

Council of Canadian  
Administrative Tribunals



Conseil des tribunaux  
administratifs canadiens

# “ Measuring Access to Justice for Self-representing Litigants – A National Survey of Canadian Administrative Tribunals”

Presented by **Lilian Ma**, Chair, Access To Justice  
Committee, Council of Canadian Administrative  
Tribunals (CCAT) at  
The Innovation and Access to Justice Conference  
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# A short History about the Survey

- May 2012 CCAT conference in Calgary – half day program on Access to Justice for SR parties
- Checklist compiled and posted on CCAT website, Fall 2013
- Idea to do national survey based on checklist to measure a National Baseline for Access to Justice
- Pilot project May 2014 CCAT Symposium Gatineau
- National Survey: November 2014 – January 2015



# Survey Methodology

- 14 sections with 65 questions. Each question asked respondents whether a certain activity had been in place in their organizations.
- 2 demographic questions: jurisdiction and % of SR parties – non-mandatory
- Yes=5, partial=2.5, no=0
- One survey per tribunal/agency
- List gathered through CCAT Board and contacts
- Use of Survey Monkey and Microsoft Excel



# Metadata

- 250 sent out - 135 responded = 54% response rate
- Of these, 11 did not answer the substantive questions, i.e. 124 = actual 50% response rate
- 4 did not respond to group question, 3 did not respond to jurisdictional question
- Regional contacts were very helpful to get high response rate
- One or two responded as having no self-reps, so survey did not apply



# Sections and Questions

Section	Description	No. of Questions	% of Total Questions
1	Planning	5	7.7
2	Availability of Information	7	10.8
3	Language Questions	2+4=6	9.2
4	Website Design and Information	9	13.8
5	Use of other Programs	4	6.2
6	General Public Legal Education and Information	3	4.6
7	Special Needs	2	3.1
8	Case Management	4	6.2
9	Timeliness and Service of Documents	3	4.6
10	Hearing Preparation	2	3.1
11	Early Resolution and Case Conference	6	9.2
12	Hearings	6	9.2
13	Tribunal Members	3	4.6
14	Tribunal Decisions	5	7.7
Total		65	100



# Group Response Distribution

Group	% SR	# of response	% of all response
A	0-25	33	27.5
B	26-50	25	20.8
C	50-75	28	23.3
D	76-100	34	28.3
Total		120	100



## Distribution by Jurisdiction

Jurisdiction	Code	# response	%
Federal	Fed	12	9.9
British Columbia	BC	16	13.2
Alberta	AB	12	9.9
Saskatchewan	SK	10	8.3
Manitoba	MB	20	16.5
Ontario	ON	26	21.5
Quebec	QC	8	6.6
New Brunswick	NB	6	5.0
P.E.I.	PE	3	2.5
Nova Scotia	NS	4	3.3
Newfoundland & Labrador	NL	1	0.8
Yukon	YT	1	0.8
Nunavut	NU	2	1.7
Total		121	100



# Calculation method

- The questions are given equal weight.
- The total score for each question is tallied up for each answered question divided by the number of answers received for that question.
- This way of calculation eliminated the error introduced by skipped questions as some respondents did not answer all of the questions.
- Also, this way of calculation eliminated the evaluation of individual organizations but rather focused on the response to a particular question as a whole from all the respondents.





# National and Jurisdictional Baselines

- The **national average ( baseline)** from the 124 responses is calculated to be **62%**
- For each jurisdiction, a score is also calculated from those responses who had self-identified with that jurisdiction. The score is elevated to a “**baseline**” status when the number of responses is over 30% return rate, which was met for all the jurisdictions except NL, YT and NU. No score was established for NWT
- Responses (2) indicating both federal and provincial/territorial jurisdiction were assigned as federal jurisdiction.
- 14 entries from the four Atlantic provinces (NB, NS, PE. and NL) were also combined to determine an Atlantic region (ATL) baseline.

