The Dean's Forum on Dispute Resolution and Access to Justice
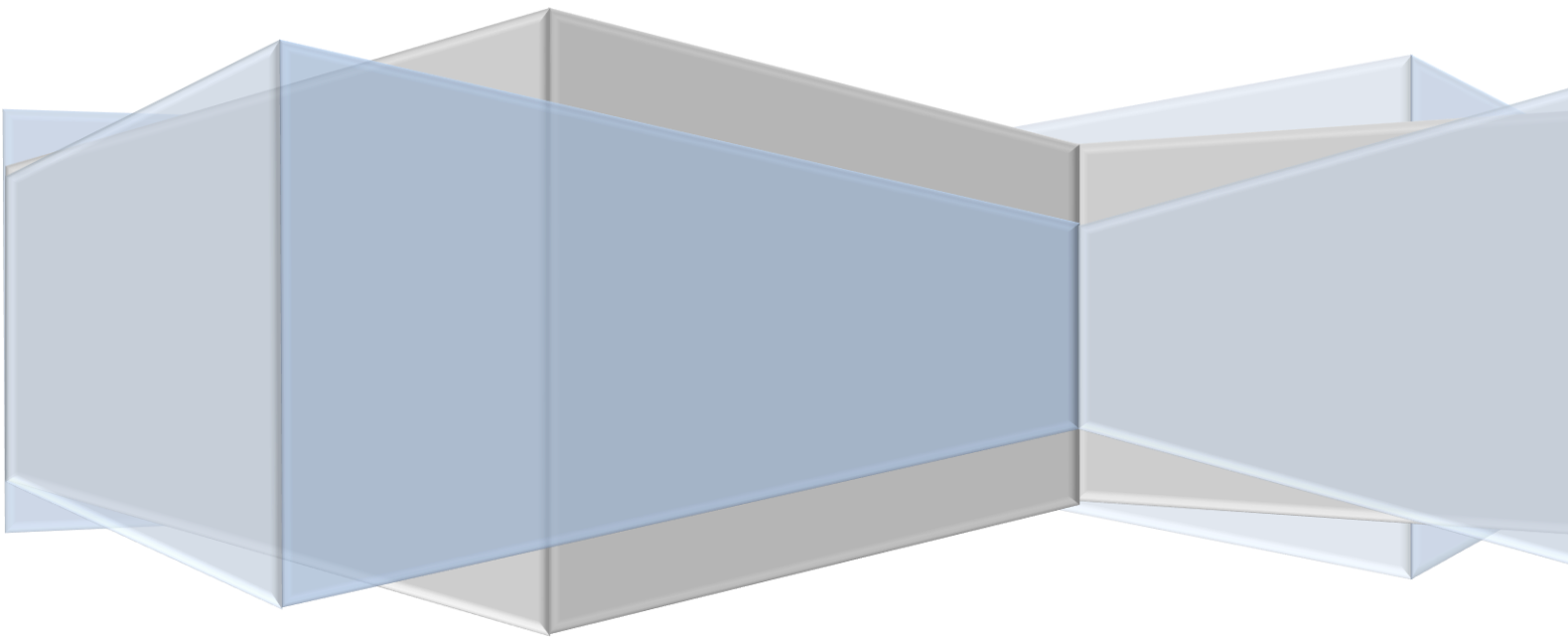
Progress Report

March 2015

The University of Saskatchewan, College of Law

The Second Dean's Forum on Dispute Resolution and Access to Justice
College of Law, University of Saskatchewan

The second meeting of the Dean's Forum on Dispute Resolution and Access to Justice took place on March 13, 2014. The day's events built on priorities identified in the September 2013 gathering: integrated and early service delivery, and encouraging change in the culture of legal practice. We were fortunate enough to be joined by the Honourable Mr. Justice Cromwell and Jeff Hirsch from the Federation of Law Societies of Canada. Our two guests framed the issues within the national context and provided concrete examples of Access to Justice developments occurring across Canada. We then shifted to the Saskatchewan setting, and learned of regional developments including the designation of an Assistant Deputy Minister of Justice Innovation within the Ministry. Student working groups then presented their interim reports, and posed questions to engage thoughtful reflection and discussion. Justice Cromwell provided observations at the close of the day, which connected the two topics, highlighted the significance of identifying objectives and involving intermediaries, and emphasized that this process is a sustained effort requiring patience and diligence on an ongoing basis.

Post-Forum Developments:

❖ Summer 2014

With support from the Ministry of Justice, the College created two "Dean's Forum" summer positions, for University of Saskatchewan law students, to engage in follow-up work. Two students from the previous Forum working groups filled these positions and began work on May 1st 2014. The student innovators worked under direct supervision of College of Law faculty members Michaela Keet and Brent Cotter, and reported to a Forum sub-committee. The two students spent the summer months continuing to explore the topics of early and integrated service delivery and the evolution of Saskatchewan's legal culture.

Early and integrated service delivery - Student innovators conducted interviews with over two dozen community-based organizations to identify the specific needs, issues and gaps faced by individuals in the Saskatchewan context. Outreach focused primarily on the Saskatoon area, with some regard to the experiences faced by smaller and more northern communities. Students also explored the process of navigating the justice system through the eyes of potential users and identified facilitators and barriers to accessing services "on the ground". The resulting information is shared in the attached report as a

contribution to ongoing discussions surrounding early and integrated service delivery in this province.

Changes in the Culture of the Legal Profession – Student innovators spoke with over two dozen legal professionals over varying years of call, areas of specialty and geographical locations. The interviews focused on identifying changes, factors, and initiatives which have occurred within the legal professional over recent years. In addition to considering how aspects of the profession can be interpreted as either inhibiting or facilitating access to justice, the landscape of legal education and the future of the profession are also considered at length. The information gathered is shared to aid ongoing discussions and research amongst the Dean's Forum and Saskatchewan's legal profession as a whole.

❖ Fall 2014

While the student innovators worked on condensing information gathered from the summer's research, several other student driven initiatives were also underway, primarily through Professor Sarah Buhler's Access to Justice course. Research findings for the following projects are attached as appendices D, E, F, G, & H in the ancillary reports document. The ancillary reports are available on request from the Dean's secretary, Jean Der, at jean.der@usask.ca. *These reports and commentaries are written independently by law students and are important contributions in an expanded conversation about Access to Justice in this province.*

The "Myth" of Gender Equality in the Legal Profession – Interviews conducted during the summer months reveal a difference of opinion between legal professionals. While many males do not feel gender inequality continues to exist within the profession that was not the consensus of all interviewees. Signs and contributing factors for gender inequality are examined and discussed.

Elders in the Courtroom: A Discussion into the creation of age friendly environments within the Saskatchewan legal system – Although awareness has increased about the changing needs of our older population, physical access to courtroom services is a problem that remains overlooked. This paper examines the practicality of accommodation techniques that have been incorporated into existing model courtrooms across North America. The role of legal practitioners and private firms is also examined.

Traffic Court and Access to Justice – The number of individuals attending traffic court has increased considerably over recent years. This paper explores underlying causes, through interviews with justice system representatives and members of the public, and makes recommendations for further consideration.

Understanding Different Needs for Justice: A review of Sandy Bay's Cree Court – After a visit to a sitting of Cree Court at Sandy Bay, a student reflects on what she learned. Her discussions with community members and court professionals lead to some suggestions for achieving "a shared justice system that is accessible, affordable, and represents the highest and best expression of social and cultural inclusion."[1]

Learning by Seeing: Reflections on Just Rights' Visit to Saskatoon's Regional Psychiatric Centre – This commentary presents the reflections of one student, on a tour of the RPC. Touching upon prison atmosphere, building layout, staff attitude and inmate programming, the student describes what she learned both during and following the institution tour.

Progress and ancillary reports compiled by Rochelle Blocka
February, 2015

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1 M E Turpel-Lafond, "Some Thoughts on Inclusion and Innovation in the Saskatchewan Justice System," (2005) 68 Sask L Rev 293 at 302 (LexisNexis).

The Third Dean's Forum on Dispute Resolution and Access to Justice

College of Law, University of Saskatchewan

The third meeting of the Dean's Forum on Dispute Resolution and Access to Justice is scheduled for March 12th, 2015. Student working groups have again prepared policy discussion papers and presentations. This year's student working groups will focus on two themes: the role of non-lawyer legal professionals in the delivery of legal services, and how law school can better prepare students to appreciate and respond to the access to justice issue.

"Non-lawyer" legal professionals – How can non-lawyer professionals be better used as a resource? Students hope to engage the Dean's Forum in a discussion to explore whether a practice of trained and systematically organized paralegals in Saskatchewan could improve the delivery of legal services to Saskatchewan residents. The discussion will consider areas such as education, regulation, scope of practice, and how to make space for paralegals within the legal community in the Saskatchewan context.

Legal Education – Students will examine how the law school program and community can contribute meaningfully to more "accessible justice". In particular, students hope to explore with participants what our law school is doing well, and what changes could be made on a variety of fronts. Topics of discussion include tuition, the admissions process, curriculum and degree requirements, experiential learning and clinical course offerings, as well as an examination into interdisciplinary connections.

Centres of Excellence – The use of University-based centres to advance work in strategic areas will also be discussed. In 2014, the CBA Access to Justice Committee recommended the establishment of Centres of Excellence in Access to Justice, in law schools willing to take leadership on this front. This research and consultation paper presents a range of ideas and future possibilities.

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Emerging Themes in Early and Integrated Service Delivery

Gaining perspective: A ground level view of community-based organizations in Saskatchewan

The Dean's Forum on Dispute Resolution and Access to Justice

Rochelle Blocka and Miles Waghray

February 2015

ABSTRACT

To better understand the strengths and gaps in justice services in the Saskatoon area, student researchers conducted extensive outreach over the summer of 2014. They interviewed and visited many legal and community-based organizations, to talk about integrated service delivery. This paper discusses results, and organizes conclusions around themes.

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Emerging Themes in Early and Integrated Service Delivery

Introduction

Many individuals who interact frequently with the justice system also face personal or social challenges in everyday life, preventing them from accessing the necessary services required to properly resolve their legal issue. For example, someone living in poverty may prioritize finding shelter for the night over appearing for Case Management. Another may opt to find food to eat over filling out their Legal Aid application. It is these individuals, those who cannot afford legal representation and require the services of multiple community-based organizations, who can most benefit from the introduction of an integrated service delivery model – but so could many others.

The idea behind early-integrated service delivery is that strain on the justice system can be reduced by connecting a number of legal and non-legal services. In the criminal justice area, the number of system-generated offences and unnecessary incarcerations are likely to decease as well. The concept is straightforward: As one interviewee suggested, the justice system should be reimagined to change the focus from deterrence/punishment (i.e. legal remedies) to measures "which will ultimately make people's lives better". Legal and non-legal services could ideally be integrated, using a client-centred approach and a triage model, where a professional would assess and connect the client to the relevant services and organizations. Ideally, the most essential of these services would be housed in the same location, or near to each other, to overcome issues of transportation and scheduling.

The Dean's Forum gathering in March 2014 identified early integrated service delivery as a continued priority for this province. Many organizations occupy this field, working hard to provide meaningful services, geared to early and comprehensive problem-solving for their clients. Our project has sought to advance the Dean's Forum mission, by exploring successes and obstacles in Saskatoon. We wanted to avoid duplication – to avoid report-writing for its own sake – but to use our outside and somewhat neutral position as student researchers to capture an honest and revealing conversation "on the ground". Our hope is, as Mr. Justice Cromwell emphasized at our last event, to help the design of justice services be responsive to local needs.

We spoke with and visited roughly 30 legal and social community-based organizations (herein referred to as L.O.s and C.B.O.s, respectively). For a look at the types of organizations we reached out to please see Appendix A. Our discussions have

uncovered a vast number of inspiring individuals, organizations, and perspectives, some of which have no doubt changed our lives for the better. The organizations have a variety of mandates, including legal, social, religious, humanitarian, and community-based services. The focus of these organizations covered a vast range of services, social issues, and targeted clientele. All interviews were conducted in a conversational style format with a number of questions set to extract information about the organization and their views regarding an integrated service delivery model.

Emerging Themes

We approached our interviews open to hear the reflections and priorities of organizational representatives, and found that a number of common themes appeared. It is important to present this information as themes rather than specific answers for a number of reasons. Firstly, the integrity and ethical boundaries of the study ensure the privacy of our participants is maintained. Secondly, focusing on the most prominent themes identifies and addresses the *most common* barriers and successful initiatives. For a more thorough examination of the vast number of themes identified during outreach please see appendix B.

These larger, broader themes often have several subthemes included. The goal is that these subthemes will be useful in informing not only of the needs of the current system, but will also help shape the future direction for the legal system. These larger themes have been broken into two categories: Growing strengths and continued gaps and challenges.

Part I: Growing Strengths

1. Building Connections

Most organizations rely on a network to refer clients back and forth in a quest to meet client needs. One theme that emerged was this reliance on referral practices, partnerships and information sharing, among legal and community-based organizations.

a. Informal Partnerships

Many C.B.O.s and L.O.s rely on informal partnerships with other organizations. Informal partnerships are working relationships between organizations that are not formally organized or embedded in the structure of the organization. An organization like the Crocus Cooperative supports members with Mental Health related issues, but also provides referrals for its members to other organizations that deal with addictions, housing, and legal assistance. Similarly, members of the Avenue Community Centre may inquire about organizations that are accepting and/or welcoming spaces in terms of gender and sexual diversity, and they are able to get guidance from the staff. Although informal partnerships are productive, they also have limitations: They rely on the "institutional memories" and relationships among people working within the agency. Helpful and informed staff can change positions or organization, and the knowledge they have acquired often leaves with them. If not formalized, the relationship could be severed once a staff member leaves.

b. Formal Partnerships

Formal partnerships are recognized partnerships between organizations, usually related to complementary services, funding, or organizational oversight. These partnerships are usually noted in the details of the organization or tie into the fundamental functioning of the organization. This is often the case for smaller organizations that are funded or supported by larger organizations that oversee a number of specialized organizations. For example, the United Way provides funding to a number of community-based organizations, such as: AIDS Saskatoon, Autism Services, Avenue Community Centre, Canadian Mental Health Association of Saskatoon, CLASSIC, Community Living Association, Crocus Cooperative, Elizabeth Fry Society, John Howard Society, Family Services Saskatoon, Saskatoon Friendship In, Saskatoon Interval House, Saskatoon Open Door Society, Saskatoon Sexual Assault & Information Centre, YMCA, and YWCA of Saskatoon – just to name a few. These formal partnerships often relate to a common purpose or objective and enable a certain level of communication or referral practice between organizations.

c. Information Sharing

Sharing information about organizations is essential to helping clients meet their needs. Often, the needs of a client will span the services of multiple organizations. Organizations need to be well-versed in the variety of services available in many different areas, and people to refer their clients to. Informing all organizations, as well as all staff

members in that organization is no easy task. The more information the staff are aware of, the better they can refer their client to the right organization in times of need. Therefore, information sharing is key to a successful system.

