

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

## **Progress Report II**

**February 2016**

**The University of Saskatchewan, College of Law**

## **The Third Dean’s Forum on Dispute Resolution and Access to Justice**

### **College of Law, University of Saskatchewan**

*The third meeting of the Dean’s Forum on Dispute Resolution and Access to Justice took place on March 12, 2015. Introductory comments were provided by Professor Michaela Keet and Professor Brent Cotter, Q.C.*

*The day’s events built on the priorities identified during the first and second Dean’s Forum gatherings, which were: (i) early-integrated intervention and service delivery; (ii) public information at critical gaps; and (iii) engaging practicing lawyers in a legal culture shift. With respect to the themes of early and integrated information and service delivery, student researchers explored the subtopic of whether a practice of trained and systematically organized paralegals in Saskatchewan could improve the delivery of legal services to residents, with introductory comments about the topic provided by Assistant Deputy Minister of Justice, Justice Innovation, Glen Gardner. With respect to the second theme of encouraging change in the culture of legal practice, student researchers explored an inward look at the subtopic of Law School education, and how the Law School program and community can contribute meaningfully to more “accessible justice”, with introductory comments about the topic provided by Interim Dean of the College of Law, Beth Bilson, Q.C.*

*Student working groups then presented their policy discussion papers, with time allotted after each presentation for thirty minutes of Forum reflection and discussion. An additional student presentation related to legal education was provided on the potential for creating an “Access to Justice Center of Excellence” at the College of Law, with discussion that followed. The afternoon involved assigned break-out groups engaging in small group discussion, evaluation, and option generation on one of the two topics. Two groups discussed the topic of “non-lawyer” legal professionals, and two groups discussed the topic of legal education. The groups reconvened in an action and implementation session to report back each group’s findings. Closing remarks and observations were provided by Interim Dean Beth Bilson, Q.C. and Deputy Minister of Justice and Deputy Attorney General, Kevin Fenwick, Q.C. at the end of the day.*

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## **Post-Forum Developments (Summer 2015 and Fall 2015)**

### ❖ Summer 2015

***A General Update on Summer 2015 Dean's Forum Initiatives*** – In the National Action Committee Report on Access to Justice in Civil and Family Matters - *A Roadmap for Change*, Justice Cromwell encouraged provinces to create provincial working groups focused on addressing the issue of access to justice. Several other provinces have established working groups to discuss and implement such change on a sustained and ongoing basis. It was agreed by members at the most recent Dean's Forum (March 12, 2015), that a Saskatchewan Access to Justice Working Group be built on the successful and unique foundation of the Dean's Forum.

In addition to the establishment of a Working Group, Dean's Forum members suggested that an Access to Justice Coordinator role be created to support research and writing; coordinate Working Group activities; and to implement recommendations flowing out of the Dean's Forum.

Since the last Dean's Forum in March 2015, Forum participants' recommendations to move toward creating a staff Access to Justice Coordinator position, and an action and advisory oriented "Saskatchewan Access to Justice Working Group" have been fulfilled. During Spring and Summer 2015, the College of Law, in collaboration with the Ministry of Justice, applied for and received funding from the Law Foundation, with support from the College of Law, to create an "Access to Justice Coordinator" position on a three-year term. The Access to Justice Coordinator position's roles and responsibilities include:

- To coordinate and facilitate (with the Saskatchewan Access to Justice Working Group) two events per year bringing together stakeholders interested in discussing access to justice and innovation in Saskatchewan;
- To be action oriented in bringing ideas generated by the Working Group and Stakeholders into reality/implementation;
- To be a liaison between the Saskatchewan Ministry, the College of Law, the Legal Profession, and the Public on topics relating to access to justice;
- To assist the evolution of the Working Group as it evolves, and to investigate the possibility of establishing a "Centre of Excellence" in the area of Access to Justice at the University of Saskatchewan, College of Law;
- To assist in the transition from the Working Group to the "next generation" initiatives in the area of access to justice – both at the College and in the more general provincial arena;
- To be a champion of change in Saskatchewan in improving access to justice;
- To advance implementation of the Dean's Forum recommendations from Forums 2 and 3 and continue outreach with community contacts;
- To assist with the establishment of the Saskatchewan Access to Justice Working Group;

- To begin to explore and develop opportunities for further faculty and student engagement in the area; and
- To offer support as the College continues to develop models for experiential learning.

In addition to establishing an Access to Justice Coordinator position, during Summer 2015, the Ministry of Justice, Justice Innovation Division began drafting the Saskatchewan Access to Justice Working Group mandate and membership list in accordance with Dean's Forum members' recommendations to create same.

#### ❖ Fall 2015

***A General Update on Dean's Forum Fall 2015 Initiatives*** – Brea Lowenberger was hired as the Access to Justice Coordinator for the Saskatchewan Access to Justice Working Group and started in the position on October 1, 2015. Ms. Lowenberger has been supporting the creation of the Working Group and the implementation of and evolution of Dean's Forum topics, as well as connecting with justice community stakeholders, students, and the community at large on initiatives that promote justice reform and access to justice, in line with the accountabilities outlined above.

***First Meeting of the Saskatchewan Access to Justice Working Group*** – Preparation for the first meeting of the Saskatchewan Access to Justice Working Group occurred during Fall 2015. The first meeting of the Working Group was a full day event on January 5, 2016 at the College of Law. Approximately 20 justice stakeholders attended the first meeting. The Working Group will continue to consist of a core group of key partners interested in furthering access to justice initiatives in Saskatchewan, and will include a broad range of participants from the public, government, the Bench, Bar, Academia, legal profession, and related service providers.

