Putting the Public First

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

The University of Saskatchewan College of Law
February 2016

Kelsey Corrigan | Lorne Fagnan | Sarah Nordin

Table of Contents

EXECUTIVE SUMMARY

Discussions surrounding the access to justice crisis have become widespread in the legal profession with a growing body of action initiatives across Canada. The Dean's Forum provides a venue for justice system stakeholders and community members to discuss access to justice in a local context and provides a forum to explore future opportunities and initiatives for implementation in Saskatchewan. This year's projects focused on two distinct areas of innovative justice system reform. The scope of this paper centers around public ownership of the law and the benefits of using reciprocal practices in justice system reform initiatives.

Project Direction

Building on work previously completed by the Dean's Forum, and literature on access to justice, we sought to investigate how justice initiatives are *Putting the Public First*. Three key questions have served as the base of our research endeavours:

1. Who is "the public" served by your organization/entity?
2. What are the access barriers faced by the public you have identified?
3. How is the public being engaged and how can we most meaningfully engage the public?

We aimed to learn what factors have led to the current success of certain access to justice initiatives, and how these best practices can be carried forward by all members of the Dean's Forum initiative.

Consultations

I. **Community:** A community mapping conversation was held with representatives from seven Community Based Organizations (CBOs). Participants identified the broad public they serve in addition to more narrow definitions of community; common struggles faced by individuals in accessing justice; and what future collaborations may potentially look like and potential benefits they may serve.

II. **Justice Stakeholders:** Individual consultations were held with six key justice stakeholders in Saskatchewan, including: **Amanda Dodge** (CLASSIC and University of Saskatchewan), **Craig Goebel** (Legal Aid Saskatchewan), **Barb Laing** (211 Saskatchewan: United Way), **Stacy Muller** (Ministry of Justice: Innovation Division), **Sharon Pratchler, Q.C.** (The Canadian Bar Association), and **Tom Schonhoffer, Q.C.** (The Law Society of Saskatchewan). The insight gained through these conversations demonstrated how stakeholders engage directly and indirectly with the public, and how the public's voice is incorporated in the development of reform initiatives.

Forward Momentum

Based on our project direction and the consultations we completed, these are the key themes that emerged that may be carried forward in Dean's Forum members *Putting the Public First*:

1. Community mapping with stakeholders in northern, rural and urban Saskatchewan;
2. Importance of reciprocal learning, ownership of information and diversity in knowledge;
3. Continued investigation of potential partnerships among justice stakeholders, the public library system, and community-based organizations; and
4. Continued discussions about reconciliation and cultural awareness.

I. INTRODUCTION

Current discourse and action initiatives in access to justice focus largely on the perspective of professional stakeholders and their interpretations of how the justice system can more adequately serve the diverse needs of the public. However, there is growing recognition that public engagement is an essential element to affect meaningful reform in developing a system in which stakeholders and the public are invested.

Setting the Stage

In order to situate the public engagement methods discussed in this report, it is necessary to outline previous access to justice research initiatives, recommendations, and findings arising from both national and provincial touchstone reports.

a) The National Context: A Call Toward Putting the Public First

The *Cromwell Report* (October 2013)[1] suggests that a guiding principle to affect meaningful change in the justice system is to apply an inclusive public-centered approach. The report calls for increased multi-stakeholder collaboration and coordination to improve service integration as well as better public communication and simplified processes. The concerns raised include overlaps, gaps and inefficiencies of services, and that services must represent Canada's diverse population. The *Cromwell Report* further indicates that the public must be made aware of the interconnection and cost savings between justice initiatives and systems such as healthcare and education, in addition to social and economic benefits. In turn, the benefits of increased public awareness and engagement about the justice system may include improved public trust in the justice system, and the potential for significant public contribution.

The Canadian Bar Association's *Equal Justice Report* (November 2013)[2] identifies the need for the justice system to be people-centered with increased public engagement. The report notes the centrality of increasing basic legal education and improving the capabilities of the general public to effectively engage with the justice system. In addition, the report identifies the potential benefit of mapping available public resources and advocates for greater community-based options, such as community legal offices. Potential options for increased public engagement recommended in this report include town hall meetings or community roundtables to facilitate dialogue and encourage innovative solutions through community engagement.

---

[1] Action Committee on Access to Justice in Civil and Family Matters, *Access to Civil & Family Justice: A Roadmap for Change*, (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, October 2013), at III [Cromwell Report] – See Appendix A for summary of report's discussion of putting the public first.
[2] The Canadian Bar Association, *Reaching Equal Justice: An Invitation to Envision and Act* (Ottawa: November 2013) [Equal Justice Report] – See Appendix A for summary of report's discussion of putting the public first.

b) The Provincial Context: Building on Previous Dean's Forum Work Toward Early-Integrated Service Delivery (With a Public-Centered Approach)

The discussion surrounding access to justice is one that cannot be held in isolation, as justice does not occur in a silo. The justice system is integrated into community services and greatly impacts the overall health and wellness of a community. Since justice impacts so many facets of everyday life and is often related to numerous other issues an individual may be facing, there is a growing need for integrated services delivered early in the process to more effectively and efficiently meet individuals' needs.

Previous Early-Integrated Service Delivery Reports Completed by the Dean's Forum

The University of Saskatchewan College of Law Dean's Forum released a Progress Report (March 2015)[3] arising from initial forum research and subsequent consultations with over two dozen Community Based and Legal Services Organizations. This report identified significant themes to be addressed and stages to be taken in future Dean's Forum research and initiatives. One stage identified is the need for ongoing community building amongst Community Based Organizations (CBOs) in order to achieve more integrated service delivery. The report states that a theme arose from consultations with CBOs that ongoing meetings of various groups may be beneficial to remain apprised of developments within their respective organization networks or the broader community. In addition, the report highlights the growing need for an accessible and readily-updatable database that would assist CBOs and legal organizations to provide appropriate assistance and referrals to the public. An integrated network of CBOs and legal organizations could potentially create more open communication between groups and develop or strengthen services' partnerships.

A coordinated and comprehensive approach among justice system stakeholders in Saskatchewan has been discussed as a necessary step in "putting the public first", which includes an existing and ongoing role for all Dean's Forum members to engage the public in their work. In addition, fostering ongoing relationships with CBOs and legal organizations could enable justice stakeholders to build more trusting and meaningful relationships with segments of the population that may have previously been inaccessible.

