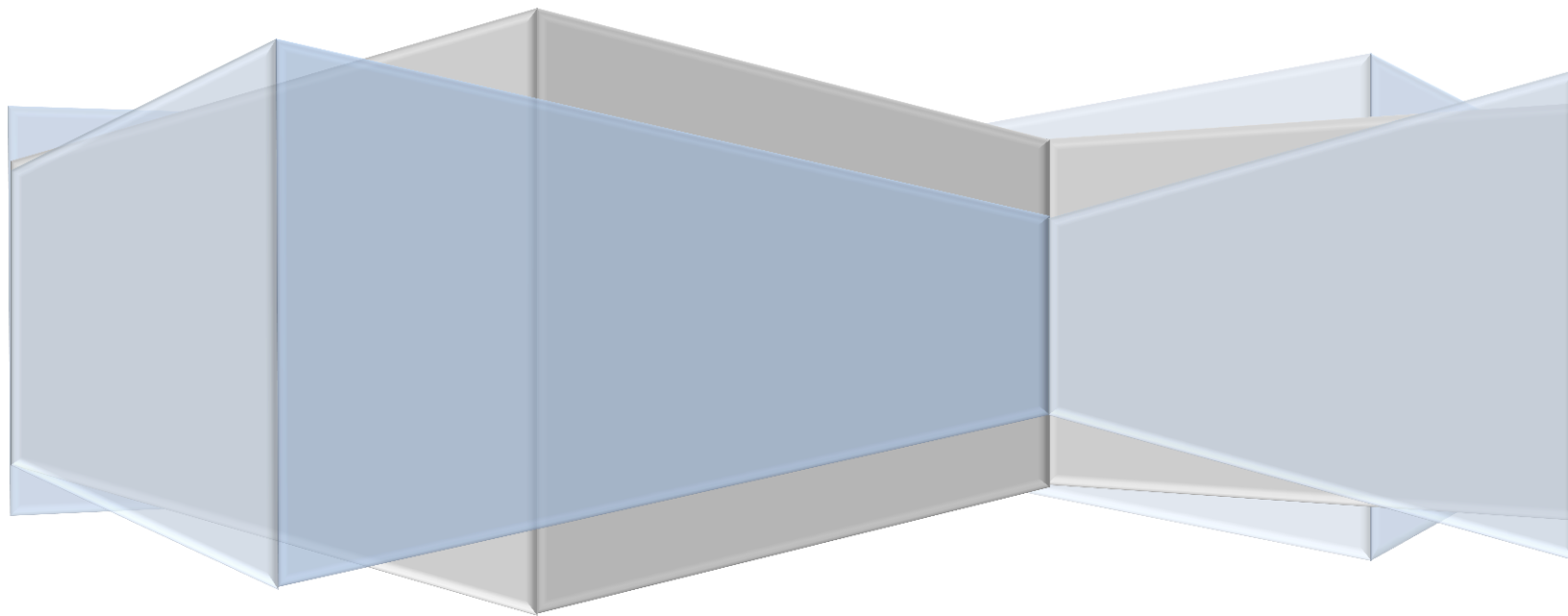


The Dean's Forum on Dispute Resolution and Access to Justice

The Saskatchewan Experience

The University of Saskatchewan, College of Law



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

Setting the Stage

The Dean's Forum on Dispute Resolution and Access to Justice was born out of a vision to bring a selection of legal system stakeholders in Saskatchewan together to discuss the problem of access to justice and to begin designing a process of action to address the problem. The decision was made to host the Forum at the University of Saskatchewan College of Law, which was well-positioned as a neutral stakeholder to play the role of convener.

The First Meeting: September 2013

For the first meeting of the Forum, invitations were sent to those who were identified as potential decision-makers in the justice system in Saskatchewan, many of which hold high-level positions in their departments. The hope was that the membership of Forum participants would evolve as issues were explored and other voices could participate in the discussion. For the first meeting, attendees included judges from all levels of Saskatchewan Courts, members from the Ministry of Justice, the Law Society, the Saskatchewan Branch of the CBA, Legal Aid, and a handful of other justice-related organizations in Saskatchewan.

The goal for this first meeting of the Forum was to locate the access to justice debate within the Saskatchewan context and begin an open discussion about challenges, needs, hopes, and possibilities. To focus the discussion, participants were provided in advance with some background material discussing the access to justice issue in Canada. Presentations were made throughout the day about some specific developments and challenges in Saskatchewan as well as some concepts that may drive future progress from a public policy perspective. In addition, participants were asked to draw on their own experiences with justice delivery in order to identify the priorities for reform.

Throughout the day, participants were separated into small discussion groups to address what has or has not worked in Saskatchewan and why, and to identify potential areas of reform. Additionally, participants were asked to begin to design a process for moving forward and to identify other voices that may need to be involved in the discussion.

By the end of the day, the group had identified three areas to focus reform efforts: (1) early integrated triage service centres, (2) public information at critical gaps, and (3) engaging practicing lawyers in a legal culture shift. Furthermore, the group decided that the Dean's Forum should continue as a think-tank discussion forum.

Preparing for the Second Meeting: Student Involvement

There was considerable interest among Forum participants in having the three focus areas further developed through some interim project work before meeting again for further discussion and planning. The College of Law recognized the potential for supporting these efforts by involving students in background research and development. Accordingly, the College of Law granted course credit to 7 students committed to access to justice through a Special Topics Course called "Innovation in Justice: Dispute Resolution and Access to Justice".

The students in the course divided into two working groups to research and develop reports on the topics of (1) Integrated Service Centres (including public information at critical gaps) and (2) Justice

Innovation and the Culture of the Legal Profession. The students grounded their work in the report of the national Action Committee on Access to Justice in Civil and Family Matters, chaired by Justice Cromwell. The students conducted literature reviews, looked to initiatives that were happening across Canada and internationally, and conducted consultation interviews with key stakeholders on each topic within the province to further inform and focus their recommendations in the Saskatchewan context. Each group prepared a report summarizing their research and identifying key ideas, themes, and points for further discussion (please find these reports attached). The students also played an integral role in the development and planning of the second Dean's Forum meeting.

The Second Meeting: March 2014

The Forum reconvened at the College of Law in March 2014 with many of the same attendees, as well as a few additions, including The Hon. Justice Cromwell and Jeff Hirsch, as part of their nation-wide presentation tour regarding their Action Committee on Access to Justice in Civil and Family Matters report. Other additions included key community-based stakeholders with a specific interest in addressing access to justice concerns in Saskatchewan.

The goal for the day was to continue discussion on the two topics and identify some tangible next steps. Justice Cromwell and Jeff Hirsch started the day off with an overview of their Action Committee process and recommendations, and provided a snapshot of what was happening elsewhere in the national arena. In addition, the Deputy Minister of Justice announced the recent appointment of an ADM of Justice Innovation within the Ministry and signalled that the Ministry of Justice was committed to moving forward on justice innovation in Saskatchewan, which set the tone for a meaningful day of discussion.

The bulk of the day was devoted to the discussion of the two topics of (1) Integrated Service Centres and (2) Justice Innovation and the Culture of the Legal Profession. The discussions were focused by presentations from each student working group on the background research and consultations undertaken throughout their course (please find one group presentation attached). As in the first Forum, participants divided into discussion groups in the morning and afternoon to workshop different aspects of each of the two topics. At the end of the day, the group gathered back together for a summary reporting of the ideas that had emerged during discussions. It became clear that there was consensus on a desire to move forward with the development of an Integrated Service Centre, which attracted support from the Ministry of Justice. There was less consensus developed around the legal culture topic, though many interesting ideas emerged for further discussion and exploration in the future.

The Future of the Dean's Forum

The Dean's Forum has great potential to continue into the future as an arms-length think tank to encourage the initiatives of the Ministry of Justice Innovation department and other organizations in the province. The model is flexible and future iterations of the Forum may involve a different set of voices depending on the projects and topics to be explored. The College of Law will continue to support the efforts of the Forum through the work of students, which will provide essential background to focus the discussions. The involvement of students is a special and unique element of the process and creates a dynamic where future professionals work alongside those at the helm of the profession in crafting the future of the legal profession in Saskatchewan.

For more information, contact:

Professor Michaela Keet (m.keet@usask.ca) or Professor Brent Cotter (brent.cotter@usask.ca)
Glen Gardner, Associate Deputy Minister, Justice Innovation (Glen.Gardner@gov.sk.ca)

Appendices

The First Meeting: September 2013	4
Appendix A: Summary of the First meeting of the Dean's Forum.....	4
Preparing for the Second Meeting: Student Involvement.....	6
Appendix B: Course Proposal Form	6
Appendix C: Integrated Service Centres Student Report	10
Appendix D: Legal Culture Student Report.....	42
The Second Meeting: March 2014.....	63
Appendix E: Summary of the Second meeting of the Dean's Forum	63
Appendix F: Integrated Service Centres Discussion Questions	72
Appendix G: Legal Culture Discussion Questions	73
Appendix H: Integrated Service Centres Student Presentation	75

The First Meeting: September 2013

Appendix A: Summary of the First meeting of the Dean's Forum

Dean's Forum on Dispute Resolution and Access to Justice

Summary notes from September 20, 2013
College of Law, University of Saskatchewan

Introductory comments cast a broad vision for the day, inviting participants to draw on their own experiences with justice delivery and reform – across topics of “access to justice”, “dispute resolution”, and operationally separate spheres of civil and criminal justice. After a number of presentations about developments and challenges in the province of Saskatchewan, Jerry McHale was invited to speak about concepts that might drive future progress. Some values emerging from Jerry McHale’s presentation are reflected in the following words: client-centered, pluralistic, multi-disciplinary, integrated, transformative.¹

Questions for discussion:

1. A) What are three areas of change or innovation that you would you like to see explored?
B) What are some specific ideas connected to each?
2. How do we advance the exploration of these ideas?

Group reports:

GROUP 1

- Supporting early intervention and triage
- Change in legal culture: changing student education (with focus on clinicals), ongoing professional education (CLE)
- Law as a public good: increase in “justice literacy”, responsibility, etc.

GROUP 2

- Culture change: interdisciplinary work, reduce exclusion from “our field”
- Negotiation and conflict resolution in all professional development
- Justice literacy
- Justice centers: multi-disciplinary, accessible
- To advance these ideas, requires coordination at all justice levels

GROUP 3

- Expanding resources - use law students as a resource (eg. with unrepresented clients in court)

¹ See attached PPT for a summary of Jerry McHale’s presentation. Also note his reference to sites like www.rocketlawyer.com.

- Change in eligibility guidelines
- More use of technology/remote/video conferencing
- Triage HUB
- Education and/or counseling to build partners' capacity to manage their own issues (multi-disciplinary/integrated services) (for example, the "New Ways for Families" program by Bill Eddy)
- Early resolution pilot projects
- Case conferences and judicial management sooner
- Can "justice" funding be expanded through other services? (by expanding to multi-disciplinary models)
- More use of alternative measures on criminal side of the system

GROUP 4

- Early and integrated intervention (based on partnerships, multi-disciplinary; idea that there might be continuous triage – not just a one-time engagement; may be a combination of physical and virtual 'space'; use existing infrastructure and sites already set up in crisis areas (eg. health))
- Changing the culture of legal practice – create incentives for lawyers to engage in early, accessible services and in public education; unbundling legal services; increasing people who can offer the services (including increase law school enrolment?)
- Creative ways to resource legal services – eg. idea of insurance to cover legal needs of clients
- Encourage broad ownership of justice system (public and vested interests)

Overall themes:

1. Early integrated intervention
2. Public information at critical gaps
3. Culture shift (manage vested interests)
4. Broader 'ownership' of law and justice as a public good

Moving forward:

"Rules of engagement". We decided to continue as a think-tank discussion forum. At the point that the forum moves toward meaningful action, then group members would need to consult their constituencies/organizations, and consider whether and how they might participate further in a more representative capacity. (i.e. 'Authority' now extends to unattributed discussions in the think-tank; not yet engagement in action-oriented problem-solving.)

Next steps:

- Explore ways to develop these themes further, so that a more concrete set of ideas can be presented to the Dean's Forum next time;
- Establish working groups to support this research and writing?
- Schedule a follow-up meeting with this group;
- Consider how and when to include 'other voices' in the conversation.

Preparing For the Second Meeting: Student Involvement

Appendix B: Course Proposal Form

Course Proposal Form

Course label: Special Topics (3 credit units) **College:** Law

Title: Innovation in Justice: Dispute Resolution and Access to Justice 498

Proposed implementation: Winter/14

List other courses affected and indicate whether they will be deleted or modified:

This is a new course, which builds on skills and concepts introduced in the ADR and Mediation courses, as well as the Law Reform, Access to Justice seminar and Clinical Law courses. No other courses will be deleted or modified.

Proposed calendar entry including prerequisite:

Nation-wide conversations about Access to Justice continue to play out, with the recent Cromwell Report an important touchstone. The first meeting of the Dean's Forum on Dispute Resolution and the Justice System was held in September, 2013 - a gathering of a couple dozen leaders in the Saskatchewan legal and justice community. The day's conversations identified both challenges and opportunities. At the conclusion of the day, Forum participants were invited to brainstorm ideas that might hold promise for 'accessible justice'. Three areas of possible change were prioritized: **(1) early integrated service centers (2) public information at critical gaps (3) culture shift/ways to engage practicing lawyers.**

This course would engage students in this important policy development exercise. Students would undertake research connected to these themes, produce and present reports at the next gathering of the Forum on March 13, 2014. We expect the same participants to attend, including special guest Justice Cromwell, as well as some Saskatchewan judges, lawyers and representatives of the Justice Ministry and community groups.

There are no pre-requisites for this course.

NOTE: Students will not be assigned to this course through the ordinary balloting procedure. A notice was circulated to all upper year students about this opportunity, in early January 2014. This term, 7 students expressed interest, and it is proposed to offer each of them a spot in this course. If the Forum – and the prospect of student involvement – continues next year, then a selection process (similar to Clinical programs and Moots) would be developed.

Resources required to offer this course:

Faculty: In 2014 the course instructor (or moot coach) will be Michaela Keet (with support from Brent Cotter)

Space, equipment & other resources: Occasional classrooms.

Need for this course:

The Dean's Forum on Dispute Resolution and the Justice System is an important and time-limited initiative, that engages lawyers, judges and policy-makers with decision-making roles in Saskatchewan. This course would offer law students a unique opportunity to contribute to this consultation and policy development exercise. With our strengths in the dispute resolution area and our growing interest in community engagement and clinical positions for students, there is little to lose and much to gain by participating.

Objectives of this course:

Students would participate in four phases of a consultation process: (1) project planning (2) research, consultation and paper development (3) communication strategy and presentation (engaging the audience) (4) action planning and follow-up writing.