A Proposed Mandate for the Saskatchewan Access to Justice Working Group was circulated to Working Group Members in advance of the first meeting, and the meeting consisted of:

- A presentation from both Deputy Minister of Corrections and Policing, Dale McFee, and Deputy Minister of Justice and Deputy Attorney General, Kevin Fenwick, Q.C., regarding access to justice work being done within the Ministry of Corrections and Policing and the Ministry of Justice;
- An update from Assistant Deputy Minister of Justice, Justice Innovation, Glen Gardner, regarding the work of the National Action Committee and the Federal-Provincial-Territorial Working Group;
- An update from Access to Justice Coordinator, Ms. Lowenberger, on work underway since previous years Dean's Forums; and upcoming topics for the 2016 Dean's Forum;
- A review of the Proposed Mandate for the Working Group; and
- An open discussion of ideas for improving access to justice in Saskatchewan.

The Working Group will continue to meet approximately twice per year.

***Access to Justice and Intensive Clinical Law Students' Seminar Work*** – While the Working Group was being created, and Ms. Lowenberger started fulfilling her mandate as Access to Justice Coordinator,

access to justice related student research beyond the Dean's Forum course was also underway, including through Professor Sarah Buhler's Access to Justice Seminar, and Intensive Clinical Law Seminar. The following ancillary reports are available on request from the Access to Justice Coordinator, Ms. Lowenberger, at [b.lowenberger@usask.ca](mailto:b.lowenberger@usask.ca). These reports and commentaries are written independently by law students and are important contributions in an expanded conversation about access to justice in this province.

Fall 2015 Access to Justice Students' Seminar Papers:

- *Access to Law School: Barriers in the legal profession for Aboriginal People*
- *Access to Justice: An analysis of Saskatchewan's northern remote locations in the context of criminal law*
- *The Access to Justice Problem and Lessons from the Medical Model*
- *Best Interests of the Child: A critical analysis into the application of the best interests of the child principle in family law proceedings in Canada*
- *Blunted: Declining outcomes in Saskatchewan family law*
- *Diminished Moral Capacity and Access to Justice: The need to further expand mental health circumstances in and around the criminal justice system*
- *FASD and Access to Justice*
- *Immigration Detention in Canada: Asylum seekers without justice*
- *Is the Canadian Criminal Justice System Failing Accused Individuals Suffering from FASD?*
- *Litigation's Failure to Provide Children with Access to Justice*
- *Police Community Contact Policies and their Impact on Perceptions of the Justice System*
- *Inner City Aboriginal Community Members and the Police: A struggling relationship*
- *The Responsibility of the Legal Profession to Foster Access to Justice: A critique of mandatory pro bono service*

Fall 2015 Intensive Clinical Law Students' Seminar Papers:

- *Clinical Legal Education: A viable replacement for articling?*
- *Collection Agencies: Regulation and self-representation*
- *Substance Abuse and Dependency in the Criminal Justice System*
- *Changes to Self-regulation: Access to justice through online technologies and unbundling of legal services*
- *Activist Lawyering 101 – The Systemic Guide to Out-litigating the System*

- *Canada's Drowned Giant: Access to justice and the growing income and wealth gaps*
- *A Look into the Canadian Payday Loan Industry with a Focus on Saskatchewan*
- *When Policy Becomes Law*
- *Sentencing as an Aboriginal Offender and the Resulting Systemic Discrimination Aboriginal Offenders Face in the Saskatchewan Justice System*

**Implementation of Justice Access Centres and Integrated Service Centres** – During the second meeting of the Dean's Forum in March 2014, Forum members expressed a desire to move forward with the development of an Integrated Service Centre, and in general more integrated and early legal service delivery in Saskatchewan. Since that meeting, the Ministry has been exploring two different models for potential implantation in Saskatchewan, namely: (i) Justice Access Centres (JACs); and (ii) Integrated Justice Centres (IJC). The purpose of a JAC is a "single door" to justice services that provide citizens with early and affordable assistance with family and civil law issues, whereas the purpose of an IJC would be an innovative approach to bring together justice services and essential human services in one location.

The Ministry is currently exploring a JAC model being used in British Columbia to see how it may work in Saskatchewan. JACs would offer Saskatchewan citizens access to integrated services and meaningful assistance to resolve everyday legal problems (i.e. family and civil law issues, separation or divorce, etc.) in a timely manner. A JAC model would offer phone assistance, drop-in services, and information to help clients with legal research. Piloting a JAC is a high priority for the Ministry of Justice.

With respect to the IJC model, the Ministry is currently reviewing the possibility to develop the same, which would expand on the "traditional concept" of a courthouse by including several services in one location for citizens. This initiative is still in its beginning stages.

The work of 2016 Dean's Forum students engaged in the "putting the public first" topic (topic description at page 9, below), preliminary explored during Fall 2015 by Ms. Lowenberger, (i) builds off of the Summer 2014 Dean's Forum Student Researchers' work to outline new initiatives that have been implemented in Saskatchewan since 2014 that may improve early and integrated service delivery and public information at critical gaps; as well as (ii) offers ideas for ways to engage the public that could contribute to the creation of JACs. – *Submitted in collaboration between the Ministry of Justice, Justice Innovation Division and the College of Law (February, 2016).*

**Engaging Practicing Lawyers in a "Culture Shift"** – This topic was explored during the second meeting of the Dean's Forum in March 2014 and involved further work by the Summer 2014 Dean's Forum Student Researchers, who conducted over two dozen interviews with Saskatchewan lawyers and judges. The work of the 2016 Dean's Forum students engaged in the "accessibility of superior courts and court procedures" topic (topic description at page 9, below), preliminarily explored during Fall 2015 by Ms. Lowenberger, builds on students' work from 2014. The 2016 Dean's Forum students seek to elicit feedback from Saskatchewan lawyers on the simplified and summary procedures rules of court that have the potential to increase access to courts, and examine why there has not been more uptake on same.