---

[3] Emerging Themes in Early and Integrated Service Delivery and Improving Upon Early and Integrated Service Delivery at 6 and 39 of The University of Saskatchewan, College of Law. "The Dean's Forum on Dispute Resolution and Access to Justice: Progress Report" (March 2015).

Stages Proposed that Could Achieve Early-Integrated Service Delivery in Saskatchewan

Recommendations were made in the Progress Report with the intention that they would be carried out in ongoing stages, that being incremental implementation of action initiatives. Several stages have already been met since the report, with other stages in the early processes of completion. Included in these recommendations was the need to encourage conversations and coordination amongst stakeholder groups. In addition, the report highlighted the ongoing use and development of resource mapping, such as through the use of the 211 Saskatchewan website, a database of legal and community organizations in the province.

Achieving Early-Integrated Service Delivery Through Combining Community Mapping and Utilizing 211 Saskatchewan

Ongoing community based mapping has the potential to be a highly beneficial process that may, for example, assist in identifying critical gaps in legal information and service providers on the "211 Saskatchewan" website, and whether CBOs are using "211 Saskatchewan". The site provides a unique opportunity to bridge the rural/urban spatial gap by enabling Saskatchewan residents to easily find services within their postal code, as well as in neighbouring communities. In addition, the site may assist in identifying "who" the publics are, and their particular needs in accessing legal services. Community feedback may assist in demonstrating how "mapping exercises" can be a useful method in reciprocal learning, and engaging with and empowering the community because it allows the community itself to direct the conversation.

Current literature regarding public involvement in access to justice has recognized the positive effects of mapping given its potential for community engagement, specifically the ability of mapping to build relationships between stakeholders working collaboratively towards a shared vision.[4]

II. RESEARCH LIMITATIONS AND OPPORTUNITIES

Information for this report was gathered in January 2016 through consultations with justice system stakeholders, a literature review and a review of innovative programs happening across Canada. The purpose of this research is to facilitate conversation among Dean's Forum members about further community discourse, collaboration and public ownership of information. As such, it is important to recognize the limitations, as well as potential future launch points of the information compiled.

---

[4] Mary Stratton, "Reaching Out with Research: Enabling Community in Mapping Legal Service Accessibility, Effectiveness and Unmet Needs" (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2008) – See Appendix B (Literature Review) for a summary of this article.

Lack of Academic Literature about Public Engagement in Justice System Initiatives

The literature available on the access to justice crisis in Canada is extensive. Reports such as the *Cromwell Report* and the CBA *Equal Justice Report* provide invaluable empirical evidence and recommendations. Contrastingly, we observed a gap in information and academic literature about public engagement within the legal profession and initiatives. Thus, the conclusions drawn about how the legal profession is engaging the public is largely drawn from other disciplines and best practices from local CBOs and justice stakeholders.

Starting Points: Pilot Community Consultations and Limitations

While we sought to host a community round table that was inclusive of diverse perspectives to better understand a more layered concept of who the public is according to each CBO, those invited to participate had either an existing relationship with the Dean's Forum or with the student researchers. In organizing this meeting, we realized we were projecting our own concept of community, that being one that is as inclusive and diverse as possible. In addition, we relied on our own community relationships that had already been built through previous community involvement with various organizations.

The CBOs Consulted Supported Hosting Additional Community Mapping Sessions

As a result of the limited number of participants engaged, many voices were not able to be included in the dialogue. Although this represents a gap in the voices that this report is able to bring to light, it leaves room for further action in this area. Based on participant feedback, there is an interest in further community mapping. This is an action that could be undertaken, for example, by a collaboration between Dean's Forum members.

Limited Overview of Existing Public-Centred Programs or Innovations

An inspiring number of public-centered initiatives exist across the country. Those included within this report represent a diverse cross-section of the innovative ways in which the public is being engaged. However, given the time and breadth limitations of this project, the list of initiatives is not exhaustive.

III. WHO IS THE PUBLIC?

The traditional discourse involving access to justice is heavily focused on the perspective of justice stakeholders, with more limited involvement from members of the public directly engaged with the

justice system.[5] In his article "What is Access to Justice", Trevor Farrow engages with the public to identify broad themes surrounding access to justice, both of which highlight the necessity of including the public perspective. The "need" for including the public in justice reform has repeatedly been highlighted in access to justice discussions and so the question arises: ***who is the public?***

Varying Definitions of "the Public"

There is no readily accepted definition of who the public is but instead it is a mutable concept with vastly different conceptions according to *who is being asked*. While there does not appear to be a coherent definition of "public", what was clear is that each organization or stakeholder consulted did have a public it engaged with in varying capacities and varying levels of collaboration. In addition, while there may not have been clear mandates for organizations to engage with the public directly, there tended to be a great level of concern for acting in the public interest.

Goals Achieved by the Pilot Community Mapping Meeting

To gain a better understanding of who the "public" is, several consultations were initiated with justice system stakeholders. In addition, as mentioned above, a community meeting was held with representatives from CBOs as per the recommendation from the Dean's Forum Progress Report.[6] The community mapping meeting offered the opportunity to foster inter-agency relationships and develop a more connected community with greater integration of services and the potential for a greater number of formalized partnerships between organizations.

Identifying "Your Public"

a) Pilot CBO Community Conversation

A main focus of the pilot community meeting was to assist this research group in understanding specific perspectives of who organizations considered as their "public". Moving beyond the scope of this project, there is the potential opportunity for further CBO forums around general justice themes to further facilitate CBO integration and collaboration, working towards a more cohesive "public".

Each organization had distinct and clear understandings of who the public it served consisted of, from broad definitions to more clearly-defined community segments. Many of the Saskatoon-based groups felt they served "a community within the community", that being more distinct populations

---

[5] Trevor Farrow, "What is Access to Justice" (2014) 51 Osgood Hall LJ 957 – Please see Appendix B (Literature Review) for a summary of this article.

[6] *Supra* note 3.

such as: LGBTQ, women and girls, students, stakeholders in the legal community, youth, the elderly, low-income and marginalized populations, individuals living with disabilities, inner-city Saskatoon residents, and individuals denied access to Legal Aid.