Method of student evaluation

Students will be evaluated based on their participation and effort (30%) and on an assessment of their written work (70%). Most of the course work will be completed within working groups. Written work will include various components attached to the phases described above: summary of project plan (2-3 pages), research paper (15-20 pages), communication strategy (2 pages, along with presentation), action plan (10 pages with executive summary).

Contact person: Michaela Keet

Date: January 2014

Other Information Required

Relationship of course content to that of other courses:

The intensive practice dimension of this course makes it unique. Although the issues it may introduce will relate to those covered in other courses, it will do so in a way that promotes progressive learning, with an intense focus on skill development and engagement with professional communities.

Method of delivery:

Students will meet regularly with the supervising instructor to plan, and to discuss broader issues relating to the experience. Some guests will be involved – as presenters, and as advisors to student working groups.

Audience for whom the course is intended:

Upper year law students.

Expected enrollment:

6-8 students for Winter 2014

Instructor:

Michaela Keet

Textbook, etc:

See attached outline.

Facilities and equipment:

Occasional use of classroom space.

Special Topics 498.3
Draft COURSE OUTLINE

INSTRUCTOR: Michaela Keet

COURSE DESCRIPTION

The Dean's Forum on Dispute Resolution and the Justice System is an important and time-limited initiative that engages lawyers, judges and policy-makers with decision-making roles in Saskatchewan. This course would offer law students a unique opportunity to contribute to this consultation and policy development exercise.

REQUIRED READINGS

Early readings will include the Cromwell Report and reports of the sub-committees. References will include those which explore critical perspectives on the topic of access to justice, and some addressing collaborative policy making, such as:

Abelson J, Forest P-G, Eyles J, Smith P, Martin E and Gauvin F-P. Deliberations about Deliberation: Issues in the Design and Evaluation of Public Consultation Processes, McMaster University Centre for Health Economics and Policy Analysis Research Working Paper 01-04, June 2001.

Center for Collaborative Policy. n.d. Five stages of collaborative decision making on public issues. California State University, Sacramento.

CLASSES AND DISCUSSION

Students will be divided into two working groups for the purpose of developing the themes identified by the Forum. Classes will be held with the instructor 6-8 times during the term, leading up to the Forum activities on March 12 and 13 (students will be required to participate these days). The classes will be used to move the students through the four project phases: (1) project planning (2) research, consultation and paper development (3) communication strategy and presentation (engaging the audience) (4) action planning and follow-up writing. Guests from the Department of Justice and Graduate School of Public Policy will be invited to speak to students during these phases.

ASSESSMENT

Students will be evaluated based on their participation and effort (30%) and on an assessment of their written work (70%). Written work will include various components attached to the phases described above: summary of project plan (2-3 pages), research paper (15-20 pages), communication strategy (2 pages, along with presentation), action plan (10 pages with executive summary). The research phase may include empirical research (interviews with lawyers, government policy-makers, and stakeholders), and if so, then a Research Ethics application will be developed and submitted.

Bridging the Gap: The Prospect of Integrated Service Centres

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

Working Group #2

Rochelle Blocka, J.D. Candidate 2015

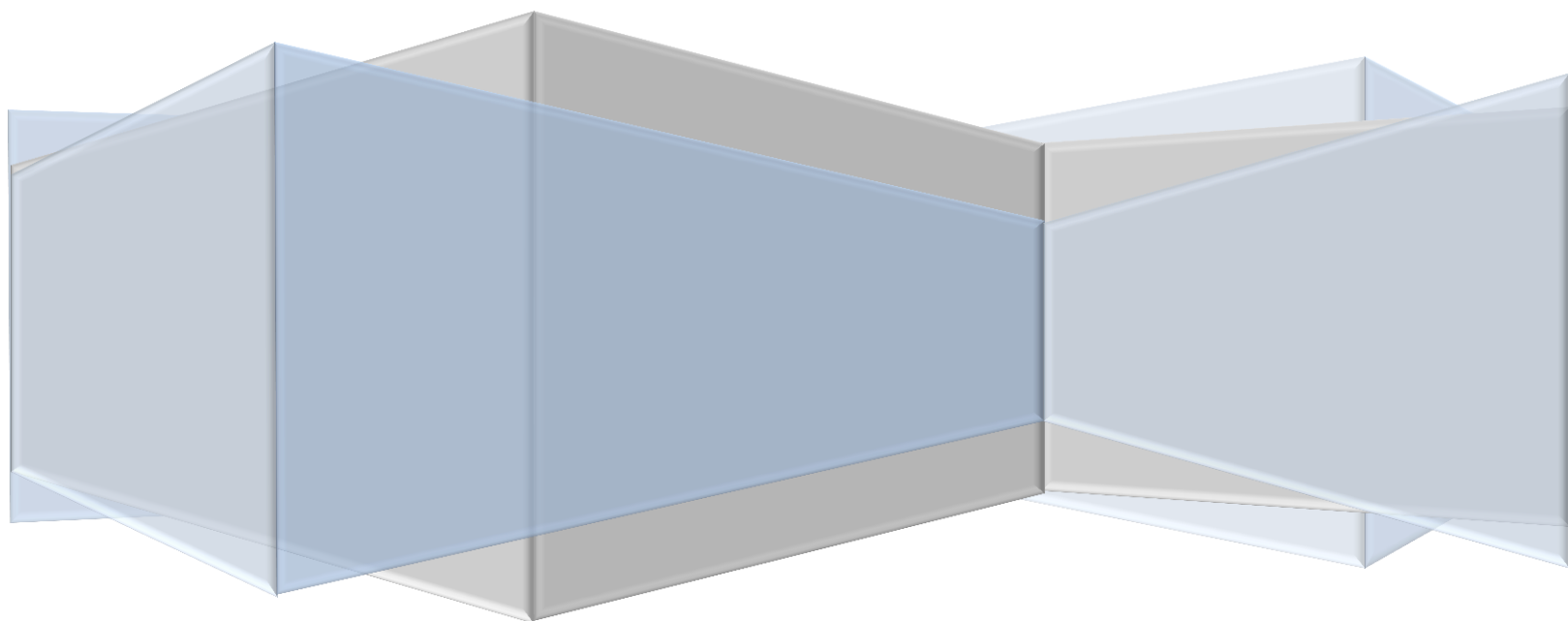
Katherine Melnychuk, J.D. Candidate 2014

Siobhan Morgan, J.D. Candidate 2014

Miles Waghray, J.D. Candidate 2015

The University of Saskatchewan, College of Law

March 13th 2014



Contents

A) Mission Statement.....	12
B) Consultations	13
C) Future Possibilities for a Saskatchewan Service Centre	16
D) Structural Issues to Consider.....	17
a) Methods of Providing Information	17
b) Offering of Advice and Providing Representation	18
c) Range of Services	19
d) Method of Conveyance	20
e) Location of Services	21
f) Qualification for Services.....	22
E) Implementation	23
F) Conclusion	24
G) Appendices	25
a. A Summary of the Cromwell Report: How does the Report address the topic of integrated service centres?	25
b. Existing Programs in Canada.....	27
c. Existing Programs in Australia and Aotearoa/New Zealand	36
d. Literature Review	39

A) Mission Statement

There is a significant segment of the Canadian population that is unable to access the knowledge, services, or resources they need to address their legal issues. This gap in accessibility is due to several reasons, including:

- the rising cost of legal representation
- the complexity of the justice system
- the difficulty in navigating the justice system
- the inaccessibility of legal language
- the lengthy process in pursuing legal action

At the September meeting of the Dean's Forum on Dispute Resolution and the Justice System, participants identified the "integrated service centre" – providing early intervention and a comprehensive assessment of issues - as an idea worth exploring. Our mission as a working group of the Dean's Forum was to do the following:

- 1) Survey examples and provide concrete and tangible descriptions of an integrated service centre
- 2) Describe the spectrum and locate models on this spectrum
- 3) Explore and examine the possibilities in the Saskatchewan context
- 4) Anticipate the barriers and hypothesize an implementation plan

We began our investigation with a review of the Cromwell Report, by exploring existing programs in Canada, as well as those operating in Australia and New Zealand, and rounded things off with a literature review on Access to Justice topics. The review provided a useful starting point for our analysis, and is summarized in the appendices attached to this report. The summary of the Cromwell report strives to capture how the Report addresses integrated service centres. The information on existing programs in Canada illustrates how different jurisdictions have established programs to address the gap in the provision of legal services and serves as a range of potential possibilities to import for the Saskatchewan context. An analysis of the programs operating in Australia and Aotearoa/New Zealand further broadens the perspective on developments in this area. Finally, the literature review on Access to Justice provides insight into this complex issue and helps guide our work on integrated service centres.

B) Consultations

In our investigation for potential options for an integrated service centre, we considered it important to gather input from legal representatives in the field. As with all aspects of this report, we offer this as a starting point – recognizing that expanded conversations along these lines will be vital. Consultations were conducted with several key stakeholders in the Saskatchewan legal community as well as with leaders in the field of access to justice. The following individuals were contacted: Kelly Shaw (Director at Legal Aid, Family Law), Nicole Sorauer (Pro Bono Law Saskatchewan), Joel Janow (PLEA), M. Jerry McHale, QC (Lam Chair in Law and Public Policy at University of Victoria), and Dr. Deborah Doherty (Public Legal Education and Information Service of New Brunswick).

These consultations were conducted as interviews focussing on currently recognized gaps in legal services, how an integrated service centre could address the access to justice problem, and any obstacles in implementing such a model. The following are common themes that arose throughout the consultations:

1) Early intervention

Receiving assistance at the first instance of a legal problem is crucial to responding effectively to the issue. Without early intervention, a simple problem can be compounded, multiplied or intensified with time. An effective model would consist of front end services as an efficient use of people and resources. The centre could provide information, education, advice, orientation, and assistance to the public at an early stage in the dispute resolution process. An early intervention model would provide people with immediate legal direction and assistance with their problems.

2) Assistance in navigating the justice system

The justice system can be difficult to navigate, especially for individuals without legal training. When faced with a legal issue, people often do not know where to go or who to contact in order to access resources. The complexity of court forms and procedures and the lack of guidance throughout the process can lead to incomplete forms, missed deadlines, and general confusion around the legal matter. The public could utilize an integrated service centre as an initial place to go that helps them determine their next step. Getting help in navigating the system at the initial phase of a dispute is crucial in getting a just result.

3) People are falling through the cracks

There is a segment of society that is unable to achieve assistance with their legal issues. Those who can neither access Legal Aid or Pro Bono, nor afford legal representation are often left to deal with their legal problems themselves and may not get a just result. Furthermore, self-represented litigants often are not aware of alternative dispute resolutions, leading to more cases being dealt with through the court system. The focus needs to shift from perceiving self-represented individuals as a problem to working to better assist these people.

5) Information

Although information may be available through several avenues, an integrated service centre could assist in consolidating the information and resources available for legal problems and related issues. Information is essential in fostering a long-term resolution to legal problems and in empowering individuals to make informed decisions on an appropriate course of action. By providing information that is accessible and centralized, an integrated service centre can play a part in conflict prevention, assistance, and resolution.

6) Multi-dimensional and multi-disciplinary approach

Legal problems often do not stand alone; they can occur concurrently with other issues. An effective integrated service centre would ideally adopt a multi-dimensional and multi-disciplinary approach. Referrals to and assistance with issues such as counselling, mental health assistance, family justice services, workshops, mediation, and children's support. Numerous studies show that individuals in crisis turn first to community agencies for support; referrals and coordination with these services would therefore be very useful. A co-ordinated and comprehensive approach will require representatives who are able to assist individuals by identifying their multi-faceted issues and referring them to the resources and services that can help them.

7) Online Help

In a technological age, an online presence would be an important aspect of an integrated service centre. Due to mobility issues and the ease and immediacy of the internet, an online portal for the centre can assist a broad segment of the population who cannot or chooses not to attend the centre in-person. An online portal for the centre could offer general information about the law, legal processes, legal form assistance, and referrals to legal and related services and resources.

8) Promotion of Alternative Dispute Resolution

Alternative dispute resolution methods can be integrated into the model as an alternative to litigation. Early support and information can empower clients to seek resolutions outside the courtroom. Methods such as mediation, collaborative law, and online dispute resolution can serve as off-ramps from the traditional litigation route. Emphasis on dispute resolution promotes long-term resolutions rather than quick fixes to legal problems.

9) Location

The location of an integrated service centre is important in ensuring that people in the community are able to adequately access the resource. An integrated service centre could benefit from working within a local Courthouse. This location would be convenient for the public to access, for judges to refer litigants to, and can make the legal process more streamlined. However, an independent location could also be beneficial, as a stand-alone location may offer a more neutral territory for the public.

10) Personal Assistance

The law has its own technical language which is not easily accessible to the general public. An integrated service centre will help to combat not only literacy issues, but also legal literacy problems when it comes to accessing and understanding legal information. Having a personal representative from an integrated service centre can significantly assist people in understanding legal information and court processes. A representative can be available to explain forms and documents, assist in document preparation, explain court process and procedure, and refer individuals to alternative dispute resolution methods. Furthermore, representatives can assist in identifying issues, legal or otherwise, that an individual has not yet considered. They can then help individuals in accessing the resources, information and services necessary to address their issues.

Point to ponder: Are there currently any other gaps in legal services or ways that you feel an integrated service centre can address relevant problems in the justice system in Saskatchewan?

C) Future Possibilities for a Saskatchewan Service Centre

A vast spectrum of possibilities exists in creating integrated service centres within Saskatchewan. Each layer of the spectrum carries with it associated costs and benefits, and each idea must be weighed in accordance with the specific needs of Saskatchewan residents. For this initiative to reach its potential, it must be multi-dimensional, layered, and comprehensive. Each “piece” of the initiative must support the other pieces and be able to work together over time.

This brings us to the challenges. Depending on the model, a great deal of resources may be required to operate a service centre. Furthermore, the location of the centre invites problems of accessibility. Due to the demographics of Saskatchewan, the challenge of providing services to rural communities is something that must also be considered.

Setting up an online portal would be helpful in providing large volumes of legal information but again invites problems of legal literacy and the ability to manage and utilize the information one receives. Also, a number of people who are “falling through the cracks” may not have access to the internet or be able to access an online resource. Having a physical service centre would be advantageous for these reasons, but is limited to the geographical area where it is located.

Even though there will be inherent challenges in any model proposed or implemented, what must be addressed is that Saskatchewan is in need of a progressive step forward when it comes to allowing the public adequate access to justice. Whether this model involves centralized integrated service centres with an online component to aid rural communities between monthly clinics is yet to be decided, however, the ability to start an initiative on the ground floor allows everyone involved to begin to address the needs of the public while allowing for a foundation to be built which collectively can address the overall needs, gaps, and barriers inherent in the current system.

