

THE SIXTH ANNUAL DEAN'S FORUM ON
ACCESS TO JUSTICE AND DISPUTE RESOLUTION
MARCH 6, 2018

Improving Access to Civil and Family Legal Services in Rural Saskatchewan

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Executive Summary

The access to justice issue in Canada is experienced in different ways by different groups and communities. **This report examines the specific issue of access to civil and family legal services in rural and remote Saskatchewan and proposes the further exploration of the ‘Incubator Model’ as one potential solution.** Over a two-week period, we conducted consultations with more than 15 relevant stakeholders and decision-makers within the Saskatchewan legal community – from law students and practitioners to program directors and workers within the court system. These consultations helped frame issues and shape discussions, laying a foundational framework for further research and the implementation of solutions.

The Legal Incubator Model has garnered interest within the legal community as an innovation with a wide spectrum of potential applications in multiple practice areas. **This report seeks to qualitatively analyze the challenges and opportunities surrounding the Incubator Model, and assess its feasibility for application in rural Saskatchewan.** The rural Saskatchewan population is far from monolithic. Likewise, the legal needs of the Saskatchewan population living in rural and remote areas are diverse. Our research focused on civil and family legal needs and reached a number of initial conclusions. Law firms in small urban and rural areas are currently experiencing a succession crisis resulting in a lack of affordable legal options and wide swaths of the province without realistic affordable legal options.

In the current economic climate, it is more important than ever to foster partnerships and networks capable of addressing systemic issues collectively and comprehensively. We believe that leveraging interconnected relationships within the Saskatchewan legal community will be an essential component in designing, funding, organizing and implementing a new initiative. Building on prior research, we hope this report will serve as a stepping stone towards the implementation of a solution which meets the legal needs of the rural and remote population in Saskatchewan.

The list of people we have to thank for assisting in this research includes our many consultees who took time out of their busy schedules to provide us with their perspectives, and our faculty supervisors and mentors, in particular Brea Lowenberger and Associate Professor Michaela Keet.

The Legal Incubator Model has garnered interest within the legal community as an innovation with a wide spectrum of potential applications in multiple practice areas.

Defining the Issues: Access to Justice

When I took the forms in to the court, the clerks told me that I had filled the forms in wrongly. I burst into tears. The journey from my home to the courthouse was a hundred and fifty mile drive and a ferry ride.¹

Barriers to Access in General

Each year approximately four million Canadians, many of whom are vulnerable or come from a low socio-economic background, will experience a legal problem. The 2013 Action Committee on Access to Justice in Civil and Family Matters, chaired by then-Supreme Court of Canada Justice Thomas Cromwell, created a report² assessing the issues affecting access to justice, and providing recommendations to help the legal system to better meet the needs of Canadians. 11% of our population will experience a problem that could be dealt with through the legal system in a given year. If not dealt with, **these problems multiply**, as do their consequences.

Another issue Justice Cromwell identified is a lack of affordable legal assistance. **The cost and the length of legal proceedings are increasing, which creates “the Middle Income Gap”**, where Canadians make too much to qualify for legal aid, but not enough to afford counsel. As a result, there is a greater trend toward self-representation.³ Many legal matters remain unaddressed because self-representation is too daunting or confusing, or even because they are unaware that legal recourse may be available for their problem.

Previous Dean’s Forum working groups identified a general lack of public awareness of the value of justice initiatives which manifests in a number of ways.⁴ People do not recognize the importance of the justice system until they have need of it. There is lack of integration between information and service providers which creates gaps and inefficiencies in provision of service.⁵ The law is complex, and the vocabulary, procedures and institutions of law become a barrier to achieving just outcomes for those who find the cost of representation out of reach.⁶ Lack of access to reliable transportation is a barrier in areas without public transportation,⁷ and many cannot afford a vehicle or have difficulties getting their license reinstated after suspension.⁸

¹ Canadian Bar Association, *Equal Justice: Balancing the Scales* (2013) [CBA Report] at 32.