***Expanding the Role of Non-Lawyer Legal Professionals in the Delivery of Legal Services (Licensing Legal Technicians/Paralegals)*** – During the third meeting of the Dean’s Forum in March 2015, Forum members offered their support in expanding the role of non-lawyer legal professionals in the delivery of legal services in Saskatchewan. The Ministry of Justice in Saskatchewan is currently working with the Law Society of Saskatchewan in looking at ways to make quality legal services available to a broader range of consumers. In particular, they are looking at the possibility of modernizing and expanding the scope of legal services in the province to include legal technicians/paralegals. The project’s goal is to provide greater access to legal services for Saskatchewan citizens. A number of jurisdictions in North America have successfully added legal technicians/paralegals in the delivery of legal services, and others are exploring the issue. Saskatchewan is committed to pursuing this topic further.

The Ministry and the Law Society intend to have informal discussions with individual legal technicians/paralegals and their associations to better understand the current market. In particular, they will gather information about the current environment, including how many non-lawyers are working in any legal capacity or are delivering some kind of informal legal service in Saskatchewan.

The Law Society and the Ministry of Justice intend to undertake consultations with affected stakeholders after the 2016 provincial election. The consultations are intended to include, at a minimum, courts, Crown corporations, the profession in general, Saskatchewan Trial Lawyers Association, Collaborative Law, Canadian Bar Association, Pro Bono Law, Public Legal Education Association, CLASSIC, Legal Aid, tribunals, community based organizations, notaries, paralegals, the public, insurance brokers, financial planners, and estate planners. – *Submitted in collaboration between the Ministry of Justice, Justice Innovation Division and Legislative Services Branch, the Law Society of Saskatchewan, and the College of Law (February, 2016).*

***Legal Education and Centre of Excellence in Access to Justice*** – At the last meeting of the Dean’s Forum in March 2015, Forum members expressed support and encouragement that the Law Schools consider how its program and community contributes to more “accessible justice”. In addition, there was support for the creation of a Centre of Excellence in Access to Justice that would extend the existing collaboration between justice system stakeholders that has been created through the the Dean’s Forum, and therefore be a collaborative and interdisciplinary space for research, dialogue, and action. The implementation of various legal education related recommendations from the last meeting of the Dean’s Forum are underway at the College of Law.

First, when Ms. Lowenberger commenced her position during Fall 2015, she began engaging with students and faculty in the topic of access to justice, including starting to provide faculty support with integrating access to justice related content in the law school program. Specifically, a greater emphasis on access to justice was incorporated as a pilot into the first-year Dispute Resolution Week Program. Students were provided with a framework for thinking about the relationship between access to justice and dispute resolution processes. The access to justice related content that was integrated focused on critical thinking about: the connection between adaptive processes and client needs and outcomes; how contextual factors (client backgrounds including age, race, socioeconomic background, gender, their

locations, etc.) play a part in who is able to access certain processes; and access to justice barriers inside an actual negotiation or mediation.

Second, with respect to the Centre of Excellence in Access to Justice topic, since the 2015 meeting of the Dean's Forum, a small focus group was conducted during Spring 2015 with College of Law faculty on the topic of creating a Centre. During Fall 2015, Ms. Lowenberger conducted individual consultations with faculty and several sessional lecturers who teach in access to justice and dispute resolution areas, and law students about the potential to create a Centre at the law school. During late Fall 2015, a Centre Steering Committee with interested faculty and a sessional instructor was created at the College of Law, with support from Ms. Lowenberger. The Steering Committee was created to further explore and define the objectives of a Centre, and prepare a proposal to create a Centre. A second-year law student with preexisting interest was identified from earlier student consultations, and is currently completing a draft proposal for the Centre in collaboration with Steering Committee members, and under the supervision of Ms. Lowenberger and Amanda Dodge.

Third, on the topic of experiential learning at the College, Professor Michaela Keet has gathered student feedback and reported during Spring 2015 to the Curriculum Committee on its continued project on teaching and evaluation methods, as they relate to experiential learning at the College. During Fall 2015, the College of Law's Dean's office commenced a study toward the development of policies and protocols on the topic of experiential learning.

Finally, a search for a new Dean for the College of Law was underway during Fall 2015. Professor Martin Phillipson was announced the new Dean for the College of Law during Winter 2016. The 2015 Dean's Forum students' paper on legal education has been shared with him. He will start his tenure as Dean during Summer 2016, at which time he will assume the role as Co-Chair of the Dean's Forum and Working Group initiatives.

*Progress Report compiled by Brea Lowenberger, Access to Justice Coordinator  
February, 2016*



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

College of Law, University of Saskatchewan

*The fourth meeting of the Dean's Forum on Dispute Resolution and Access to Justice is scheduled for February 29, 2016. Student working groups have again prepared policy discussion papers and presentations. This year's student working groups will focus on two themes: putting the public first in access to justice initiatives, and the accessibility of superior courts and court procedures.*

**Putting the Public First** – The goal for the first topic is to engage Dean's Forum participants in a discussion to explore and critically engage with identifying who 'the public' is and how it can contribute meaningfully to more 'accessible justice'. The students will share with you the the scope of their project, which has involved building upon previous work completed through the Dean's Forum initiative to 'map' legal services for the purposes of: reciprocal learning; identifying critical gaps in legal information and service providers; and empowering the community.

**Accessibility of Superior Courts and Court Procedures** – The second topic will examine the existing Court of Queen's Bench rules and processes, and will look at innovative ways to improve access to justice at an institutional level, and in doing so, consider how the courts may be reactive to the needs of the public. More specifically, the students hope to explore with you whether the implementation of a triage program for family and civil matters would be appropriate in Saskatchewan. This topic will also contemplate the traditional role of judges, and an increased use of judicial case management and dispute resolution processes to facilitate the meaningful resolution of disputes. Lastly, the students will present options and engage the Dean's Forum in a discussion about increasing uptake of the simplified Court of Queen's Bench rules and procedures. The students will present court reform initiatives undertaken in other jurisdictions, and will consider the various challenges and opportunities that could be faced in implementing similar reforms here in Saskatchewan.