It would be senseless to suggest that implementing an integrated service centre would begin to serve all identified concerns. This does not, however, suggest that any efforts would be futile, but instead lends the idea that developing a layered approach would not only allow for resources to become available when they are economically feasible, but would further allow the model to be adapted and built towards the public as it becomes evident what is working or what specifically needs to be addressed to encourage a successful program in Saskatchewan.

Points to ponder:

What would an ideal integrated service centre look like to you?

How would you model an integrated service centre to meet the multi-dimensional needs of the Saskatchewan population?

Are there other social services that you feel are relevant to include in this model?

If so, what?

D) Structural Issues to Consider

a) Methods of Providing Information

Online Information

- Benefits: Inexpensive; easily accessible to those with access to the internet
- Challenges: Inaccessible to those without the internet; does not address issues of literacy and legal literacy; needs to be updated regularly

Written Works

- Benefits: Inexpensive; easy to update and provide; many resources have already been created; can provide information in plain language; can direct people to related services and resources
- Challenges: Does not address issues of literacy and legal literacy; gaps in topic areas; does not offer a complete form of assistance without personal aid; needs to be updated regularly

Programs and Workshops

- Benefits: Provides for more understanding and an opportunity to ask questions; provides personal assistance with an issue
- Challenges: People may not anticipate their legal problems; issues of accessibility

Triage and Referral

- Benefits: Helps translate/simplify problems and directs the person to relevant sources for help
- Challenges: Location; coordination; inefficiency; lack of expedience

Walk-in Information Centre

- Benefits: Provides for more understanding and an opportunity to ask questions; can be a one-stop shop for people to go with questions and concerns; can direct people to

related resources and services; centre is accessible early in the process and throughout the process

- Challenges: Location; reaching out to rural communities or those without transportation; potential for the environment to appear inaccessible or daunting

b) Offering of Advice and Providing Representation

Clinical Students

- Benefits: Low cost; availability
- Challenges: Lack of knowledge; lack of experience; potential for legal liability in the provision of legal information and/or advice

Legal Aid

- Benefits: Extensive knowledge and experience; can offer a wide range of services based on the needs of the client
- Challenges: Limits those who qualify for service; limited to family and criminal law matters

Pro Bono Lawyers

- Benefits: Provides a range of available lawyers with differing areas of specialty province-wide
- Challenges: Limited in number of hours available; may not specialize in required area of need

Government-staffed Clerks

- Benefits: Can offer a range of services based on needs of client; specific training for this purpose and position; not limited to providing assistance to only those who are eligible based on income
- Challenges: Staffing; training; funding from Government; expediency; question of how broad the net is cast for non-legal services

Other Professionals (ex: Social Workers, Family Justice Workers)

- Benefits: Can offer assistance and services beyond the scope of legal professionals; does not limit the issues that can be addressed to strictly legal problems
- Challenges: Staffing and funding these positions; may only require their assistance in a referral capacity

c) Range of Services

Legal Consultations

- Benefits: Can provide information to self-represented litigants; less costly than full representation; can provide a full assessment of issues and possible resources and services available; compatible with services such as pro bono that offer limited hours of resources
- Challenges: May not address needs or questions of clients; client may suffer with issues of legal literacy; issues with accessing separate locations and services

Full representation

- Benefits: Can assist the client throughout the entire legal process
- Challenges: Availability of lawyers and students; legal liability of students in providing advice; potentially limited group of people who could be offered this service

Offer referrals to other firms or agencies when unable to provide assistance

- Benefits: Provides individuals with direction; assisting with not only legal issues but associated/non-associated issues which only compound their problems
- Challenges: Clients may have problems in accessing different locations and services

Providing non-legal advice and referrals (ex: self-help, housing, family justice, ADR)

- Benefits: Provides a one-stop shop for clients who may not know what kind of assistance they require; raises awareness of the services and resources that are available; assists clients with related issues which only compounds their problems

- Challenges: has potential to place a large burden on the employees to provide services and be knowledgeable in a wide variety of areas

Points to Ponder: How would you convey these services to the people in need?

How would you overcome obstacles of accessibility and communication?

d) Method of Conveyance

Internet

- Benefits: low cost; lawyers/staff/students can provide answers at their convenience
- Challenges: Conveyance of issue; not easily accessible to those without the internet

Telephone

- Benefits: Accessible from anywhere in province as long as you have a phone
- Challenges: Might be more difficult for clients to convey issues/to provide advice; language barriers; clients may not have consistent contact information

Appointments

- Benefits: convenient for staff/lawyers/students; convenient to client due to decreased wait time in the centre
- Challenges: Finding contact information; many clients have multiple crises; problems may compound, change or intensify after the appointment; potential for lengthy wait times for an appointment

Walk-in

- Benefits: convenience to the public for when they are available; clients have the benefit of getting a personal consultation
- Challenges: Inconvenience to staff/lawyers providing pro bono hours; inconvenient to

the public due to limited hours or extended wait times; less accessible for those living in rural communities

Points to ponder:

Who do you have in mind when imagining your ideal integrated service centre? Should the focus be on a broader group of people or a targeted segment of the population?

e) Location of Services

Online

- Benefits: Inexpensive; transcends geographical barriers; available 24/7
- Challenges: Users may not receive adequate help with their concerns; inaccessibility to those without the internet; literacy and legal literacy concerns not addressed

Courthouse

- Benefits: Convenient location for certain legal services; can make the court system appear more accessible; benefits from a central location for legal needs
- Challenges: Inconvenient for other legal/non-legal concerns; may not appear to be an independent or neutral location; limited hours of operation

Neutral Location

- Benefits: Conveys a perception of independence from the courts
- Challenges: Has the potential to create one additional location and step to the already lengthy process

f) Qualification for Services

In considering who would qualify for services, we must also evaluate the following concerns:

- Most clinical services are currently geared towards those below the poverty line. Would taking a similar approach fail to address identified barriers and gaps?
- What about the middle class? Consideration of projected costs for legal issue resolution
- Considering non-monetary barriers such as language, ethnic background, topic of public interest, etc.
- What kind of legal/non-legal issues are more likely to receive service? Are there some legal problems which are less likely to get resolved by a service centre?
- Would it be better to cast a broad net for those who qualify to receive services or to focus on a targeted segment of the population? What are the implications for choosing one basis over another?

Point to Ponder: How would you go about implementing a service centre?

E) Implementation

In efforts of working towards the goal of an integrated service centre, issues concerning implementation must also be addressed. Areas to consider include:

- ⇒ Funding
 - Initial start-up as well as operating costs
- ⇒ When should an implementation committee be designated and who should be involved
- ⇒ Prospective location
 - Province-wide to determine areas most in need
 - Specific address location
 - Whether it should be affiliated with the Courthouse
- ⇒ Stakeholders involved
 - How staffing and training should be conducted

Point to Ponder:

What role can you play in the implementation of an integrated service centre? What specific expertise can you contribute to the development of a centre?

F) Conclusion

In this report we have identified a number of different themes relevant to the development of an integrated service centre following discussions with relevant authorities in Saskatchewan and elsewhere in Canada. These themes are: early intervention, assistance in navigating the justice system, people “falling through the cracks”, providing information, a multidimensional and multidisciplinary approach, online help, promotion of alternative dispute resolution methods, potential location and providing personal assistance.

With a view to these categories, future possibilities were outlined for a service centre in Saskatchewan by demonstrating a spectrum of methods for providing information, offering of advice/providing representation, range of services, method of conveyance, and potential locations. In doing so, we discussed a number of existing models and the relative benefits and challenges associated with each. This was followed up by considerations and their associated challenges regarding qualification of services and potential methods for centre implementation.

Each of these sections were developed with a view to our working group’s overall mission to address the gaps and barriers with the accessibility of justice and to facilitate conversation of how we plan to address this issue.

We hope that this report stimulates ideas and strategies for discussion at the Forum. We appreciate your consideration and contributions.

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G) Appendices

a. A Summary of the Cromwell Report: How does the Report address the topic of integrated service centres?

The Cromwell Report, “Access to Civil & Family Justice, a Roadmap for Change”, articulates the gravity of the Access to Justice problem facing Canadians today. The following summary highlights two areas taken up in the report: the lack of information accessible by the public and a way to proceed in addressing the problem through integrated service centres which is included in the Early Resolution Service Sector (ERSS).

The Report suggests that of the Canadians that face legal problems, over 20% do not take action with respect to their legal issues and over 65% perceive that nothing can be done, are unaware of their rights, do not know how to proceed, have concerns about the time or cost, or are afraid. The report indicates that these problems could be solved more easily at the early stages, but as it currently stands, unaddressed legal problems escalate and require costly court proceedings later on.

Studies report that the general public does not understand court procedures, requirements, legal jargon, and where or who to approach for help. Barriers facing the public include unavailability and inaccessibility of legal information; the complexity of the law, its vocabulary, procedures and institutions; and linguistic, cultural and communication difficulties. The Report calls for improvements to be made in collaboration, coordination, and service integration with other social service sectors and providers to combat fragmentation of the justice system and to improve access.

The Report advocates for the provision of a flexible continuum of justice services. The Action Committee’s Prevention, Triage and Referral working group suggest that early resolution and avoidance of further escalation of legal problems is less expensive and less taxing on the party. The ERSS front end approach reduces the costs usually deferred to the individual in the formal justice system, and also creates the greatest opportunity for early resolution. Public funding is currently concentrated in formal justice system mechanisms. The continuum includes the formation of the “Early Resolution Services Sector” (ERSS), which overlaps the formal justice system. The ERSS involves the formation of community hubs and coordinated community service centres. The Report emphasizes that the ERSS be integrated into the formal justice system, and coordinated to the extent possible with other services beyond those typically considered ‘the justice system’, including social services, health services, education etc. all with the objective of meeting the everyday legal needs of Canadians.

The first stage of the ERSS includes the provision of information, education, building legal capabilities, triage and referral. The second stage involves the provision of further information and summary advice, triage, and referral. The third stage involves supported dispute resolution and advocacy for clients. The two final sectors along the continuum represent the formal justice system: legal representation and trial.

The ERSS comprises a wide variety of services, including: community and public legal education; triage (effective channeling of people to needed services); pro bono services; other in-person, telephone and e-referral services; intermediary referral assistance (help in recognizing legal problems and connecting them with legal and other services); telephone and e-legal information services; legal publications programs and in-person and e-law library services; dispute resolution programs (family mediation and conciliation services, small claims mediation, lower cost civil mediation, etc); various legal aid services, including legal clinics, certificate programs, duty counsel, etc.; community justice hubs; co-location of services; student services including clinical services, student mediation initiatives, public interest programs, etc.; among others.

The objectives of the ERSS are to help people clarify the nature of law and problems that have a legal aspect; help people to develop their legal capacity to manage conflicts; resolve problems earlier by themselves and/or to seek early and appropriate assistance; promote early understanding and resolution of legal problems outside the court system through ADR mechanisms and/or directly by parties themselves; assist people in navigating the court system efficiently and effectively; and provide effective referrals.

A critical component of the ERSS is to provide access to legal information. Cooperation and coordination among providers, the development of regional, sector or national information portals, authoritative online information hubs, virtual self-help information services, certification protocols, and the formation of complaints process, are all to be introduced to foster the dissemination of legal information and promote access.

The Report addresses Family Justice services. Some of the some front end services, like those described in the ERSS, should be expanded and made more accessible. The Report suggests that an integrated delivery of all services for separating families and triage services (i.e. effective channeling of people to required services) including assessment, information and referral, should be made available for all people with family law problems.

b. Existing Programs in Canada

In our initial research, we scanned the internet for examples of access to justice initiatives across Canada. Listed below is a representative sample. Although a non-exhaustive list, it demonstrates a spectrum of possibilities. Condensed, the list shows:

- Providing information:
 - Through websites or written works
 - Programs and workshops
 - Understand court rules and procedures
 - Family issues
- Offering advice/representation:
 - Through clinical students or legal aid/ pro bono
 - Range from consultations to full representation
- Offer referrals to other firms or agencies when they cannot provide assistance
 - Not only legal advice but other issues such as self-help, housing, or ADR
- By phone/appointment/walk-in
- Qualifications
 - Most options geared towards those below the poverty line
 - One initiative considers not only qualifications for legal aid, but also whether or not the client could afford the projected legal costs - Caters to the middle class gap
 - Considering non-monetary barriers such as language, ethnic background

ALBERTA

Alberta Legal Information Society

Online at: <http://albertalegalinformationsociety.ca/>

- Legal community currently establishing a non-profit organization
- Plan underway to create a website which will serve as the initial access point of legal information in Alberta for areas of civil and family law.

BRITISH COLUMBIA

Justice Access Centre (JAC) and UVic Law Centre – Victoria

B.C. Ministry of Justice, Online at: <http://www.ag.gov.bc.ca/justice-access-centre/index.htm>

Phone: 250-356-7012, Toll-free from outside Victoria at 1-800-663-7867

- JAC to serve as one-stop centre for civil and family matters.
- Staff to provide info and simplify the process for those pursuing tribunal or court actions.
- Collaboration of Ministry of Justice with the UVic Law Centre enables Law students, under the supervision of Lawyers to provide free advice, assistance and representation for clients who could not otherwise afford a lawyer.
- Civil law services will be phased in, however initially a family justice centre with such services as family justice counselling, mediation, parent education and other resources for families experiencing problems.
- Opened following/built upon JAC established in Nanaimo and Vancouver.

JAC – Nanaimo and Vancouver

Nanaimo - Phone: 250-741-5447, Toll Free: 1-800-578-8511

Vancouver - Phone: 604-660-2084, Toll-free from outside Victoria at 1-800-663-7867

- Family and civil matters: assess needs, provide information pertaining to legal and related issues as well as refer clients to available services.
 - Self-help and information services
 - Dispute resolution and mediation options
 - Legal advice services
 - Community resources and agencies
- Does not deal with criminal, small claims forms and filing, or several other specific legal solutions.
- Some services provided to everyone while some provided to only those with low incomes.
- Helps connect clients with community services relation to mental health, alcohol and drug use, income security, debt, and housing.