² Cromwell, T. *Access to Civil and Family Justice: A Roadmap for Change* (2013), [Cromwell Report].

³ *Ibid* at 4.

⁴ “Putting the Public First: Dean’s Forum on Dispute Resolution and Access to Justice” *University of Saskatchewan College of Law* (February 2016) [Public First] at 11.

⁵ *Ibid* at 21.

⁶ Bridging the Gap: The Prospect of Integrated Service Centres” *University of Saskatchewan College of Law* (March 2014) at 15.

⁷ “The Dean’s Forum on Dispute Resolution and Access to Justice: Progress Report” *University of Saskatchewan, College of Law* (March 2015) at 47.

⁸ *Ibid*.

Barriers to Access in Rural and Remote Areas

Saskatchewan's vast geography creates additional concerns affecting access to justice. According to the latest census data, **40% of Saskatchewanians live in population centres with less than 5,000 residents.**⁹ The median income in rural areas is less than that of people in urban areas.¹⁰ People in rural areas also have fewer services nearby, and less access to and experience with technology.¹¹

According to the Law Society of Saskatchewan, **in 2016 only 379 of the 1,836 registered lawyers in Saskatchewan had practices located outside of Regina and Saskatoon.**¹² Of these

Legal representation in rural Saskatchewan is dwindling, and will become increasingly scarce in the future.

379, most are practicing in small urban communities like Prince Albert, the Battlefords, Yorkton, or Swift Current. In addition, 52% of lawyers in the province are aged fifty and older, with 26% of those aged sixty and older. These statistics reveal an alarming reality. **As rural lawyers retire, most are not being replaced.** Legal representation in rural Saskatchewan is dwindling, and will become increasingly scarce in the future. Lack of lawyers in rural Saskatchewan is not the only access to justice issue faced in rural Saskatchewan, but it is a significant one, and if left unaddressed the issue will only get worse.

The access to justice issues faced by rural and remote communities in Saskatchewan will not solve themselves without action on the part of the numerous stakeholders in the legal community. One potential solution, which could address many of the challenges described above is the **Incubator Model**. This report will outline the parameters of our research and present what we have learned through consultations with stakeholders. **Finally, we will suggest that the Incubator Model is an option which, with further consultations and research, stands a good chance of success in addressing the access to justice challenges of rural and remote communities in Saskatchewan.**

Properly Implemented, an incubator could:

- Help replenish the number of lawyers in rural areas by empowering young lawyers to build their own practices;
- Be a vehicle for gathering needed research into future access to justice initiatives that can inform service delivery; and
- Provide affordable and tailored legal services to communities in need.

⁹ Statistics Canada, *2016 Canadian Census*, (2016: Ottawa, ON) [*Census*].

¹⁰ *CBA Report*, *supra* note 1, at 81.

¹¹ *Ibid.*

¹² Law Society of Saskatchewan, *2016 Annual Report* (2016) [*LSS Report*] at 5.

Limitations and Opportunities

Both the *Cromwell Report* and the *CBA Report* recommend prioritizing the people who need justice by “putting the public first”¹³ and by creating a “people-centered” justice system.¹⁴ Due

Definition of Rural and Remote

To avoid confusion, we have defined the key geographical terms guiding our research.

Urban Areas – Includes the two major metropolitan areas in Saskatchewan; Regina and Saskatoon, as well as other incorporated cities in the province, for example Estevan, Meadow Lake, Prince Albert.

Rural Areas – Rural areas include all small towns and villages and surrounding areas. These regions have basic infrastructure: paved roads, cell phone coverage, and access to reliable internet service. They also have access to basic government services like hospitals and Saskatchewan Government Insurance. Most Rural Municipalities (RMs) and smaller centres, like Aberdeen, Melfort, or Nipawin would fall into this category.