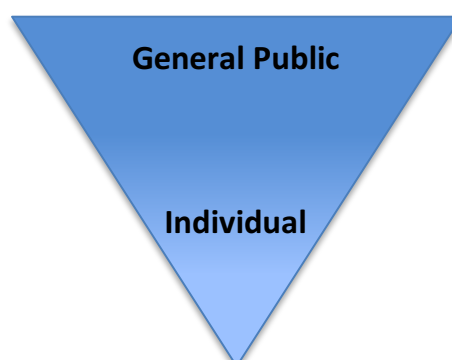### b) Justice System Stakeholder Consultations

Consultations were conducted with justice system stakeholders to better understand who the public is according to different stakeholders, and to identify how various legal-based organizations in Saskatchewan are meaningfully engaging with the public.

While CBOs tended to identify more narrow parameters of who they considered to be their public, the definition of the public provided by justice system stakeholders tended to have a broader scope. For instance, CBOs tended to identify with the immediate community, or with smaller groups of people within the community.   However, justice stakeholders illustrated a more expansive conception of the public including at a regional, provincial and national level. In addition, several consultations indicated that the "public" included not just those seeking or requiring legal assistance, but also legal service providers and community members at large. In a broad sense, "public" is often referred to as any person involved with or affected by the justice system in any capacity.

c) Emerging Themes From Consultations About Conceptualizing the Public

i.   *Conceptualizing the Public as an Upside-down Pyramid*

The public can be conceived of as an upside down pyramid, that being from the broader general public to the specific client. The definition could be construed of as so broad as to encompass all Canadian taxpayers as federal revenue is used to fund services, all the way to a narrow conception including a particular client group or individual. The upside-down pyramid concept provides for multiple views of the public and provides the opportunity to simultaneously conceive of the public from the general all the way to the individual.

ii. *Focusing on the "Public Interest" Rather than Defining "the Public"*

One conceptualization for identifying the public that arose in several consultations with justice stakeholders indicated that a more beneficial view was to consider the public interest, as opposed to the public directly. This concept arises from the difficulty of connecting with members of the public that may require more services, such as disenfranchised or marginalized people. While there are many different ways to stratify the public, a conception of public interest is a more broad approach and may provide a more useful frame of reference as the public can account for an incredibly diverse and amorphous group with vastly differing perspectives, whereas working in the public interest could potentially help ensure that justice initiatives include a variety of diverse public concerns.

> The *Legal Profession Act* from Nova Scotia specifically indicates that lawyers must act in the public interest. However, "public interest" includes a diverse spectrum of needs, some of which are conflicting. For lawyers and the law society, this mandate of working in the public interest will require an ongoing re-evaluation of what the public interest is, as these interests are constantly shifting and evolving with societal changes. There is an opportunity for other Law Societies and other Saskatchewan organizations to follow Nova Scotia's lead to specifically identify and legislate or incorporate into organizational policies access to justice and public consultation as integral elements to the practice of law that are worthy of regular assessment. Section 4 of Nova Scotia's *Legal Profession Act* holds the Society accountable to regular consultations with interested organizations and communities. It reads:
>
> **Purpose of Society**[7]
> **4(1)** The purpose of the Society is to uphold and protect the public interest in the practice of law.
>   **(2)** In pursuing its purpose, the Society shall …
>   **(d)** seek to improve the administration of justice in the Province by
>   **(i) regularly consulting with organizations and communities in the Province** having an interest in the Society's purpose, including, but not limited to, organizations and communities reflecting the economic, ethnic, racial, sexual and linguistic diversity of the Province, and; **… [emphasis added]**

iii. *Conceptualizing the Public as Consumers of Legal Services*

The public can be identified as consumers of legal services, and legal service providers as suppliers from an economic-related perspective. In thinking of the public as consumers, this approach allows justice stakeholders to affect change reflecting the needs and values of consumers based on the product they need or want. For instance, the ongoing need for more inexpensive legal services has pushed for regulatory changes in the inclusion of non-legal professionals who could supply a narrow scope of legal services at more affordable rates.

---

[7] (NS) *Legal Profession Act*, SNS 2004, c 28, s 4.

Section 32 of the Saskatchewan *Legal Profession Act,* which prohibits non-lawyers from practicing, inhibits the use of a valuable resource in non-lawyer professionals, such as a paralegals.[8] In response to growing public response for more affordable legal resources, the Law Society is actively evaluating how to change regulations to permit greater access while ensuring the safety of the public. Once regulations are changed to allow utilization of non-lawyer professional resources in a greater capacity, it will be up to all levels of the industry to determine how they are used. In essence, the users of the product will decide how to use it. In conceiving of the public as consumers, this conception appears to permit a needs-based approach – i.e. a gap in services available to the public was recognized based on lack of affordability, which resulted in a proposed regulatory change to provide a larger scope of resources available to the public.

When conceptualizing the access to justice crisis from a business model framework, this places public interest at the forefront. In thinking of the public as a client, it has become clear through national reports and our community consultations that clients are either dissatisfied with the legal services provided or have remained largely unserved. This market-based perspective offers the ability to engage the legal industry to better serve the needs of the public.

IV. PUBLIC ENGAGEMENT

What Does Public Engagement Mean?

Public engagement is essential in the development of services that can begin bridging the access to justice gap in Saskatchewan. Public consultation is not a new concept to policy and system designers, however, the meaning and the diversity of available methods may be overlooked. Methods for public consultation vary, including:

- o **Written or online questionnaires**
- o **In-person or over the phone interviews**
- o **Online forums and discussion boards**
- o **Focus groups and less structured community conversations**

Advances in social media and technology are rapidly changing the potential avenues for public engagement and the opportunity for the public to directly inform system development.