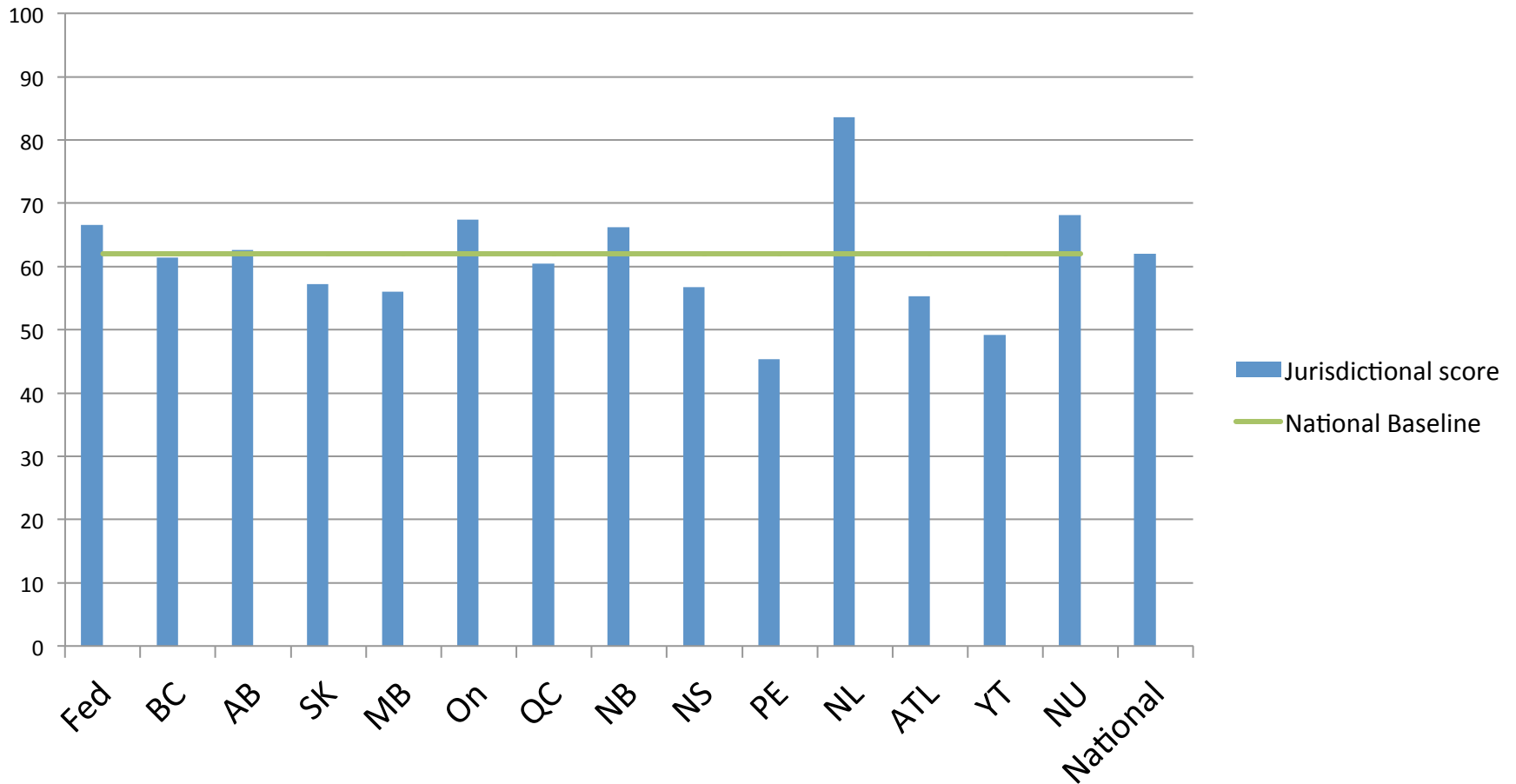


## National Baseline and Jurisdictional Score/Baseline

# of data	Region	Score	Baseline
12	Fed	66.6	B
16	BC	61.5	B
12	AB	62.6	B
10	SK	57.3	B
20	MB	56.0	B
26	On	67.5	B
8	QC	60.5	B
6	NB	66.3	B
4	NS	56.7	B
3	PE	45.4	B
1	NL	83.6	
14	ATL	55.3	B
1	YT	49.2	
2	NU	68.1	
<b>124</b>	<b>National</b>	<b>62.0</b>	<b>B</b>