For example, an organization providing shelter could get a client coming in the door that needs immediate shelter/housing, as such they will have to scramble to find this person a place to stay. Similarly, the Elizabeth Fry Society may encounter individuals who need assistance with child-care or legal representation and they need to draw on any or all-available contacts they have to get this individual assistance.

Beyond this, organizations will often need to know information about clients. It is very common that clients of L.O.s or C.B.O.s will utilize the services of a number of different organizations. Often, people that frequent different organizations will be known and recognized by the staff of an organization. If a client is suffering some serious problem, disappears for an extended period of time, or exemplifies any major cause for concern, organizations may wish to communicate with other organizations about the whereabouts or the safety of that individual. For example, an organization such as Crocus Cooperative will often see the same individuals who use their services on a regular basis. If a client of theirs all of a sudden disappears, they may try to find out what happened to that client, but will have trouble getting the necessary information. They may fear that this individual is in danger or is dealing with a significant problem, however, they are unable to confirm what has happened to that individual without adequate information sharing methods. This is often prohibited for reasons of privacy and confidentiality, however, in certain governmental initiatives many organizations have decided to work together in an integrated system to address these concerns.

2. Changing the Approach

Being aware of the needs of a client is paramount to reaching the most appropriate outcome. Often these needs are not singular and involve a grouping of problems that, taken together, create insurmountable obstacles for that client to resolve on their own. Traditionally, legal problems have been treated in isolation from non-legal problems. As awareness of various social issues has increased, sensitivity to the role of social factors has increased likewise. Changing the focus from solving legal problems in isolation to taking a more client centred approach has become a positive trend for legal organizations and courts. A number of Problem-Solving Courts have been established for this very reason. The Drug Treatment Court and the Mental Health Strategy have been

developed to help address underlying needs of a client that contribute to legal problems. CLASSIC has also taken a more client-centered approach, wherein, social factors are considered as part of the advocacy strategy and system issues are being examined in efforts to best serve clients in sensitive socio-economic situations. Community-based organizations often understand that changes must occur from within the particular community. As such they work with the community to precipitate lasting changes.

Our interviews revealed a deep sensitivity to social context. Listening to clients and considering all relevant factors in the resolution of their problem is important for addressing more complex and systemic problems. Considering multiple factors and resolving multiple issues is a major challenge. Being sensitive to the needs of the client and thinking broadly about resolving an issue has a profound effect on the client, and on the outcome of that problem. If we consider the social underpinnings of many legal problems we may be able to restructure our system of resolution to address more problems outside of court. By changing the approach of the legal system institutions begin to work with clients, helping them make better choices and ultimately empowering them to contribute to society.

Many clients lack trust or faith in various legal entities, and gaining the trust of these clients is essential to helping them resolve their problem. How do organizations begin to address issues of trust? There are a number of methods used by organizations, with varying degrees of success. The bottom line behind the most effective organizations is that in order to resolve the problem it is all about assessing the needs of the client.

a. Client-Centred Approach

The traditional method of handling legal problems is to isolate the legal issue from the non-legal aspects, ignoring the roots of the problem. For example, an individual might be arrested for drunk and disorderly behaviour and be criminally charged. This behaviour, and the resulting criminal offence are the end result of a number of social factors such as poverty, housing, addictions, mental health, unemployment… the list goes on. In isolating the legal problem from the others we can only consider whether this individual committed the offence or not. This could lead to an individual going to jail, when in fact what they really needed was a home, or a job, or the right medication. Government services like the Ministry of Social Services act as resource brokers for individuals to get the help they need with a variety of problems. Organizations like CLASSIC and MACSI also have a broad network of agencies to refer clients to in the event that the client's needs fall outside of their scope of service. Additionally, the Drug Treatment program and the

mental health strategy work with individuals to assist them in overcoming barriers. They work with the client to develop a plan on how to avoid destructive and legally problematic behaviour.

In considering additional factors in the resolution of a problem, we begin to come up with alternative solutions that are more sensitive to the true needs of the client. Taking a client-centred approach also enables organization to expand the level of problem solving beyond the scope of the most pressing, or most urgent problem and creating lasting change.

Additionally, this tactic builds investment with clients in resolving the problem; the client and the organization or service work together to reach a solution. For many clients the feeling of hopelessness or helplessness is so overbearing that they give up on the problem altogether. Taking a client-centred approach addresses this feeling of hopelessness by assuring the client that the organization is an ally or a partner along the path to solving their problem. Organizations such as the Newcomer Information Centre, the Salvation Army, CLASSIC, Crocus Cooperative, MACSI, Elizabeth Fry Society and many others are often the first/front line of contact with clients and nurture an open/non-judgmental environment where clients can share their experiences and get the information, referrals, and help they need.

b. Holistic Problem Solving

Built into the client-centred approach is the idea of holistic problem solving. Putting legal problems back into their broader social context helps us understand the factors that contribute to the problem. We must address the contributing factors in efforts to reduce the specific problem. Many organizations use this approach, such as: the courts, CLASSIC (in the systemic initiatives program), MACSI, Saskatoon Police Services, the Ministry of Social Services, and many more.

Several communities in Saskatchewan are implementing a "hub" model, wherein members of various government organizations work collaboratively in connecting persons who face acute elevated risk situations to the appropriate services in a timely manner. This "hub" model is currently being implemented in Saskatoon.

c. Gaining Trust and Relationship Building

Many clients have negative associations with the justice system and other formal institutions. Based on negative personal or historical experiences it can be difficult for

clients to trust various organizations in order to get the help they need. This is especially true for governmental organizations. There is still a tension between governmental organizations such as Social Services, Legal Aid, the Courts, or the Police Services and Aboriginal or other disadvantaged groups.

This lack of trust can be a major barrier to assisting a client with their legal dilemma. It is therefore paramount that organizations gain the trust of their client to allow them to most effectively assist in resolving the problem. Without a trusting relationship clients will not be candid about various factors that contributed to the problem and will not take an active role in resolving their problem.

Organizations such as: Social Services, CLASSIC, Saskatoon Police Services, Elizabeth Fry Society, and Legal Aid often have to work hard to overcome negative perceptions based on historical injustices. In speaking with a number of organizations, we discovered a number of techniques to building a trusting relationship with a client. Several of the most interesting and significant techniques include:

Open Door Policy
Having clients feel like they can always come by and that the organization is a safe and welcoming environment is an important first step to establishing a relationship. Many clients will assume that the organization does not care about them, or that it is not welcoming, and will be hesitant to approach an organization. If a client goes to an organization and is unable to get help or is turned away, it can reinforce the negative assumptions that the client has about institutionalized support. It can also magnify feelings of hopelessness if a client does not feel cared for by an organization. Being open, available and friendly makes a huge difference in relationship building. Organizations such as Crocus Cooperative and the White Buffalo Youth Lodge focus on creating an open and welcoming environment for all. They work hard to make their clients feel that they are entering a safe environment where they can come in off the street or keep themselves out of dangerous/harmful situations.

No wrong door approach
Similar to the open door policy, many organizations use the "no wrong door" approach. This idea suggests that no matter whom a client reaches out to, or makes contact with in the organization, that person will be able to assist them. This is especially important for large organizations that deal with clients in particularly sensitive situations. In these cases it is all the more important that the organization be seen as somewhere to get help. Once again, the worry of turning a client away and magnifying insecurities is a

driving force behind this mentality. Organizations such as MACSI work especially hard to emphasize that there is no wrong door to walk through, every person can point you in the right direction.

Being non-biased and stigma free

Many clients come from diverse social and cultural backgrounds. In some cases the lifestyles of clients can be markedly different from the staff member or from the general population. If a client feels judged by the staff then they will be much less likely to be open and honest about their situation. Having a non-biased and stigma free atmosphere allows clients to feel comfortable to share many details about their circumstance and ultimately get the help they need in solving their problem. Some organizations need to especially cognizant of this fact because of the sensitive nature of their clients' problems, or because of historical/systemic alienation of their clients. This includes organizations like Crocus Cooperative, MACSI and Saskatoon Tribal Council. Many organizations not only encourage stigma free environments but also advocate for the clients they assist, so that biases surrounding mental health, gender and sexual diversity, Indigenous peoples, addictions, poverty, and victims of sexual or physical violence not be propagated throughout society.

Being Respectful and Understanding

Though it may seem like an obvious aspect of building a relationship, respect and understanding are essential to assisting clients. In the past clients were often treated very mechanically and little thought was given to sympathizing with the circumstances of marginalized members of society. Putting extra effort into being respectful and understanding is one of the biggest factors for organizations who have strong relationships with their clients. The legal system has come a long way towards being more understanding of mental health, addictions and social factors that precipitate criminal activity. Courts are now more aware of these factors and how they can contribute to problems. The courts are increasingly more inclined to encourage treatment or recovery over punitive sentences. Additionally, Organizations such as MACSI, Crocus Cooperative, Elizabeth Fry Society, and CLASSIC are aware of the need to be respectful and understanding of their clients. They are aware of the difference that it makes to shift from a judgmental perspective to an understanding and supportive perspective.

Meeting a Client Where They Are

This idea applies on multiple levels. For one, physically meeting individuals where they are is very important for clients who have difficulties with transportation or who are incarcerated. This can help establish a first point of contact. Second, emotionally and

cognitively meeting a client where they are at is very important. Efforts must be made to understand the circumstances of a client. Accepting that they may have challenges in overcoming personal or social barriers and helping them work from them is key to problem solving. For example, if a client has a substance addiction, it can be very difficult for them to overcome the need to use that substance.

Organizations must not only understand, but must accept this step as part of the process to learn to work with the client. In doing so clients are less likely to give up on the process of resolving their problem. Many organizations work with clients who are caught up in various problems. Organizations such as MACSI deal with clients who are either currently or recently suffering from addictions problems. Having a zero tolerance policy would force clients back onto the streets where they are in risk of harm and/or more likely to spiral into despair. Meeting clients where they are at in their journey towards sobriety, organizations can support better decisions and encourage trust and relationship building, which ultimately leads to a more favourable outcome. The same is true with Mental Health. Organizations such as Crocus Cooperative and the Saskatoon Health region deal with clients at different stages of the mental health spectrum. Through working with individuals in need and taking steps in the direction of a healthier and sustainable lifestyle individuals become empowered and independent. Several of the problem-solving court programs are aware of the power of this thought process. The Drug Treatment Court encourages honesty, even when individuals have recently used or currently using narcotics. This approach works with the individual and rewards good behaviour, thereby establishing a habit of positive actions. Similarly, the mental health strategy works with individuals and performs regular check-ins to see that the conditions/program is working.

3. Shift in Mentality

One of the biggest changes to the justice system is a shift in mentality away from a punitive method of justice towards a more holistic, therapeutic model. Awareness of the role of social factors, the need for early services, preventative measures, and the use of collaborative methods with the client to solve their problem has appeared over and over in various organizations. The awareness of issues such as mental health, addictions, housing, poverty, domestic and sexual violence and other such social issues has become more widespread. More innovative solutions are being implemented to address these factors and the role they have in the justice system.

a. Preventative Measures

One of the most significant and recurring themes that came up in our discussions with organizations is the importance of preventative measures. Investing in early services benefits the individual and society alike. It reduces costs associated with criminal or antisocial behaviour before that behaviour has manifested. Implementing early programs can assist individuals to make better choices. Some of the most effective preventative programs are early education for "at risk youth," programs for youth dealing with addictions and gangs, and employment and training programs for people who have overcome addictions or are managing mental health issues. The Saskatoon Tribal Council and White Buffalo youth lodge have developed a number of programs that help individuals establish positive habits and roots in their community. This encourages positive behaviour like public service and discourages harmful or risky behaviour such as gang affiliation. Similarly, Restorative Circles works with youth offenders and encourages community-based activity rather than punitive sentences. These programs give youth a second chance to change their circumstances and avoid risky behaviour. Crocus Cooperative works with clients to get them employment, and helps develop skills for use in their lives outside the organization. Assisting individuals develop skills further allows them to gain responsibility and feel as if they have a purpose in life. Individuals begin to feel empowered.

Many preventative programs have begun to take shape in various communities and have experienced success. One challenge is that typical evaluation methodologies focus on statistical measurements, which do not tend to capture more expansive benefits of a program. This quantification problem stands in the way of many programs expanding. It is very difficult to measure the effect of educational organizations such as PLEA, Avenue Community Centre, the Newcomer Information Centre and the Sexual Assault Centre. These organizations often provide information, resources, awareness campaigns, or advocacy services. However, the effect education has on reducing the instances of anti-social behaviour cannot be easily quantified the way that the work of other organizations can. For PLEA and the Newcomer Information Centre it is very difficult to capture the effect that providing legal information to the public has on aiding the justice system. Nevertheless, support for these organizations is often contingent on assessments of their efficacy.

b. Sensitivity to Social Factors

Another subject that emerged from interviews was a strong awareness motivating many programs, about the social factors that cause people to come into conflict with the

system and each other. Many organizations connected to criminal justice are actively advancing discussions geared towards factors associated to criminal activity, namely poverty, mental illness, addictions, and beyond. The effect of this awareness has permeated into courtrooms. Judges are looking to new Therapeutic Court programs as ways to deliver the most appropriate sentence, and are open to a variety of treatment programs. Courts are also becoming increasingly willing to work with community organizations to reduce these social factors in the future. Many organizations advocate for these at risk individuals as part of their services. Examples include the Elizabeth Fry Society, Crocus Cooperative, and CLASSC. Through the efforts of these and other organizations, the awareness of systemic and social factors has begun to impact the general population as well as the justice system. The awareness of and impact behind social factors on criminal behaviour, when considered during the sentencing phase is projected to go a long way with respect to rehabilitation and lowering recidivism rates. Expanding this knowledge on the public sphere can further educate individuals on the success of these alternative models, as opposed to retaining a belief behind the tough on crimes approach.

c. Harm Reduction Model

In dealing with complex problems like mental health and addictions many organizations have begun to take a "harm reduction approach". The harm reduction approach accepts a client regardless of their condition and works with them to reduce the harmful behaviour. In the past organizations have taken a zero tolerance policy for drug usage; a client must abstain from all drug use during their time in the program. Though this seems like an effective demand it is a difficult commitment to make and commonly results in violation of the condition and ultimately attrition from the program.