When decisions in relation to access to justice issues and innovations are made without public engagement, the decisions represent the knowledge and experience of the decision-maker. That is, the decision-maker is relying on what they know they know and don't know. But the question arises: what about the information the decision maker doesn't know they don't know? Daniel Kahneman calls these decision-making factors *known knowns*, *known unknowns*, and *unknown unknowns*.[9]

---

[8] (SK) *The Legal Profession Act*, 1990, SS 1990-91, c L-10.1, s 32.
[9] Daniel Kahneman, *Thinking, fast and slow,* (New York: Farrar, Straus and Firous, 2011) – See Appendix B (Literature Review) for a summary of this article.

a) Diverse Representation Necessary in Justice System

Diversification within decision-making bodies decreases the *unknown unknowns* by exponentially increasing the knowledge base and experiences relied upon. Diverse inclusion involves individuals who are:

- o **Accessing the system**
- o **Working within the system**
- o **Monitoring the system**
- o **Outside, or completely disengaged from the system**

Within each of these categories, further diversification can include individuals with experiences informed by their gender, culture, economic status, sexuality and ability/disability. Shifting from system-centered thinking, to user-centred designed and engagement methods results in a key distinction in how the access to justice crisis in Saskatchewan is defined, which issues are identified and what innovations are piloted.

b) Reciprocal Learning Through Public Engagement

Reciprocal learning is a cornerstone of effective public engagement. Reciprocal learning is defined by a collaborative method wherein no single party holds all the information. Instead each party is recognized as bringing a valuable perspective to the discussion. Through learning with and from each other, the parties are able to identify shared issues and goals to develop innovations that can have a meaningful impact.

c) Interdisciplinary Perspectives in Implementing Consultation Mechanisms

Information about meaningful public engagement in the legal sphere is sparse. Although likely the result of multiple interconnected factors, the shifting culture toward a more access-minded legal profession may help to bridge this gap in the future. As a result, much can be learned from consultation in other areas. Analysing different consultation approaches adopted in Health and Trade, Attar and Clouthier suggest in a recent article that five democratic values are essential to meaningful consultative mechanisms:

1. **Diversity**
2. **Education**
3. **Commitment**
4. **Accountability**
5. **Transparency**[10]

---

[10] Mohsen al Attar & Miriam Clouthier. "Sharing Power: The case for Public Consultations on Trade" (2015) 30:03 CJLS 465 – See Appendix B (Literature Review) for article summary.

How these values are incorporated within the consultation process varies depending on a variety of factors including: complexity of the issue, group size, nature of the subject matter and how community participation is fostered. Despite the lack of information about how to engage the public and incorporate their voices in discourses surrounding access to justice, such innovations are emerging from keen legal organizations across the country.

Barriers to Public Engagement

Addressing A Lack of Public Support for Justice Initiatives

For much of the public, there is a differentiation between their conception of themselves and their conception of the segments of the public accessing legal services. Thinking of individuals who are worse off can trigger feelings of discomfort and sadness that may discourage public support of legal services. One potential option to engage the public is through "making the story smaller" by having conversations about one lawyer or about one person instead of people. By reducing the scope of the problem or narrowing the focus to a more individual level, this may make the access to justice crisis more relatable and therefore increase overall public support.

Increasing Public Confidence and Trust in the Justice System

Another significant barrier to public engagement arises from a sense of mistrust in the justice system, specifically towards governmental agencies, law enforcement, or lawyers in general. One potential opportunity to build trust between the public and justice stakeholders is to work through existing organizations already engaged with that particular segment of the population. Working with, for example, a pre-existing CBO offers the opportunity to build trust more effectively and efficiently, which may make individuals more perceptive to having conversations about legal issues and options. In addition, this may offer the individual the opportunity to seek other resource opportunities apart from their legal issues and ongoing support once legal issues are resolved.

V. METHODS OF ENGAGEMENT

Methods of public engagement are not exclusive. Successful innovations utilize multiple approaches to engage a broad and diverse segment of the public. Such engagement is key to ensuring that as many *known knowns* are questioned, that *known unknowns* are explored and the *unknown unknowns* are better identified.

Many organizations, agencies and advisors consulted did not have a specific mandate to consult with the public; although, for many, practices were ingrained in their everyday work. Others relied on reports (such as CBA's Futures Initiative *Futures Report*) to inform the evolution of their service.

Common to the methods of engagement below, those initiating the method must be mindful of who they are engaging, who they are missing and the influence of the system through which they are trying to engage the public. Mindfully considering the public, the issues at hand and the systems used to engage the public, is key to successful collaboration, learning and change.

1. Services Mapping

What is it? The process of mapping is a research methodology that acknowledges various factors and relationships that influence how community and legal services interact. Through collaborative practices mapping brings community members, service providers and other stakeholders together to identify services gaps and increase access to legal services. As ownership of the knowledge produced remains with the parties that created it, a collaborative agreement for all stakeholders with the intent of breaking down power dynamics is important.

Example of Services Mapping Research Methodology:

Alberta Legal Services Mapping Project Charter

http://cfcj-fcjc.org/sites/default/files/docs/2008/mapping-charter-en.pdf

> Is a collaborative action research project designed to understand the legal needs of Albertans and services available throughout the province. The map includes a diverse array of legal areas and types of services available (information, education, advice, etc.).

Examples of Services Mapping Websites:

VAW Legal Information Resource: Supporting Aboriginal Women Facing Violence

http://vawlawinfo.ca

> VAW Legal Information Resource enhanced community service capacity through reciprocal learning with Aboriginal, Métis and Inuit women and service providers across the country.

Your Legal Rights (Community Legal Education Ontario)

http://yourlegalrights.on.ca

> Established in 2009, *Your Legal Rights* is a website containing free legal information for Ontario residents maintained by Community Legal Education Ontario (CLEO). Unique to this site, is *Steps to Justice* that provides step by step instruction to system users seeking information about a specific legal concern.

211 Saskatchewan (United Way Saskatoon and Area and United Way Regina)

http://www.sk.211.ca

> Is a comprehensive services database for Saskatchewan that enables individuals to explore services within their postal code as well as in other areas. In April or May 2016, 211 Saskatchewan will be launching a website chat interface that will allow service seekers to ask questions and receive personalized answers about how to navigate the website.

Considerations:

Mapping services may also serve to enhance collaborative community involvement, provide reciprocal benefit to organizations and individuals seeking services, and provide an outlet for beneficial data collection. Alternatively, this methodology may require extensive time and resources to create.

Service mapping websites appear to be easy to navigate, with a plethora of information available on a wide variety of legal matters. The accessibility of these sites also reduces the spatial gap presented by mandatory in-person meetings for those in remote communities. However, these sites and their abundance of links may be overwhelming for someone with, for example, literacy issues (e.g. it takes some time to find your specific question in the lists of questions provided). People seeking legal information may also feel that they have a right to speak with someone in person about their issues or concerns rather than be forced to use a website.