## **Appendix A: Summary Notes of the Third Meeting of the Dean's Forum (March 12, 2015)**

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

Summary Notes from March 12, 2015  
College of Law, University of Saskatchewan

#### **POLICY DISCUSSION PAPERS PRESENTED BY STUDENT WORKING GROUPS:**

*During the March 12, 2015 meeting of the Dean's Forum, student working groups researched and developed policy discussion papers and presentations on the topics of (1) "Introducing Paralegals into the Saskatchewan Legal Market" and (2) "Justice Innovation and the Culture of the Legal Profession – Legal Education"; and an introduction to "A Centre of Excellence in Access to Justice". 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 Canadian Bar Association's (CBA's) Envisioning Equal Justice Report, and the CBA Legal Futures Initiative Report. The students reviewed academic literature, looked to initiatives that were happening across Canada and internationally, and conducted consultation interviews with a sample of key stakeholders on each topic to further inform and focus their recommendations in the Saskatchewan context. Each group prepared a policy discussion paper summarizing their research and identifying key ideas, themes, and points for further discussion. These policy discussion papers were distributed to participants in advance of the meeting of March 12, 2015. Copies of the papers can be forwarded on request to any interested justice system stakeholders by the Access to Justice Coordinator, Ms. Lowenberger, at [b.lowenberger@usask.ca](mailto:b.lowenberger@usask.ca).*

#### **COMMON THEMES THAT EMERGED FROM THE DAY'S DISCUSSIONS:**

##### ***Introducing Paralegals into the Saskatchewan Legal Market***

*Topics of discussion considered areas such as education, regulation, scope of practice, and how to make space for paralegals within the legal community in the Saskatchewan context.*

- **General support expressed for paralegal initiative as it relates to improving access to justice:** Participants were generally supportive of services being provided by qualified non-lawyers, with further consultations to determine: the scope of what services non-lawyers can offer; what training/certification should be required; how their costs can be managed; the areas of practice through a needs-based approach (e.g. criminal and family law), and how to utilize and build on strengths of related existing programs (e.g. the Saskatchewan Aboriginal Courtworker Program).
- **Key accessibility issues identified and how paralegals can help:** The issue is a combined lack of access to information and service delivery. More specifically, with respect to the lack of access to contact/information points, we have to think about who is best to provide that information, to do it in a way that addresses the unmet need. We need to make sure we are addressing justice needs on the front end (the "demand" side) through, for example, a justice worker in a Justice Access Centre. When speaking about paralegals, we are talking about the "supply" side of the conversation – i.e. one of the options of service providers for the public to seek assistance

from with a legal issue. Lawyers and paralegals, like dentists and dental hygienists, will learn when it is appropriate to refer to each other. In some circumstances, the market will determine for itself in choosing the most appropriate, affordable, or efficient provider.

- **Paralegals one part of a larger movement to increase access to justice:** Introducing paralegals are therefore not a “Band-Aid” to address the access to justice crisis, but are part of a larger package of initiatives to address access to justice issues. The risk of not implementing paralegals is greater than implementing them. There is virtually no other profession that does not work with related paraprofessionals.
- **The scope of and spaces for paralegals to practice identified:** The scope of practice for paralegals must address the heart of access to justice issues (e.g. focusing on areas of need such as assistance with criminal, small claims, and family law issues). Specialized tribunals where paralegals could work could be utilized and expanded.
- **Quality of training must be balanced with providing paralegals with accessible education:** With respect to education for paralegals, there is a balance between how much training they need to be competent, with education becoming a barrier to entering the profession (i.e. aim to keep tuition reasonable).
- **Ideas identified that could increase affordability of services for the public through use of paralegals:** To increase accessibility and affordability for the public, public space could be utilized to manage overhead and sequence development of paralegals, and enable paralegals to work directly with other service providers. To keep costs down, fee for service or standard rates could apply for paralegals’ services. In the future, other options like legal service insurance could pay for more than just lawyer fees, but also non-lawyer service providers, so if your insurance is limited, you would look at the most cost effective avenue.
- **Paralegals could help increase access to justice in Aboriginal, rural, and remote communities:** Partnerships could be built with Aboriginal, rural, and remote communities to elicit what unique services they need, as paralegals (and paralegals combined with technology) could have a huge impact on access to justice in reaching out to and working with these communities.

### ***Justice Innovation and the Culture of the Legal Profession – Legal Education***

*Topics of discussion included tuition, the admissions process, curriculum and degree requirements, experiential learning and clinical course offerings, as well as an examination into interdisciplinary connections.*

- **Access to justice programming an area of strength at the College of Law:** There are currently positive innovations at the College of Law with respect to the creation of access to justice courses and clinicals, with tremendous developments made over the last decade.
- **A long-term plan at the College of Law that identifies access to justice as a core value could help with a culture shift in the legal profession:** Continuing to shift the culture of the legal profession requires us to engage law students, professors, and practitioners in serious discussions about access to justice as a “value” in legal education, and encourage new ways of thinking in all aspects of our teaching and work. This meeting was identified as good progress. Changes were identified as having to be initiated with faculty/sessionals. A long-term plan needs

to be implemented with respect to access to justice initiatives at the College, utilizing the Curriculum Committee or another planning committee.