Under the harm reduction approach an organization will encourage abstinence, but will not remove a client from the program if they use an illegal substance. This allows organizations to encourage an atmosphere of honesty and integrity, which will ultimately reduce the likelihood of individuals leaving the program and forfeiting the help they need. Organizations like MACSI look at minimizing drug usage rather than having a zero tolerance policy. The Drug Treatment Court has adopted a similar policy where clients are encouraged to make positive choices rather than be harshly punished for their negative choices. For a project to be effective it needs to work with clients rather than giving up on them.

d. Restorative Justice

Restorative measures have slowly integrated into various areas of the justice system. Restorative Justice is a more holistic approach to justice and rather than focusing simply on the punishment of the perpetrator it focuses on the needs of the victims, the perpetrator and the wider community that has been affected. In many circumstances the perpetrator is required to take responsibility for their actions and perform some measure of reparation to the victim or the broader community. This can be through apology, work to restore the victim to a similar circumstance before the event, or through some service to the community. This approach is often an alternative to traditional sentencing.

Restorative Justice measures have been particularly effective when dealing with young offenders. In mechanisms like sentencing conferences offenders will often gain some awareness of the effect that their actions have had on an individual or the community as a whole. During a conference the offender must take responsibility for their actions and, where applicable, help repair the damage they have caused. This technique has been used in certain contexts within Aboriginal communities. Restorative Justice can be a very powerful and effective measure in the appropriate context and can help rebuild relationships and communities.

One inherent challenge for the emergence of Restorative Justice is the public perception that it is a lenient form of justice and it is not as effective as the traditional punitive system. Though restorative measures have been criticized as resource intensive, experiences are consistently positive. Many people who have participated in restorative programs have come out feeling that this was a much more humanistic and appropriate approach to resolving a legal dispute.

The Restorative Justice model has been implemented in initiatives like Restorative Circles and Sentencing Circles performed in Aboriginal Communities. In both contexts victim and offender are able to speak face to face and discuss the circumstances of the offence. Other organizations such as Saskatoon Tribal Council and the Saskatoon Police Force have been involved in program that use a restorative model, and look at ways of implementing restorative mechanisms in the justice context. The criminal courts have also become increasingly aware of Restorative Justice principles in the context of sentencing and will often look for ways for individuals to repay the community that they have impacted through their negative actions.

e. Acknowledgement that "Poverty Costs"

Awareness is developing regarding the financial burden of various large-scale social problems like poverty and homelessness on a community. Economists, sociologists, and other social scientists have begun to investigate the financial strain that social problems can cost a community, and how those costs compare to formalized programs that help resolve those problems. Data demonstrates that communities with lower rates of poverty and homelessness have better social programs and have more economic prosperity as well. On the flip side, communities with high rates of homelessness and poverty are very 'expensive' in terms of wasted resources. The suggestion is that the cost of homelessness is much higher in terms of having unproductive and unfulfilled members of a community, than it would be to fund housing developments that could enable people to live in safe and secure environment.

Proponents of this type of analysis have begun sharing qualitative and quantitative data about the cost of poverty and poverty-related problems. The "poverty costs movement" has seen greater development in larger centres with large socio-economic disparities but the principles behind the movement apply to many communities in western democratic nations. This movement advocates for proactive and preventative programs to help resolve these social issues. The increased awareness of this kind of data has permeated various governmental and community-based organizations and is starting to shape the development of future measures.

f. Self-determination

The concept of self-determination is very powerful. Individuals are made to feel empowered to make choices that determine the courses of their future. Along with this power comes the responsibility of acting in ways that can produce the best outcome for the person or community. This idea of self-determination has become increasing connected to the legal sphere in contexts of indigenous governance and rehabilitation of offenders.

This push towards increasing a sense of empowerment and responsibility with offenders should be viewed as a process. The initial stage is education and understanding. During this initial phase a community or social worker helps the offender understanding their role in society, the effect of their actions on others, and their power to make choices that affect their future. This is particularly important in the youth criminal justice context but has been shown useful into adulthood. At this stage individuals are taught the

importance of choices, made aware of risk factors, and learn ways to reduce risky behaviour by making proper choices.

The next stage of the process establishes skills, training or education to empower the individual to be self-sufficient and self-supported. This can be adapted to the various needs of the individual, but will often involve building skills, assets, or educational foundations for future academic pursuits. This stage is very basis for independence.

The final stage, though there really is no formal end point, is the establishment of roots in a community. In cases of aboriginal offenders programs will work hard to establish roots with traditional practices and ceremonies, as well as establish connections within the community. In other contexts programs will work with offenders to volunteer or find some way to become a part of and contribute, in order to understand the importance of community.

4. Alternatives to Traditional Courts

Major innovations have emerged to respond to an overburdened court system. With long wait times for court dates and the high costs associated with litigation/traditional court procedures alternatives have continued to gain momentum. Many of these alternatives have since been established as more appropriate methods for resolving particular legal issues. With the rise of alternative dispute resolution mechanisms, problem solving/therapeutic courts, and simplified court procedures, the justice system has come a long way in adapting to the needs of its users. The alternatives mentioned are not meant to serve as an exhaustive list, but merely highlight the more pertinent alternatives used in the current justice system.

a. Introduction of Therapeutic Courts

With the development of various therapeutic courts (also called problem solving courts) the justice system has become increasingly sensitive to the role of social factors on the justice system. With the establishment of the Drug Treatment Court, Mental Health Strategy, Domestic Violence Court, and Cree Court/Circuit Courts the justice system is better equipped to address the root causes of crime. These courts, with the exception of Cree and Circuit Courts, work alongside programs which help offenders change behaviour patterns, learn coping mechanisms and important skills to help them overcome significant challenges. They serve as alternatives to traditional sentences, with the ability to opt back into the traditional sentence if the program is ineffective. The

principles of the therapeutic courts are founded on compassion, understanding, support, positive reinforcement and human dignity. The very proceedings of the court are more humanistic and geared towards encouraging good behaviour and discouraging bad behaviour.

In the case of Cree Courts and Northern Circuit courts, traditional practices, languages and customs are incorporated into the traditional court model. By allowing more remote communities to speak in traditional languages or plead their case in a more culturally sensitive context, individuals may feel less alienated by the process.

b. Dispute Resolution Methods

The development of dispute resolution (DR) methods (or sometimes referred to as 'alternative', ADR) has exploded over the past decade. The imposition of mandatory mediation mechanisms in various areas of law and the large number of cases being settled out of court is a testament to the effectiveness of DR methods. DR refers to the use various techniques and processes to resolve legal matters outside of court. Some of the more common forms are mediation, negotiation, arbitration, and collaborative law mechanisms. Settlement-oriented methods are becoming increasingly popular because they reduce costs associated with litigation, desire to keep the process confidential, deal with disputes at an early stage and keep the option of litigation open if negotiations fail. Lawyers are becoming increasingly involved at the request of clients or through statutory provisions.

c. Sentencing Conferences and Circles

An additional DR mechanism is the use of sentencing circles. This method is primarily called sentencing conferences in the youth criminal justice context. Sentencing circles are a Restorative Justice mechanism wherein the offender, victim, judge, and various support figures or members of the community sit together in a circle and discuss the wrong that has been done. Sentencing circles are founded on certain principles borrowed from various Indigenous communities. At the foundation circles/conferences turn on principles of accountability, ownership to one's community, forgiveness and empathy. While going around the circle the various participants explain who they are and why they are part of the circle. Each participant shares their story and the emotions that come along with that story. Often circles are opportunities to share information that would not come out in a traditional courtroom and may lead to healing and closure for the victim. As with other forms of DR circles have been met with various criticisms, however, they remain an effective tool in the youth criminal justice context.

Organizations such as the Restoratives Circles program work with at risk youth and utilize sentencing conferences or alternative judicial mechanisms to more appropriately resolve a legal problem.

5. Creating Communities

A common story told by people we interviewed is about the vital role of community: Many marginalized individuals come into contact with the justice system because they have nowhere else to go. They emphasized the pressing need to create places for people to live, work, and play - to create communities. Many individuals who live in poverty suffer from mental illness or addictions, or lead a transient lifestyle, find their problems exacerbated by the feeling that they are all alone. Healthy communities are founded on the basis that human beings want to contribute to and be part of a larger whole. When individuals see themselves as part of a community it instils in them a sense of responsibility, an understanding that their actions impact those around them. Furthermore, a community allows those within to establish relationships which help them determine who they are while also meeting various needs. Often individuals with addictions or mental health problems have alienated themselves from their friends and family, and feel as if they are alone in facing their problems. Without communities individuals feel no ownership or responsibility for the impact of their actions on others because they feel estranged from them. A number of community-based organizations have begun to either create communities or find ways to bring people back into their community. Organizations dedicated to housing, skill development, specialized support, cultural heritage, gender and social diversity, and the like all have the same goal: creating healthy communities.

Several community organizations have established themselves merely as a space for people to congregate. Others see themselves as a place for people to go in time of need while certain places are facilitators for the growth and development of their members. Some are dedicated to dealing with housing problems, others provide specialized support (e.g.: victims of abuse or individuals with mental health or addictions) while others create opportunities for individuals to learn skills to ultimately give back to the community. In all of these cases, the goal, the bottom line is the creation, development, or support of healthy communities.

6. Inclusion of Aboriginal Communities, Practices, and Beliefs

Various organizations and court programs acknowledge and incorporate traditional aboriginal practices, for example, ceremonies such as smudges, sweat lodges, and other traditional Aboriginal teachings. Organizations such as the Saskatoon Tribal Council have established programs to work with Aboriginal individuals which focus on building community ties and encouraging positive behaviours. Organizations such as CLASSIC and Saskatoon Police Services consult with various Aboriginal organizations and Elders to help establish culturally aware/sensitive approaches. Cree Court is also a notable example of the way a court-based program can be altered to better fits its social and cultural environment.

Many of the organizations spoken to agree that the justice system in Saskatchewan has made great strides in incorporating Aboriginal practices into the western justice system. Nevertheless, strong opinions were raised that continual efforts must be made to adequately incorporate the Aboriginal perspective. It was felt that although attempts have been made over the years, initiatives have failed to address underlying concerns. In the future, the steps made towards the inclusion of Aboriginal communities, practices, and beliefs will be essential for the establishment of a more sensitive and functioning justice system.

7. Streamlining Procedures

One of the biggest complaints from people outside of the justice system surrounds its unnecessary complexity. The formality of the processes and the number of procedures required by the justice system make it very challenging for lay people to comprehend or resolve their own legal issues. This is a huge barrier for self-represented litigants (SRLs) appearing in court. Recently though efforts have been made to simplify various court procedures in where SRLs often appear. For example, Small Claims Courts have begun streamlining the process to be more client-friendly in order to reduce clogs in the justice system. On top of this, organizations that provide legal education have gone to great lengths to simplify and explain complex legal issues in a way that the general population can understand.

Many forms and complex procedures have also been simplified to ease the general public's interaction with the justice system. This not only helps reduce strain on courts being clogged, but it also facilitates ways for those who cannot afford legal

representation to have a legitimate chance at reaching a positive result in their legal dilemma. The movement to simplify court procedures in small claims matters has seen significant changes in making the process more user-friendly.

The expansion of community-based programs that assist with navigating the justice system have done wonders for helping clients understand what is happening. Though this does not directly affect the procedures, it condenses information into manageable amounts for clients to be able to understand. Nevertheless the need to simply and streamline procedures in the justice system is an area that requires much consideration. The move to a more user-friendly model may be the only choice in keeping up with a quickly changing legal landscape.

8. Expanding Victim Awareness

Victim needs have historically been underestimated and overlooked, while the focus of criminal justice proceedings has remained on the offender. Even with the introduction of innovative and sensitive approaches, the focus was still on what the best sentencing option for the offender was, or what the most appropriate punishment was. It took time before the role of the victim was appreciated as more than this piece of the story. The expansion of victim services agencies and other social organizations that help victims overcome trauma or re-establish their lives has led to a more sensitive culture for victims.

Historically there were times when victims were harshly questioned and accused of improper behaviour in retaliation for the initial complaint. Through the dedicated work of victim awareness groups the system has begun to expand victim awareness. Asking a victim to come forward is a very psychologically distressing request. It can be very difficult for victims to face the perpetrator or the wrongs that were done to them. The expansion of support groups and counselling services has led to a better victim awareness regime. Organizations such as Victims' Services, the Sexual Assault and Information Centre and Avenue Community Centre have come a long way in terms of developing programs to assist victims of crime or violence.

Here as well, organizations have taken on an advocacy and educational role. Many of these organizations have begun to reach out to communities in order to encourage a healthy dialogue when needed. Organizations have begun to institute field education programs where members of an organization will go to schools or other community

events and talk about their organization and how it is available for people if they need it. Social media based advertising strategies also encourage individuals to come forward. Further, the victim surcharge and other policy driven measures have helped fund programs which ultimately assist victims in a number of ways to get the help they require following traumatic events. Although a number of organizations serve as advocates on behalf of victims, some organizations are primarily concerned with victim awareness. These include Victim's Services, the Sexual Assault and Information Centre, Saskatoon Tribal Council and Avenue Community Centre.

Part II: Continued Gaps and Challenges

1. *Language and Literacy Barriers*

One of the greatest challenges in navigating the justice system is the difficulty in understanding it. Issues of language, literacy, and legal literacy are becoming increasingly common as more individuals with diverse backgrounds and education levels interact with the justice system. These issues make it difficult for people to understand the legal predicament that they are in, or what their options are. Without a fundamental understanding of the Canadian justice system it is often challenging to realize whether or not a legal problem even exists. Along with other social barriers, many marginalized individuals have not received adequate formal education to understand the complexities and intricacies of the Canadian Legal system. It can even be challenging for educated individuals to wrap their heads around complex legislation or legal procedures in order to understand what options exist for someone in their circumstance. These issues raised are exacerbated for those who have English as their second or third language and are becoming progressively more common in an increasingly diverse province like Saskatchewan.

One of the most significant gaps in the Saskatchewan justice system is the lack of translation services for people whose first language is not English. Many interviewees raised this as a concern, and gave examples of the indirect ways that they provide assistance. Obvious need arises for courtroom and lawyer-client interactions, however, many organizations work together to assist individuals escaping violent or abusive relationships. The ability to understand and help individuals navigate the system is key to resolving legal disputes, but more importantly, to ensure the safety of all Saskatchewan residents.