### Baseline score



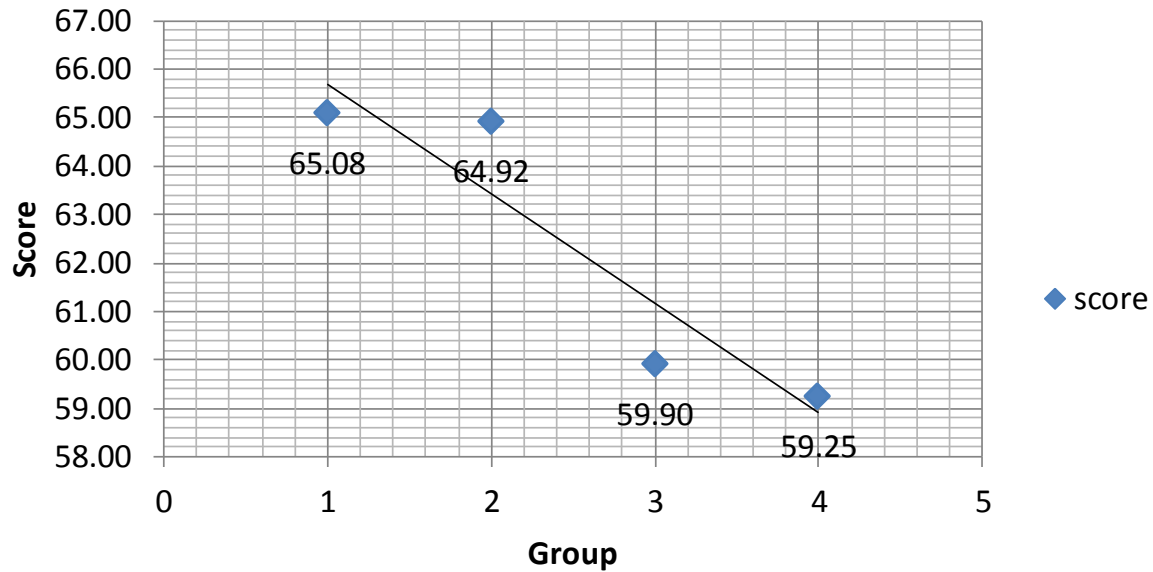


# Correlation of Prevalence of Self- Represented Parties and Scores

- Expectation: Higher SR% -> Higher score Greater needs and focus for SR parties in those organizations.  $A < B < C < D$
- Data showed the exact opposite:  $A > B > C > D$  reverse correlation:  $R = -0.93$
- $R$  = correlation coefficient 0 = uncorrelated, 1 = completely correlated, -1 = reversely correlated.