- **Various aspects of legal education identified that could be further examined to more meaningfully address access to justice at the law school:** There was agreement among participants that the kinds of students we would like to see graduating are individuals who are equipped to be good lawyer citizens, individuals who can do good by being legal professionals, including being mindful of access to justice issues, which requires examination of components of the College of Law's (i) admissions; (ii) curricular and extracurricular programming; and (iii) degree requirements.
- **Tools could be utilized to identify areas of success and for improvement in elevating the priority of access to justice at the law school:** The exercise of "curricular and extra-curricular mapping" could assist the Law School community to identify what social justice related attributes we want law students to have when they enter and when they graduate, and identify what is being and can be done with admissions, curricular and extracurricular programming (including experiential, clinical, and interdisciplinary offerings), and degree requirements to try to achieve the same.
- **Consideration of desired attributes could be assessed through law school admissions:** The component of regular admission that is primarily academic could be built on, to evaluate whether students have been involved in community, and have desirable attributes.
- **Access to justice could be infused throughout law school curriculum:** Access to justice needs to be infused into the core doctrinal curriculum because some students start Law School pursuing social justice and lose that interest in Law School, or come in and exit without any awareness as to what access to justice means, both due to the traditional method of teaching students to "think like a lawyer" (i.e. there have been studies showing how traditional doctrinal curriculum actually does not just have a neutral impact on students' access to justice, but a negative impact – through the curriculum they lose interest in access to justice, which has been traced to the acontextual, apolitical, and technocratic way of teaching students to "think like a lawyer"). Legal education needs to evolve beyond "thinking like a lawyer", to focusing more on how to solve peoples' problems, which goal involves faculty guiding students to reflect on issues related to access to justice in legal service delivery and the culture of the legal profession.
- **Both faculty and sessional instructors need to be engaged in conversations about increasing access to justice related content in the curriculum:** What is being taught in substantive law courses therefore needs to be looked at through a critical lens, and organized in a way that values a social justice stream if students choose to pursue it or expand their knowledge on it. This requires faculty commitment and strategic discussion about the same. There are a vibrant community of practitioners that are drawn on to teach, and they must be part of the conversation too.
- **Special attention could be paid to how access to justice content is integrated into first year courses:** Particular examination of first year courses need to occur, and more transparent connections could be made between the first year "Dispute Resolution Week" and its relation to

improving “access to justice”, or a week specifically dedicated to access to justice in first term could be introduced.

- **Experiential learning and interdisciplinary education can help educate students on access to justice:** Support needs to be provided at the College with respect to the development of models for experiential learning, and interdisciplinary education. CLASSIC is a hub that could be built upon, given students’ feedback on how they are educated to treat vulnerable clients, as with access to justice, the heaviest weight of the law often rests on the most vulnerable. The importance of experiential learning paired with critical reflection was highlighted.
- **A balanced approach necessary regarding resources associated with the cost of tuition, accessibility of law school spots, and experiential learning opportunities:** There is a tension between the goal of making spots in Law School more available and keeping tuition costs down, with expanding the resources needed to be put into more experiential learning, so strategic thinking and balancing overall is required amongst the goals of keeping tuition costs down, and experiential offerings up. Realistic assessments and risk assessments need to be made about the same.
- **Reimagining how students ‘use’ their law degree could help increase access to justice:** When you talk about how people get to Law School or what it should focus on, all of this connects to broadening what we view as a legitimate use of a legal education. If it is to practice in a large firm, that is different from public service jobs. The broader you envision the role of lawyers or those legally educated, the broader the legal training will have to be. The professional needs of the future count on the definition of “thinking like a lawyer” to change. The creation of more professional development opportunities tied to access to justice could be explored through the College’s Career Office.

#### ***An Introduction to “A Centre of Excellence in Access to Justice”***

*The use of University-based centres to advance work in strategic areas was discussed. In 2014, the CBA Access to Justice Committee recommended the establishment of Centres of Excellence in Access to Justice, in Law Schools willing to take leadership on this front. The research and consultation paper presented a range of ideas and future possibilities.*

- **Centre could be a vehicle for access to justice research and change:** A Centre of Excellence in Access to Justice at the College of Law would be a vehicle to start, collaborate on, and sustain progress related to access to justice initiatives.
- **Collaboration and interdisciplinary connections key values for the Centre:** For a Centre to be successful, it should build on the strengths of the collaborative policy making process of the Dean’s Forum in that it needs to be collaborative, and should be an interdisciplinary space for conversation among key players, where visitors’ organizational responsibilities can be left behind to have safe discussions within the context of the Law School.
- **A user and community centered focus suggested:** The Centre should focus on making the law work for the public and communities, not be another Centre formed by lawyers for lawyers.

- **Further investigation should occur to implement a Centre at the College of Law:** Investigation will need to be made into the infrastructure and resources that may be needed to sustain such a process, and consultations should occur to gauge faculty interest.

### **NEXT STEPS:**

*At the end of the day, there was agreement that the policy discussion papers identify important priorities, and that they should to be advanced through further planning and discussion:*

#### *Introducing Paralegals into the Saskatchewan Legal Market*

- Participants were mostly supportive of the development of alternative modes of service delivery through introducing paralegals into the Saskatchewan market. Representatives from the Law Society and Ministry of Justice indicated they will support the ongoing implementation work. A message is to be passed to the Law Society and Ministry of Justice that the Dean's Forum (i) supports and encourages the Law Society's and Ministry of Justice's actions to change the regulatory model of legal services, with consideration of the "themes" identified above; and (ii) the Forum is open to providing its ongoing assistance with or advice on changes to the regulatory model of legal services in a way that will help improve access to justice.