Two organizations in Saskatoon offer services directly in this area: PLEA and the Newcomer Information Centre. Whereas PLEA deals directly with Legal Information and assists in Legal Literacy (ability to understand and navigate through legal issues), the Newcomer Information Centre deals more with Newcomers to Canada/Saskatchewan. PLEA offers a number of resources which help explain legal issues and ways to deal with them. These resources are designed with the potential user in mind. The Newcomer information centre provides translation and language services over the phone in 170 languages. This service offers limited assistance for individuals who struggle with English literacy. Though both organizations serve a separate purpose they help rectify an ever-expanding problem for the legal system.

2. Cost of Legal Services

Many lawyers we spoke with acknowledged that the cost of legal services is a growing issue. Legal Aid, volunteer organizations (such as Pro Bono) and community legal assistance organizations (CLASSIC) carry a heavy burden in response. This fact ultimately leads to heavy burdens on government-funded programs such as Legal Aid, volunteer efforts such as Pro Bono work and community legal assistance organizations.

Organizations like Legal Aid, CLASSIC and Pro Bono help meet some of the need for free or affordable legal services, however, this problem is growing rapidly. To complicate the issue even more, the financial guidelines for these services are very low and it is difficult for these organizations to meet the need for services requested.

3. The Middle Class Gap

The middle class is a large segment of the public who are often overlooked by the justice system. The overwhelming focus for current organizations is on the needs of the more marginalised population. Coincidentally, middle class residents are currently one of the populations most in need of access to legal services. The term "middle class gap" has become increasing common in discussions of judicial reform. The term signifies the segment of the population that does not qualify for legal aid or community legal assistance because they surpass the dismal financial eligibility requirements, however, they do not earn enough income to afford private legal representation.

With the rising costs of legal fees and changes within the legislation to allow limited scope retainers middle class individuals are increasingly attempting to represent

themselves in court. This increase in the number of self-represented litigants causes a spectrum of problems for the justice system and magnifies the legal problems currently faced. Organization are of the belief the increase in SRLs has in turn lead to slower court processes and less sophisticated legal arguments, each representing a wealth of concern of their own.

At this time many cases are being settled out of necessity; most middle class clients simply cannot afford to pursue the matter any further. Further, this segment of the population is largely overlooked by social and community-based organizations for the simple fact that much of the organizations work is not directly related to their needs. Innovative methods need to be implemented in dealing with the middle class gap, though this likely lies in measures outside of court. Various alternative business structures such as commoditised legal services, legal insurance, or the implementation of qualified non-lawyers have been considered as ways to help address this problem and others. Even though many organizations are focused towards the marginalised population they recognize that the implementation of an early and integrated service delivery model can serve to assist areas of the population not currently contained within their mandate.

4. Lack of Public Awareness

One of the biggest challenges to the work of organizations is lack of public awareness about the range of organizations we met with, and the social problems they are trying to address. Organizations can sometimes feel an absence of generalized community support. Yet, many organizations and legal services struggle to balance the need to advertise their services with the need to keep their pool of clients small enough to deliver quality services. Funding constraints often limit the promotion or advertisement of various organizations or initiatives as well. Many organizations simply desire to make their work and their services known to the general populous but do not have the resources to advertise.

Raising public awareness is often tied with public education. Connecting the work of organizations with the education system exposes individuals to these issues at an early age. This ensures they grow up with a more defined picture of the world. It also exposes youth to various organizations should they need them at any point in their lives. A lack of public awareness will always be an issue, though through various organizational partnerships and the continued work of many prominent organizations, this gap can slowly start to diminish.

5. The Silo Effect

Even though Saskatoon community and justice organizations have worked hard to establish an integrated network, the 'silo effect' still exists: issues are sometimes dealt with in isolation from each other; agencies do not always communicate with each other. This can inhibit access to justice for a number of reasons, such as a slower process, more work for individual organizations, overwhelmed clients, and unmet needs.

Despite advancements in integrating services and improving communication between agencies, segregation of formalized legal services from social services is common. For example, the health region may have a number of clients in their care for mental health issues, yet these clients frequently use certain community-based services that have little to no contact with the health region. Treating issues of mental health, addiction, housing/transient living, or poverty as issues separate from the legal sphere reduces the potential impact of many organizations – and our interviews revealed that this remains a challenge.

6. Geographical Constraints and Accessibility

With developments in the larger urban areas it is getting harder and harder to move away from a centralized service model. In addition to this, many rural communities have their own unique legal issues that must be dealt with in creative ways. This would include the Circuit Courts and the Cree Court in Northern Saskatchewan.

Organizations that exist in larger urban centres are finding it challenging to expand their programs into rural areas. A lack of resources makes expanding programs or establishing branches in more remote locations a tough endeavour. Moreover, it is difficult to advertise these services to more remote areas of the province. Also proving problematic is the ability to hire staff in more remote and rural areas as they are often viewed as offering a less desirable lifestyle.

The physical location of a variety of organizations was an important theme uncovered during interviews. Many organizations have situated themselves where they believe they are most needed and most accessible. However, changes in the weather, neighbourhoods and transportation options often make it challenging to be in the most accessible location. In many instances it is difficult for clients to reach the services they require because they do not have adequate transportation to and from their

appointments. The additional factors of long wait times and referrals to multiple locations exacerbate these transportation challenges.

Issues relating to the accessibility of services are not limited to transportation matters or those in rural areas; they are a legitimate concern for elderly and disabled individuals. Organizations often present additional challenges to disabled and elderly individuals. Many legal and community-based organizations struggle to accommodate individuals who have disabilities or specialized needs. Geographical factors remain a key consideration for accessibility in Saskatchewan.

7. "Access to Justice": An ambiguous term

With its increased use, the term "Access to Justice" has inherited many different meanings. This increased used has also led many organizations to believe the term is becoming trivial in nature with another "access to justice" initiative popping up quite routinely. Our outreach attempts saw the ramifications of this effect; several organizations that we spoke with told us they get emails and calls on an almost daily basis and admittedly only contacted us back because of a referral from another individual. A vast majority of the organizations spoken to do not have the resources to take time away from their work to participate in countless initiatives, especially since each one superficially appears to be doing the same thing, with little impact the inevitable outcome.

8. Duplication of Effort

Many organizations were concerned about the issue of duplicating effort, although for the most part this was accepted as inevitable. In particular, one organization often finds itself performing the primary services of another organization, in an attempt to complete its own tasks. Sometimes matters are urgent, the practicalities of interim referrals too difficult. However, it is still probable that the system could be better organized, in a way that reduces duplication.

9. Privacy and Confidentiality Issues

It is important for community-based organizations to keep information about their clients and the services they require confidential. Though these principles are essential to

maintaining the confidence of clients, they present a major barrier in emergency circumstances where clients are in a compromised situation. In many cases, individuals who are homeless or have temporary/transient housing conditions will disappear or no longer be seen around various organizations. This can be a cause for concern, and without further information from other clients or people who know these individuals, workers may fear for the safety of their clients. Given that many of these individuals frequent a number of similar organizations, sharing information about clients could be helpful in locating individuals or at least determining the reasons behind their absence.

For referral contexts, the ability to share information about clients through online databases could be beneficial. This process has the potential to be very helpful in saving time and addressing pressing client issues as soon as possible. Knowing that client sharing and referrals are very common amongst various organizations, where possible, this method would be helpful to share relevant information to assist with prompt and effective service.

The right to privacy and confidentiality acts to both facilitate and inhibit access to justice services. Privacy and confidentiality are fundamental to preserving relationships with clients and establishing a foundation of trust. However, this also serves to limit the ability for organizations to share relevant information about clients for their wellbeing, expediency, or even safety.

10. Public Perceptions

Dealing with public perceptions can be a very complicated issue for organizations. In some cases it may well be that the organizations will have an undeserved negative reputation. Furthermore, depending on the community, a representative from the same organization can be viewed as a welcome presence, or a nuisance. This problem can arise based on organizational affiliation. For example, an organization may be government funded or connected with law enforcement in some way, and that can either be seen as a positive point, giving the organization more credibility or authority, or a negative point, stimulating feelings of mistrust or suspicion.

Often, organizations will have to work hard to establish a positive reputation amongst certain communities. This can be done by attending various community events or simply by continually delivering quality services. In all cases the need to create, manage, develop, reinvent, or maintain a certain public perception is very important. This

works in a similar way with courts and legal services of all kinds. Often, the expectations or presumptions of an individual must be managed or overcome in order to best resolve the legal issue.

11. Technological Advancements

The impact of technology on service delivery for legal and community-based organizations has been significant. Sharing information, storing information, promoting services, and client communication are all dimensions of this. Many organizations use digital databases to store information and social media outlets to share information and promote events. Although the shift towards technological acceptance has been slower in this industry than many others, there is no doubt that technology has had a profound effect on the justice system.

Technological advancement can prove to be challenging for prospective clients and/or laypeople. For instance, how do potential clients recognize good legal information from bad legal information? How do they know where to look online? What if they do not have access to the internet or a computer?

Technology has also changed the way people approach legal services and, in some cases, the way they access legal services. Technologically literate clients will look up legal information online before seeking various services, or may become aware of legal services through online information. Though this depends on the individual, it is important to continue to work with technology to best serve all types of clients and resolve legal problems.

Conclusions

In establishing an early and integrated service delivery model certain factors or themes presented themselves as increasingly relevant. Our conversations with Saskatoon-based organizations reveals a strong concern for the following principles, and many successes along these lines:

- ❖ The inclusion of social factors into the resolution of legal problems;
- ❖ The need for awareness of broader social problems and the role they have in the legal sphere;
- ❖ The need for building connections amongst legal and community-based organizations;
- ❖ The need to take a holistic/client-centered approach in helping clients resolve their legal dilemmas;
- ❖ The need to instil a sense of accountability and responsibility among at risk youth and previous offenders;
- ❖ The need to be more inclusive, and;
- ❖ The need to think more broadly about problems.

The degree of consensus around these values – the emphasis placed on their priority - is cause for hope. From a public policy perspective, there is a strong orientation towards early and integrated service delivery already at work in Saskatoon. Yet, systemic supports are needed to fill in gaps and allow more comprehensive and strategic responses.

We appreciate the time offered to us by the many representatives of Saskatoon organizations, and offer our observations in the hope that they will be useful in the exercise of justice reform.

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Appendix A: *Community-Based and Governmental Organizations*

The following is a non-exhaustive list of community-based organizations offering support or services connected to the justice system, in the Saskatoon area. This list represents organizations which were contacted or referred to us by interviewees, *whether or not they participated in the interview process*. The views and positions portrayed within this report are those of the Dean's Forum student researchers and are not necessarily endorsed or adopted by the below mentioned organizations. The list serves only to demonstrate to the reader the types of organizations we included in the initial scope of our project.

601 Outreach Centre	Aboriginal Courtworker Program Provided by: Métis Family & Community Justice Services of Saskatchewan Inc. (aka MFCJS)
Adelle House	Aids Saskatoon
Avenue Community Centre	Canada-Saskatchewan Career and Employment Services
Canadian Mental health Organization	Catholic Family Services
City Centre Church (Freedom House)	Children's Advocate
CLASSIC (Community Legal Assistance Services for Saskatoon Inner City Inc.)	CLASI (Community Living Association Saskatoon Inc.)
Community Support Officers	Conflict Resolution Saskatchewan
Crocus Co-operative	Core Neighbourhood Youth Co-op
Domestic Violence Court caseworker program	CUMF (Central Urban Metis Federation)
Elizabeth Fry Society	EGADZ
Family Services Saskatoon	Equal Justice For All
Global Gathering Place	Friendship Centre/Inn
Healthy Mother Healthy Baby	Federation of Saskatchewan Indian Nations
Legal Aid Saskatoon Criminal	John Howard Society
Legal Aid Saskatoon Family	Legal Aid Meadow Lake
MACSI (Métis Addictions Council of Saskatchewan Inc.)	Les and Irene Dube Centre for Mental Health
Metis Community Justice	Metis Nation
Methadone Clinic	Ministry of Social Services
Ministry of Justice	Mobile Crisis/ Crisis Intervention Line
My Home	Native Law Centre
Newcomer Information Centre	Open Door Society
Pro Bono Saskatchewan	Provincial Courthouse - Small Claims Division

Public Prosecutions	Pro Bono Students Canada
Public Legal Education Association (PLEA)	Public Health
Regional Psychiatric Centre	Regina Alternative Measures Program
Restorative Circles Initiative	Saskatchewan Human Rights Commission
Saskatoon Community Services Village	Saskatchewan Aboriginal Literacy Network Inc.
Saskatoon Food Bank and Learning Centre	Saskatoon Indian and Metis Friendship centre
Saskatoon Crisis Nursery	Saskatoon Health Region - Mental Health and Addictions – Young Offender Program
Saskatoon Health Region	Saskatoon Police Services (SPS) - Special unit investigations
SPS – Street Beet	SPS - hub
Saskatoon Mediation Family Services	Saskatoon Sexual Assault Centre
Saskatoon Tribal Council	Station Twenty West
SWITCH (student wellness initiative towards community health)	Str8t up
The Law Society of Saskatchewan	The Family Healing Circle Lodge
The Lighthouse	The Mumford House
The Saskatoon Interval House	The Salvation Army Community Services Saskatoon
Victims Services	The University of Regina – Faculty of Social Work
West Side Community Clinic	White Buffalo Youth Lodge
YWCA Crisis Shelter and Residence	YWCA - shelter and employment
The United Way	The University of Saskatchewan – Department of Psychology

Appendix B - Emerging Themes - Integrated Service Delivery

❖ Multi-stage approach
  ➢ No single solution, there are many problems with many solutions, with some more appropriate than others
  ➢ Implementing small changes that can be evaluated and adapted is a more effective strategy than making sweeping, unalterable changes
❖ Community building amongst CBOs
  ➢ Meeting of various organizations to inform each other and keep aware of what's going on or evolving within their organization or the community
  ➢ Physical database/Reference sheet for CBOs and legal organizations to immediately help clients: - organized by category with contact information
  ➢ Searchable/Interactive Database of organizations (with info stating what clients need to bring with them to meetings, hours of operation, availability of services)
  ➢ Opening lines of communication for referral - many places have a system in place but this could always be improved on a broader scale
    ■ remains confidential; no client details visible/available, speaking in regards to working partnerships between organizations to assist in timely client services
❖ Avoiding duplication of Effort
  ➢ Organizations doing in-house triage and referral which is costly in terms of time and effort
❖ Keeping the conversation going/starting the conversation about access to justice for various organizations
  ➢ Keeping people informed on our work
  ➢ Building momentum
  ➢ Creating investment (will be aided by a multistep approach as shows advancement)
❖ Moving in a direction/defining a direction
❖ Re-defining/Retooling of term Access to Justice to create a more meaningful word (explaining justification for work and narrowing the focus)
  ➢ Avoiding trivialization of term
  ➢ Side-stepping fatigue and cynicism
  ➢ Putting the "humanity" back in the term, getting rid of buzz words that take on their own meanings