Remote Areas – Remote areas are far removed from the amenities rural and urban communities have access to. They also may lack basic infrastructure. The farther residents must travel to access services, the more remote the area is. Remote areas are mostly in the northern end of the province, and would include communities like La Loche, Fond-du-Lac, or Kinoosao.

to the limitations and time constraints of this project we were unable to conduct consultations with members of the general public in rural and remote areas.

We therefore recommend that the next action to be undertaken involve consultations with rural populations and, to a lesser extent, with those who provide legal services to them.

We must first determine the needs, desires, financial constraints, and challenges particular to rural inhabitants. Without data from public consultations, any future action stands the risk of being premature and uninformed. This was reinforced by information gathered in consultations with stakeholders, who cautioned us to avoid “swooping in” to solve people’s problems without first ascertaining exactly what their problems are. To ensure the incubator’s success, the intended benefactors must inform the process.

As the *Cromwell Report* indicates, any strategy must be coherent, integrated and have a sustained funding strategy. **The current crisis of access can be seen as an opportunity to reimagine how we administer and deliver legal services, and to conceive of creative new business strategies.**

¹³ *Cromwell report, supra* note 2 at 7.

¹⁴ *CBA Report, supra* note 1 at 16.

Building on What We Have Learned from Past Forums

Previous Dean's Forum Projects have laid a foundation for future access to justice work and provided valuable insights into the challenge of delivering legal services to rural communities. The third meeting in March 2015 presented some ideas on how introducing non-lawyer services professionals (i.e. paralegals) could, with strategy, address some of the access issues in rural areas.¹⁵

The fourth meeting in February 2016 discussed putting the public first. **Participants stressed the importance of hearing from individuals with diverse gender, race, economic, sexual orientation, and ability backgrounds with the goal of reducing the number and complexity of “unknown unknowns”.**¹⁶ Participants encouraged consultation with a variety of perspectives on justice, and noted that an honest and critical reflection about what has been successful and what needs improvement is essential.¹⁷

Efforts to involve the public should be designed to facilitate reconciliation and reciprocal learning, improve community feedback, and increase public ownership in information and initiatives. It is also important to be alert to the risk for potential disconnect between decision makers and those who require greater access to justice.¹⁸

The fifth meeting, in March 2017, discussed, in part, how partnerships between justice and health systems might improve access to justice for Saskatchewan residents. This work was founded on the premise that legal needs and health needs are overlapping and interrelated;¹⁹ as health needs can create legal needs and vice versa.²⁰

The fact that services and service providers are scarce in rural areas and remote Northern areas means that access to both health and justice resources are limited. **The fifth Dean's Forum report concluded that “the impact of collaborations in rural, remote and northern communities could be much greater and the needs they address are more urgent.”**²¹

The concept of adapting existing health sector infrastructures and technologies to the context of justice needs in rural and remote centres is one which deserves future exploration.²² Existing health programs could be expanded to include legal services. This may be beneficial as many of

¹⁵ “A Discussion Paper on Introducing Paralegals into the Saskatchewan Legal Market” *University of Saskatchewan College of Law* (12 March 2015) at 17.

¹⁶ *Public First*, *supra* note 4 at 10.

¹⁷ *Ibid* at 20.

¹⁸ *Ibid*.

¹⁹ See *Expanding Engagement: Creating Connections Between Delivery of Justice & Health Services* (1 March 2017) *University of Saskatchewan College of Law*, online: <<http://law.usask.ca/documents/research/deans-forum/Paper%20%20-%20Creating%20Connections%20Between%20Delivery%20of%20Justice%20Health%20Services.pdf>>

²⁰ *Ibid* at 4, 5.

²¹ *Ibid* at 5.