#### *Justice Innovation and the Culture of the Legal Profession – Legal Education*

- The Dean's Forum supports the College of Law's reexamination of its admissions process, curricular and extracurricular offerings, and degree requirements from an access to justice related lens, as no matter what law school graduates seek to do with their careers, they should still have an understanding of and some insight on the limitations of the justice system for some individuals, even if there are limits on getting people to "buy into" the value of increasing social justice. A message is to be passed to the College of Law that the Dean's Forum (i) supports and encourages the Law Schools' actions related to improving how the Law School program and community contributes to more "accessible justice", with consideration of the "themes" identified above; and (ii) the Forum is open to being a sounding board for what the Law School determines may be good choices in improving its admissions processes, curricular and extra-curricular initiatives, and degree requirements in a way that will help improve access to justice.

#### *The Creation of a "Centre of Excellence in Access to Justice"*

- The Dean's Forum supports the idea of a Centre of Excellence in Access to Justice at the College of Law, and therefore further investigation by the College of Law into the possibility of a Centre, with consideration of the "themes" identified above.

### *The Creation of an Infrastructure for the Dean's Forum Process*

- The Dean's Forum can continue to provide value as a sounding board on previously identified and ongoing access to justice topics, including supporting Forum members in bringing forward potential topics for future Forums.
- Participants identified that infrastructure needs to be created to support the ongoing Dean's Forum meetings and recommendations coming from them. First, there needs to be coordination of an advisory and action-oriented Saskatchewan Access to Justice Working Group that is a smaller group and extension of the Dean's Forum whose members will (i) meet more frequently than the Dean's Forum; (ii) ensure that Dean's Forum action items and recommendations are proceeding; and (iii) act as a clearing house for ideas – a "Working Group" (with suggested representatives from the Ministry, three levels of Court, Canadian Bar Association, the Law Society, College of Law, legal organizations, community members, and Aboriginal peoples). Second, a staff position needs to be created to help coordinate the Dean's Forum and Working Group. This staff member will call upon Working Group members to do things, and if you are part of the Working Group you are required to contribute.
- The Working Group will be tasked with considering how and when to meaningfully engage the community more broadly in its work, building off of the Summer 2014 Student Researchers' work reported in the papers titled "Emerging Themes in Early and Integrated Service Delivery"; "Moving Forward: Improving upon early and integrated service delivery in Saskatchewan (Proposed strategies and initiatives for advancement)"; and "Changes in the Culture of the Legal Profession".
- Student involvement should persist through the course at the College of Law, as an arm of the Working Group.

### **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 on both topics during the participants' break-out groups.*

#### **I. SERVICE DELIVERY**

##### **Questions posed for discussion on Alternative Delivery of Legal Services:**

*Breakout Groups One and Two (Rooms 130 and 211)*

*Overarching question:*

*After having the opportunity to hear about the approaches taken in other jurisdictions, how do you think we can best approach incorporating paralegals in Saskatchewan to improve the delivery of legal services?*

*Supporting questions:*

*Where should paralegals practice? How do we envision legal services from paralegals being delivered?*

*What are some ways to ensure that paralegals in Saskatchewan address the issue of not only accessibility, but also affordability?*

*How can we best educate or train paralegals to participate in the delivery of legal services? Should we adapt our current educational programs or create a new model?*

*Is there a reason to limit the scope of paralegal practice? If so, how?*

*What is the ultimate objective of a paralegal program? How would we measure success and what does success look like?*

**Alternative Delivery of Legal Services break-out groups' discussions:**

Group One:

*Best Approach to Incorporating Paralegals*

- More research is not necessary in terms of the need for non-lawyer professionals – national surveys have been done on this (e.g. Julie McFarlane's national surveys on self-represented litigants).
- Issue is that we do not pay attention to nor analyze the risk of *not* implementing non-lawyer professionals – i.e. as lawyers we are really good at analyzing the risk of doing something, and risks do need to be considered with implementing a paralegal program, but more importantly we need to consider the damage that is being done by not implementing a program.
- Risk of doing something is probably less than living with the status quo and part of this is considering who you are serving, and thinking of legal services needs on a spectrum – i.e. top 10% of firms serve top 10% of the community's legal needs, and there is a range in the middle that have simply given up looking for help, where paralegals could service this market and not compete with that top 10%.
- Just giving more money to Legal Aid is not the answer – regulation of paralegals meets a need that Legal Aid lawyers do not; it would not take the same sort of investment that would be required to pour into Legal Aid. Paralegal regulation can be achieved with less money from the government up-front.
- Implementation of program may take time and careful consideration, but actions should be taken sooner rather than later – it is better to try something.

*Accessible Delivery of Paralegals' Services*

- Technology could be utilized by paralegals to reach rural and remote communities.
- Research shows that access to legal information does not solve the problem; often, it is only minor assistance that someone needs, and a paralegal could assist on this spectrum – i.e. serving people that would see lawyers if they could, but they cannot.
- Justice Access Centres (JACs) should be implemented throughout the province that would provide assistance to people that do not want to go to a Court house to ask questions;



paralegals could be in JACs, and also be in public spaces where people go so that legal issues could be addressed at the outset (e.g. Open Door Society, Band Offices, Court Houses, etc.).

- Portals for information would help promote paralegals as a service provider on the “spectrum”.

#### *Affordable Delivery of Paralegals’ Services*

- Paralegals need to offer legal services at a reduced rate in order to benefit public access to legal services (cost issues have not been managed in other provinces).
- Potential insurance could be implemented for public to easier access paralegals.
- Allow public space for this to take place, which would allow paralegals (or younger lawyers for that matter) to have quality practices working in public spaces, charging less but still making money.

#### *Scope for Paralegal Services*

- The broader the base that paralegals are allowed to practice and the less supervision they require; the more impact they will have on alleviating costs of legal services.
- Saskatchewan should take a needs-based approach to implementing areas for paralegals to practice (e.g. criminal, small claims, family law).
- Assumptions that highest quality legal advice comes from fully trained lawyers, but this is not necessarily the case since many lawyers specialize (the need, for example, in northern communities is not necessarily a fully trained lawyer, but a specialized paralegal).