- ❖ How to address the working-poor/middle class gap?
  - ➤ Legal information for self-reps (triage and referral, online info and question/answer service, court procedures, app, call in line, etc..)
  - ➤ unbundling of services and pro bono(which requires legal information)
  - ➤ Legal insurance
- ❖ Streamlining processes
  - ➤ working towards a model that reduces barriers
  - ➤ back to duplication of effort
- ❖ Client-centered approach
  - ➤ Having the client feel like a variety of their needs are taken care of but also letting them feel like they are contributing (helps build investment as opposed to trying to help a client who isn't really even trying to help themselves (may have given up, no belief in system, etc..))
  - ➤ Triage model
  - ➤ Incorporation of community-based/social services into justice services
  - ➤ Help navigating the process (navigation through services, transportation to services)
    - ■ ideally through case workers
  - ➤ Gaining trust of clients - trust and respect are key in building a client relationship
- ❖ Language barriers
  - ➤ Within the legal system - right now entrusting friends and family to convey info to clients
  - ➤ Availability of information/services for legal and non-legal organizations limited in languages
- ❖ Must create a system welcoming to the disabled and the elderly
  - ➤ eg: the PC court is not wheelchair accessible
  - ➤ An area that needs to be further examined as no in depth analysis conducted
- ❖ Inclusion and sensitivity regarding the Aboriginal Community
  - ➤ Difficulty with participation - reached out too late in the project; would have been ideal to include the perspective at the start and allow them to assist in project development
  - ➤ Taking a more sensitive/culturally appropriate approach and understand this perspective (this should begin during legal education)
- ❖ Mental Health Issues
  - ➤ Court
  - ➤ Inclusion of services

- ➢ Large focus for community-based organizations
- ➢ Huge interaction with the legal system
- ❖ Finding simple solutions that have large impact
  - ➢ CBOs are very busy - shouldn't overburden them
  - ➢ What can be implemented to reduce demands and create more meaningful output
- ❖ Limited range of services offered by legal aid and other government funded organizations
- ❖ Timing of court
  - ➢ Might be inconvenient for some, while convenient for others
- ❖ Lack of trust in governmental programs (people won't go near them)
- ❖ Isolation among people with legal problems
- ❖ Including diversity in terms of staff - to make clients feel comfortable
- ❖ Not being able to advertise services because already at maximum capacity
- ❖ Importance of social media and using that as a way to reaching out to the younger generation and making them aware of services
- ❖ Switch from getting tough on crime to getting smart on crime, working with existing knowledge to reach the most appropriate solution
- ❖ Problems with involvement of volunteers (confidentiality and attrition rates - very demanding for non-paid positions)
- ❖ Mentorship as a method of working with at risk youth
- ❖ Challenges with turnover rate of staff
- ❖ Aftercare services for addictions
- ❖ Field educators about organizations
- ❖ Risk Factor analyses
- ❖ Providing opportunities to work/give back to the community
  - ➢ Give sense of responsibility and sense of purpose
  - ➢ May neglect duties
  - ➢ Miss appointments
- ❖ - Lack of evaluation mechanisms of preventative programs
  - ➢ Can't demonstrate the value of an organization focused on prevention
  - ➢ Lack of funding for evaluation of various programs
- ❖ Having organizations that serve as resource brokers
  - ➢ Organizations that direct and connect people with th eavailable services
- ❖ Family dynamics
  - ➢ If parent needs support or programs, what happens to the children
- ❖ Merging strategy with values
- ❖ Working to address the underlying causes of poverty and how that affects justice

Moving Forward: Improving upon early and integrated service delivery in Saskatchewan

Proposed strategies and initiatives for advancement

The Dean's Forum on Dispute Resolution and Access to Justice

Rochelle Blocka and Miles Waghray

February 2015

ABSTRACT

Student researchers developed a proposed agenda of future initiatives, to shift the work of the Dean's Forum out of the research stage and into implementation. Suggestions came from community legal and social organizations. The goal behind this agenda is to encourage incremental transformations that will have meaningful and lasting impact in the quest to design holistic, early and integrated justice services in the Saskatoon area.

Introduction

Initial literary and web-based research was conducted for the Dean's Forum in spring 2014 on early and integrated service delivery. Research considered a representative sample of both national and international initiatives currently in place. This work has since been coupled with the summer of 2014 spent conducting exploratory community-based organization research in Saskatchewan, with an initial focus on the Saskatoon area.

The opportunity to speak with community-based organizations has allowed for the identification of specific barriers and gaps inherent within the current system surrounding early access to dispute resolution services. On the other hand, community outreach has also uncovered numerous success stories detailing what is already working and could be expanded upon on a broader level. For an in-depth analysis of the identified themes please see separately compiled document "Emerging Themes in Early and Integrated Service Delivery."

Taken collectively, local success stories and existing initiatives from the national level have been outlined in a proposed timeline. The ultimate goal is to move towards tackling the issues faced by the Saskatchewan public surrounding early and integrated service delivery. Although focus of the CBO research was in the Saskatoon area, this approach can be utilized on the provincial level in several respects, as well as expanded upon to establish similar services in other urban areas.

An incremental approach towards implementation has been suggested for several reasons:

❖ Starting with smaller and easier to implement tasks allows for the community to begin to see a progressive step forward in an area that has seen a lot of discussion but has so far been lacking in formal action and execution. Having created and taken actual steps forward on the access to justice front builds investment and support of not only the legal profession, but the Saskatchewan community as a whole.

❖ An incremental approach further allows for community appropriateness, response, and receptiveness to be established and considered before continuation of the next stage of the implementation process.

❖ Many of the proposed strategies and initiatives depend on funding. Proceeding through a step by step process allows some services to be incorporated into the system at an earlier date and time, thereby not having to put the entire initiative on hold until all required resources have been allocated.

***Stage 1: Create Physical Copy Database of Legal and Community-based Organizations.
Goal: Streamline referral processes and ameliorate communication between
organizations.***
(~6 months)

The initial stage of the proposed project will be to amass and assemble relevant information to distribute to various people and organizations. This information will include all relevant information of various legal and legally related organizations to help a person in need. The database could include all or some of the following: name of the organization, a brief summary of the organization, primary contact person, telephone number, street address, and e-mail of the organization. Information could be grouped first by location, then by category of services.

The database will first be supplied to participating organizations for cross-referral practices, but can later be made available more publicly, at locations of need (e.g. telephones at various community-based organizations or prisons). The purpose of amassing this information and distributing it is that most organizations are currently being "bogged down" with doing the research individually. By supplying a list of information and contact personnel the goal is to diminish the extra work being done individually and allow organizations to focus more on the services that they offer.

As organizations and/or personnel are bound to change over time there will be a continual need for document updates. Whether this is done on a yearly basis or so otherwise, the main project of initial creation is what will take time and resources. As long as a digital copy is retained (and whether or not it is a digital copy that is distributed), then as long as updates are performed at regular intervals then upkeep should be able to continue at minimal cost. The updated digital copy will also be utilized to expedite later stages of the process when it comes to service delivery and online database creation.

Stage 2: Hold a Community-based Organization meeting/forum.
Goal: Open the lines of communication between organizations.
(~9 months)

Following development and distribution of the physical database to organizations, planning should commence to facilitate a meeting of various community-based organizations. This gathering could be akin to the Dean's Forum, which enables dialogue and sharing of information across organizations. Depending on the desired time frame initial stages of planning can occur prior to database distribution to assure timely notice of the meeting to all participating organizations.

The rationale behind the CBO meeting is that many organizations are either not aware of each other, or not aware that certain services or efforts have been duplicated in different organizations. By sharing information and informing each other of what each do, the organizations will be better able to streamline their efforts and improve referral practices for clients that require assistance. It became clear that some organizations already have established partnerships designed for this exact purpose, however, there remain to be organizations who would like to become better acquainted with other community organizations.

The meeting/forum should be scheduled for the middle of fall and ideally be the first of an ongoing community initiative. This meeting will have several components:

❖ Names and information will be assembled and distributed to all participating organizations prior to the meeting. Organizations can decide whether or not to include information beforehand in the event they have a new program or service they would like others to become aware of. They may also suggest a topic for discussion.

❖ The meeting itself can either be conference style or similar to the Dean's Forum here at the University. This is yet to be determined
  ➢ Meeting should encourage conversations between organizations
  ➢ Primary goal should to be inform organizations of each other and encourage dialogue
  ➢ Topics can be prepared for the forum to discuss

Stage 3: Create an online database of organizations for faster referrals.
Goal: Open up access to the public to help navigate available and relevant services.

E.g. www.sk.211.ca or http://www.accesstojustice.gov.au/Pages/default.aspx
(~2 years)

After creating a physical document to pass along to relevant organizations, it will also be important to share this information with the public in a user friendly manner. Because of geographical constraints and the accessibility of information via electronic means, logically the best way of delivering this information would be through a website that included navigational help. Websites similar to this have been launched in different jurisdictions and for different services. During our initial web-based research we were unable to locate the existing Saskatchewan directory without being directed to it.

It appears to be necessary and most beneficial to have a justice related resource page that is easy to locate online, highly user friendly, and navigable by the general populace. This website would ideally include drop down menus, search bars, and smart groupings to include information about all services available related to particular legal problems.

Some challenges to setting up a website such as this are that it would have to be funded such that the services of a professional website designer could be utilized. The designer would need to have computer programming expertise and it would ideally operate as an entity separate from the Ministry of Justice in order to be welcoming to those who might have fears or a lack of trust with the justice system. As was indicated with the physical copy database, the website would also require continual updates once created.

Stage 4: Implement call-in service and web-based question and answer service for legal information and resource referral.
Goal: Allows inquiries to be made about potential legal problems by clients, while also reducing unnecessary appointments for already overworked organizations.
(~2.5 years)

One of the most recollected projects undertaken in terms of public health was the nurse's help line. Members of a community could call-in to the nurses help line and speak to a practicing nurse about a medical problem or question in order to evaluate whether the situation was serious enough to warrant going to a hospital immediately. This initiative took pressure off doctors and hospitals have to see each patient and evaluate whether the situation as serious enough to treat them at that time.

The benefits of this project were evident to health professionals as well as the public because it meant people could get information regarding the seriousness of their situation in the comfort of their own home without having to rush off to the hospital at an odd hour or in the middle of a storm. This is precisely the model that is proposed to be incorporate into the early and integrated services delivery initiative. A citizen can either call or write via website with a legally related question and get real-time legal information about their issue. For more complicated legal issues the client will be advised to consult with a legal professional or given the necessary referral to the appropriate source.

Fundamentally, this service will help people resolve whether they are dealing with a legal problem or not, what some of the law might say, and where to go for additional help. Some of this work is being done by existing organizations at the expense of their ability perform the services their organization mandate actually provides. This initiative would greatly assist those in remote or rural communities from having to travel to the city in order to get legal help. This project is also likely reduce the strain on lawyers and legal organizations having to meet with people who aren't sure they have a legal problem or not. Moreover, a project such as this might reduce the strain on the courts for individuals being better informed of the multitude of ways to solve a particular legal problem.

The accessibility of this service from any number of locations could also benefit people who are transient or do not have a fixed address, as well as people who work odd hour jobs. An initiative such as this would require a staff of trained professionals.

Stage 5: Create physical triage location.
Goal: Workers are employed to refer clients to the appropriate organizations and assist clients in diagnosing their problem.
(~4 years)

Having a physical triage location shifts the approach of legal problem solving from problem focused to client-centered. Rather than focusing on the most pressing problem (usually the most serious legal problem), focus is on the client. The triage model enables a client to come in to a physical location and get help for a variety of problems they may be facing. Furthermore, the client actually feels as if their needs are being attended to when speaking to someone who can assist them with more than one of their problems. The triage model utilizes a holistic approach where clients are able to share what is happening to them, tell their story, and discuss their concerns. Triage personnel can then categorize that information in order to refer them to the appropriate services. Certain organizations are performing these kinds of services, however, it again comes at a great cost in terms of their ability to do the work they specialise in doing.

Triage workers can assist in creating a plan for the client, where they help the client organize what steps to take next, and what organizations they will have to speak with in order to get some help. Having an individual that can be spoken to regarding multiple areas of concern is further beneficial when considering that someone will be far less willing to trust, open up, and tell their story to more than one person again and again. This location can also house personnel to operate the phone line and web based services.

The simplest, most convenient, and cost effective way of delivering this service is to house it in an existing legal or community-based structure, such as the Salvation Army, the courthouse, the community service village, or the united way. Each of these locations has their own strengths and weaknesses and this model depends on the willingness of the organization. What can be said, regardless of the exact location, is housing within an existing organization will increase awareness and facilitate use.

Stage 6: Create remote internet based scheduling/request system.
Goal: Increase expediency and efficiency for triage workers by allowing them to book appointments.
(~ 4 years)

With technological advances the ability to book appointments remotely has become increasingly more available and convenient. With the advancement of several internet based services, like google calendar, Facebook, iCalendar, and Microsoft outlook, sharing scheduling information has never been easier. Working off this model, the goal is to initiate an appointment booking system for legal and community-based services so to avoid lag times and miscommunication. This system would allow triage workers to remotely book or request appointments without having to call a number of different organizations or, worse yet, send a client on their way without a confirmed appointment which might result in feelings of frustration or futility for the client. The ideal system would allow different organizations or triage workers to see available times (but not the names of booked clients), remotely request appointments online to be approved, and inform the client of the booked time all in very short period of time. This would likely speed up the referral process and reduce instances where clients feel they have to run from place to place just to get someone to see them. Ideally, the triage worker could group appointments together at a convenient time for the client.

The simplest form of this project would be using a program like google calendar to list the available times for an appointment, and provide access to all organizations involved in this calendar sharing of open meeting times. There, organizations or triage workers could request a time for an appointment, via this program and possibly even receive instant confirmation.

To alleviate concerns of confidentiality, this proposed model does not include nor suggest that other organizations can view who is booked in when and where. The approach is merely to provide information to other organizations for if and when someone is free to schedule an appointment or book a bed at detox, for example. This type of approach would save time and resources as compared to the current approach of calling multiple organizations on someone's behalf just to see if they have room available to stay or schedule an appointment.

Stage 7: Initiate transportation service for clients who have limited mobility.
Goal: Ensure clients are not limited by mobility from attending court hearings and appointments.
(~5 year goal)

One of the identified themes for integrated service delivery was that clients often get lost in the process of trying to get help with their legal problem. Often, the problems individuals face on a daily basis seem more pressing and urgent than making an appointment. The added challenge of getting to different organizations will often make it impossible for clients to attend the necessary appointments.