²² *Ibid* at 11.

the challenges associated with healthcare provision have already been recognized and addressed.²³

Based on our Research, We Believe That Access to Justice Solutions Should:

Target economically disadvantaged and other vulnerable groups because:

- Research shows low income earners are more likely to have legal issues;²⁴
- Justice issues tend to cluster and create further issues;²⁵
- Underprivileged and vulnerable people have the greatest barriers accessing legal services, as they are less likely to have phones, access to the internet, vehicles, and educational advantages. In addition, the social cost of poverty to society and the financial drain to tax-payers create barriers; and
- Assisting the disadvantaged is the compassionate thing to do.

Target Indigenous peoples because:

- Indigenous peoples are statistically more likely to have legal problems and struggle with poverty;²⁶ and
- Trust-building and relationship-building is a key element of Canada's commitment to fulfilling the recommendations of the Truth and Reconciliation Commission.

Work in tandem with health and social service providers because:

- Justice issues tend to cluster; and
- Research shows that a small percentage of the population are responsible for the majority of legal problems.²⁷

Quality Versus Quantity

Any proposed solution to an access to justice issue will face a quality-quantity trade-off.

Considerations unique to practicing law in a rural community require a potential solution to be more focussed on the quality of the training lawyers are receiving, rather than the quantity of lawyers being trained. We must consider the fact that rural lawyers operate in a more isolated setting than their urban counterparts, and their level of education and experience will directly affect their outcome as lawyers.

Any solution we attempt needs to set lawyers up for success. Increasing the number of lawyers in rural Saskatchewan will be meaningless if the lawyers are not prepared to address

²³ *Ibid.*

²⁴ *Cromwell Report, supra* note 2 at 2.

²⁵ *Ibid* at 3.

²⁶ Ab Curry, "The Legal Problems of Everyday Life" Department of Justice Canada (2009) at 23.

²⁷ *CBA Report, supra* note 1 at 34. In New South Wales, a study found that 22% of the population accounted for 85% of legal problems.

challenges relating to their practice. Potential issues that new rural practitioners face include issues arising from the business side of a law firm, including staffing, accounting or trust accounts, and from the more nuanced areas of legal professionalism, like conflicts of interest. Any potential solution will have to factor in education in order to set up rural practitioners for success.

In light of the fact that we were unable to conduct consultations with the general public in rural and remote areas, it is important to make note of what we have been able to learn from existing research and what we still need to find out before moving forward.

What We Do Know

- 56,050 people in Saskatchewan live on reserves.²⁸
- 16.3% (121,878 people) of the Saskatchewan population self-identify as Indigenous or Metis. Some live in rural areas apart from reserves.²⁹
- There are 83 circuit court locations across Saskatchewan. Thirteen of these serve urban areas. The rest serve remote and rural communities.
- 52% of Saskatchewan's practising lawyers are over the age of 50, and will soon retire.³⁰
- The number of Self-Represented Litigants (SRLs) is increasing.³¹
- A Birnbaum study states that many SRLs found available legal information confusing and too complex to understand. Many family law litigants did not have the education or literacy skills to benefit from these materials and some had disabilities that prevented them from using them.³²
- A significant number of people in remote areas do not have access to high speed technology. These people will be left out if we focus solely on technological solutions.

²⁸ *Census, supra* note 10.

²⁹ *Ibid.*

³⁰ *LSS Report, supra* note 13.

³¹ *CBA Report, supra* note 1 at 33.

³² *Ibid* at 30.

What We Do Not Yet Know

- What legal services are currently being provided to rural communities?
- What are the perceived needs of rural communities, legal and otherwise?
- What gaps exist between needs and services?
- What types of legal services are in higher demand in rural areas than urban? What types of legal services have less demand?
- Are a lesser or greater percentage of rural individuals choosing to self-represent compared to urban populations?
- Are a lesser or greater percentage of rural individuals choosing not to pursue justice for their legal matters because of access to justice challenges compared to urban populations?
- Are rural Saskatchewanians less or more likely to trust legal professionals or the justice system?