2. Social Media

> **What is it?** Social media provides an interesting option for the access to justice discussion. Media such as Facebook and Twitter offer opportunities for both legal and non-legal services' information to reach a larger demographic through the use of technology. These types of options can also allow users to easily access more services at the touch of a button, which may also serve to reduce the spatial gap that exists within cities and in remote communities.

Examples:

Project #TalkJustice (Nova Scotia Talk Justice)

http://nsbs.org/public-interest/2015/04/lets-talkjustice

> Established after consultations with the public, the project aims to use listening and sharing processes in order to better understand the legal needs and experiences of Nova Scotians, which in turn aims to improve the delivery of legal services and legal information while putting the public in the forefront. Unique to this project is the use of social media such as Twitter and Facebook to promote its #TalkJustice campaign, allowing for feedback from the community.

Considerations:

Utilizing social media to engage the public takes advantage of the growing access to technology. A benefit of technology is that it can provide greater anonymity than an in-person meeting. Again, this type of project reduces the spatial gap that exists for users in remote locations. Social media may not allow users to clearly communicate the issues or complaints they have, given its limitations (e.g. word count limits in using mediums such as Twitter). Those needing a service may not have access to adequate technology or possess the literacy skills to understand what is being communicated.

3. Community Round Tables

What is it? Community round tables are conversations driven by the community that seek to raise issues and brainstorm solutions to everyday concerns. Discussions can be open to an inclusive public, but can also have more limited participation of certain stakeholders, or specific communities. Inclusion in the discussion is often defined by how the group self-identifies.

Examples:

Saskatchewan Access to Justice Group

Ongoing relationships between justice stakeholders offer the opportunity to continue discussions about ways to engage the public and innovative strategies to put the public first. Justice stakeholders are uniquely positioned to know the plight of those without a voice in the legal system and can offer valuable perspectives on the barriers multiple individuals face when engaging with justice.

Considerations:

Community Round Tables can serve to bring the public's perspective to individual organizations, which then may have a positive impact between service providers. A common barrier to this method is actual participation by community members rather than just their viewpoint through the filter of organization representatives who are providing services.

4. Academic Research and Access to Justice Centres of Excellence

What is it? Academic Research is a medium through which both qualitative and quantitative data can be collected to determine who "the public" is, and what their needs are with respect to justice. Further, research enables the collection of important perspectives from those who fall under the definition of "the public" and allow us to use their responses as a way to enhance the work of, and access to service providers. An Access to Justice Centre of Excellence could contribute to understandings of barriers to access to justice faced by Canadians and innovations to overcome these barriers. The long term benefits of these innovations include but are not limited to improvements of public policy, access to information and reciprocal learning.

Project Access

> In 2013, CLASSIC lawyer Amanda Dodge and Sarah Buhler, professor at the University of Saskatchewan College of Law, conducted a series of client and community consultations in Saskatoon surrounding the theme of "How are lawyers viewed in the community?" This type of consultation and academic project provides an example of using academic research in a way that is mutually beneficial to both the public and the researcher. It empowers the community by providing a voice, while the legal community learns how the public views the profession while simultaneously identifying potential areas for improvement.

University of Victoria Centre for Excellence in Access to Justice
http://www.uvicace.com/what-we-do

> This centre is being established in response to concerns in the justice community about the problem of diminishing access to justice. This centre aims to place its "emphasis on social justice, community engagement and the unmet legal needs of marginalized populations".

Considerations:

An Access to Justice Centre of Excellence may help to facilitate data collection in projects that allow us to enhance projects aimed at putting the public first by way of community mapping meetings, and research projects. In doing academic research, interviewers have the opportunity to ask questions that seek input from those potentially experiencing the access to justice gap. Feedback can then be provided to justice workers regarding how service delivery can be improved or altered to meet the needs of users. Outside research can also provide input to service providers and allow participants to become aware of service providers.
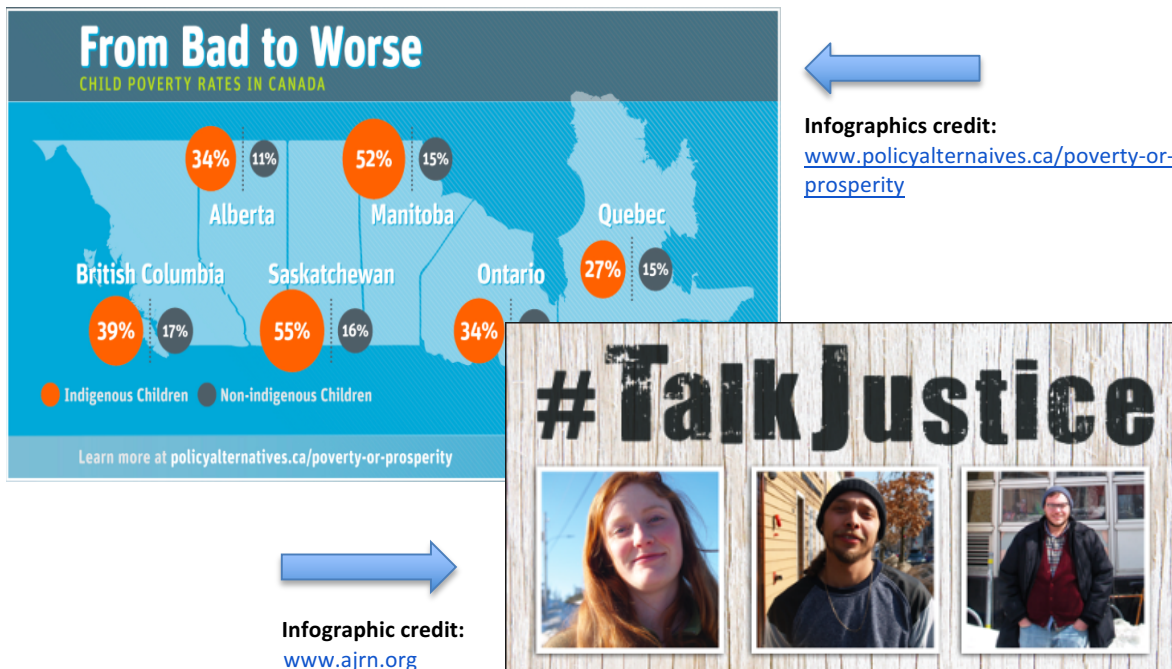
A potential issue with academic research arises in the potential gaps in ways of knowing between researcher/participants. Additionally, the scope of participation may be limited when trying to study a group as large as "the public". Finally, previous statistics or data in Saskatchewan may be difficult to obtain, which data deficit may impact the extent or type of research that can be conducted.