Justice Education Society

Online at: <http://www.justiceeducation.ca/>

Phone: 604-660-9870

- Non-profit organization established in 1989 as the Law Courts Education Society.
- Collaborative work of the BC Ministry of Attorney General, the Judiciary and the Canadian Bar Association (BC Branch)
- Most programs and resources available free of charge.
- Objective – “To provide hands-on educational programs and services to the general public, as well as to youth, Aboriginals, ethnic and immigrant communities, deaf people, those with special learning abilities, and other groups as needed.”
- Services aimed to help provide individuals with a better understanding of how the justice system works and how to resolve their legal problems.
- Offered programs include:
 - Court information program for immigrants
 - Justice System Education Program
 - Northern Native Public Legal Education
 - Parenting After Separation
 - Aboriginal Parenting After Separation Program
 - Immigrant PLEI Consortium (IPC)
 - Mock Trial Program
 - Young Women Clinic Leaders
 - Online Parenting After Separation
 - Choices and Consequences
 - Courtlink
 - Peer Resolution Conferences

Access Pro Bono

Online at: <http://www.accessprobono.ca>

- Initially created by a group of senior Lawyers but later merged with Pro Bono Law of BC which was a joint venture of BC CBA and the Law Society of BC
- “Our Mission is to promote access to justice in BC by providing and fostering quality pro bono legal services for people and non-profit organizations of limited means.”
- Offered programs include:
 - Summary legal Advice Program
 - Civil Chambers Program
 - Roster Program
 - Solicitors Program

- Children's Lawyer Program
- Paralegal Program
- Wills Clinic Project

NEW BRUNSWICK

- Family Law Services Pamphlet outlining available services in the Province, Online at:

[http://www.legal-info-
legale.nb.ca/en/uploads/file/pdfs/Family_Law_Services_Fact_Sheet_EN.pdf](http://www.legal-info-
legale.nb.ca/en/uploads/file/pdfs/Family_Law_Services_Fact_Sheet_EN.pdf)

New Brunswick's Family Law Information Centre – Fredericton

Online at: <http://familylawnb.ca/english/index.php>

Telephone: (506) 453-5369

Family Law Line: 1-888-236-2444

- Website is created, maintained, and administered by a registered charity (Public Legal Education and Information Service of New Brunswick (PLEIS-NB)) but receives core funding and support from the Ministry of Justice, the NB Law Foundation and the NB office of the Attorney General.
- Provides general information and resources pertaining to family law in New Brunswick.
- Answers questions via telephone about how the courts work, court rules and procedures.
- Does not provide legal advice and cannot comment/assist with a specific situation.
- Conducts family law workshops called "Navigating the Justice System."
 - Work with lawyers, pro bono students, and community agencies in 2-3hr workshops to provide information for court proceedings related to: uncontested divorces, custody and access applications, child support applications and variation of custody, access and/or support.

NB Family Law Information Centre (FLIC) – St. Johns

Online at: <http://www.cfcj-fcjc.org/inventory-of-reforms/new-brunswick-family-law-information-centre-flic>

- A legal education and information centre for self-represented litigants with family law issues.
- Provide information and resources to the general public on family law issues via brochures, pamphlets, and self-help guides
- Operates out of the St. Johns QB courthouse and anyone can stop by.
- Accepts calls or walk-ins.
- Offers pamphlets and information as well as free 1hr consultations with lawyers and mediation

NOVA SCOTIA

Dalhousie Legal Aid

Online at: <http://www.dal.ca/faculty/law/dlas.html>

Phone: 902-423-8105

- The oldest clinical law program in Canada.
- The Clinic is a partnership of community groups, law students, community legal workers and lawyers.
- Offers those with low incomes community outreach, education, organization, lobbying and test case litigation.
- Clinical 3rd year students work under supervision of lawyer in representing clients as well as participate in assigned community work.

ONTARIO

Access to Justice Fund

Online at: <http://www.lawfoundation.on.ca/what-we-do/access-to-justice-fund-cy-pres/>

- National fund to provide grants across the country towards access to justice projects.
- The Law Foundation of Ontario.
- So far the grants have covered linguistic and rural access to justice, aboriginal issues, self-help, family violence, and consumer rights.
- Currently closed to further grant applications due to high volume received.

Family Law Information Centre (FLIC)

Online at: <http://www.attorneygeneral.jus.gov.on.ca/english/family/infoctr.asp>

- Organized by the Ministry of the Attorney General.
- Provides free information about divorce, separation and related family law issues; child custody, access, support, property division and child protection
- Referrals to community resources
- Each family court location provides the following resources and services available:
 - pamphlets and other publications on issues related to separation and divorce and child protection matters, including What You Should Know About Family Law in Ontario(available in 9 languages)
 - the Ministry's Guide to Family Procedures

- information about legal services, the court process and court forms
- Advice Lawyer from Legal Aid Ontario who can provide summary legal advice (certain times)
- Information and Referral Coordinator who will provide information on ADR options and issues related to separation and divorce and community resources (certain times)
- referrals to family mediation services connected with the court
- information about and scheduling for the Mandatory Information Program.

Law Help Ontario

Online at: <http://www.lawhelpontario.org/>

- Covers areas for those suing or being sued in civil court, children & youth, and charitable organizations
- Does not provide assistance for family or criminal law matters
- Online guides for different types of law and court processes
- Registered projects:
 - Employment Law Advice Clinic for low-income clients. 30 minutes of in-person legal advice.
 - Summary Advice Clinic - Free legal advice and referrals for low-income individuals including members of the LGBTQ community. Consultations are for roughly 20 minutes and are available on a drop-in basis only.
 - The Association in Defence of the Wrongly Convicted is a non-profit organization dedicated to identifying, advocating for, and exonerating individuals convicted of a crime that they did not commit and to preventing such injustices in the future through education and reform.
 - Connect Legal fosters entrepreneurship provides legal educational services and pro bono commercial legal assistance to low-resource immigrant entrepreneurs.
 - Estates Planning Project - Free wills and powers of attorney for low-income Hamiltonians.
 - Legal Clinic for the Greek - Free legal advice and referrals for all members of the public, including Toronto's Greek Community. Consultations are for thirty minutes.
 - Visual Artists Legal Clinic - free summary advice to artists about their legal rights and responsibilities. Approximately one hour of advice is available.
 - Wellspring Employment/LTD Advice Clinic - Free summary legal advice for GTA residents living with cancer who have questions about their rights and responsibilities with

respect to employment and long term disability coverage.

- Grandparents Support Project - Free advice to prospective caregivers to help them understand the financial implications of assuming custody prior to finalizing arrangements.

Community legal education Ontario (CLEO)

Online at: <http://www.cleo.on.ca/en/about/about-cleo>

- Provides information to people of low incomes or who face other barriers, such as language or literacy, to help them understand and exercise their legal rights.
- Works includes:
 - Legal information resources and publications available in a variety of languages and formats
 - research into effective ways of developing and delivering legal rights information through the CLEO Centre for Research & Innovation
 - Your Legal Rights website, which has legal information on a wide range of topics, in a variety of languages, produced by hundreds of organizations from across Ontario
 - Connecting Communities project, which is facilitating legal information training partnerships between legal and non-legal organizations to improve legal information and services for those who don't speak English or French or who live in rural and remote communities

Community Advocacy & Legal Centre

Online at: <http://www.communitylegalcentre.ca/default.htm>

- Six locations, main office in Belleville (Phone: 613-966-866, Toll free 1-877-966-8686)
- legal services, advocacy and information for low income and people in poverty
- Clinics funded by Legal Aid and staffed by a combination of Lawyers, community legal workers and a non-legal support staff.
- Centres do not practice real estate, criminal, family, or immigration law.
- Provides free legal information and advice by appointment or over the phone to those who qualify.
- Services available:
 - Legal information and advice
 - Tenant Duty Counsel
 - Representation before courts and tribunals
 - Legal education sessions & materials
 - Community capacity building services

- Law reform activities
- Referrals to appropriate services and to other sources of legal help

QUEBEC

ProBono Quebec

Phone: 514-954-3427

Online at: <http://www.probonoquebec.ca/fr/que-faisons-nous/nos-services>

- Pro-Bono partnership with various Lawyers.
- Website has about 400 free or low cost legal resources throughout Québec
- Available to those who are not eligible for legal aid, those who cannot cover legal expenses, and those who can “demonstrate that this is a cause of public interest, exceptional or that could result in irreparable harm. It can also be a cause to improve the law, the legal system and the justice system in Quebec, Canada and internationally.”
- Services provide timely assistance to self-represented litigants for family and civil matters.
- Assistance with appeals to judgements, custody arrangements, and authorization of medical care.

SASKATCHEWAN

Pro Bono Law

Online at: <http://www.pblsask.ca/index.shtml>

- A non-profit corporation geared at improving access to justice in Saskatchewan
- Promoting opportunities for lawyers to provide high-quality legal services to persons of limited means
- Does not directly supply legal services, but designs, coordinates, and promotes free legal service
 - Clinical, panel, and solicitor programs
- Created a legal services in Saskatchewan information sheet
 - <http://www.pblsask.ca/pdf/LegalServicesSK.pdf>
- Provides links to legal resources geared at providing legal information and understanding
 - ex: Summaries of Provincial laws produced by the Saskatchewan Ministry of Justice
 - <http://www.justice.gov.sk.ca/legislation-list/>

Community Legal Assistance Services for Saskatoon Inner City (CLASSIC) – Saskatoon

Phone: 306-6576100

Online at: <http://classiclaw.ca/>

- Funding is provided by multiple organizations and agencies, some of which include: the Saskatchewan Law Foundation, Saskatchewan Justice, the University of Saskatchewan, the College of Law, Urban Aboriginal Strategies, and United Way
- Must meet low-income criteria to qualify for services.
- Attention to the needs of Aboriginals
- If a criminal or family law issue the client must first be denied legal aid – non indictable offences only
- Walk-in Advocacy Clinic – Clients provided with legal information and or basic legal services by law students under the supervision of practicing lawyers.
- Legal Advice Clinic – Assists self-represented individuals by providing half hour appointments with practicing lawyers in areas pertaining to criminal, family, civil, or employment law

c. Existing Programs in Australia and Aotearoa/New Zealand

In our initial review, we also looked at these other two countries to get a sense of developments in this area. A summary is outlined below.

AUSTRALIA

Access to Justice Website

Online at: <http://www.accesstojustice.gov.au/Pages/default.aspx>

- Portal website dedicated to resolving access to justice issues on 15 different categories of legal issues ranging from Family to Bankruptcy to Intellectual Property
- Connects to sources for information and other agencies
- Also provides information about alternative dispute resolution methods, access to an ombudsperson, and supplies a PDF/Word Document guide to dispute resolution.

Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd

Online at: <http://www.atsils.org.au/>

- A community based organization, established to provide legal services to Aboriginal and Torres Strait Islander people across Queensland
- Established to foster collaborative partnerships with ATSI communities, governmental and nongovernmental stakeholders, and to initiate positive change in the interaction with ATSI people and the legal system.

National Pro Bono Resource Centre

Online at: <http://www.nationalprobono.org.au/home.asp>

- An independent, non-profit organization that encourages pro bono legal services, supports lawyers and law firms to facilitate participation in pro bono services, and works with the professional and the community sector to match services with the clients and groups most in need of assistance
- Receives financial support from the Attorney-General's department, from each state's Attorney-General's Departments, and from the Faculty of Law at the University of New South Wales
- Helps co-ordinate regional pro-bono services through a national scheme.

Conflict Resolution Network

Online at: <http://www.crnhq.org/>

- A non-legal specific conflict resolution website that offers training and information about how to communicate effectively and how to resolve conflict through creative means.

Aotearoa/New Zealand

Citizens Advice Bureau

Online at: <http://www.cab.org.nz/Pages/home.aspx>

- Offers useful information to avoid legal disputes or to guide citizens towards what to do or not do in certain circumstances.

Community Law – Free Legal Help

Online at: <http://www.communitylaw.org.nz/>

- 24 Community Law Centres (CLCs) across Aotearoa/New Zealand
- Covers much of the country, from the major city centres to rural communities
- The Community Law Centres are independent and are run either as charitable trusts or incorporated not-for-profit organisations. Each Community Law Centre has a management committee or board of elected volunteers, who plan, govern and promote their centre. The majority of Community Law Centres operate with a lot of help from volunteers, such as law students and practising lawyers
- Provides legal help to those in need across New Zealand

Law Access

Online at: <http://www.lawaccess.govt.nz/>

- A useful directory to finding help for all legal needs
- Also useful for finding local resources that can more directly solve a legal problem
- Provides free legal information, links to community organizations, and links to help get legal advice as quickly as possible
- Funded by the New Zealand Ministry of Justice

Youth Law

Online at: <http://www.youthlaw.co.nz/>

- Youth Law Tino Rangatiratanga Taitamariki is a free community law centre for children and young people nationwide
- Provides free legal services to anyone under the age of 25 who are unable to access legal help elsewhere, or those acting on their behalf

Auckland Disability Law

<http://www.aucklanddisabilitylaw.org.nz/>

ADL provides the following services:

- Access to legal information, advice and assistance
- Workshops on legal issues and help with law reform for disability groups
- Disability information and training
- Provides one-on-one or group training for legal professionals in Disability Law

Waitakere Community Law Services

Online at: <http://www.waitakerelaw.org.nz/>

- Community law centre that:
- Provides free legal information
- Provides advice and assistance services to those on low incomes with priority legal issues
- Develops and coordinates legal education, training and support for community organisations and the public
- Identifies systemic barriers to justice and working in ways to overcome these

d. Literature Review

Much has been written about the Access to Justice topic. Listed below are a few key articles that relate to our work:

1. Cardullo Ortiz, Pamela. "Courts and Communities: How Access to Justice Promotes a Healthy Community" (2013) 72:4 Md L Rev 1096.

Online at:

<http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3568&context=mlr>.

Cardullo Ortiz describes Maryland's current innovative approaches in dealing with access to justice and their response to the dramatic increase of self-represented litigants. The article describes the District Court Self-Help Centre which serves a legal walk-in clinic. The self-help centre utilizes on-site attorneys and Legal Aid to ease the process for individuals, as well as technological assistance such as touchscreen form assistance and online chat services. The author also describes how the judiciary in Maryland is an essential supporter and advocate for these unique legal services delivery approaches in promoting the real benefits that the state gains through these programs. These new delivery approaches for legal services will see real results in local communities, Cardullo Ortiz argues, by creating healthier families, neighbourhoods and communities.

2. Charn, Jeanne. "Celebrating the 'Null' Finding: Evidence-Based Strategies for Improving Access to Legal Services" (2013) 122:8 The Yale Law Journal 2206.

Online at: <http://www.yalelawjournal.org/the-yale-law-journal/essay/celebrating-the-%E2%80%9Cnull%E2%80%9D-finding:-evidence%11based-strategies-for-improving-access-to-legal-services>

This article draws from recent empirical studies concluding that litigants with access to lawyers fare no better than litigants without a lawyer. Expanding on these studies, Charn proposes that the justice system should improve legal services by facilitating the self-help of individuals to assist them in resolving everyday legal problems with full legal representation. She argues that legal services should be consumer-centred and consumer-driven in order to effect improved access to legal services. Charn contends that these self-help and "lawyer-lite" services are essential in order to expand access to law and its remedies.

3. Doherty, Deborah. "Promoting Access to Family Justice by Educating the Self-Representing Litigant" (2012) 63 UNBLJ 85.