#### *Ultimate Objectives of a Paralegal Program*

- Opportunity to focus on middle class who could afford a paralegal but not lawyer.
- There are many self-represented litigants, but there are also people that just give up on the justice system and do not make it to Court at all – it is easy as workers in the Court system to forget that there are problems that do not even make it to a lawyer or Court. Biggest issue in regulating paralegals may be getting to people who have decided they cannot participate because they cannot afford a lawyer and there is nowhere else to go.
- Lawyer could be reimagined a ‘coordinator’ of services (Richard Susskind talks about this). Interaction between paralegals and lawyers will be necessary in explaining that “a paralegal can take you this far, but you need a lawyer for ‘x’ issue”.
- Observation that a lot of firms recognize that there is a market that is not being touched, and they would be fine with paralegals serving those needs.

#### *Measuring Success of a Paralegal Program*

- Specific areas could be looked at to make sure program implementation is addressing a need.
- Could be a hybrid model and gradual process to work up to paralegals being independent.
- Again, a measure of success will be getting to those people who have decided they cannot participate because they cannot afford a lawyer and there is nowhere else to go – those who have stopped looking for help.

- Lawyers need to be willing to work with paralegals if paralegals are to be seen as credible; will be up to the consumer who they go to. Lawyers' leadership will therefore be necessary in creating a successful paralegal program.
- The potential is that the more rewarding and lucrative work opens up for lawyers who are, for example, turning away family law clients.

#### Group Two:

##### *Best Approach to Incorporating Paralegals*

- All participants acknowledged that paralegals are likely to play a role in shaping the delivery of legal services in Saskatchewan in the near future – the choice being whether or not we regulate it and take a proactive approach or wait.
- Participants viewed the regulation of paralegals as an opportunity instead of as a problem – i.e. this is a market that is not getting any business because people are not getting the legal assistance that they need. Paralegals already practice to some extent in Saskatchewan, and regulation of paralegals can be an opportunity with respect to addressing access to justice.
- Public information is still key – lots of people are missing opportunities for legal assistance due to a lack of information.

##### *Accessible Delivery of Paralegals' Services*

- Legal profession should look at this as a new opportunity since there is an unmet need – especially with middle class individuals. It will be important to maintain quality in both sectors through awareness of when paralegals and lawyers refer files back and forth (e.g. you never hear dental specialists complain about general dentists – general dentists know when issues need to be sent to a specialist, and vice versa).
- Changes may lead to circumstances that are less than perfect but better than we have now – the intent is to strive for progress and not be committed to perfection. Important policy decisions need to be made and public consultation needs to take place regarding regulation of paralegals in the next few years in Saskatchewan. Consultations must be made with a degree of haste, but carefully so that we do not lose anything right now that is already working well (look to successful existing related models in Saskatchewan, network with existing model organizers, and replicate – e.g. existing Aboriginal Courtworker Program; Legal Aid legal assistants; Aboriginal and Immigration and Refugee services that already explain Court process; and be careful not to give up, for example, successful conflict resolution systems that work well for people).
- Reduce backlog in Courts by implementing more specialized tribunals, and use paralegals in specialized tribunals.
- Use regulated paralegals and technology to reach out to rural, remote, and Aboriginal communities to build capacity in communities (e.g. introducing technology in all Remand Centers, Courts, and RCMP detachments).

##### *Affordable Delivery of Paralegals' Services*

- The risk is for costs to remain high for paralegals' services (e.g. in private firms) – introduce fee for service or standard rates?

### *Scope for Paralegal Services*

- Scope of practice for paralegals must be established in a manner that actually increases public access to legal services – scope must address the heart of access to justice issues (e.g. British Columbia focused on areas of criminal, family, and immigration law, which were areas of need).
- Important to look at regulation of paralegals from lens of what the unmet needs are, and how we can address them – must keep coming back to the nature of the problem we are trying to resolve (e.g. family, criminal, and residential tenancies law); also partnering with Aboriginal, rural, and remote communities to identify their unique needs.

### *Education for Paralegals*

- Education and credentials required of paralegals needs to be further discussed and implemented (paralegals can work on a spectrum of the service delivery – proper training for certain types of work, and regulation can deal with this).

### *Ultimate Objective of a Paralegal Program*

- The current system is designed for the wealthy – middle class cannot afford lawyers, but could afford a paralegal. There also may be some people do not want to go to Court, and a paralegal could potentially assist with self-represented litigants, for example, in a JAC.
- Introducing a paralegal program presents the potential to both (i) create market opportunities; and (ii) launch something more targeted on access shortcomings – i.e. paralegals could be integrated into the Court system and tribunals, as well as operate within expert systems and in law offices (e.g. paralegals (i) working in specialized tribunals, which would reduce the backlog in Courts; and (ii) connected to JACs).
- Need to move beyond thinking about what lawyers can do for access to justice, and make institutional and regulatory changes – the access to justice crisis cannot be solved through ProBono work and volunteerism alone.
- De-regulating business practices is also necessary (e.g. lawyers delivering legal services in Credit Unions, CO-OPs, etc.).