One of the greatest barriers for the more marginalized population in Saskatoon in terms of accessing justice services is transportation. The inability to afford bus tickets, cab rides, or a vehicle of their own stands in the way of making appointments, trial dates, or drawing on existing services. Furthermore, the added challenge of getting around during the winter time results in many people giving up on their legal problem or being charged with a failure to appear for court.

The ideal solution to this problem would include a transportation service that is available for people who have no access to transportation and risk missing an important meeting/legal event. This service could be drawn upon by various organizations in certain circumstances and would shuttle an individual to the appropriate destination when most needed.

This idea was derived from the fact that certain staff members from different organizations are currently either driving their clients where they need to be, or give them bus tickets to ensure they make it to necessary appointments. Another inspiration for the idea was the Lighthouse mobile unit. Though the purpose of this unit is different, the idea of an organization having the capacity to drive to meet the clients and bring them to the organization is paramount. One possibility could be that the vehicle is donated and serviced by a dealership, or perhaps even purchased/donated from the Saskatoon police auction.

This program could be coordinated and executed as a service extension within the early and integrated service delivery triage model. Even if the ultimate goal of the project is the creation of a centre, clients will nonetheless require transportation to and from the centre. Clients will further require transportation to services and organizations within the model, but not specifically set up within the legal services centre locale.

Stage 8: Create a physical building that houses legal and community-based organizations in addition to previously established triage services.
Goal: To allow a single-stop area for clients to access required services.
(~7-10 year goal)

The eventual goal of this project could be to set up a physical structure, exemplifying the integrated service delivery model. This could take the form of a "justice center" or a "justice hub", wherein a variety of legal and legally related services are housed in the same complex. If a centre is determined to be the most appropriate avenue for urban locales in Saskatchewan, the structure would encompass the major aspects of preceding steps for this project; information and referrals, triage, and transportation. The centre would be similar to existing hub models and house a variety of services, under the premise of providing holistic services within a single locale. By housing services together clients will theoretically be able to make it to their appointments and have their "justice services" met.

A major concern was raised when the idea for a centre or complex of services was hypothesized. Many organizations fear, not only that if they were housed together clients may be discouraged from attending if government affiliated, but more so that new organizations would be established within this centre that would effectively be duplicating or taking work away from already existing establishments. Clients are making a big commitment when reaching out to existing services, organizations do not want to destroy the relationships of trust that have taken them years to build. Discussions with community organizations addressing and alleviating these specific concerns are crucial prior to the development or implementation of a centre.

With the development of a physical centre another aspect must be considered; should it be housed within or near a court-house or would it be more appropriately positioned in a neutral location? Arguments can be made for incorporation of a centre in both types of locales. In advocating for a neutral site, issues such as existing views towards the government or justice system, stereotypes, personal beliefs and past experiences must be given consideration. A neutral site would be welcoming to those hesitant to accept service or those who might be unsure they are receiving fair assistance.

On the other hand, positives are also found for a location affiliated with a courthouse or the government. For one, since Legal Aid already has duty counsel and eligibility officers housed within the courthouse, some suggest placing other services within the same locale should not be an issue. Further, if placed in a courthouse then

clients requiring service can be directed exactly where to go from the judge (e.g: go down the hall to find X, they will help you find representation, book appointments, etc.). Although this may seem clear cut, it is not always as simple as if the person knows they need help and are willing to physically go there, then it doesn't matter where it is located.

Another option, which received favourable reviews, was that the creation of an early and integrated service delivery model could be effective if established as a network. Although not encompassed within the same physical location, this would allow organizations to be established in the most appropriate locale for the service they are currently offering, much the same as current practice. The difference, however, is that the creation of previously mentioned steps would produce an effective referral, information, and transportation system which would improve access and efficiency from what is currently offered. Further, any building and moving resources saved could be directly put towards community services.

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Changes in the Culture of the Legal Profession:

A look into the minds of Saskatchewan's legal professionals

The Dean's Forum on Dispute Resolution and Access to Justice

Rochelle Blocka and Miles Waghray

February 2015

ABSTRACT

A discussion regarding factors and initiatives that have either hindered or facilitated the public's ability to access the justice system or justice services. The perspective of those within the Saskatchewan legal profession are contrasted against literary works spanning the past few decades. Further, exploration and analyses delves into the changes and evolution within legal education and the future of the legal profession.

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Changes in the Culture of the Legal Profession

Introduction

It would be hard to refute that the evolution of and changes within the legal profession have always had the best intentions in mind. An understanding of how this evolution has impacted the ability to access legal services was gained through the examination of North American literature on the subject. It was of vital importance to reach out to professionals within the Saskatchewan legal community to uncover the local perspective.

In the context of this analysis a fairly restricted definition of the term access to justice is used. For our purposes access to justice is defined as the ability to access sufficient 'legal' and 'legally related' resources in order to most appropriately resolve legal disputes.

Exploration of the issue began with a synthesis of information obtained from the literature. Research focused on areas identifying broader-level changes to the legal profession that have either inhibited or fostered access to justice services. Common themes that surfaced are noted below as concrete examples of change.

The second stage of the project involved interviews with over two dozen legal professionals from various years of call and areas of practice within the Saskatchewan legal community. Emerging themes from the local perspective were compared to broader level themes to identify what was unique to our province. The goal of this endeavor was to identify areas within the legal profession that must be re-evaluated or re-imagined and to identify successful access to justice measures with a view to replicating and building upon what is already working.

The discussion then shifts to the landscape of legal education and examines future possibilities for the profession. In this context changes are examined that make access to justice less restricted in the future, while exploring ways the system has attempted to cope with the rising gap in access to legal services.

For an in-depth look into the themes identified within existing Saskatchewan dispute resolution services please see separately compiled documents "Emerging Themes in Early and Integrated Service Delivery" and "Moving Forward: Improving upon early and integrated service delivery in Saskatchewan."

Part I: Literature Review: Concrete Examples of Change

The goal for this undertaking was to examine a sample of the literature documenting the evolution of the legal profession over recent history. A complete record of the relevant resources accessed is located in appendix A.

Below is an identified list of factors and initiatives that have changed in the profession, acting as both barriers and/or facilitators of access to justice. While the set list acknowledges prominent or successful changes in the culture of the legal profession it was important to also identify areas found to have a more negative or neutral effect in order to provide a holistic view. Future discussions pertaining to this list may signal how the profession could do well to pursue some initiatives in greater detail while avoiding certain models that would make it less possible to provide access to legal services.

Facilitators of Access to Justice

- ❖ Introduction of free legal services
  - ➢ Legal Aid
  - ➢ Organized/coordinated/mandatory pro bono programs
  - ➢ Community legal services clinics
- ❖ Usage of alternative dispute resolution models
- ❖ Therapeutic court initiatives

Factors Demonstrating an overall Neutral effect on Access to Justice

- ❖ Specialization within the profession
  - ➢ Lawyers better equipped in particular areas
    - ▪ Work can be done efficiently and effectively
  - ➢ Increased billing rates for specialized lawyers
    - ▪ Contrasted against the time required to familiarize with the area
  - ➢ Multidimensional issues require a team of lawyers
- ❖ Prevalence of addictions/mental health issues faced by legal professionals
  - ➢ High rates of depression and substance abuse
  - ➢ High demands are taking its toll on professionals
    - ▪ Long hours lead to unhealthy lifestyles
    - ▪ Stress affects the body and the mind
    - ▪ Lack of support structures (e.g. relationship breakdowns)

- ➢ Harm begins to develop during legal education
  - ▪ Debt, isolation, mental strain, substance abuse, etc.
- ❖ Availability of online/free legal information
  - ➢ SRLs look to free information and believe that its use will provide the same level of service as privately retained counsel
  - ➢ SRLs determine that the resources are inadequate and the legal process is far more complex than anticipated
    - ▪ Drains emotionally, physically, and financially

Inhibitors of Access to Justice

- ❖ Prominent use of the billable hour
- ❖ Increasing cost of legal services
  - ➢ Steadily increasing over and above inflation rates
  - ➢ Clients having to weigh options; why should I spend money on a lawyer when I might need that money for something more important?
  - ➢ Cannot afford private representation and do not qualify for free services
  - ➢ 86% of self reps sought legal advice in some form; they sought the help but could not afford it
- ❖ Increasing tuition for legal education
- ❖ Business model of private practice legal services
- ❖ Complexity of the system
  - ➢ SRLs need assistance with form completion and court procedure
  - ➢ Court staff needed to assist individuals from different cultural communities

Therapeutic Court Initiatives

While the traditional courtroom setting is effective and appropriate under many circumstances there are also times where a more therapeutic, or problem-solving based approach is taken to best serve the needs of justice. Across Canada, the following courts have been implemented in at least one jurisdiction: [2]

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[2] Please see *Problem-Solving in Canada's Courtrooms; A guide to therapeutic justice* for more information pertaining to the problem-solving approach and the role of the Judiciary in this initiative. [National Judicial Institute, *Problem-Solving in Canada's Courtrooms; A guide to therapeutic justice* (Ottawa: September 2011).]

- ❖ Drug Treatment Court
- ❖ Mental Health Strategy
- ❖ Domestic Violence Court
- ❖ Youth Court
- ❖ Aboriginal Court

Pro Bono, Legal Aid and Free Community Legal Clinics

Legal Aid was introduced in Saskatchewan in 1974 with the passing of the _Community Legal Services Act._ The last four decades has since seen an increase in demand and a decrease in services available to the public. The resulting gap has been met to a certain extent by free legal advice clinics, some involving law students. Despite capacity reaching numbers for users of free services there remains those who are unable to afford private representation yet fail to qualify for free legal services. This sector of the public, commonly referred to as the middle class gap, generally must resort to self-representation. If lucky, SRLs may be able to access legal information and/or advice through unbundled services or pro bono initiatives.

Less than 100 Legal Aid lawyers work out of 14 offices across Saskatchewan. This roughly equates to a wait time of 3 weeks for each client and 225 cases a year per lawyer. According to the 2011-2012 Legal Aid annual report roughly 20,000 Saskatchewan residents are provided services each year. Of these individuals almost 70% self-identify as Aboriginal. On average Legal Aid turns away a further 3,000 applicants. For those individuals being turned away about half are based on financial need and over a third deal with matters out of the range of services currently offered. This limited scope and availability Legal Aid resources renders free legal clinics and pro bono work critically important.

The literature is comparable to a broken record whilst identifying the issues present with pro bono work; time, fatigue and the negative perception towards firm advancement prospects when work is taken away from the billable hour. Several sources suggest these factors prompt lawyers to balance the personal and professional benefits of engaging in pro bono work.

To help promote participation and combat a perceived lack of willingness to engage in public service work several alternatives have been suggested or instituted in other jurisdictions. One initiative includes a mandatory pro bono requirement furnished with a difficult to satisfy opt-out provision. This initiative encourages pro bono work but

does not go so far as to actually force it. Although mandatory the requirement can be met in multiple ways and has detailed implementation regulations. The range of volunteer options include clinical and research based pro bono work during law school, volunteer work at legal service providers and work with other local bar association providers. The range of options allows individuals to conduct their services in a manner best suited to their situation and interests.

A different pro bono approach geared towards smaller urban centres and rural areas takes on a more collaborative model. The idea suggests a collaborative approach between lawyers, law students (properly screened, trained, supported and supervised) and the community. All members work side by side and allow low-income clients to feel more like participants than simply a party to the action.

The literature is in agreement that by including and encouraging law student involvement within pro bono programs students can serve as significant resources; whether through clinics or research projects. Not only do schools offer a natural setting for the testing of innovative models, but more importantly participation emphasizes the moral and ethical duty to engage in pro bono initiatives.

Part II: Exploratory Outreach: Speaking to the legal professionals of today, tomorrow, and yesterday

Written works speak to both the accomplishments and concerns facing the legal community on the national and international level. In order to take a positive step forward to combat access hindrances within the Saskatchewan context it was pivotal that members of the local bar were consulted. The literature review was an important first step but as it speaks to access on a broader scale any efforts stemming solely from it may end up being impractical within the Saskatchewan context.

To develop a well-rounded view for the cultural framework(s) of the legal profession it was necessary to reach out to varying years of call, areas of speciality and geographical locations. Individuals spoken with include but are not limited to recent calls to the bar, retired members of the judiciary, those engaged in daily free legal service, government workers, boutique firms, national firms, circuit courts and rural areas. During the course of outreach about 30 members of the Saskatchewan bar were spoken to on a confidential and anonymous basis. The list of questions posed to legal professionals can

be found in appendix B. The list is provided in its general form and was adapted where necessary to better complement each interviewee.

Below is a list of factors and initiatives developed by members of the Saskatchewan bar as recognized barriers and facilitators of access to justice. As to be expected there appears to be common ground with the literature. Interestingly enough not only were other pressing issues acknowledged, but differences of opinion also surfaced for similarly identified issues based on area of practice and year of call.

Facilitators of Access to Justice

❖ Introduction of organized/coordinated pro bono programs and pledges
❖ Inclusion of non-formalised pro-bono work within the provision of retained services and outside direct client work
  ➢ Client hourly rate discounts and non-billed hours
  ➢ Non-legal associated work (sitting on boards, committees)
❖ Introduction of community legal services clinics
❖ Changes in approaches towards saving money
  ➢ Early resolution/settlement, collaborative law, competition for lawyers, starting the process early
❖ Usage of alternative dispute resolution models
  ➢ People often "feel better" about the resolution if they were a part of it.
  ➢ Teaches individuals how to deal with future disputes
❖ The last 6-7 years there have seen far fewer sentence appeals
  ➢ More common to have joint sentence submissions
❖ Therapeutic court initiatives
  ➢ Looking at the reasons behind crime and violence to understand the circumstances; working at repairing those who are broken
❖ Simplification of trial procedures
  ➢ Small Claims Court
  ➢ Response to more SRLs
  ➢ Simplifying the process to more quickly resolve issues
❖ Going the extra mile for clients
  ➢ Meeting them somewhere outside the office, etc.