A list of current organizations and initiatives which address access to justice issues in Saskatchewan is appended to this report, at Appendix B.

Building on What We Have Learned from Consultations

A major part of our research involved conducting consultations with relevant stakeholders who have an interest in the legal system in rural and remote areas in Saskatchewan. Our list of consultees was drawn from research and included lawyers currently practicing in rural areas, and representatives from a variety of organizations, including:

- the University of Saskatchewan’s College of Law, Native Law Centre, and Edwards School of Business;
- CLASSIC;
- the Provincial Court of Saskatchewan, including judges and registrars;
- the Saskatchewan Urban Municipalities Association (SUMA);
- the Canadian Bar Association’s (CBA) Saskatchewan Branch;
- the Law Society of Saskatchewan; and
- the University of Calgary’s Legal Incubator, “Aspire Legal”.

Participants were asked a number of questions tailored to their organization and their own personal experience in order to gain an understanding of how this issue is currently understood within the legal community, what current approaches are being taken to address it, and how we can build partnerships to move the conversation forward into action.

Despite the diversity of backgrounds and perspectives among our consultees, a number of common themes emerged:

More information can be collected. Based on our limited consultations, we have learned that students who take articling positions in rural centres are more likely to come from a rural background themselves. Currently, the College of Law has no meaningful way of determining the portion of its student body that comes from rural Saskatchewan, making it difficult to judge the effect of strategies to increase the number of students practicing in rural Saskatchewan. While the Law Society does collect information relating to rural legal practitioners, this is currently done via an informal, voluntary mentorship program for rural practitioners. In order to design a solution which is efficient and effective, we need to find ways to collect comprehensive data outlining the barriers to rural practice, and the effectiveness of current initiatives.

Rural and remote communities have context and expertise which must be considered. Justice stakeholders know the system, but local communities know their own needs. When possible, they should have the opportunity to participate in the solution to their own problems, at both the design and implementation stages. In order to foster ownership, community members should be included in the process of creating solutions as early as possible.

Any access to justice innovation should keep the needs of rural people in focus. Access to justice issues should not be conflated or confused with procedural and systemic issues which do more to help the efficiency of those within the system than the people who need access.

The design and implementation of future access to justice solutions requires the participation of Indigenous people because of the complicated history between the colonizers and Indigenous people, our commitment to reconciliation, and the ongoing potential for misunderstanding. The recommendations of the Truth and Reconciliation Committee include a call to self-governance and restoration of Indigenous law. Access to justice initiatives should not entrench the status quo to the detriment of implementing the recommendations of the Commission. Ideally, they should facilitate the development of Indigenous processes and solutions.

Technology will not solve all access to justice issues. Justice is about relationships. This can be lost in technological solutions like those patterned after the “robot” doctors serving Northern communities, which still may not reach the most disenfranchised and marginalized people. We must remember that there are still many people in Saskatchewan without access to internet or telephones. Focusing solely on technological advances in legal service provision risks increasing the gap in access for those who may need justice most.

Lawyers are not equipped to practice on their own early in their careers. Starting a law firm entails unique and challenging accounting, marketing, human resource and other skills that are not formally taught to lawyers in Saskatchewan. Very little practice-management is taught to law students at the College of Law or to students-at-law through CPLED. This creates difficulties for lawyers who wish to start their own sole practitioner firms, and are not equipped to manage the corporate aspects of a law firm. While there are organizations, like the Law Society and the CBA, who offer training and mentorship opportunities in these areas, a lack of comprehensive knowledge and comfort addressing these challenges may drive some lawyers away from starting sole practitioner firms, especially in rural Saskatchewan.

Money is not everything. For articling students and young lawyers, offering solely financial incentives to practice in rural areas is not a sustainable or long-term solution. Instead of trying to entice professionals who are not currently interested in this type of practice, we need to cultivate and support the current and future professionals who are already interested but have not pursued this type of practice for one reason or another.