Online at:

<http://heinonline.org.cyber.usask.ca/HOL/Page?handle=hein.journals/unbli63&collection=journals&set as cursor=1&men tab=srchresults&type=matchall&id=99>

Doherty discusses the role that public legal education has to play in improving access to justice in Canada. She draws on Justice Cromwell's suggestion that access could be improved if people were able to obtain the knowledge, resources and services to properly deal with their legal issues as early as possible. Doherty focuses on access to family justice and the negative impact that the influx of self-represented litigants brings to the family court. Self-help resources that provide accurate and easy-to-understand information to individuals about their legal rights and obligations are crucial in order to make informed decisions. Access to justice is therefore seen not as a one-time destination, but rather as a process that draws on multiple and varied needs that often arise in conjunction with other legal, social difficulties. Self-help law centres, Doherty argues, have an important role to play in empowering individuals to educate themselves on these steps in the earliest stages possible of their multi-faceted issues.

4. Ensminger, J Charlotte. "Accessing Justice: The Legal Profession's Role in Serving the Public's Diverse Legal Needs" (2011) 44 UBC L Rev 71.

Online at:

<http://www.heinonline.org.cyber.usask.ca/HOL/Page?page=71&handle=hein.journals%2Fubclr44&collection=journals81&id=81>

In approaching the improvement of the state of access to justice in Canada, Ensminger focuses on the intersection of the rule of law, an independent legal profession, and access to justice. She suggests that if the legal profession aspires to be a profession of service in the public interest, lawyers must ensure that the public has meaningful access to the justice system. Access to justice, she argues, is the ability to access legal information, advice, services and the justice system itself when it is needed and in the capacity that is needed. Ensminger states that if this type of access does not exist for the public, then the value of an independent legal profession is meaningless. In order for a self-regulatory regime to truly serve the public interest, access to legal services must be improved by diversifying the delivery of legal services. The article explains how the British Columbia Supreme Court Self Help Information Centre is one example of an effective collaboration that works as an innovative delivery model to provide individuals with a place to access legal information and resources.

5. Zorza, Richard. "The Access to Justice 'Sorting Hat': Towards a System of Triage and Intake that Maximizes Access and Outcomes" (2012) 89:4 Denv U L Rev 859.

Online at: <http://www.zorza.net/Sorting-Hat.pdf>

Zorza describes the current processes that individuals face when approaching the legal system, and notes that in general the legal processes are fragmented, inconsistent and non-transparent. He points out that there are very diverse needs involved in every legal problem, and these needs are not easily addressed by standard court processes. Zorza suggests that the legal system build a "transparent and defensible sorting system" in the form of triage. The author makes suggestions for an effective triage system, such as having one triage process dealing with court process assistance, one triage process assisting a litigant to obtain services and interact with the various players in the legal system. The article also explores defining principles of the triage process and different models that are used in the U.S. to deliver these services.

6. Von Wilpert, Marni. "Medical-Legal Partnership in Mississippi: A Model to Improve Access to Justice" (2013) 82 Supra 199.

Online at: <http://mississippilawjournal.org/2013/02/medical-legal-partnerships-in-mississippi-a-model-to-improve-access-to-justice/>

This article explores an innovative approach taken in the U.S. to combine the efforts of the medical and legal community to address unmet legal needs. Von Wilpert explains that legal services delivery models must adapt to the reality that many individuals are unaware that the challenges they face are legal in nature and that there are resources available to assist them. In response to this problem, Medical-Legal Partnerships have been developed in the U.S. that work as a legal and health services clinic. Following this partnership, physicians are able to refer patients to legal services when they identify an issue that can be resolved with legal expertise, such as: housing issues, special education needs, employment issues, and social assistance needs. The article explains how this multi-faceted and integrated approach better addresses access to justice needs through collaborative professional efforts.

Justice Innovation and the Culture of Legal Practice

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

Working Group #1

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March 13th 2014

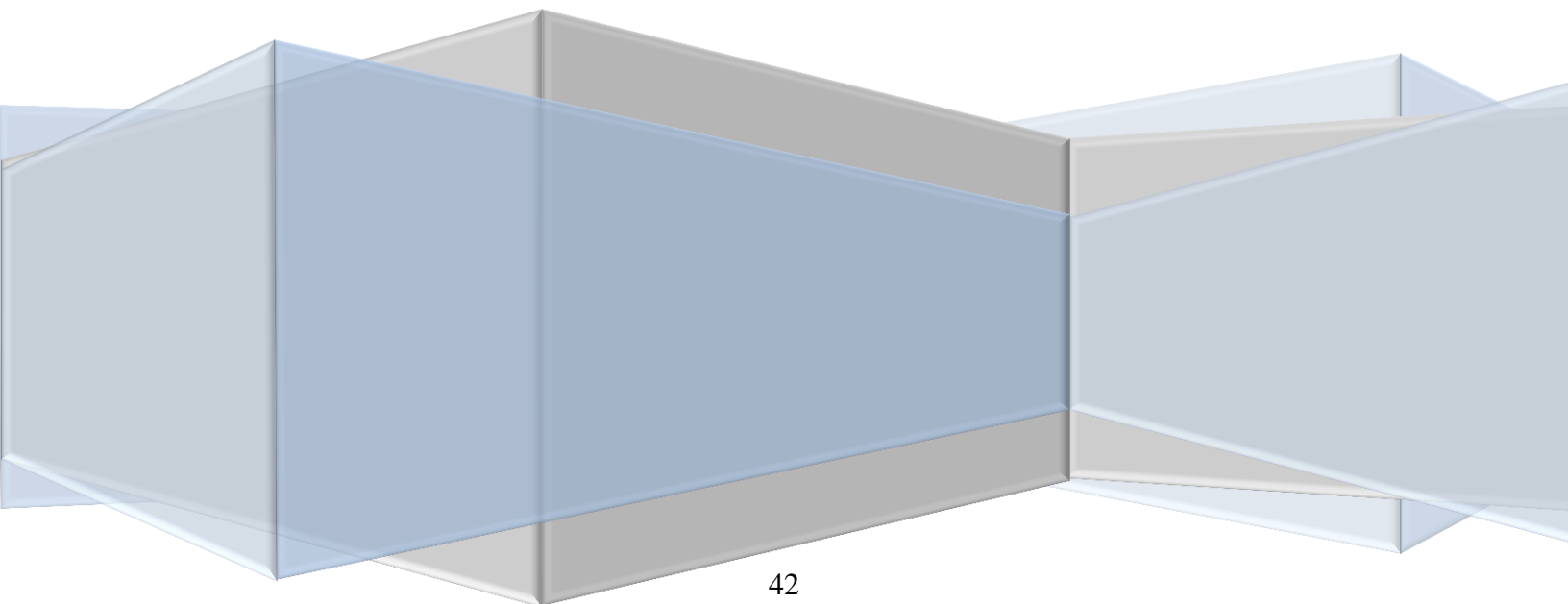


Table of Contents

I. Introduction	44
II. The Culture of Legal Practice – Defining the Problem	44
A. The Traditional Business Model – Collective Inertia and Failure to Imagine Services Delivered Differently	44
B. Regulatory and Professional Barriers	45
C. Legal Education	45
D. Lawyer Roles and Lawyer-Client Relationships: Professional Identity	46
E. Psychological and Health Dimensions of Lawyering	46
F. Public Perception and Expectation	46
III. Summary of Consultations – The Saskatchewan Context	46
A. Law School and Ongoing Legal Education.....	47
B. The Generation Gap	47
C. Innovation Inhibitors	48
D. Desire for a Spectrum of Options.....	48
E. Focus on Clients and the Need for Reinforcements	48
IV. A Starting Point – Innovations Tried Elsewhere	49
A. Limited Scope Retainers – “Unbundling”	49
B. Alternative Business Structures	49
C. Opportunities for Paralegal Services	50
D. Legal Information Services by Lawyers and Qualified Non-lawyers	50
E. Summary Advice and Referrals	50
F. Alternative Billing Models.....	51
G. Legal Expense Insurance	51
H. Pro Bono and Low Bono Services	51
IV. Conclusion	52
V. Questions for Reflection	53
Appendix A: “Culture Shift” in the Cromwell Report	54
Appendix B: Literature Review	56
Appendix C: A snapshot of national debate inside lawyers’ organization	60

I. Introduction

Access to justice has been a concern of the legal profession for a long time and has become one of the most important issues requiring action. The Dean's Forum is intended to provide a venue to continue the discussion in the Saskatchewan context and the opportunity to design the direction for the future of the legal profession in Saskatchewan through the lens of access to justice. In order to focus the discussion, this report a) provides an overview of the culture of legal practice as it relates to access to justice, b) summarizes some of the themes emerging from consultations with members of the Saskatchewan bar, c) describes a range of innovative options that have been considered or implemented in other jurisdictions as a starting point for discussing the types of innovations that may materialize in Saskatchewan, and d) poses some questions for reflection for those participating in the Forum. The content of this report was informed by a literature review, the *Cromwell Report*, and consideration of leadership provided by lawyers' organizations (see the appendices for more information).

II. The Culture of Legal Practice – Defining the Problem

A. The Traditional Business Model – Collective Inertia and Failure to Imagine Services Delivered Differently

Legal services have traditionally been delivered through a single model: a hierarchical partnership business model where lawyers work on client issues in units of time, tailoring their research and analysis to the circumstances of a particular client. A client's information is confidential and legal advice is protected through the tenet of solicitor-client privilege. Many legal disputes are resolved through the formal court system, which has become highly formalized and technical. While technology has impacted the day-to-day aspects of legal practice, the essential model has remained the same for a very long time. Some would say that there is a collective inertia in the way law has traditionally been practiced. Law firms have been built on this model and the continued success of many in the profession is perceived to be dependent upon the practice of law remaining by and large the same.

However, we have come to understand that some aspects of this business model are ineffective at providing accessible legal services to the broad public. Most middle and low income members of the public are priced out of the current legal market and are forced to either attempt to represent their own interests within a system designed for trained professionals or forgo their legal rights altogether. The lowest income members may find representation through government funded legal aid. It is clear that a large segment of the public is not being served within the current business model. This can be viewed as

a failure of the current model that needs adjustment or overhaul, or it can be perceived as an opportunity to make room for alternative ways of delivering legal services.

B. Regulatory and Professional Barriers

Lawyers enjoy a monopoly on the provision of legal services and are a self-regulating profession. The regulations that we put in place to protect ourselves and our clients reflect the traditional form of legal practice and operate in some cases to prevent some forms of legal innovation. The innovation that is necessary to provide legal services for the vast majority of the public that is not currently able to access legal services must be supported through regulatory reform. Our Law Societies are currently and need to continue to be an active part of the discussion on access to justice and the future of the profession, as through their regulations they hold the key to the implementation of some of the potential solutions.

C. Legal Education

The design for the future of the profession is closely linked with the way current law students are being trained. The traditional approach in law school involves students learning to think like a lawyer through the analysis of case law. There have been many innovations in the teaching methods employed in Canadian law schools focusing on increasing the opportunities for students to learn practical lawyering skills. For example, many Canadian law schools have clinical programs in which students can participate in the provision of legal services to low-income clients under the supervision of a licensed lawyer.

However, less innovative progress has been made on the professional identity aspect of legal education. Most law students leave law school with a very traditional impression of a lawyer as a neutral and impartial advocate within an adversarial system. Despite many changes to the legal system promoting non-adversarial approaches to dispute resolution (such as through collaborative law, mediation, etc.), not all law students are leaving law school with an understanding of such alternative approaches or alternative lawyer roles.² The Federation of Law Societies has recently imposed a requirement for students to obtain training in professional ethics and responsibility,³ which may go a long way to address this traditional deficiency depending on how law schools interpret and implement this requirement.

² The University Of Saskatchewan College Of Law is a leader in this regard with its first year dispute resolution program and upper year course offerings in negotiation, mediation, arbitration, and multi-party dispute resolution.

³ The Federation of Law Societies of Canada, *National Requirement*, online: <<http://www.flsc.ca/documents/National-Requirement-ENG.pdf>>

Any focus on the future of legal practice and the culture of lawyering must take into account the implications of how current law students are being trained.

D. Lawyer Roles and Lawyer-Client Relationships: Professional Identity

The legal profession is made up of lawyers who each possess a professional identity. The typical model of a good lawyer is one that is competent and zealously defends, protects, and advocates for client interests. This typical model is developed in law school and continues to foster as lawyers enter the profession. The assumption within that model is that the lawyer is the expert and that justice is a function of process and rights. This model, in turn, impacts upon how lawyers view their professional role, how they conduct themselves in their relationships with clients, and how they seek to serve their client's interests. If the future of law is to see lawyers delivering legal services differently, lawyers will need to adopt a different set of skills and adjust their professional identities.

E. Psychological and Health Dimensions of Lawyering

The way legal services are typically delivered requires lawyers to put in a significant amount of time in their work, which negatively impacts upon their physical and psychological health as well as their work and life balance. While lawyers are often handsomely remunerated for this effort, and sometimes excessively so, there is an imbalance in the profession that is not sustainable or life supporting. Any discussion on the future of the legal profession should also consider this aspect.

F. Public Perception and Expectation

Lawyers do not practice law in a vacuum. Part of the culture of legal practice is determined by the expectations of clients and the public in general, who hold a particular image of lawyers and legal practice and are used to engaging with lawyers on traditional terms. While trying to reduce the cost and value for clients may be a catalyst for change, clients may also be a source of pressure for the legal culture to remain the same. Part of the solution is likely to involve re-branding legal services to the public.

III. Summary of Consultations – The Saskatchewan Context

Our working group reached out to some members of the Saskatchewan bar to get a sense of the types of pressures experienced by lawyers in Saskatchewan within the current culture of legal practice in relation to access to justice. The individuals we consulted include the following: Amanda Dodge (CLASSIC

Legal Services); Kathryn J. Ford, Q.C; Cara Haaf (Partner at Scharfstein, Gibbings, Walen, Fisher LLP); Kylie Head (CBA Saskatchewan President); Nancy E. Hopkins, Q.C. (Partner at McDougall Gauley LLP); Charmaine Panko (Associate at Miller Thompson Lawyers); Karen Prisciak, Q.C (Partner at A.S.K. Law); Alma Wiebe, Q.C. (A.S.K. Law); Craig Zawada, Q.C., (CEO of WMCZ Lawyers). The following material is a generalized summary of some of the themes that emerged from our discussions.

A. Law School and Ongoing Legal Education

Those we consulted with saw a need for refocusing current legal education to a greater extent towards practical lawyering skills. Some were critical of the message imparted in law school that emotions are irrelevant or inappropriate in the practice of law and identified that emerging law students needed greater emotional intelligence in order to effectively serve their clients. Some saw potential in a greater connection between the law school and the current bar, whether facilitated through increasing meaningful mentorship opportunities or utilizing practitioners to a greater extent within the law school.

