human rights
    - Legal education
    - B'nai Brith
    - Privacy
    - Refugee advocacy
    - Community advocacy
    - Community centres
    - Immigration services
    - Civil liberties
    - Small business association
    - Amnesty International
    - Tax payers association
    - Business and industry associations
    - Landlord/tenant
    - Number of people in population
    - Trends in population growth
    - Income levels (LICO)
    - Employability
    - Economic/education choices affects justice system
    - Levels of disability
    - Age of population
    - Communications analysis of current media events

- Environmental issues on education
- Levels of school leaving
- Literacy
- Knowledge of the justice system
- Citizen rights and responsibilities

Fair and Equitable

> Identifying justice system outcomes and results that are in keeping with basic values and legislative frameworks in place;
> Ensuring that the application of the law is fair and impartial—all equal in eyes of the law;
> Ensuring that fairness, due justice, human rights and legal rights maintained and strengthened where appropriate;
> Ensuring populations are protected by the system and before the system. Justice initiatives must be communicated in a way that clarifies their values and social objectives.

- Number of constitutional challenges and outcomes
- Environmental issues on galvanizing events: Reporting and analysis of major social, economic and political events which impact upon the justice system

- Environmental issues on physical and mental health

    - Euthanasia

        ➢ Polling results for levels of acceptance
        ➢ Analysis of public debate
        ➢ Special cases i.e. Latimer and Supreme Court

    - Mentally disordered offenders (MDOs)

        ➢ Number in Canada
        ➢ Analysis of public debate
        ➢ Special cases i.e. high profile crime

    - Abortion

        ➢ Polling results for levels of acceptance
        ➢ Analysis of public debate

    - Aids, Hepatitis C

        ➢ Number of cases
        ➢ Polling views
        ➢ Analysis of public debate

    - Cannabis

        ➢ Public perception
        ➢ Number of medicinal users
        ➢ Analysis of public debate
        ➢ Special Cases

    - Power of attorney: Number of Canadians whose affairs are handed over to power of attorney
    - Communications analysis of current media events