## Correlation Graph



Group	score
A 33	65.08
B 25	64.92
C 28	59.90
D 34	59.25
Total 120	

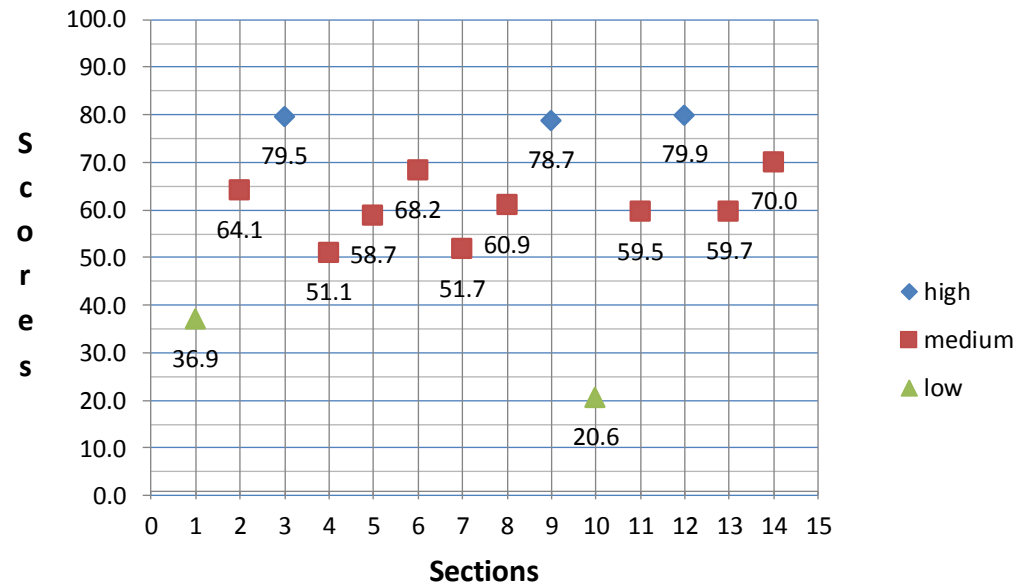


## Section Scores

Sections	low	medium	high
S1 Planning (5 questions)	36.9		
S2 Availability of Information (7 questions)		64.1	
S3 Language Questions (6 questions)			79.5
S4 Website Design and Information (9 questions)		51.1	
S5 Use of Other Programs (4 questions)		58.7	
S6 General Public Legal Education and Information (4 questions)		68.2	
S7 Special Needs (2 questions)		51.7	
S8 Case Management (4 questions)		60.9	
S9 Timeliness and Service of Documents (3 questions)			78.7
S10 Hearing Preparation (2 questions)	20.6		
S11 Early Resolution and Case Conferences (5 questions)		59.5	
S12 Hearings (9 questions)			79.9
S13 Tribunal Members (3 questions)		59.7	
S14 Tribunal Decisions (5 questions)		70.0	



## Score by Section





# Score by sections

Score	Rating	Sections					
>75	3 High	3,9,12	Language	Timeliness	Hearing		
50-75	9 Medium	2,4,5,6,7	Info Availability	Web design	Use of other programs	Public Legal Ed and Info	Special needs
		8,11,13, 14	Case Mgt	EarlyRes/ case conf	Trib Members	Decisions	
<50	2 Low	1,10	Planning	Hearing Prep			