We also heard that there is an important role for continued legal education, particularly on the professionalism aspects of practice. It was identified that there is a small contingent of the bar that is engaged on bigger picture professional issues, such as access to justice, but that the solutions require engagement from the whole bar. The Law Society of Saskatchewan's Continued Professional Development requirement for ethics was identified as a potential venue for generating greater engagement in these discussions from the bar.

B. The Generation Gap

It was suggested that the practice of law was largely controlled by the older generation, which is accustomed to practicing in traditional ways. There was great hope expressed for the future of legal practice, as it was identified that new lawyers are emerging from law school to a greater extent with an interest and passion for access to justice issues and innovative practices. However, there was concern expressed that during articling and the initial years of practice this passion and engagement is lost due to the demands of practice and there being little room or support for innovation. The first 5 years of practice for new lawyers was identified as a critical time for providing support for innovation and to maintain engagement if the vision that the new generation will bring change is to materialize. It was identified that there was a need for greater mentorship both within law firms and within the profession.

C. Innovation Inhibitors

When discussing the potential for different types of innovation, a lot of concern was expressed in relation to Law Society regulations and the risks for lawyer liability and discipline. Concerns largely related to the extent of ethical and fiduciary obligations to clients, the protection of solicitor-client privilege, and particular regulations that prevent some forms of innovation.

While market pressures have been a catalyst for innovation in other jurisdictions, it was suggested that Saskatchewan is somewhat isolated from such pressures due to our strong economy. There is currently a lot of work for lawyers in Saskatchewan within the current model and law firms are not motivated to implement change without being required to do so.

D. Desire for a Spectrum of Options

It was identified that part of the problem is the focus and allocation of resources both within the system and within law firms on traditional forms of legal service delivery and dispute resolution. There was desire expressed for a spectrum of options in the way client needs are served and the ability to exercise choice in determining which option is best for individual clients based on their circumstances.

Within this discussion, there was a range of perspectives on mandatory mediation. For some, mediation is seen to have great potential for access to justice and should be used to a greater extent in more areas, such as in residential tenancies disputes, social services appeals, and other administrative matters. Some suggest that mediation has limited potential when both parties don't adequately prepare or commit to the process, which can be connected to an imbalance of power and resources. Some suggest that mediation is inappropriate in some circumstances and should not be mandatory or that there should be greater flexibility in its application.

E. Focus on Clients and the Need for Reinforcements

It was identified that the focus in the practice of law has skewed too far towards the business aspect. Some expressed feeling uncomfortable with the business of law and felt at times to be placed in conflict with the interests of their clients. There was a desire expressed to reorient the focus back on service to client needs. Within that discussion, some lawyers—particularly in the area of family law—expressed feeling ill-equipped to address the multiple layers of issues connected to a client's legal issue, such as mental health problems, the need for emotional counseling, or financial planning guidance. Some expressed a pressing need for greater support in these areas and saw potential in collaboration with other professions.

IV. A Starting Point – Innovations Tried Elsewhere

The following material is a description of some innovations that have been tried or considered in other jurisdictions. It is designed to provide a starting point for the discussion of innovations that may work for Saskatchewan. It is not intended to limit the discussion or consideration of other types of innovations.

A. Limited Scope Retainers – “Unbundling”

What is it? The limited scope retainer is a way for a lawyer to provide legal service to a client on a portion of the client’s legal issue. It recognizes the reality that many people who cannot afford the cost of a general service retainer attempt to navigate the legal process by themselves. By unbundling a client’s legal issues and providing assistance at strategic intervals or on particular tasks, a limited scope retainer represents a middle ground between full representation and no representation.

Considerations: The concerns with limited scope retainers are largely associated with a lawyer’s ethical and fiduciary responsibilities and the potential for liability. For example, a lawyer should carefully consider whether a limited scope retainer is appropriate for the client’s legal issue and must be careful to ensure the division of tasks between lawyer and client is clearly identified in the retainer agreement.⁴ The Law Society of Saskatchewan just approved limited scope retainers in February 2014.⁵

B. Alternative Business Structures

What is it? Alternative Business Structures (ABS) contemplate outside or non-lawyer investments and participation in law practices.

Considerations: While many believe infusing law practices with business professionals would likely improve efficiency and profitability and could stimulate innovation, there is no consensus on whether ABS would have a positive impact on the profession and/or on access to justice. Those who oppose ABS suggest self-governance would be threatened as non-lawyer owners would not be subject to the same level of accountability, and ABS could have negative implications for the ethics of practice. Those in

⁴ For a detailed discussion of opportunities, concerns, and best practices for limited scope retainers, see The Canadian Bar Association Alberta Branch, *The Limited Scope Retainer* (2014), online: <http://www.cba.org/Alberta/main/pdf/limited%20scope%20retainers_FINAL.pdf>

⁵ See the amended *Code of Professional Conduct* for all the details. Go to <<http://www.lawsociety.sk.ca/lawyer-regulation/code-of-professional-conduct.aspx>> and click on: Amendment – Limited Scope Retainers (February 14, 2014).

support of ABS suggest continued accountability to the Law Society would sufficiently counter any threat to the ethics of the profession.⁶

C. Opportunities for Paralegal Services

What is it? It is suggested that some legal services may be provided at a lower cost by paralegals or non-lawyers, subject to the supervision of lawyers.

Considerations: Expanding the use of paralegals in the provision of legal services to low and middle income clients requires a change in the Law Society regulations. Concerns relate primarily to consumer protection and regulating the types of services that are appropriate for paralegals to perform.⁷

D. Legal Information Services by Lawyers and Qualified Non-lawyers

What is it? Generalized information about legal issues, rights, and how to access legal services that is easy to find and use, including printed legal guides, workshops and legal clinics, legal information hotlines, online resources, information kiosks at courthouses, etc.⁸

Considerations: Concerns on this type of service is whether the information is updated and accurate, whether it is provided in a format that is understandable by the client, and whether it is sufficiently detailed to provide meaningful assistance.

E. Summary Advice and Referrals

What is it? Rather than providing full representation to a client, lawyers can provide summary advice for little or no cost on the merits of a client's legal claim, the potential for liability, or procedural aspects of a legal action. Alternatively, a lawyer may refer clients to other services where appropriate.⁹ This service is similar to providing legal information but is more tailored to the client's specific circumstances.

⁶ For a more detailed commentary on ABS, see The Canadian Bar Association Futures Initiative, *Report on the Consultation* (21 February 2014) at 14.

⁷ For a description of the steps taken in other Canadian provinces, see Federation of Law Societies of Canada, *Inventory of Access to Legal Services Initiatives of the Law Societies of Canada* (September 2012) at 7-8, online: <http://www.flsc.ca/_documents/Inventory-of-Access-to-Legal-AccessLawSocietiesInitiativesSept2012.pdf> [FLSC *Inventory*]. See also the creation of the Limited License Legal Technician by the Washington State Bar, which authorizes non-attorneys who meet certain educational requirements to advise and assist clients in approved practice areas of law, online: <<http://www.wsba.org/lllt>>

⁸ For a description of legal information services in Saskatchewan and other Canadian provinces, see FLSC *Inventory*, *supra* note 6 at 3-6.

⁹ For a description of summary advice services in Canadian provinces, see *ibid* at 8-10.

Considerations: Concerns on this type of practice relate to ensuring the client clearly understands the extent of the lawyer's role.

F. Alternative Billing Models

What it is? Many clients experience difficulty with the uncertainty of the cost of legal services using the billable hour model. Alternative billing models contemplate charging a client for legal services using a method alternative to the billable hour, such as fixed rates, competitive tendering, and commoditizing services.

Considerations: The concern of moving away from billable hours is often expressed in terms of the risk assumed by lawyers in properly estimating in advance the complexity of a legal issue and time required to service it.

G. Legal Expense Insurance

What is it? Prepaid legal insurance to cover legal expenses. This is common in European countries, is gaining ground in the United States, and has been promoted in Quebec for a number of years.

Considerations: While not strictly a lawyer-led initiative, there may be a role for lawyer associations in facilitating or promoting the use of this type of service.

H. Pro Bono and Low Bono Services

What is it? Lawyers provide legal services for free or at reduced prices to clients who cannot afford their standard rate.

Considerations: While pro bono has always been a common practice in the profession, there are concerns that some lawyers do not engage in this aspect of the profession or some law firms do not support their lawyers in this practice, leading to discussions of mandatory pro bono hours imposed by Law Societies. The Law Society may additionally play a role in offering incentives in other ways.

IV. Conclusion

This report is a brief discussion of the issue of access to justice from the lens of the justice innovation and the culture of legal practice. It summarizes some of the elements of the problem, describes some concerns emerging from consultations with practitioners in Saskatchewan, and briefly describes some forms of innovation that have been suggested or tried in other jurisdictions. This report is designed to be a tool to assist the forum members in discussing, assessing, and implementing changes related to justice innovation and the legal culture in the context of Saskatchewan.

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V. Questions for Reflection

1. From the perspective of your organization or the work you engage in, what sort of pressures do you experience that prevent innovation or engaging with change? How can they be overcome?
2. From the perspective of your organization or the work you engage in, what are your interests and what needs to be considered in the development of change?
3. From the perspective of your organization or the work you engage in, what resources can you offer to assist with innovation?
4. If you could investigate or explore three innovations discussed in this report or elsewhere, what would they be and what resources or supports would you need (internally or from other organizations)? Who could you collaborate with?
5. What opportunities are not being realized and why?
6. How do we ensure that the voice of the public/user is reflected as we change and innovate?
7. What mechanisms exist or can be created to gather input from system users and to reflect back to them how their input or ideas have been used or considered?
8. Can we influence the public's investment in justice issues, in turn generating the political will for change and innovation? How?

Appendix A: “Culture Shift” in the Cromwell Report

The first meeting of the Dean’s Forum identified that improving access to justice and dispute resolution in Saskatchewan requires “a culture shift and ways to engage practicing lawyers.”¹⁰ Convened by the Chief Justice of Canada, Beverley McLachlin, P.C. and under the leadership of the Honourable Thomas A. Cromwell, a national Action Committee on access to justice arrived at the same goal of the Dean’s Forum: “to identify and promote a new way of thinking—a culture shift—to guide our approach to reform” in the “Access to Civil & Family Justice: A Roadmap For Change” [the *Cromwell Report*].¹¹

The *Cromwell Report* identifies that a new way of thinking and an action plan is urgently needed to change old patterns and approaches of the justice system and its stakeholders.¹² Six guiding principles are outlined in the *Cromwell Report* that prompts a culture shift. These principles include:

1. **Put the Public First** – To put the public first means that all reform efforts ought to focus on the people who use system, remembering that the system exists to serve the public.¹³
2. **Collaborate and Coordinate** – To improve access to justice and to avoid reinventing the wheel involves collaborating and coordinating across and within jurisdictions, within all sectors and aspects of the justice system, as well as with social service sectors and providers.¹⁴
3. **Prevent and Educate** – Efforts need to focus on preventing legal issues before they occur and having resources available to the public for when they do. Since many legal problems transpire outside of formal justice structures, access to justice means more than access to courts and lawyers. Improving access to justice involves rethinking how legal problems are approached and how to maximize early resolution.¹⁵
4. **Simplify, Make Coherent, Proportional and Sustainable** – This principle builds on the “public first” goal to make legal information easier to understand and legal procedures less complicated for self-represented litigants and other justice system participants.¹⁶

¹⁰ “The Dean’s Forum on Dispute Resolution and the Justice System” (Forum at the College of Law, University of Saskatchewan, 20 September 2013). The discussion focused on the implications of and possibilities for improving the justice system.

¹¹ The Access to Civil and Family Justice Action Committee, *Access to Civil and Family Justice: A Roadmap for Change* (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, October 2013) [the *Cromwell Report*].

¹² *Ibid* at 5.

¹³ *Ibid* at 7.

¹⁴ *Ibid*.

¹⁵ *Ibid*.

¹⁶ *Ibid* at 8.

5. **Take Action** – The result of improving access to justice so far has been modest so urgent action is necessary to move beyond talking to “bridge the ‘implementation gap’.”¹⁷
6. **Focus on Outcomes** – The focus must shift beyond fair and just processes to achieve fair and just results for those who use the justice system.¹⁸

The *Cromwell Report* suggests that “[t]aken together, these principles spell out the elements of an overriding culture of reform that is a precondition for developing specific measures of change and implementation.”¹⁹

The remaining *Cromwell Report* provides a roadmap toward improving access to justice through innovation, institutional and structural, and research and funding goals, which a culture shift pervades. As part of the national initiative, each province is prompted to adopt an “Access to Justice Implementation Commission” that will be a sustainable structure to promote change and meet the region’s specific needs.²⁰

In sum, the six guiding principles and overall report fills a need for a coordinated and collaborative national voice, but a grassroots approach involving local justice system stakeholders as change makers is necessary to improve access to justice in Saskatchewan.²¹ The *Cromwell Report* is a departure point for the Dean’s Forum members to create a culture shift in our province’s justice system and beyond.

¹⁷ *Ibid.*

¹⁸ *Ibid* at 9.

¹⁹ *Ibid* at iii.

²⁰ *Ibid* at 20.

²¹ *Ibid* at iii.

Appendix B: Literature Review

1. **Blaikie, David L, Thomas A. Cromwell, & Darrel Pink, eds. *Why Good Lawyers Matter* (Toronto: Irwin Law Inc., 2012).**

This book provides a collection of essays from leading Canadian legal scholars and practitioners about the roles and ideals of lawyers. The discourse emerging from the essays is organized around three central questions: What is a lawyer? What role do lawyers play? What role should lawyers play? Essays on the first question seek to explore the evolution of the lawyer-client relationship into modern practice; examine the impact of settlement on justice; articulate the reasons behind the negative public perception of lawyers; and survey the ways in which lawyers exercise power collectively, individually, and publicly. Essays on the second question seek to unpack why lawyers garner a bad reputation; articulate the importance of a high standard of conduct for lawyers in the administration of justice; critically examine the regulation of lawyers within the context of their public and private roles; and explore the role of public interest litigation in the pursuit of social, political, and moral justice. Essays on the third question take stock of the state of the legal profession and the implications for lawyer satisfaction and the public good; seek to profile the goals, knowledge, capabilities and character traits of a great Canadian lawyer and the ways they can be cultivated; query the role of lawyers in balancing security and rights in a post-9/11 world; and articulate the fundamental guiding ideals of the legal profession in the context of the myriad changes and challenges it faces.