5. Infographics

> **What is it?** Infographics are visual representations that communicate purposively without relying heavily on text. They serve diverse purposes that range from telling a narrative, visualizing the impact of a program, or demonstrating the steps in a process. Infographics take many forms including posters and static images that remain unchangeable, to online imagery, charts and maps that the viewer can interact with. The three key components of an infographic are appeal, comprehension and retention.[11]

---

[11] Jason Lankow, Josh Ritchie, & Ross Crooks, Infographics: The Power of Visual Storytelling, (Canada: John Wiley & Sons, 2012).

Examples:

From Bad to Worse
CHILD POVERTY RATES IN CANADA

Alberta 34% 11%
Manitoba 52% 15%
Quebec 27% 15%
British Columbia 39% 17%
Saskatchewan 55% 16%
Ontario 34%

● Indigenous Children ● Non-indigenous Children

Learn more at policyalternatives.ca/poverty-or-prosperity

Infographics credit:
www.policyalternaives.ca/poverty-or-prosperity

Infographic credit:
www.ajrn.org

Considerations: Infographics can quickly trigger interest as a viewer and communicate complex information quickly and effectively. There is, however, a danger for the message to be miscommunicated, or for the design to distract from the message. It is important to thoughtfully design the infographic for the audience.

6. Community Clinics & Triage Centres

What is it? Provides direct access for legal information seekers in the community. Services are diverse, and can include providing legal advocacy, pamphlets, or oral information.

Examples:

Saskatoon Public Library Law Matters Series/Legal Research Guide

http://www.saskatoonlibrary.ca/legal-research-guide

> Through the Saskatoon Public Library, users can access provincial and federal legal information. In addition to information and links available online, users can access this service in-person at the main library. Of note in the Law Matters series are events at various libraries aimed at popular areas of interests and that connect the public with local experts.

Law Matters

http://www.courthouselibrary.ca/training/ForThePublic/LawMatters.aspx

LawMatters is a Courthouse Libraries BC (CLBC) program that involves public libraries in British Columbia. Through this program, CLBC collaborates with public libraries to provide librarians with training on legal information, and members of the public with accurate legal information at their local public library. In 2010, LawMatters estimated that BC public libraries receive at least 35,000 legal reference questions per year.

Saskatoon Tribal Council Justice Department (White Buffalo Youth Lodge)

http://www.sktc.sk.ca/programs-services/family-community-services/justice/

The STC Justice Program provides support and assistance to youth, adults and their families throughout the duration of their involvement in the justice system. Services are delivered using constructive supports and assistance in legal matters aimed at community reintegration, with a goal of ultimately improving the quality of life of First Nations people.

The Saskatchewan Family Matters Program

http://www.justice.gov.sk.ca/family-matters

The Family Matters Program assists families going through separation or divorce by providing access to information, resources and assistance to resolve issues stemming from the change in the family's situation. A telephone service is provided whereby social workers/mediators triage and directly refer people who call in to access the service(s) they need. If necessary, people may be referred to a service provider who may meet with the parties to try to resolve their issues.

Community Legal Assistance Services for Saskatoon Inner City Inc. (CLASSIC)

http://www.classiclaw.ca

CLASSIC is a student-run legal clinic in Saskatoon, SK, providing free, professional and confidential legal services for low-income members of the community who cannot afford legal advice or representation. CLASSIC offers a Legal Advice Clinic, Walk-in Advocacy Clinic, and most recently the Systemic Initiatives Project. Recently, CLASSIC, in partnership with the University of Saskatchewan and members of the local community, have begun offering a community-led justice course that allows academics, community members and lawyers to come together and discuss what justice means in the community.

Public Legal Education Association (PLEA)

http://www.plea.org/

PLEA's aim is to educate, inform and empower through law-related education. They provide general legal information, suggest resources, and provide options for further legal advice in the community. In total, they distribute legal information to over 1600 distributors across Saskatchewan including education to elementary and secondary school teachers and their students.

Considerations:

Some of the foregoing services can be accessed via phone call or through email, reducing the spatial gap for those not directly near the necessary service providers. This ability allows users to speak with intake workers, who may assess their situation in order to direct the user to necessary services, such as mediation. Potentially problematic with telephone or virtual services is that these types of services are not in-person, which is less personal, and may not be seen as reaching justice to the user. However, the user eventually may be able to have an in-person meeting. Legal information services predominately provide information in the form of booklets, pamphlets and through links on their websites. Many of the above listed services in the community reference materials from information providers in order to enhance the quality of their own services.

7. User Design Thinking

> **What is it?** As a methodology, user design thinking uses empathy, creativity and rationality in the context of the problem to provide and help find solutions that are practical for the user. It prioritizes the user of the public service and their needs rather than the service provider's needs.[12] In sum, it is a method of problem solving that allows for the unique experience of users to be placed in the forefront.
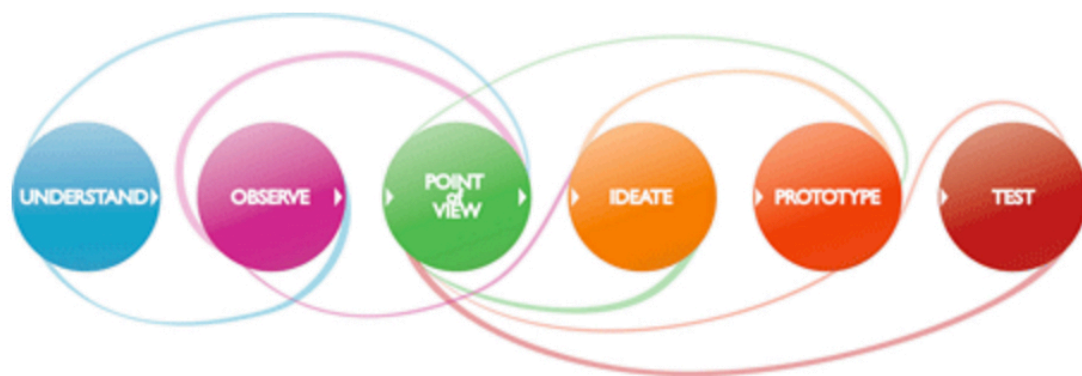
[13]

The above diagram explains the 6 steps of user design thinking, noting that each step may loop back onto another.