However, the money and opportunities in rural areas should not be ignored. Stakeholders we consulted with agreed that practicing law in rural areas can be lucrative very early in a lawyer's career, and thanks to a wide scope of practice, it can also expose a young lawyer to a range of different experiences. The practice and leadership opportunities that practice in a rural or remote community offers may not always be present at large law firms in urban areas.

We must reframe the way we think of rural and remote communities. The insularity and competitive atmosphere in the legal community can lead students to think that success is tied to a position in a large, urban firm. We need to shift our views of rural practice and the way it is presented to students away from the "remote outpost" outlook and start presenting these communities as places that we as professionals can contribute to and create a stable and successful future in.

Specific Access Issues Identified in Consultation Process:

- Issues common to rural and remote areas which affect access to justice include: difficulty accessing telephones, difficulty in accessing license renewal services through SGI, the inability to find someone willing to serve documents and the hollowness of “no contact” orders in areas facing housing crisis and over-crowding.
- There is a dire need for summary advice of any kind for all legal issues. In criminal cases, for example, people may plead guilty in order to avoid long trials without fully comprehending the consequences.
- Legal issues on reserves are complicated due to varying cultures and customs from one Indigenous group to another. Family and property matters are further complicated by the tension between federal and provincial jurisdiction.
- The nature of some cases demand quick action, but they are delayed by process. This includes child protection cases, and orders concerning housing in domestic violence cases. In Criminal cases, bail hearing orders are issued from Regina, and there is a delay in communication with the Legal Aid lawyer.
- When suspects are arrested in northern regions, the RCMP fly them to Prince Albert for a bail hearing. When they are released from custody, they are not returned to their home community. They roam the streets of Prince Albert with only the clothes they were arrested in and no means of returning home, creating tensions in the community. The same is true of prisoners released from the penitentiary.
- Numerous people in rural areas report that they cannot afford representation in their family matters, but they find Public Legal Education Association resources too difficult to navigate.
- Every divorcing couple with children is required to attend a *Parenting After Separation* course, yet these are offered only in urban communities. It is also difficult for them to access mediation, and the Court of Queen’s Bench.

The Incubator Model

As a model with exceptionally broad potential applications, incubators have been utilized by the private sector in manufacturing and technology, as well as the Federal government to provide access to start-up funds, networking opportunities, accessible resources, and hands on mentorship to promote growth through innovation.³³ In essence, **a legal incubator is an alternative to the traditional law firm structure, both in organization and in focus.** In this context, incubators have functioned as a forum for innovation and experimentation in the way law is being practiced, as well the setting for intensive experiential learning.

With a concentration on mentorship, the structure of an incubator is generally comprised of one or more principals with a number of participants (or ‘incubees’), who could be student interns, articling students, or practitioners who have only recently been licensed. **A major component of the incubator experience involves the participants learning the business of running a law firm with the aim that by the time they leave the incubator they will be empowered to successfully implement the practices and values learned in the incubator within their own legal practice.**

In the Canadian legal context, incubators were identified in the CBA’s *Legal Futures Initiative* as a potential strategy to promote innovation by “[helping] recent law graduates transition into sustainable practice situations to serve individuals and small businesses, as well as through virtual practice arrangements.”³⁴ Incubators can provide an ideal setting for innovation because, by their very nature, they are designed to be cutting-edge and an alternative to the established forms of legal practice. Many incubators are centred on providing access to legal services for underserved communities, and as such, their financial sustainability relies on the creative use of cost-saving measures, from pioneering technological solutions, to securing funding through partnerships.

The incubator model presents wide-ranging potential to the legal community thanks in large part to its malleability. Beyond a focus on innovation and improving processes which allow participants to ‘learn by doing’, a legal incubator can be implemented in a wide variety of different structures, focusing on any type of practice area. **We view the incubator model not as a self-contained solution, but rather as a skeleton or framework which can be ‘filled in’ and structured to meet the needs of the context in which it is being implemented, effectively filling in identified gaps in service.**

Incubators have functioned as a forum for innovation and experimentation in the way law is being practiced, as well as the setting for intensive experiential learning.