2. **Campbell, Ray Worthy. “Rethinking Regulation and Innovation in the U.S. Legal Services Market” (2012) 9:1 NYU J L & Bus 1.**

Campbell locates the barrier to innovation in legal services in the regulation of legal practice. He draws from business scholarship, particularly Clayton Christensen’s disruptive innovation theory, to explain how market changes occur: essentially, new technology or innovation can either sustain or disrupt current markets, which is ultimately determined by the needs of consumers. Typically, market incumbents are unlikely to pursue disruptive innovations due to the limiting inertia of resources, processes, and business models, thereby leaving room for new market entrants capable of innovation. Over time, the new entrants improve the quality of their product and compete directly with the market incumbents, changing the market structure. However, in the legal services market, regulations prescribe a single business model and prevent unauthorized practice of law, thereby excluding new entrants and preventing disruptive innovation from occurring. Campbell suggests a single business model is insufficient to meet the diverse needs of legal consumers, which has the effect of leaving many

consumer's needs unmet altogether. Campbell explores a range of potential disruptive innovations that could better meet the needs of legal consumers and suggests that if we wish to see innovation in legal practice we must re-evaluate how the practice is regulated.

3. Fox, Lawrence J. *Raise the Bar: Real World Solutions for a Troubled Profession* (Chicago: American Bar Association, 2007).

Motivated to look for solutions to the exodus of lawyers from the legal profession and the pervasive dissatisfaction of those who remained, the American Bar Association convened a task force to interview a range lawyers about the problems facing the profession. The essays in this book are the result of the messages they heard and offer specific recommendations for reform: eliminate the billable hour in favor of a more nuanced evaluation of lawyer contribution to both the firm and society, increase mentorship opportunities, reflect core professional values in firm policies and practices, attend to work-life balance, increase *pro bono* and trial opportunities, increase diversity in the bar, among others. The overarching message is not one of profound reform of the legal system, nor are the reforms likely to significantly improve access to justice. But within a system that is broken on many fronts, the hope expressed by the authors is that attending to lawyer satisfaction may reinvigorate the drive for service to society that drew lawyers to the practice of law in the first place.

4. Grosse, April. "The Future of Dispute Resolution: The More Things Change, The More They Really Don't" (2013) 76:2 Sask L Rev 213.

This brief article offers reflections on the future of dispute resolution from a civil practitioner. Her observations suggest four trends that she believes will influence the future of the practice. First, Grosse suggests that if current trends continue, there will be a convergence of dispute resolution modes, where arbitration looks more like litigation, litigation incorporates features from arbitration and mediation, and mediation develops more formal processes. Grosse recommends maintaining the distinctions between these modes in order to preserve their purpose. Second, Grosse foresees an erosion of commercial jurisprudence due to private settlements and a call for some form of award publication. Third, Grosse observes an increasing ease of access to foreign jurisprudence but a corresponding decline in its use or meaningful incorporation into Canadian jurisprudence. Fourth, Grosse notes the dramatic increase in the volume of potentially producible documents and a corresponding focus through procedural rules and the culture of case management on the materially relevant. Her overarching thesis is a warning that, without deliberate intervention, the more things change the more they tend to stay the same.

5. Heavin, Heather & Michaela Keet. "Skating to Where the Puck Will Be': Exploring Settlement Counsel and Risk Analysis in the Negotiation of Business Disputes" (2013) 76:2 Sask L Rev 191.

With an interest in anticipating the future trends in dispute resolution within legal practice, the authors reflect on the dichotomy between interest-based settlement and adversarial litigation that has traditionally characterized the discussion and training of dispute resolution methods as *alternative*. The authors see potential in moving away from this dichotomy towards an approach that tailors dispute resolution processes according to the context of client needs. They look to ways practitioners are experimenting with a settlement counsel model and risk analysis tools in business disputes as two innovative trends that reflect an integration of problem-solving and traditional adversarial methods.

6. Kowalski, Mitchell. *Avoiding Extinction: Reimagining Legal Services for the 21st Century* (Chicago: American Bar Association, 2012)

This book employs a fictional narrative approach to imagine the potential for reconstructing how legal services are delivered. Through his characters, Kowalski tells a story to demonstrate what a law firm could look like if it recreated itself to provide better, faster, and cheaper legal services. In part I, the characters in Kowalski's story encounter and articulate the frustrations in current legal service options as they consider contracting a new firm. In part II, the function and innovations of the firm are described through the experience of a newly hired lawyer and a member of the firm's board of directors. The innovations embraced by the book include corporate rather than partnership structure, value pricing rather than the billable hour, legal service outsourcing, alternative firm infrastructure, alternative lawyer hiring and evaluation models, among others. The format is entertaining and thought-provoking.

7. Macfarlane, Julie. *The New Lawyer: How Settlement is Transforming the Practice of Law* (Vancouver: UBC Press, 2008).

In this book, Macfarlane seeks to describe the skills, knowledge, and sensitivities of an emerging new lawyer within a legal system that has been transforming over the course of the past 30 years. She locates the catalyst of transformation in an emphasis on settlement within dispute resolution processes and the diminishing place of the traditional trial. Macfarlane suggests that while the practice of law is evolving, the fundamental norms and values of lawyers are not evolving to the same extent and she suggests that legal culture needs to move away from three key professional beliefs: default to a rights-based dispute resolution paradigm, justice as process, and lawyers in charge. Macfarlane advocates for an alternative model of conflict resolution advocacy (CRA) that focuses on the "best possible negotiated settlement" for the client. Such a model requires a more complex set of skills around negotiation, information and interest gathering and sharing, legal understanding and presentation, and collaborating

in a new lawyer-client partnership dynamic. In applying this new model, Macfarlane suggests that the new lawyer will encounter new forms of ethical challenges as well as adapt the way law is used and legal advice is delivered. In the final chapter, Macfarlane identifies three primary “sites of change” in the evolution of the new lawyer: legal education, the new judge, and inter-professional collaboration.

8. Susskind, Richard. *Tomorrow's Lawyers: An Introduction to Your Future* (Oxford: Oxford University Press, 2013).

This is Susskind's latest book following his previous well-known and provocative book *The End of Lawyers? Rethinking the Nature of Legal Services* (New York: Oxford University Press, 2009). In this book, Susskind claims that the next two decades will bring more radical change for the legal profession than was seen during the past two Centuries. The book is intended to serve as a guide to the future for young lawyers or anyone who wants to build a career in a modernized legal system. The book is divided into three parts. The first offers an updated restatement of Susskind's views on the future of legal services, identifies the key drivers of change, and presents strategies for coping with the radical changes in the legal market. In the second part, Susskind sketches out his predictions for the new legal landscape, including the future for law firms, the shifting role of in-house lawyers, and the coming of virtual hearings and online dispute resolution. The final part focuses on the prospects for aspiring lawyers, and equips young lawyers with penetrating questions to put to their current and future employers.

Appendix C: A snapshot of national debate inside lawyers' organization

This appendix refers to some developments, with a focus on the Canadian Bar Association's recent work. As a starting point, we recommend an overview prepared for the Law Society of Upper Canada's Access to Justice Symposium, held on October 29, 2013. The summary, called "Quotable Quotes"²², synthesizes other reports produced across Ontario and at the national level, and is worth perusing (at the link we have provided). This paper sets out a number of themes which have emerged from the discourse on access to justice issues and invites readers to reflect on the issues it raises.

Summaries of some of the Canadian Bar Association's recent reports are found below, along with separate links:

1. Reaching Equal Justice Report: An Invitation to Envision and Act²³

The Canadian Bar Association (CBA) launched the "Envisioning Equal Justice Initiative" in August of 2012. The purpose was to examine access to justice issues in the Canadian context and to begin developing solutions. The final report was released in 2013. It describes the state of access to justice in Canada as "abysmal"²⁴ and provides 31 targets, with milestones and prescriptions for immediate action, which it believes will create significant change.

Underlying these goals are 3 broad strategies: Looking upstream from the court system for ways to prevent and alleviate problems, reforming courts as the central service responsible for adjudicating people's problems and reinventing the delivery of legal services to eliminate assistance gaps. In order to be successful, the report acknowledges the need for 3 foundational supports: Building public engagement by answering "why should I care about equal justice?" is the first of these. Establishing effective collaborative structures across national, provincial, territorial and local levels is a second necessary step. Finally, building up the capacity of justice innovation by improving the collection and transparency of access to justice metrics, developing a national research strategy, increased federal government engagement and funding of legal aid and deeper commitments by the CBA to taking a leadership role in access to justice reform.

2. The Future of Legal Services in Canada: Trends and Issues²⁵

The CBA Legal Futures Initiative is a comprehensive study designed to address the changing environment of legal service delivery. The first stage of this process involved extensive

²² Karen Cohl, *Access to Justice Themes: Quotable Quotes*, Law Society of Upper Canada online: <http://lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2013/con_vjan2014_treasurersadvisorygroup.pdf> at p.253-268

²³ Canadian Bar Association, *Reaching Equal Justice Report: An Invitation to Envision and Act* online: <http://www.cba.org/CBA/equaljustice/secure_pdf/EqualJusticeFinalReport-eng.pdf>.

²⁴ *Ibid* at p.5

²⁵ Canadian Bar Association, *The Future of Legal Services in Canada: Trends and Issues* online: <<http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/trends-issues-eng.pdf?ext=.pdf>>.

research and analysis of the market and the ways in which it is evolving. This report, released in June of 2013, synthesized the results of this research and organized the data into a few key themes which could be carried forward to the consultation phase.

The legal industry is deeply impacted by globalization and the rapid spread of new technologies. Like in other industries, clients are being presented with more choices and demanding more influence over the work which lawyers do. New methods of service delivery might take advantage of technological advancements in creating virtual firms, leveraging social media, providing online support and even utilizing artificial intelligence to supplement the work of lawyers.

Increased competition, downward pressure on prices for legal services, potential excess capacity and low growth in many practice areas are all economic trends which threaten traditional business structures. Alternative business structures, which involve non-lawyers in the management and ownership of legal service providers, is an option which is being expanded in the United Kingdom, Australia and elsewhere to respond to these issues. Changing demographics will continue to influence the legal industry in Canada. The number of lawyers is growing faster than the general population while the profession still struggles to create equal opportunities for female practitioners and those from racial minorities. Older lawyers are deferring retirement, setting the stage for inter-generational conflict with younger lawyers who are looking to take on more responsibility within the profession. Many lawyers are actively seeking a better work-life balance through part-time, contract, work-at-home or other alternative employment arrangements.

Legal education – both through law colleges and continuing professional development – must continue to evolve to this new environment. New fields of competency like legal risk management, legal project management, legal process analysis and legal knowledge engineering continue to emerge. At the same time, non-legal skills like social networking, negotiation and inter-disciplinary knowledge are becoming more valuable.

3. Innovations in Legal Services: 14 Eye-Opening Case Studies²⁶

To support the work of the Legal Futures Initiative, the CBA invited Special Advisor Richard Susskind, author of *"The End of Lawyers?"* and *"Tomorrow's Lawyers"* to provide examples of legal service providers who are changing the way they do business. The 14 businesses featured in the June 2013 report responded quickly to their changing industry and developed innovative solutions to better meet their client's needs. Some of these businesses would be unable to operate in Canada due to current regulatory restrictions. They are nonetheless valuable examples to reflect upon.

²⁶ Canadian Bar Association, *Innovations in Legal Services: 14 Eye-Opening Case Studies* online: <<http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/Innovations-Paper-Summary-Linked-eng.pdf?ext=.pdf>>.

Some common themes which emerge from these case studies include: replacing the partnership model with corporate governance and permitting non-lawyers to manage firms, promoting fixed fee service arrangements rather than hourly billing, promoting an equity share structure, increasing the frequency of contract work, outsourcing routine legal work, increasing the availability of online dispute resolution and leveraging social media, cloud computing, online resources and other new technologies.

4. Report on the Consultation²⁷

The second phase of Legal Futures Initiative was to seek consultation on the themes emerging from the Trends and Issues report released in June of 2013. The Report on the Consultation was released in February of 2014 and synthesizes the responses of a board group of stakeholders. The responses revealed a schism between those who believe that significant change in the delivery of legal services is imminent and those who doubt transformative change is likely or necessary. Those in the latter group defended the current regulatory structure, claiming that there are significant public policy reasons for maintaining the status quo. In addition, they expressed concerns that deregulation would encourage “Big Law” and compromise lawyers who serve in the public interest or under-served practice areas.

The questions related to legal education gathered a variety of opinions on the length, form and cost of law school education, along with ongoing professional development. Most of this feedback was rooted in the experiences of the respondents. By contrast, innovation within legal practice was an area where contributors more easily identified their vision for the future.

Many respondents discussed how regulators can support innovation and maintain the professionalism of lawyers as they engage in new types of legal service delivery. Another area of discussion was the composition of the profession: who is in a position to take advantage of innovation and who should bear the burden of reform?

The report concedes that there are no areas where consensus, or even broad agreement, were readily apparent. The value of the consultation was in identifying the experiences, hopes and concerns of various stakeholders. This information is an important component of the initiative and will continue to inform their work going forward.

²⁷ Canadian Bar Association, *Report on the Consultation* online:
<<http://www.cbafutures.org/CBA/media/mediafiles/PDF/Reports/CBAConsultationPaper.pdf?ext=.pdf>>.

The Second Meeting: March 2014

Appendix E: Summary of the Second meeting of the Dean's Forum

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

Summary notes from March 13, 2014
College of Law, University of Saskatchewan

This second meeting of the Dean's Forum on Dispute Resolution and Access to Justice built on priorities identified in the September gathering: integrated and early service delivery, and encouraging change in the culture of legal practice. In the months between meetings, these priorities were used to guide student working groups in the production of two interim reports. 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 the interim reports, and posed questions to engage thoughtful reflection and discussion. Summaries of the small group discussions which followed are included below. 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.

Reports presented by working groups:

Student working groups had researched and developed reports on the topics of (1) Integrated Service Centres (including public information at critical gaps) and (2) Justice Innovation and the Culture of the Legal Profession. The students grounded their work in the report of the national Action Committee on Access to Justice in Civil and Family Matters, chaired by Justice Cromwell. The students conducted literature reviews, looked to initiatives that were happening across Canada and internationally, and conducted consultation interviews with key stakeholders on each topic within the province to further inform and focus their recommendations in the Saskatchewan context. Each group prepared a report summarizing their research and identifying key ideas, themes, and points for further discussion. These reports were distributed to participants in advance of the March 13 meeting, and a second copy is attached.

Common themes which emerged from the day's discussions:

- Participants were generally supportive of a plan which would involve the further exploration, design and development of an integrated service centre. The design of the service centre will have a significant impact on its success. More consideration is needed for where it is located,

the atmosphere of the space, what services should be provided, who should provide them and what resources/online infrastructure will complement it.