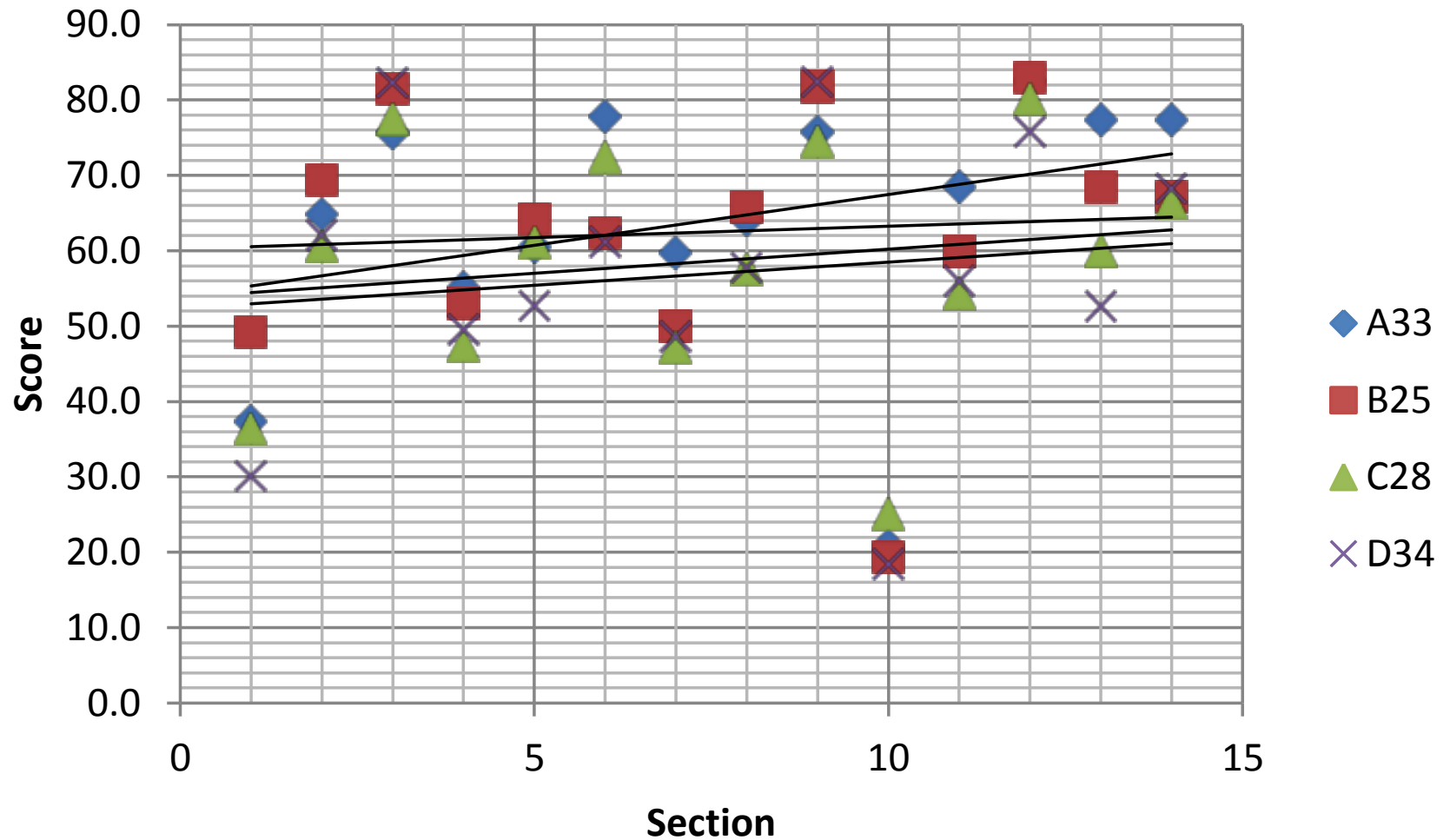




# Group and Section

- No special pattern discerned except the graph plotted below shows that generally the scores swing high and low among the same sections, within an overall pattern of an inverse relationship between the score and the SR %

Group	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11	S12	S13	S14
A33	37.4	64.8	75.6	55.1	60.5	77.8	59.7	64.1	75.8	20.9	68.5	82.5	77.4	77.4
B25	49.1	69.4	81.4	53.0	64.1	62.3	50.0	65.8	81.7	19.3	59.9	82.9	68.4	67.2
C28	36.4	60.6	77.5	47.3	61.1	72.4	47.1	57.6	74.5	25.0	54.3	80.1	60.0	66.4
D34	30.1	62.1	82.3	49.5	52.7	61.1	48.6	57.7	82.4	18.3	56.0	75.8	52.6	68.2





## Five Q's with Highest scores

- The five questions with the highest scores are:
- **Q 42:** Are timelines & time limitations clearly communicated to self-represented parties?  
Score = **4.8**
- **Q 55:** Is plain language and explanation of procedures the norm when self-represented parties are present? Score = **4.8**



## Five Q's with Highest scores(cont.)

- **Q17a:** Is plain language used to facilitate understanding of tribunal procedures? – correspondence      Score = **4.6**
- **Q 9:** If self-represented parties have logistical questions about attending for their hearing, is there an easy way to obtain answers? Score = **4.6**
- **Q 8:** Will self-represented parties learn what they can expect regarding proceedings when they first contact you? score = **4.5**