---

[12] SAP User Experience Community, *Introduction to Design Thinking*. Available online at:
<https://experience.sap.com/skillup/introduction-to-design-thinking/?utm_source=hootsuite>.
[13] *Ibid*.

Considerations:

This approach has its benefits, including the ability to take each thought in a step-by-step manner in getting to the final test, or decision being made. In order to put the public first, particular emphasis should be placed on public engagement during as many stages of the design thinking process as possible.

Example:

Advisory Group on Poverty Reduction Report 2015: Recommendations for a Provincial Poverty Reduction Strategy (Government of Saskatchewan, 2015)

https://www.saskatchewan.ca/government/news-and-media/2015/august/24/poverty-reduction-strategy

In response to a government announcement to develop initiatives to reduce poverty the Committee recognized that individuals experiencing poverty in Saskatchewan were not a homogenous group. The Committee aimed to develop a poverty reduction strategy with person-centered initiatives that are accountable and flexible and aim to strengthen families. To this end, they engaged with individuals with lived experiences in poverty and meaningfully incorporated their feedback throughout the initiative.

VI. MEASURING SUCCESS

- Usage of the mapping database.
- Content on database (frequently and continuously updated, more services, etc.).
- CBO feedback regarding satisfaction with a mapping database.
    - Are service providers using it?
    - Are service providers telling users about it?
    - Are users accessing it?
- Feedback gathered at follow up and continued CBO Forums.

VII. CONCLUSIONS

Following up on previous work that was done in the Dean's Forum, our group investigated how programs and services are *Putting the Public First*.

In taking on a project that encompasses a number of perspectives on who the public is and many different interest areas from community stakeholders, we encountered a number of successes as well as a number of difficulties. During the process of doing our research and consultations we were fortunate to meet with a number of organizations and justice stakeholders to discuss their unique and valuable experiences. We strove to learn what is contributing to the success of access to justice initiatives and how these practices can be best carried forward.

Most organizations consulted were eager to participate and provide a voice for the public they serve. Reconciliation was identified as an area in need of continuing progress and public engagement. In addition, without putting the public first, there is a risk for a potential disconnect between decision makers and those who require greater access to justice. We also identified a need for improved community feedback and increased public ownership in information and initiatives.

In creating community and policy discussion about programming that affects the public, it is important to have the ability to critically talk about what has been successful and what needs improvement. By bringing together various interest groups (i.e. in our community conversation/round-table), there was a definite interest by these groups to better understand the services around them and establish connections to better serve their public. Through service mapping exercises such as Community Round Tables, community organizations will have the ability to share statistics and feedback from other organizations. More frequent stakeholder meetings could serve to enhance the positive effects of such discussion.

A final consideration in *Putting the Public First,* is that by using community stakeholders as representatives for their community, the final filter is the representative bringing the public voice to the table. There is always potential that these individual representatives may bring their own individual biases or viewpoints to the table, or even misunderstandings from discussions with their clients or the public that they serve. Being mindful of the public's voice and who is (or is not) being heard will help to better facilitate public engagement and the evolution of services that are designed **with** the public.

APPENDICES

APPENDIX A

Foundational Research: The Cromwell Report and CBA Reaching Equal Justice Report

Cromwell Report: The Action Committee on Access to Justice in Civil and Family Matters published the Cromwell Report in October 2013 to examine the growing need for reform in Canadian justice. The report's purpose is to spread awareness and understanding about the access to justice crisis and to encourage a culture shift to guide reform while simultaneously creating a roadmap for improvement. The Cromwell report notes that in a three-year period, nearly 12 million Canadians will encounter a legal issue and that members of poor or vulnerable groups tend to encounter more legal problems.

The report identifies the need to put the public first as a significant guiding principle for change. The Action Committee calls for a shift in focus from the point of view of those working in the system to a public-centred approach, focusing instead on the people who use the system. The scope of the public must be inclusive of all people, with particular focus on immigrant, aboriginal and rural populations. The report highlights the need to include people that use the justice system in the reform process to affect meaningful and substantial change.

In Canada, the administration of justice is fragmented and in need of greater multi-stakeholder collaboration and coordination across various sectors of the justice system to improve service integration. In addition, the report identifies a public outcry for a more simplified justice system that is less overwhelming to the public and incorporates public values. Improved public communication and simplified processes are also identified as necessary improvements. Further, a national dialogue between different Ministries, educators, and community groups should be promoted in an effort to create a common access to justice framework.

Early resolution services are identified as a key element of expanding access to justice assuming they are developed in a coordinated and collaborative way to avoid overlaps, gaps and inefficiencies of services. One of the biggest challenges in accessibility of legal services is the lack of integration between information providers calling for enhanced coordination and cooperation. In addition, justice services must be reflective of Canada's diverse population with particular focus on marginalized groups and communities. Particular barriers identified include language, financial status, mental health, geographical remoteness, gender, class, religion, sexual orientation, immigration status culture and aboriginal status.

Canadian Bar Association: Equal Justice Report: In November 2013 the Canadian Bar Association released the *Reaching Equal Justice Report: An Invitation to Envision and Act* which provides a strategic framework and new direction for action. The report notes that in order to ensure a justice system is people-centred, the system must engage members of the public in its oversight and enhance public accountability and participation. This includes developing and improving legal capabilities as basic life skills for all Canadians through public legal education in order to cultivate greater trust and competence in the justice system. The hurdles encountered by people trying to navigate complicated paths to justice highlights the need for an overarching vision to map available resources. The report also advocates for consideration of greater community-based options such as reintroducing community legal offices. Recommendations are also considered for information technology development such as access to legal services through mobile media devices.