Factors Demonstrating an overall Neutral effect on Access to Justice

- ❖ Use of Technological Advancements
  - ➢ Lawyers are more accessible
    - ▪ Instantaneous communication
    - ▪ Faster turnaround time
  - ➢ Overworking lawyers – no time off the clock
    - ▪ Increased client and firm expectations
- ❖ Treatment of SRLs in Court
  - ➢ Judge lenience in terms of rules and keeping things fair and balanced
    - ▪ Judges assessing the most appropriate solutions outside of court despite the arguments being made in court
  - ➢ SRL case management
    - ▪ The judge, prosecutor and accused meet to discuss the case
  - ➢ In the information age people are inclined to think they have the smarts/resources to understand complex areas of the law
  - ➢ Higher costs being placed on represented litigants in an action because of the increased time it takes to deal with SRLs in the system
- ❖ Gender and the Legal Profession
  - ➢ Private practice is less conducive to women partners
    - ▪ Women taking on more governmental/in-house counsel roles
  - ➢ Changes in modern circumstance from a time male dominated
  - ➢ Increase in women appointed to the Bench in Saskatchewan
- ❖ Mandatory alternative dispute resolution
  - ➢ If a resolution is possible then counsel can be trusted to speak to this
  - ➢ Too early in the process to be effective
    - ▪ Often counter-productive and leads to fixed positions
  - ➢ 67% of files that go through the process are resolved or do not continue through the entire process

Inhibitors of Access to Justice

- ❖ The cost of retaining services
  - ➢ The system bankrupts participants
    - ▪ Is a divorce worth the same cost as a wedding?
  - ➢ Lawyers are encouraging clients to settle because it is cheaper
- ❖ Law has become so complex and process laden that clients require a lawyer to navigate the complex procedures and information
- ❖ Rising costs of Law school tuition
  - ➢ Huge debt inhibits pro bono engagement and consideration for lower paying public interest jobs
- ❖ Expectation to bring money into the firm through billing
  - ➢ Cannot do discounted/free work too often
    - ▪ Rural centres - creates an expectation from other clients
    - ▪ Large urban centres - must meet hourly billing targets
  - ➢ Junior lawyers are not in a position to offer discounted options or make decisions that affect the bottom line
    - ▪ Many start out with the public spirit but it is difficult to balance professional obligations with voluntary efforts
- ❖ Conflicts between position/employer/area of practice and ability to offer free legal services
- ❖ The Justice system is looking at Aboriginal issues but not actually getting it right
  - ➢ Aboriginals are still the most impoverished in all of Canada and are still disproportionate in the criminal justice system
  - ➢ There has not been much for improvement; some things dressed up as improvements are actually detrimental
  - ➢ Double standard exists even though there are the Gladue principles in sentencing and mandatory minimums
- ❖ Many legal professionals are unaware of their privilege or how others actually require services but are unable to access them
- ❖ Increasing numbers of newcomers to Saskatchewan
  - ➢ Creates issues related to language; spoken and written barriers
- ❖ Fear of the legal/justice system for marginalized members of society
  - ➢ Attitudes outside the profession have not changed; likely due to an information gap in transmitting
    - ▪ Many do not know what resources they have access to
    - ▪ May not realise the system has changed or options exist

Therapeutic Court Initiatives

A major change to occur over the last ten years has been the incorporation of therapeutic problem-solving courts into the Saskatchewan legal system. As opposed to deterrence and punishment problem-solving courts focus on identifying and resolving underlying issues and circumstances of crime with an ultimate goal of curbing recidivism by addressing its root cause. These initiatives face a number of challenges. They are difficult to set up and difficult to maintain. It is often easier to recycle offenders through the justice system and increase the penalty in the hope that will act as a deterrent to stop the criminal behaviour. The problem with the traditional approach is that it does not make sense for those struggling with mental illnesses, addictions or other social factors that lead to criminal behaviour. Although therapeutic courts may require extra time and effort for those involved they are proven to be a far more cost effective alternative to incarceration, even when medical costs and programming are factored in.

By utilizing models from the United States and statistically monitoring progress therapeutic courts have seen much success and decreased rates of recidivism. Programs are currently in limited jurisdictions but are beginning to expand. The growth of these programs can be attributed to several determined members of the Judiciary. The Saskatchewan Justice system refers to the current initiatives as pilot projects, however, some members of the bar feel that the government is hesitant to admit that these programs should expand. As with anything new many individuals were wary, but now members of the public and the legal profession are recommending programming. This approach is now seen as just another tool in a defence lawyer's arsenal.

In the therapeutic courts sentencing is held off until participants either succeed or fail the Judiciary directed program. Although individuals must plead guilty to enter the program, successful completion will generally result in the lowest penalty possible under the circumstances, be that no jail time and/or discharges. In light of this approach the individual must be facing more serious penalties to qualify in order to have sufficient incentive to complete the program. Completion of the programs are no easy task. Serving jail time is often an easier option, which is why participants must be committed to changing their lives.

The court environment is also worthy of mention. The environment does vary based on the initiative, however, the general atmosphere of a therapeutic court has a greater sense of community and collaboration. Even if this system rewards progress there remains to be penalties for defiance of the program (e.g. a week remanded to custody) and bench warrants issued for unexplained court absences. Although the problem-solving

courts take members down a separate path they continue to uphold the rule of law and work towards fair and just dispute resolution.

Pro Bono, Legal Aid and Free Community Legal Clinics

Depending on the population spoken to different legal initiatives have come into play. There are arguably better technological based projects for upper and middle class individuals while free legal options have become available for marginalized members of society. The introduction of free community legal clinics has increased the number of individuals able to receive advice and/or representation that would not have otherwise been able to. What is currently not being accounted for are various methods of non-formalised pro bono work. Efforts within this realm are ongoing and continue to be largely unrecognized by a sizable percentage of the bar. The influx of options available via clinics or formalised pro bono is important, not only due to the rising cost of representation but also because of the decrease in scope of the Legal Aid mandate.

A reoccurring point of view felt by interviewees was that none of the other professions appear to be as concerned with individuals being able to access their services to the same extent that the legal profession is. Moving away from a strict definition of professional services, a great example recognized that a restaurant does not provide free meals or discounts for those who simply cannot afford to pay the current price. Despite this novel and committed approach by the legal profession the introduction and expansion of free legal work has also created along with it the expectation of free services. What the Saskatchewan bar has expressed as desirable would be an acknowledgement that free services are not expected from other professionals and as such free services that are being offered by the legal profession should not be undervalued or taken for granted.

A further and more troubling sigma is being placed on those offering assistance to the public. Legal professionals who work with Legal Aid are often labelled as 'less of a lawyer' or 'not a real lawyer.' Legal Aid lawyers are continually overloaded with large numbers of ongoing cases so clients are obviously not refusing their services based on this stigma of subpar legal services. Nonetheless this unnecessary and incorrect label remains an unfortunate association for those committed to the greater good.

The legal community has offered a wealth of suggestions on how free legal services could be improved, such as increasing the Legal Aid eligibility requirements. Other individuals instead believe suggestions such as these are more of a quick fix to a system that needs overall reassessment. Although there remains to be a huge emphasis

on pro bono work an overwhelming consensus believes that even if all lawyers in the province donated many hours of their time it would not solve the problem. The Justice system has done a little to cope with this rising need, however, it is the opinion of some that the profession in general cannot really be said to have contributed anything at all.

Part III: Possibilities for the Future

Considering the wealth of information obtained from the literature and from exploratory interviews with legal professionals it is of great importance to consider how this information can be utilised to shape the future of the profession. This discussion of tomorrow is largely two-fold as it revolves around both legal education and legal practice. It is fundamental that both issues be considered in tandem in order to best equip our young professionals to service the legal profession for years to come.

Changes in Legal Education

To provide an understanding for how the literature departs or compares to the views of current Saskatchewan bar members, the two sources must first be discussed separately. Following a separate analysis the information is synthesized to examine how the integration of these ideas may uncover a roadmap for the future of legal education. The discussion rounds off with the introduction of several avenues for change, which upon further exploration, may serve as pathways to facilitate a responsive approach to access to justice concerns from the perspective of legal education.

Literature Review

Since the inception of organized law practice in Saskatchewan there has always been a considerable degree of study required. In the beginning there were only general law school entrance requirements; 21 years of age and passing an exam. At this time lawyers were held to a high standard of ethical conduct and could face suspension or disbarment. With the passage of time the requirements to be called to the bar evolved and by 1980 were much the same as they are today.

The classrooms of today continue to change and include courses covering experimental learning and methods of alternative dispute resolution. A mandatory legal ethics and professional responsibility course helps provide students with in-depth

analysis of ethical values. Certain provinces have also included Aboriginal and First Nations people in law.

Recent years have seen the introduction of practical/ intensive/ externship programs into the law school curriculum. These alternatives to substantive law courses provide students with a semesters worth of experience in a clinic or firm setting. One such intensive clinical partnership involves the University of Saskatchewan with CLASSIC Inc. in Saskatoon. Another aspect of legal education evolution involves the removal of the articling process. This program replaces articling with continued legal training within the context of legal education and is currently offered at Lakehead University. Since its inception the program has been observed to provide a very practical and outcome-focused education.

Aside from a shift in teaching methods time has also brought with it an increase in tuition costs. This steady increase has generated a disconnect between law school debt and economic return. Increased debt further intensifies competitive pressures during the articling process. A simple fix to this growing concern suggests the profession offer better information for prospective students concerning tuition, debt and average starting salary. An American study suggests requiring only two years of formal law school, with the third optional for specialization.

Exploratory Outreach

By consolidating our discussions it would appear there is no consensus on what, if anything, which should change in the way law schools currently operate to prepare young lawyers for practice. What found many legal professionals comfort was knowing that the articling process provided students a year to learn everything that law school failed to teach them. As it would not be reasonable nor expected that a student exiting school in any profession would be fully prepared to enter the workforce the articling year will continue to provide students with required instruction. As a law degree can lead to many future paths there is no one set model that a law school could take, and perhaps it may be best to leave some areas optional for student interests.

Interviewees identified several fundamental skills required of a good lawyer. The Law Society has also recently implemented several mandatory law school courses. What was found to be somewhat disconcerting to our interviewees was the fact that something so central to the profession as strong communication skills remains hard to teach, and for the most part left to gain through life experience.

Interviewees found valuable communication skills and techniques were available to some degree through alternative dispute resolution (ADR) courses. These skills were found to be particularly important in assisting a lawyer's ability to properly conduct a meeting; with a client or opposing counsel. Overall, interviewees found there to be an increase in the use of ADR techniques during everyday practice. Although these courses are found to equip students with valuable techniques for everyday use they remain largely optional at the University of Saskatchewan. The exception to this a one week mandatory ADR course during the students first year. For the most part individuals were in agreement that multiple course offerings should be available but not mandatory for law school graduates.

A large amount of variation was observed amongst opinions on whether or not law schools should be viewed as a trade school or an academic institution. Although there was consensus that legal education should teach students how to think as a lawyer, there remained uncertainty on what exactly that meant and what the best approach would be to present these skills. A portion of professionals were in favour of a move towards a hands-on approach to legal education, such as a clinical setting. Other members of the bar believe those skills are the responsibility of future employers and that this burden should not be placed on the shoulders of educational institutions. Views on that end of the spectrum believe legal education should focus on learning the substantive law and not on an experiential model as those skills will eventually develop through practice. However, newer models of practice like therapeutic courts and ADR techniques should nonetheless be introduced into the law school curriculum to better prepare students for an evolving practice. Although the profession cannot agree on whether law school should be purely substantive or based on an experiential model, it can be found agreeable that an articling student not possessing all the required skills at the outset is to be expected

In keeping up with an evolving legal culture, a positive step forward has been taken with the incorporation of a mandatory legal ethics and professional responsibility course. What remains difficult to incorporate into this course is the need to educate future lawyers about their social responsibility to do pro bono or other community-based work. What has been found to be effective to help get this message across is the strong presence of Pro Bono Students Canada within the law schools.

Numerous young members of the bar acknowledged their inability to properly identify, address and work through meetings for clients with cultural, sexual and gender diversity as one of the hardest and most surprising aspects upon entering the profession. Currently there are no substantive courses offered to assist students with awareness and

tips for approaching and working through client sensitivities. The inclusion of experiential and clinical course opportunities has allowed students to begin to prevail over difficult to teach aspects such as client diversity.

The inclusion of Aboriginal/First Nations people in law has seen a rising presence in the law school curriculum. In addition to multiple upper year course offerings, albeit lacking a representative number Aboriginal professors to teach them, is the Program of Legal Studies for Native People. The program offers a holistic view of student applications by looking at a variety of different areas of success rather than merely considering grade point average and LSAT score when evaluating potential students. The program is further hoping to address the statistical lack of Aboriginal people currently practicing in the legal profession. Saskatchewan should have at least 15% of its law school population Aboriginal. Furthermore, in order to gain a representative number of Aboriginals in the practising bar this value needs to be increased, or potentially doubled in the coming years. At this point there is no firm reason why there continues to be a lack of Aboriginals practicing, however, it remains important to recognize this deficit.

Consolidation of Beliefs

First glance easily discerns the lack of unanimity of how training for the law profession can best take shape. The development of institutions such as Lakehead University demonstrate the array of emerging educational experiences open to current and future law students. The rising number of clinical and externship programs available further provides students enrolled in more traditional law school programs an opportunity to experience classes outside those primarily substantive in nature.

Even though the substantive aspect of legal education will remain important, younger members of the bar were in agreement with respect to the need for experiential educational opportunities. These types of approaches not only provide students with a practical application for the substantive law being taught, but they also foster the opportunity to build on communication skills. The ability for these programs to assist with the development of key skills required of new lawyers goes a long way to address areas such as communication skills and sensitivity training, which may otherwise prove to be difficult in a traditional classroom setting.

Avenues to Facilitate Change

An observation of past practices would suggest that as the legal profession continues to evolve the training for future lawyers must do so in tandem. One way to facilitate the current cultural shift is to brand access to justice a priority for law students and to increase student participation numbers in ongoing initiatives. In order to accomplish this feat awareness needs to be thoroughly addressed at the legal education level. In particular, what ought to be considered next involves changes that can be made to the legal education system on a grander scale. Although formalised legal education has seen the introduction of mandatory courses and a rise in experiential course offerings, larger scale changes within legal education should also be considered as potential pathways to facilitate a responsive approach to access to justice concerns. Areas requiring further consideration could include:

The Legal Education Admissions Process

One way to combat the shortage of lawyers working in social justice is to design a more holistic/subjective admissions process. Introducing additional subjective requirements provides admissions staff the opportunity to determine whether or not potential students have or will have an underlying interest in access to justice. Subjective entrance requirements enable potential students to be more thoroughly understood prior to acceptance, which may lead to an increase in the number of students who will effectively contribute to social justice initiatives during law school and into their legal careers.