- A service centre is only a small part of the picture. Integrated and early service delivery can also be accomplished through more collaboration and interaction among agencies. Complete an inventory of existing resources and service providers – encourage conversation and coordination amongst stakeholder groups
- Streamlining the legal system and increasing prevention are still top priorities
- Services can be provided by qualified non-lawyers but more discussion is required to define the scope of what they can offer and what training/certification should be required
- Innovative service delivery and pricing is part of the solution
- Shifting the culture of legal practice requires us to engage law students and practitioners in serious discussion and to encourage new ways of thinking in all aspects of our work

Next Steps:

At the end of the day, there was agreement that the reports identify important priorities, and that they ought to be advanced through further planning and discussion:

- The Dean's Forum can continue to provide value as a sounding board on access to justice issues
- The Dean's Forum supports the development of an integrated service centre – individuals who are interested in supporting the ongoing implementation work should contact the Dean's Office or the Ministry of Justice
- Analyzing lawyers and the nature of legal work is essential to understanding access to justice challenges. Individuals interested in researching this issue in more depth should contact the Dean's Office.
- Following the Dean's Forum, participants will be advised as to how they can continue to engage in conversations about both themes.

Post Forum Development:

Since the second Dean's Forum came to a close the Ministry of Justice has contributed funding to support two "Dean's Forum" summer positions, for University of Saskatchewan law students, to facilitate the ongoing work of the Forum. Two students from the previous working groups have filled these positions and began work on May 1st 2014. The Student Innovators will work together on the topics of early and integrated service delivery, legal culture, and future access to justice initiatives. Student Innovators will work under direct supervision of College of Law faculty members Michaela Keet and Brent Cotter, and report to a Forum sub-committee to relay findings and seek further guidance for projects as they unfold.

Student innovators will be conducting research on community-based organizations to identify the specific needs, issues and gaps faced by individuals in the Saskatchewan context. The work will focus primarily on the Saskatoon area, with some regard to the experiences faced by smaller and more northern communities. The research will be advanced through an experiential model; the students will explore the process of navigating the justice system through the eyes of potential users and identify the barriers to accessing services “on the ground”. Information gathered will be shared with the Dean’s Forum and the Justice Ministry, as a contribution to ongoing discussions about early and integrated service delivery in this province.

In order to make this current initiative a success the College of Law is inviting interested Forum participants to join a Forum sub-committee on the topic of early and integrated service delivery. This committee would periodically receive and discuss information presented by Student Justice Innovators over the next four months. For more information, or to volunteer as a member of a Forum sub-committee please contact either Professor Michaela Keet (m.keet@usask.ca) or Professor Brent Cotter (brent.cotter@usask.ca).

Break-out Group Summary Notes:

Following is a list of the questions that were posed, and a more detailed summary of the discussions that emerged from the participants’ break-out groups on both topics.

I. INTEGRATED SERVICE CENTRES

Questions posed for discussion on Integrated Service Centres:

Break-out group - Session 1

- 1. What are the gaps in legal services and what ways can an integrated service centre address these gaps in the justice system?*
- 2. What would an ideal integrated service centre look like to you?*
- 3. How would you model an integrated service centre to meet the multi-dimensional needs of the Saskatchewan population (perhaps with a view to additional social services offered)?*
- 4. How would you convey these services to the people in need? How would you overcome structural obstacles, such as accessibility, communication and location?*
- 5. Who do you have in mind when imagining your ideal integrated service centre? Should the focus be on a broader group of people or a targeted segment of the population?*
- 6. What are the first steps we can take in implementing a service centre (resources, committees, strategies)? What are the barriers to implementation?*
- 7. What role can you play in the implementation of an integrated service centre? What specific expertise can you contribute to the development of a centre?*

Integrated Service Centres break-out groups' discussions:

Group One:

- Multiple approaches/delivery methods are required to complement integrated service centres
- Should include both online and in-person assistance in order to appeal to different parts of the population who require help through differing models
- Make use of existing resources by creating a network of organizations who engage in access to justice work

Group Two:

- Individuals who make use of justice services need to develop legal literacy which will enable them to better navigate the system independently
- Every law firm across the province is a potential “access to justice centre”
- Solutions need to be achievable within the scope of the current budget – better coordination of existing services may be preferable to developing new infrastructure and resources
- There is a need to track individuals as they move through the system to make sure they don’t become lost between referrals
- Integrated service centres are probably not feasible in rural areas – there is a need to tailor solutions specifically to this context
- Take advantage of qualified non-lawyers and paralegals to reduce cost and increase access

Group Three:

- Develop a “no wrong door” policy – create a network for justice providers and social services
- Involve parties outside the legal community – The integration of partnerships of legal and non-legal needs
- Prevention should be included in the service centre model, however, a network is not just a physical hub – creating something similar to 911 but for conflict resolution
- Identification of those who can work with both the network and the hub – consider the role of legal education in such a position
- Need to educate front line people who come forward with problems

Group Four:

- The government is supportive of this type of initiative throughout the province as long as they make practical sense

- Service centres need to be practical – located near a courthouse and open at irregular hours
- The atmosphere needs to make clients feel safe
- There should be variety in the types and levels of services offered including a connectivity through transportation and access to off-site services schedules to increase convenience
- Resources need to be extremely user-friendly and helpful in order to combat literacy and mental incapacity
- The name of the centre and the titles given to various services matter
- Increasing prevention will make more resources available – increase the use of interim release, police cautions, pre-charge diversion and pre-charge approval
- Use other dispute resolution mechanisms like mandatory mediation and administrative tribunals – not wanting to work towards a trial but towards resolution of the problem
- Concurrent jurisdictions for areas such as family law in provincial court for rural settings

Group Five:

- Focus on “problem-solving” rather than providing strictly legal services
- Build the capacity for clients and develop relationships
- Information needs to be provided in an immediately usable form
- Provide conflict resolution skills
- The resources dedicated to traditional legal service provision should be focused on what the courts will require to resolve the dispute
- Generated 4 key messages and 6 discussion points:
- Key messages
 - 1 – People are attracted to the idea of gateway/triage to go find out about problem - legal or not legal solution
 - 2 - Get the word out of where they are and how to access
 - 3 - Build for Saskatchewan – how can we use existing court facilities?
 - 4 - Ministry of Justice - catalyst and leadership role
- Key discussion points
 - 1 – How broad is the scope?
 - Problem solving legal and underlying issues
 - 2 – Do we need to build capacity for people to deal with upstream?
 - Get information out in simple and timely ways at the time they need to make a decision
 - 3 – How do we make sure info is available/usefully/efficiently?

- Interactive forms and conversations online
- 4 – Can we build conflict resolution skills?
 - Programs – what is required and how to move forward to resolve it
 - Start early in legal education
- 5 – How would integrative process help the courts?
 - Better understand the problem
 - Can courts be used as information coordination and mediation?
- 6 – Think of how to deliver justice services how potential clients need it
 - How do you make the triage system work?

II. THE CULTURE OF LEGAL PRACTICE

Questions posed for discussion on the Culture of Legal Practice:

In order to address this broad topic area, participants were asked to join one of several small group discussions on one of five sub-issues. As a result, each group considered different questions and proposals.

Questions for discussion on Culture of Legal Practice:

Break-out group - Session 2

A. Streamlining the delivery of basic legal services

(tags: limited scope retainers; opportunities to expand the role of paralegals; legal information services delivered by lawyers and qualified non-lawyers; summary advice and referrals; etc.)

1. *Building on the conversation, what are some ways that private firms or lawyers can engage with streamlining the delivery of basic legal services?*
2. *As a group, try to identify the steps toward implementing one or more of the innovations you discussed, keeping in mind the preliminary needs, potential collaborations, and resources required.*

B. Addressing the cost of legal services

(tags: pro bono and low bono services; alternative billing models; legal expense insurance; etc)

1. *What are some ways of reducing the costs of legal services, considering the options already canvassed and others that may not have been identified?*
2. *As a group, try to identify the steps toward implementing one or more of the innovations you discussed, keeping in mind the preliminary needs, potential collaborations, and resources required.*

C. Alternative business models

(tags: Regulatory change; possibilities and innovative models elsewhere — e.g. ownership structures, adopting technology, franchise firms with retail services, mobile models, etc.)

1. *What are some alternative business structures that may work in the Saskatchewan context?*
2. *As a group, try to identify the steps toward implementing one or more of the innovations you discussed, keeping in mind the preliminary needs, potential collaborations, and resources required.*

D. What does the lawyer of the future look like?

(tags: Education - law school and ongoing; mentorship; lawyering skills; practice environment; a spectrum of options; etc.)

1. What does the lawyer of the future look like?
2. As a group, try to identify the necessary elements in producing the lawyer of the future, keeping in mind topics such as admissions, education, introduction of the legal practice, ongoing mentorship and training, and other professional supports

E. Negotiating a new professional contract: managing change in the legal profession

(tags: Designing a process for change: engaging the current bar; rebranding to the public; etc.)

1. In order to shift the culture of the legal profession, how do we negotiate a new “professional contract” that defines the roles, expectations, and responsibilities of the participants? As a group, try to design a process of legal culture shift, keeping in mind preliminary and long-term needs, potential collaborations, and resources required.

Group One: Streamlining the delivery of basic legal services

- Some services can be provided by non-lawyers – there must be a serious discussion around which services should be reserved for lawyers and how to assure quality from non-lawyers
- These solutions do not create a conflict with traditional models and firms – they are complementary and address currently unmet demand
- Early intervention is the key to reducing costs down the line

Group Two: Reducing the costs of legal services

- Legal expense insurance is being considered by SGI. This is a good financing option for the middle-class who can afford to purchase the insurance.
- Alternative business structures and alternatives to the billable hours pricing model could be used to lower cost and increase access
- Mandatory pro-bono services may be unreasonable unless they are combined with the ability to opt out by paying a fee
- Unbundling of services and limited scope retainers are also useful tools
- Identification of a systemic problem – cost association related to the structure of the system

Group Three: Alternative business models

- Alternative business models can operate concurrently with traditional practice
- Access to justice requires a diverse set of options for clients

- The “Sobey’s model”, where basic legal services can be obtained through franchised grocery/department stores, is very attractive
 - o Significantly expands physical access
 - o Develop training and regulatory standards for employees
 - o Front-line workers will require more than legal training – emotional intelligence, problem-solving skills, cultural sensitivity and access to a broader network of professionals are all essential
 - o Supervision by a qualified lawyer may alleviate concerns about the quality of services
- Mobile service models, where lawyers move to meet their clients rather than relying on a central office, may prove useful for rural communities
- Internet resources and online tools need to be categorized and expanded
 - o Technological literacy amongst lawyers needs to be improved

Group Four: The lawyer of the future

- There is no ideal lawyer – legal professionals are a diverse group and we should embrace this
- All lawyers need to develop both legal competency and emotional intelligence
- Lawyers give back to their communities and add social value
- Change is slow because the financial interests of lawyers have some tension with providing better access – continuing incremental change will support this shift
- Law school training needs to be adapted to provide more opportunities for practical experience and skills development; learning the law is not enough
- More innovative courses and teaching methods should be offered to support this goal
- Early experiences in legal practice need to be consistent with this messaging. Students should not have the “attitudes and values beaten out of them”.

Group Five: Managing change

- A shift in legal culture will not occur overnight, nor can it be mandated
- A broad public discussion of our values and goals should set the stage for debate and analysis about the role of the legal profession
- A committee might help to structure this discussion and ensure that action is being taken
- Cultural change can be initiated through leadership and mentoring
- This is a collective issue, all parties must take responsibility and contribute

- The traditional incentive structure – “work hard to join the club” – isn’t convincing to new law students. Legal culture will become less homogenous and more accepting.

Summary notes compiled by the two student working groups

April, 2014

Appendix F: Integrated Service Centres Discussion Questions

INTEGRATED SERVICE CENTRES

Following a presentation expanding upon the previously distributed report relating to Integrated Service Centres the student working group posed the following questions to forum participants. After being dispersed into five break-out groups each was directed to choose three questions to discuss.

Questions posed for discussion on Integrated Service Centres:

Break-out group - Session 1

- 1. What are the gaps in legal services and what ways can an integrated service centre address these gaps in the justice system?*
- 2. What would an ideal integrated service centre look like to you?*
- 3. How would you model an integrated service centre to meet the multi-dimensional needs of the Saskatchewan population (perhaps with a view to additional social services offered)?*
- 4. How would you convey these services to the people in need? How would you overcome structural obstacles, such as accessibility, communication and location?*
- 5. Who do you have in mind when imagining your ideal integrated service centre? Should the focus be on a broader group of people or a targeted segment of the population?*
- 6. What are the first steps we can take in implementing a service centre (resources, committees, strategies)? What are the barriers to implementation?*
- 7. What role can you play in the implementation of an integrated service centre? What specific expertise can you contribute to the development of a centre?*

Appendix G: Legal Culture Discussion Questions

THE CULTURE OF LEGAL PRACTICE

Questions posed for discussion on the Culture of Legal Practice:

In order to address this broad topic area, participants were asked to join one of several small group discussions on one of five sub-issues. As a result, each group considered different questions and proposals.

Questions for discussion on Culture of Legal Practice:

Break-out group - Session 2

A. Streamlining the delivery of basic legal services

(tags: limited scope retainers; opportunities to expand the role of paralegals; legal information services delivered by lawyers and qualified non-lawyers; summary advice and referrals; etc.)

3. *Building on the conversation, what are some ways that private firms or lawyers can engage with streamlining the delivery of basic legal services?*
4. *As a group, try to identify the steps toward implementing one or more of the innovations you discussed, keeping in mind the preliminary needs, potential collaborations, and resources required.*

B. Addressing the cost of legal services

(tags: pro bono and low bono services; alternative billing models; legal expense insurance; etc)

3. *What are some ways of reducing the costs of legal services, considering the options already canvassed and others that may not have been identified?*
4. *As a group, try to identify the steps toward implementing one or more of the innovations you discussed, keeping in mind the preliminary needs, potential collaborations, and resources required.*

C. Alternative business models

(tags: Regulatory change; possibilities and innovative models elsewhere — e.g. ownership structures, adopting technology, franchise firms with retail services, mobile models, etc.)

3. *What are some alternative business structures that may work in the Saskatchewan context?*
4. *As a group, try to identify the steps toward implementing one or more of the innovations you discussed, keeping in mind the preliminary needs, potential collaborations, and resources required.*

D. What does the lawyer of the future look like?

(tags: Education - law school and ongoing; mentorship; lawyering skills; practice environment; a spectrum of options; etc.)

3. *What does the lawyer of the future look like?*
4. *As a group, try to identify the necessary elements in producing the lawyer of the future, keeping in mind topics such as admissions, education, introduction of the legal practice, ongoing mentorship and training, and other professional supports*

E. Negotiating a new professional contract: managing change in the legal profession

(tags: Designing a process for change: engaging the current bar; rebranding to the public; etc.)

2. *In order to shift the culture of the legal profession, how do we negotiate a new “professional contract” that defines the roles, expectations, and responsibilities of the participants? As a group, try to design a process of legal culture shift, keeping in mind preliminary and long-term needs, potential collaborations, and resources required.*

Appendix H: Integrated Service Centres Student Presentation

Please find externally attached PowerPoint presentation in PDF format.