## **II. CULTURE SHIFT AND LEGAL EDUCATION**

### **Questions posed for discussion on Culture Shift and Legal Education:**

*Breakout Groups Three and Four (Rooms 120 and 135)*

*What qualities in students will be an asset to our Law School, the legal profession, and society in regards to increasing access to justice awareness?*

*What possible alternatives exist to help students with the financial burdens of Law School?*

*Should the implementation of mandatory programs, which work to reinforce the importance of access to justice, be a burden we place on law students?*

*If so, what types of programs should be implemented?*

*What would this look like?*

*What might be the best way to foster awareness in faculty with regards to the inclusion of, and sensitivity to, access to justice in the courses that they are responsible for instructing?*

**Culture Shift and Legal Education break-out groups' discussions:**

Group Three (Room 120):

*Qualities in Students in Increasing Access to Justice*

- Lots of interest in first year law students, at the beginning about public service, and this wanes for some reason by the end of the year (i.e. could be from a lack of curricular content related to access to justice during first year courses).
- There is a void between what is learned in the classroom and the practical application, and some disconnects also exist between some experiential learning opportunities and access to justice. A culture change needs to occur to encourage more social justice awareness and learning through more experiential and clinical opportunities, which will better the profession as a whole.

*Access to Justice Related Programming*

- There is a need for us to respond to access to justice issues through legal education.
- There is a definite appetite from students for more experiential learning. Supervisors (both faculty and sessionals) have a role to play in cycling back on the reflection of students' actions, and the ties to social justice factors – it is important for supervisors to be deliberate about ties to social justice factors, and make students tie experiences or examples back to the literature/classroom, as well as to the student's core values.
- Should focus more on access to justice within substantive classes. Curriculum should be amended so that core classes would be affected – even small themes of access to justice included in current classes would be beneficial. Concerns about access to justice may manifest in a lot of ways, but we need to think about ways to make it more focused in legal education.
- Will get engagement from students by introducing access to justice issues as an educational component. No matter what people want to do with their legal lives, they as citizens should still have an understanding of the limitations of the justice system for some individuals and have some insight on that, even if there are limits on getting people to buy into that.
- Law in the social context is important, so regardless of what area of law is chosen, it should be mandatory / options should be presented for those who want to pursue that route – educate and increase awareness; let students choose whether or not to continue in that skill set or not.
- Important connection between access to justice and dispute resolution – College could be more transparent about the connection. An "Access to Justice Week" could be introduced, similar to "Dispute Resolution Week". There is an interesting link between dispute resolution and access to justice. Dispute resolution is more of a process that lawyers must understand, and access to justice is more of a value. How do we integrate those or how do we emphasize that a value should be important to people and practice as well? Access to justice topics could be incorporated during Dispute Resolution Week.

- Advertisement of access to justice and experiential learning needs to be coordinated to increase student awareness.
- The Career Office could build on what they have been doing related to social justice and professional development. Students first encounter with access to justice is usually with ProBono Students Canada, which could be built off of, as well as keeping students aware of social justice and small firm options.

#### *Faculty Involvement*

- Access to justice needs to be conveyed as a value (more than an element of the process) in Law School – it is up to the faculty as teachers to instill it as a value, so training should be provided to raise awareness about the same for all instructors. Importance of introducing this in Law School is the position instructors have to encourage this as a personal value.
- The Curriculum Committee or another planning or subcommittee could be struck to support the unfolding of such initiatives.
- Resources are available at the university to support curricular innovation that could help determine areas of classes and extracurricular pieces that address access to justice and associated gaps, to see how it looks from the student perspective.
- Development of a stream for students interested in access to justice could be created; would need to be faculty driven.

#### Group Four (Room 135):

##### *Qualities in Students in Increasing Access to Justice*

- Importance of diversity in admitting a student population reflective of the population in order for lawyers to understand the realities of people who need legal services (increasing diversity of law students admitted makes it more likely that graduates return to diverse communities to improve those communities since those who come from privilege typically return to privilege).

##### *Financial Assistance*

- Rising tuition has affected the demographics that apply to Law School. This is an issue related to access to justice. If we want diverse students to come, we need to do more than what we have been doing, as there is a whole community who are not applying because they do not think it is affordable.
- Possibilities to improve the financial circumstances for those who apply and graduate wanting to work in social justice careers (i.e. that are often lower paying positions) include looking at distributing bursaries earlier; utilizing loan forgiveness programs (some schools have financing departments); differential fees for Law School; gradient scale; strategic disbursement of bursaries; targeted scholarships that target different groups of students – has to be criteria that can be evaluated to make certain communities of students come (have two streams of student applications).

- Ongoing scholarships could be targeted specifically to those who are demonstrating a commitment to access to justice and to those who would further work in access to justice jobs, as currently, many College of Law scholarships are focused on academic achievements.

#### *Access to Justice Related Programming*

- Students need opportunities to think contextually in order for access to justice to improve; not just to learn to “think like a lawyer” – i.e. to develop critical and analytical thinking skills in contexts in order to best approach problem-solving.
- Consideration of all course content and integration of thoughts related to access to justice across the first and upper year curriculum; portion of each class could be devoted to access to justice and dispute resolution topics, not just during Block Week. Access to justice should be integrated across the curriculum, not just in specialized upper year classes.
- Community engagement is key. Students and faculty need to gain perspective within the community where access to justice issues are happening, and faculty need to be a part of those conversations (justice is not only in law; it is related to housing, employment, health, employment, etc.). There should be a mandatory requirement to find out how access to justice affects the public. While PBSC assists, it’s not about understanding access to justice. Clinical legal education is doing a lot to help students learn critical, reflective thinking about access to justice issues while in Law School.

#### *Faculty Involvement*

- Faculty awareness will lead to student awareness – i.e. if you can engage students in the topic of access to justice during first year, “you have them forever”. Students’ ability to self-select during upper year courses is problematic in terms of exposure to access to justice related course content.
- There was some debate about the listed Law Society classes, and that access to justice often comes up as a secondary issue. Some felt that it is generally not dealt with in law school curriculum as a major problem that our country faces. Law needs to focus on improving people’s lives. Training could be offered to assist faculty in emphasizing access to justice and its impact on the substantive areas of law.

*Summary notes compiled by Brea Lowenberger, Access to Justice Coordinator  
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