## Honourable mentions ( cont.)

- **Q 39:** Are relevant Rules and policies communicated to the self-represented party in the course of the case management process? Score = **4.1**
- **Q 40:** If a self-represented party must serve documents, is there suitable information available as to how this is done? Score = **4.0**
- **Q 45:** Are parties advised of the agenda\* for the hearing?  
\* who speaks first, how long they have to speak, when they can ask questions, etc. Score = **4.3**



## Honourable mentions ( cont.)

- **Q 51:** Are hearings held at local venues? Score = **4.1**
- **Q 54:** Does the tribunal communicate to its members the expectation that they should conduct hearings in a manner appropriate for self-represented parties? Score = **4.2**
- **Q 60:** Are your decisions written in plain language? Score = **4.1**



## Honourable mentions ( cont.)

- **Q 61:** When cases are cited, are the principles of those cases articulated in a manner understandable to the parties? Score = **4.1**
- **Q 64:** Once a decision is made, if there is any follow-up/action required by the parties is that instruction clear to them? Score = **4.1**





## Three Q's with Lowest Scores

- The questions with the lowest scores are:
- **Q 43:** Are simulated hearing video clips available on-line? (score= **0.7**)
- **Q 14:** Are video-clips available to demonstrate the tribunal process? (score = **0.7**)
- **Q 4:** Is there an individual designated to make annual (or other periodic) recommendations about matters concerning self-represented clients? (score = **1.0**)



## (10) Other Low Scores (<2.0)

- **Q 6:** Has your case management process been tested to identify where procedures for self-represented parties could be improved? (e.g., running sample cases through the process) Score = **1.6**
- **Q 7:** Do you have an annual budget line with funding to develop your website and other support/ educational resources for self-represented parties? Score = **1.5**



## Other Low Scores ( cont.)

- **Q 20:** Does the website contain a glossary of terms? Sample: Supreme Court of Canada  
Score = **1.4**
- **Q 24:** Do you use smart forms that are fillable on line? Score = **1.8**
- **Q 26:** Have you evaluated the effectiveness of your website with any self-represented parties? Score = **1.1**



## Other Low Scores ( cont.)

- **Q 29.** Is there an ongoing process for identifying referral needs and updating referral protocols?  
Score = **1.7**
- **Q 35.** Do you have an accommodation officer to provide timely and consistent advice and support to staff and tribunal members when parties may have special needs? Score = **1.8**
- **Q 38.** Does the performance development plan for case management staff include performance metrics relevant to self-represented parties?  
Score=**1.3**



## Other Low Scores ( cont.)

- **Q 44:** Are parties advised that they may observe other hearings of the tribunal? (or If legislation provides for closed hearing, do you advise them that they can watch a simulated video on your tribunal hearings or proceedings?) Score = **1.4**
- **Q 63:** Are significant cases identified in the tribunal's website and are they posted with plain-language head notes? Score = **1.8**



# Findings

- These results show that tribunals are generally well equipped to serve self-represented parties in extracting information about their proceedings through contact with the tribunal personally or via website.
- Plain language is generally well deployed.
- However, tribunals still have to pay more attention to **systemic measures**:
  - such as in planning: including SR party needs as a regular component in annual planning,
  - having a designated person to take the lead in assessing tribunal processes with regard to SR parties, and
  - making **videos** or other educational aids available to help SR parties become **prepared** for the **process** and their **hearings** at the tribunal.



# Next Steps

- Using the Survey and its results
  - Comparing one's own tribunal's results with the national or regional baselines – your tribunal's SRI
  - Identifying areas for improvement; setting targets
  - Contacting tribunals who are leaders in best practices in working with self-represented parties
- Other
  - Review and revise the Checklist and Survey
  - Publish article
  - Work with other stakeholders (courts, CIAJ, CBA, etc.)



# Acknowledgement

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