³³ Ha-Redeye, Omar. “Cold, Hard Justice Lessons from the Fleet: Innovation from the Bottom Up.” (2017)

³⁴ Windsor Y B Access Just. At 64. [*Ha-Redeye*]

³⁴ *CBA Report, supra* note 1 at 35.

By analyzing the experiences of existing legal incubators, it is possible to incorporate market-tested best practices and lessons learned into the design of a legal incubator to serve the rural Saskatchewan context.

Fleet Street Law (Toronto, Ontario)



Developed in 2011, Fleet Street Law was started by five sole practitioners. Since then, the incubator has had over thirty-five lawyers practice with them, with over fifty students participating either as student interns or articling/LPP candidates. With a focus on using innovative technologies and providing mentorship and support to young practitioners, Fleet Street Legal also attempts to provide low-cost legal services across a wide spectrum of practice areas.

The most significant limitation experienced by Fleet Street Law is that it operates on a cost-recovery basis; by 2017 financial and time constraints had led Fleet Street Law to scale down the intake of new incubator participants.³⁵ Fleet Street Law frames its success in the role it has played in helping to advance young practitioners in their legal careers through strong peer mentorship and innovative approaches to practice.

In a paper outlining the Fleet Street Law model the author (one of the founders of the incubator) suggests that future incubators could benefit from being connected to law schools, providing enhanced experiential learning opportunities for both students and practitioners.³⁶

Aspire Legal (Calgary, Alberta)



Started with seed money from the University of Calgary Faculty of Law and housed in University office space in downtown Calgary, Aspire Legal is a Family Law Incubator which opened in 2017, addressing a critical deficiency in accessible family law services in the area. With four articling students being mentored by one principal lawyer (who also occupies the role of Executive Director), Aspire Legal provides unbundled family law legal services to the public, billing on a sliding scale.

Accessibility is promoted via technological innovations and simplified procedures which avoid legalese: Initial client information is collected through an online form after which articling students meet with clients to provide in-person advice and outline next steps. Aspire Legal is attempting to teach the next generation of family law lawyers to rethink the traditional models of articling and practicing law, moving away from billable hours and

³⁵ *Ha-Redeye supra* note 33 at 83 and 84.

³⁶ *Ibid* at 85.

providing accessible services which meet the needs of the community it serves. With the support of the University of Calgary, Aspire Legal is working towards becoming financially self-sustaining over time, allowing for the model to be replicated in other practice areas.

Fitting the Incubator Model to meet our Needs

As demonstrated by the different goals, experiences, and strategies of Fleet Street Law and Aspire Legal, **one of the major opportunities presented by the Incubator Model is its malleability, allowing for potentially unlimited applications.** In designing an incubator to specifically meet the needs of rural and remote communities in Saskatchewan, three critical questions must be addressed:

1. What is the goal that the incubator is trying to achieve?

One concern raised by consultees was the question of which end goal the incubator is aiming to reach: Is the incubator aiming to provide articling and professional development opportunities for graduating law students, or is its primary focus on enhancing access to affordable legal services?

While we recognize the importance of clearly identifying the motivations driving the implementation of any proposal, we do not feel that these two goals are mutually exclusive. The approach taken in establishing Aspire Legal at the University of Calgary illustrates that incubators can be designed from the ground up, and there is no reason why a legal incubator designed for the rural Saskatchewan context cannot provide opportunities for articling students and young practitioners while at the same time employing an innovative practice strategy and fee structure which addresses the access to justice issues of the communities it serves.

Foundational principles and a tailored guiding mission statement are essential components of the successful implementation of a legal incubator. These elements require a substantial amount of further research, however, we believe that consulting with the public and getting the support of stakeholders within the Saskatchewan legal community are the first steps.