The report notes that civil justice has been identified as a low priority for Canadians with little public outrage surrounding the deficiencies in the justice system making it a low political priority. In addition, the portions of the population most in need of legal assistance have little voice in determining political priorities due to low political capital. If there is no public outcry for justice system reform, it is unlikely that there will be any action for change by elected representatives due to lack of public support. The report identifies increased public engagement as a necessary condition for addressing the deficiencies in the justice system through means such as community roundtables, town hall meetings or other public gatherings to facilitate dialogue. The report calls for a requirement that governments be able to demonstrate that the perspective of the public has shaped the justice system. In part, this includes expanding the discussion of justice reform to more meaningfully include public input.

To engage public support, the report indicates that the public must be made aware of the interconnection and resulting cost savings between justice and other social systems such as healthcare and education in addition to more broad social and economic benefits. Practical reasons for public engagement include increased trust in the justice system and the potential for significant innovation through public contribution. Public engagement founded in a sense of ownership is a difficult task since there is no overarching national movement and substantial change relies on often overworked and underpaid advocates. The report recommends utilizing existing models and successful campaigns in the effort to build greater public support and ownership. Initial initiatives include listening to public perspective and the creation of inclusive forums for dialogue in an effort to achieve the larger goal of shifting the public sense of ownership from legal professionals to the public themselves.

APPENDIX B

<u>**Literature Review**</u>

1. **Mary Stratton, "Reaching Out with Research: Enabling Community in Mapping Legal Service Accessibility, Effectiveness and Unmet Needs" (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2008).**

    Stratton explains that the goal of community based mapping must go beyond simply producing geographical information about services that can be developed without engaging community. Analysing three Canadian community mapping innovations, Stratton identifies seven key factors to successful justice community mapping. Among the key factors are: belief in the value of the research, commitment to collaboration and action planning. The process of mapping acknowledges various factors and relationships that influence how the community and legal services interact. Practically, community mapping brings stakeholders together to work toward an informed and shared vision.

2. **Trevor Farrow, "What is Access to Justice" (2014) 51 Osgood Hall LJ 957.**

    Acknowledging that access to justice is a pressing issue within the legal sphere, the article seeks to determine how the public views and understands access to justice issues. Farrow recognizes that discourses surrounding access to justice are largely centered on the perspective of professional stakeholders and to a lesser extent informed by those engaged with the system. Farrow's target audience for understanding access to justice is members of the general public not currently engaged with, or recently engaged with, the justice system. From interviews with the public, Farrow draws two broad themes: access to justice is defined broadly as being about lifestyle and community, and that civic engagement is fundamental to the justice system reform.

3. **Mohsen al Attar & Miriam Clouthier, "Sharing Power: The Case for Public Consultations on Trade" (2015) 30:03 CJLS 465.**

    Drawing a comparison between two radically different consultation processes, the authors explore how the structure of consultation broadly impacts public perception of the final product and its success. The Royal Commission on the Future of Healthcare in Canada used broad consultation methods that were reciprocal in nature; the community learned about the issues as identified by the committee, and the committee listened to and learned from participants. Alternatively, the Standing Committee on International Trade held secret consultations with exclusive stakeholders and released limited briefs to broad stakeholders, such as government. From this analysis al Attar and Clouthier outline five practices, based on democratic values, for meaningful consultative

mechanisms: (1) diversity, (2) education, (3) commitment, (4) accountability, and (5) transparency. The authors note that how these values are embodied in consultation depends on the nature and complexity of the subject matter, the size of the group and how community participation is fostered. Thoughtful consideration and utilization of these factors is imperative to meaningful consultation across a diverse spectrum of discussions.

4. **Jason Lankow, Josh Ritchie & Ross Crooks,** *Infographics: The Power of Visual Storytelling***, (Canada: John Wiley & Sons, 2012).**

Building on knowledge of learning styles and historic practices of information communication, Lankow explains that effective infographics have three key components: (1) appeal, (2) comprehension, and (3) retention. He suggests that when designing infographics these three components must be engaged through consideration of the nature and purpose of the information. Lankow explores various design options for infographics that contemplate bias, distraction and appropriateness. For instance, a narrative infographic might involve more illustration, as there may be little need for the designer to avoid bias. However, an infographic explaining morbidity rates may involve little illustration to convey the serious nature of the information. The book concludes by summarizing best practices for infographic design; such practices include: focusing on and understanding the information, being aware of the dangers of design miscommunication, and ensuring that the infographic is appropriate for the content and its audience.

5. **Daniel Kahneman,** *Thinking, fast and slow,* **(New York: Farrar, Straus and Firous, 2011).**

Daniel Kahneman explains that there are two systems that drive how we make decisions- one fast and intuitive, and one slower and more logical. By understanding biases of intuition, we can better understand and identify the role of judgment in decision-making. He identifies two relevant themes related to how people draw conclusions and answer questions: (1) when faced with a difficult question, we intuitively answer an easier one instead; and that (2) the decision-making process is informed only by what we know. Kauhneman, identifies the latter as 'what you see is all there is' (WYSIATI), and explains that the mind makes decisions based on *known knowns*, rarely considers *known unknowns* and often ignores that that there is a possibility of *unknown unknowns*. Thus, many decisions are based only on the limited knowledge and experience of the decision-maker, often failing to account for complexity and the experiences of others.

APPENDIX C

Break-Out Questions for Topic Engagement

1. Who is "the public" that your organization engages with? Is there a definition of "the public" that resonates with you?

2. How is your organization actively working to put the public first? Is community mapping in your organization's general interest? Why or why not?

3. When considering future directions for your organization, how do you factor in public engagement and public feedback? In what ways does your/could your organization look to increase public feedback/engagement?

4. What do we need to learn from the public about accessing justice and can we design an impactful initiative together? Are there ways that we need to shift our thinking from what <u>we think</u> is meaningful to the public to <u>actually including</u> the public?

5. How does your organization engage with and participate within the Aboriginal community?

6. Moving forward, how do you see reconciliation as being incorporated into your organization's mandate?

7. What are the potential benefits or drawbacks you have identified in more actively incorporating feedback/perspectives provided by community-based organizations in addressing what the public wants/needs?

8. If possible, how do you feel your work could be better integrated with other organizations to provide a more increased range of services to the public?