Experiential Opportunities, Training Programs & Curriculum/Degree Requirements

Legal education institutions may want to reconsider the role access to justice course offerings play within their overall curriculum. Presently course offerings are optional and accept a limited number of students each year. Recognizing that a balance must be maintained with the introduction mandatory courses, it is often the case that students enrolling in access to justice classes sought them out based on prior interest. Education institutions should strive to create a curriculum and education program where access to justice becomes an inherent part of legal education where students can learn about issues in a way that can benefit themselves and their future careers. What remains vital is to ensure the subject is not forced upon students or implemented to the detriment of those ultimately requiring assistance.

Interdisciplinary Connections/Opportunities & University Perspectives

Legal practice is best viewed in a multi-disciplinary context, as should a student's experience within their legal education. One way to equip future lawyers with a holistic

and well-rounded learning environment is to foster an open dialogue with other faculties and colleges. The creation of an interdisciplinary academic and social environment allows students to consider a variety of circumstances and experiences outside basic legal theory.

Tuition and Clinical Experience

The continued increase in tuition for legal education can be found to hinder access to justice in several ways. One obvious hindrance is an unattainable education for underprivileged individuals. A second sees students faced with concurrent employment obligations; effectively constraining their ability to participate in opportunities such as volunteer clinical experiences. Through investigation it may be possible to yield recommendations which provide underprivileged students the opportunity to participate in access to justice initiatives without adding an unnecessary financial burden.

The Future of Legal Practice

As was useful in the legal education context the literature and the views of current Saskatchewan bar members will be discussed and then followed up with an integration of information and ideas.

Literature Review

Over time it has become clear that the majority of the public cannot afford to access services within the legal professions current business model. This demonstrates a need to continue to develop methods to better assist potential clients. To keep with the times and prepare for change the literature on this subject tends to be dominated by several recurring themes: movement away from the adversarial approach, alternative business models and embracing technology. In order for there to continue to be justice individuals need to be able to find out what the law is, what their rights are, and how to resolve disputes without emptying pockets, especially those not full to begin with.

The growing trend away from the adversarial approach is in-and-of-itself a broad topic and encompasses many different paths to conflict resolution. When speaking about alternative dispute resolution this includes approaches such as collaborative law, negotiation, mediation, therapeutic justice and the introduction of problem solving courts. Initiatives take many different and distinct forms but all have common ground, namely working together in an attempt to come to a timely, just and fair resolution. This type of approach ideally relieves the pressures placed on the courts to resolve non-essential matters, is cost effective for those involved and leads to a more favourable

resolution. It is well documented that parties are more willing to comply with agreements in which they had taken an active role in determining the outcome.

When speaking to alternative business models the degree of incorporation into other jurisdictions varies. Some models remain mere ideas whereas others have been implemented and require a close watch to monitor progress and development. Several models put the entire dynamic of a private firm in question while others propose modifications to an approach currently dominated by the billable hour. This broad array of models includes qualified "non-lawyers," unbundled services, legal Insurance, limited scope retainers, 'ghostwriting', legal hotlines, fee sharing, non-lawyer owned firms and commodification of legal services. Many of these approaches are geared at addressing the large middle class gap by restructuring or breaking apart the current model to allow for representation when required and within reasonable means.

Many Saskatchewan firms and courts have already taken a step to embrace technology. This includes sharing online legal information, electronic communication and research. The use of technology allows for video court and client meetings for those unable to attend in person; be it for inclement weather, transportation issues or other inhibiting factors. Initiatives expanding beyond this scope seek to resolve disputes electronically and begin to ask whether individuals need to enter a courtroom in order to resolve a dispute. One initiative resolves minor disputes in an online forum. This model allows the perspective to be heard and (ideally) resolved while saving money and time for all parties involved.

When the models are considered collectively it is clear that they all are attempting to reach the same goal; finding new ways to provide more services for less cost. Although some of the proposed ideas may not be the best services available they serve to create a far more accessible system. Richard Susskind, a world renowned scholar in the area of professional development has developed two strategies focussing on efficiency and collaboration which he believes can service this need. These two strategies generally explain what is needed to cope with the problem of a rising demand on lawyers. What is clear is that the literature provides numerous avenues and approaches which may benefit the residents of Saskatchewan if properly incorporated.

Exploratory Outreach

Members of the bar offered a wide assortment of ideas and suggestions for how to better provide legal services for those financially out of reach. As luck would have it

many of these ideas are found to be directly opposite the view of fellow practitioners. This response demonstrates the issue is larger than one might assume, serving to highlight that members of the bar are not aware or have not been kept up to date with issues currently facing their own profession. In order to begin working towards a meaningful solution the first step may be as simple as issue awareness as some individuals were not aware there is a problem with clients being able to afford their services.

How to Approach Change

A number of professionals suggested it all boils down to government involvement; if the government wants access to justice they need to find ways to provide it. These views believe expectations are unrealistic in terms of access to justice for private firms and students who also have debt, billable hours and financial obligations. If the profession wants to facilitate access the circumstances/expectations on young lawyers needs to be changed. As resources are required to facilitate this change it was suggested that the government should shoulder this responsibility.

Viewable as common ground was that the overarching problem of access to justice is not merely an issue of free services. The larger issue requires a look at an overarching problem related to costs, business model, the complexity of court process and so on. What is needed is a multi-pronged effort to solve the greater problem; the government, bench, senior lawyers, law societies, recent grads and law colleges all have important roles to play. It is a matter of innovation and re-evaluation by all parties. It was suggested that if more lawyers did pro bono work or if the government offered tax credits for pro bono hours then the problem will be solved. Others view these types of suggestions as more a Band-Aid as the amount of spare time lawyers have is dismal compared to the amount of need. Some believe there is less access now than ever before.

Bridging the Cultural Divide

No matter what shape change takes in the future what is key is the inclusion of the Aboriginal community/perspective. Steps have already been taken with the creation of the Cree Court and the Aboriginal court worker program. Despite advancement, it is also of importance to have justice/youth justice measures that encompass Aboriginal traditions and beliefs. Aboriginal court workers are especially beneficial in criminal courts in order to understand the needs of the Aboriginal community, even when legal aid is involved. Reintroduction of the Aboriginal court worker program was important as the inclusion of individuals familiar with the culture helps those 'frozen' in the system who might not be able to work in that context.

A similarly identified idea albeit different approach focusses on barriers faced by new Canadians. Currently individuals are challenged with a multitude of problems surrounding spoken and written literacy issues. All Canadians are entitled to a fair trial as guaranteed in the *Canadian Charter of Rights and Freedoms*. It is very difficult for those who do not speak English to be able to properly fill out court forms or have a fair trial if they cannot understand what is going on. Diversity and cultural sensitivity are the essence of Canadian identity but somehow are not effectively utilized within the justice system.

Times have changed

Back in the day a handshake was as good as a signed contract and if your old Dean called in a favour then of course you would do it, whether it meant getting paid or not. Unfortunately these attitudes were a product of their time and the older fashion values are not as practical in the current context. In modern times there is a higher expectation of lawyers, specialization, not to mention a larger community and services sector. Articling used to be a time to learn and observe, now it has gone to timesheets, record keeping and maximizing output. Student debt has also changed the atmosphere to one of a paid position. While it may be good to reminisce about how things used to be, anything more than the incorporation of traditional values into the current approach may not be appropriate for this day and age.

The procession of time has also seen with it a transition of the profession from 'an old boys club' to one of comparable opportunity for both sexes. Although improving, private practice continues to be less sympathetic towards raising a family and the reality of post birth recover times; medically, personally and client based. Although males are beginning to take more parental leave this remains to be a female dominated area. As a result there continues to be a greater number of women in government and in-house counsel positions as their length of time within the profession increases. Although career paths may change down the road the number of women entering the profession and private firms at the outset is generally perceived as equal between the sexes. Members of the bar also indicated that there does not appear to be any differentiation of treatment or perceived quality of work between the sexes throughout the profession.

Alternative Innovation Opportunities

The current structure of private practice can be best described as a move towards a business model. Under this approach the bottom line sees the firm as a business. What is important is making money and covering overhead. Successful lawyers within this

model are ones who bring in the most money and log the most hours. An inherent problem with this model and the billable hour in general is that as costs continue to increase the affordability of legal representation to the public begins to suffer.

Under the billable model costs have been on the rise. Within this approach the use of alternative dispute resolution techniques has helped to reduce the overall cost. Our interviewees estimated less than 5% of all actions now reach the courtroom. This shift away from a purely adversarial approach has not only helped to reduce costs but also the amount of time spent on disputes. The introduction of mandatory alternative dispute resolution techniques was overall believed to hinder a speedy resolution rather than help it. Many individuals are of the view that most legal professionals will realise which disputes can be resolved outside the courtroom and will take that approach when it is most appropriate, not when they are forced to begin discussions.

The introduction of alternative business models into Saskatchewan has been proposed to combat the rising costs and the associated gap of individuals who can no longer afford legal representation. The Law Society of Saskatchewan sees value in alternative business models but still needs to evaluate whether it should step aside and allow new methods of delivering services into the province. There are numerous avenues this approach can take, all which have their own pros and cons with implementation. Although there are many proposed alternative models out there, interviewees who addressed these approaches did not truly see a demand for them. What was present among individuals was the uncertainty of whether implementation of any of these models was realistic or would actually improve access. Several alternatives models were identified by a portion of the legal professionals consulted. They included:

Qualified "non-lawyers"- The incorporation of simple and less complex legal services completed by qualified "non-lawyers." This approach requires a look at what legal services have to be delivered by lawyers and what legal services can be done by other trained professionals. Incorporation of this model would require the education process to be redesigned to include this newly qualified "non-lawyer" position. Importantly, in order for this type of model to be effective legal professionals need to be assured that work will not being taken away from them; which means no money will be coming out of their pockets. This method was identified by several interviewees as a possible method to help reduce work overloads in more simple areas of legal practice.

Legal Insurance - At first thought this method seems like a logical idea. Members of the public pay their monthly/yearly premium and in the event they require legal

assistance they do not have to worry about the associated costs. Prior to implementation this idea requires in-depth analysis into how it can be laid out. Several aspect which need to be considered include: Who is coverage through? How extensive is coverage? Are people really going to purchase family law insurance (for example) hoping they do not have to use it? Do you have set brackets for the amount of coverage? Who does money go to, only select firms? Once the details are settled this may prove to be a very viable option as it would not result in the overall restructuring of the legal profession.

Public Ownership Model - This approach takes the legal profession down a similar path as the one travelled by pharmacists. The idea involves no longer having just stand-alone law firms but instead incorporates lawyers into existing businesses such as large chain stores. Although these locations may not be full service firms they would provide simple services and information. While arguably more convenient for the client this type of approach may also bring with it several downfalls; the stigma of a mall lawyer being 'less of a lawyer' or the negative association of other people seeing potential clients visiting a lawyer. This method of approach was not given much credence by interviewees.

Limited Scope Retainers - Unbundled services are a way to address the problem of cost, but this is not always a clean and simple approach. Several potential issues with unbundling services were identified. Concerns surround negligence or liability resulting from the lawyer not receiving full disclosure about a case or not being able to provide a holistic opinion because the lawyers were not working on the whole file. Further, clients may need help with more than the initial aspect of their file and due to an overarching obligation to assist the client lawyers will end up having to do all the work at a lower rate. Those who addressed this type of model identified more concerns than positive aspects surrounding implementation.

Alternative Billing Models -Several options were proposed to try and combat the middle class gap. The idea of working on a flat rate was proposed but approached from a different perspective; it allows clients to prepare financially for the services and helps manage expectations. Other legal professions nevertheless believe this option to be unrealistic in that it is hard to estimate the amount of work that will go into one file compared to another, even when called upon for the same type of service. One individual introduced the notion of fixed-fees/cap-fees or sliding scale services. This process would have a program set that the client would have the pay catered to their income, with the more wealthy covering the deficit of those who are not. The familiar idea of working under a partial retainer partial contingency approach was also stated as being utilized from time to time.

Consolidation of Beliefs

Similar topics of discussion can be found in both the research and the legal profession perspective. For one, as the world continues to evolve and embrace technology the law profession must act in stride. There is also an analogous view present identifying that access issues simply do not stem from a cost factor. The issue cannot merely be resolved by suggesting that all lawyers put in longer hours and log a few pro bono hours. What must instead be considered are alternative billing models. The billable hour is becoming increasingly unaffordable to many individuals, suggesting other options should be considered. Although there is a lack of consensus among the bar as to which model(s) may be beneficial for inclusion, at least the discussions have begun into possible alternatives worthy of consideration.

Conclusion

The preceding report offers a discussion of the issues faced by the Saskatchewan legal profession and its cultural shifts and effects relating to access to justice. The opportunity to observe the differences in opinions and ideas between the literature to those within the Saskatchewan bar offers insight into what challenges and opportunities are unique to our province. The information within is designed to operate as a tool to facilitate discussion and innovation amongst the Dean's forum, while further peaking interest and awareness amongst the whole of the Saskatchewan legal profession.

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Appendix B - _Questionnaire for Legal professionals regarding the Changes in the Culture of Legal Practice_

General questions regarding the Evolution of Legal Culture

1. What would you say have been the three most successful changes to the practice of law during your time within the profession?

2. How do you think the billable hour/the partnership track/the cost of legal education/etc has affected the delivery of affordable legal services?

Past Evolution of Legal Practice: Advancements

3. What do you think are some ways that the legal profession has adapted to meet the rising need for affordable legal services?

Past Evolution of Legal Practice: Setbacks

5. Are there ways in which you believe the legal system has changed that make it more difficult for people to access the justice system?

Future Evolution of legal Practice

6. What do you believe to be barriers for lawyers wanting to work towards serving public needs for justice?

Future Evolution of legal Practice: Legal education (questions adapted from Lisa Webleys "Legal Education Training Review")

9. What skills/knowledge/experience is currently required of professionals involved in the legal services sector? What is needed from Legal Education to be more suited of the reality of practice as a legal professional? (present)

11. What skills/knowledge/experience will be required of legal service professionals in 2020 (the future)?
How do you think law schools should adjust their programs to coincide with the evolution of the culture?

12. Should periodic requalification be introduced for more senior practitioners to coincide with the evolution of legal practice?

13. Do you feel the legal profession has become more demanding on legal professionals during your time in the legal professional? (hours, quality of work, higher expectations, etc..)

14. Do you think attitudes within the legal profession have changed to become less geared towards public service or to encourage public service? Explain.

15. What do you believe to be the general attitude of those outside the legal profession when it comes to accessing the justice system?

16. Do you feel that both men and women are experiencing a similar aspect of legal culture or do you believe there remains to be a disconnect in how females are perceived and treated?

17. Do you think job satisfaction is correlated with participating in community legal service work?

18. Who else has been/should be involved in this debate that we should talk to?