2. What can we learn from existing legal incubators?

Based on our analysis of two prominent legal incubators in Canada and the academic discussion surrounding legal incubators in the United States, there are a few key lessons which will inform the design of a rural Saskatchewan legal incubator:

- **Funding:** In our research we found that the most common obstacle faced in the successful creation of a legal incubator offering low-cost legal services is the question of financial sustainability. Providing affordable legal services while maintaining an office space, with the required information technology and administrative needs, and paying competitive

salaries for at least one principal and up to four participants requires a creative approach. **One method that has shown some success is the strategy of attaching the legal incubator to a University and running the incubator as a non-profit enterprise.**³⁷

Academic institutions should nevertheless be cautious to avoid becoming enablers to the extent that incubator participants will fail to learn about the financial realities of running a sustainable practice. Through their connection with the larger university community, law schools can provide incubators with essential non-financial support, including office space and technological support, marketing and educational/faculty mentorship.

- **Start-up Needs:** A significant amount of funding may be required for starting up an incubator.³⁸ The most significant of these would be property. The incubator would require an office space to work out of, with at least 2-3 offices, a reception area, board room and other meeting rooms, similar to that of a small law firm. The building would also require insurance. In addition, the firm would require information technology, including phones, computers, and servers for storing client information, as well as other fundamental office equipment. Lastly, there is a requirement for marketing and research expenses.
- **Staffing:** Our initial research suggests that if the overall design and compensation are appropriate, a legal incubator should succeed in attracting articling students. Based on our consultations and experiences within the College of Law, there seems to be no shortage of law students in Saskatchewan seeking articles, many of whom have expressed an interest in either access to justice or rural practice issues. **A larger challenge is attracting and retaining at least one person willing and able to take on the positions of Executive Director and Principal (if following the staffing approach taken by Aspire Legal).** These positions are exceptionally demanding and require finding a suitable candidate who can mentor articling students while guiding the incubator itself and maintaining relationships with partners within the legal community. A second question revolves around the length of time an incubator participant should remain within the incubator. There may be value to having two-year contracts, with the first year as an articling student and the second as a practicing lawyer benefiting from the learning opportunities within the incubator before moving on. Ultimately this question will depend on a number of factors specific to the design of the individual incubator: the amount of office space, the demand from the community, and the financial constraints involved in maintaining the entire endeavour.

³⁷ Salkin, Patricia E., Suni, Ellen, Schaumann, Niels & Bilek, Mary Lu, "Law School Based Incubators and Access to Justice – Perspectives from Deans." (2015) *Journal of Experiential Learning*, Vol. 1, Issue 2, Article 3 at 207. [Salkin]

³⁸ A sample startup and annual budget can be found at Appendix E.

- **Education:** A successful incubator will prepare lawyers for future practice. Consultations with staff at the university of Saskatchewan’s Edwards School of Business have identified critical knowledge gaps with regard to entrepreneurship and practice-management that they would be willing to assist in filling. An incubator with a goal of equipping young lawyers to set up as sole practitioners in rural Saskatchewan must set them up for success by identifying and educating incubees on strategies for managing the business end of their law firm.
- **Licensing Requirements:** Currently, the Law Society only allows a one-to-one principal to articling student ratio. The incubator would need to apply for a waiver through the *Law Society Rules* in order to facilitate the licencing of an incubator.

3. How can we measure success?

"It is not that we have too many lawyers, it is that as a whole, neither the academy nor the profession have taken responsibility for training or supporting lawyers who might serve the needs of the modest and moderate means clients who currently go unrepresented, either by focusing their education on the subjects and skills necessary or by developing models for the delivery of legal services to these clients that create economically viable practices."³⁹

The success of a legal incubator can be gauged through an analysis of its progress in relation to its mission statement and guiding principles, however, in a more tangible sense overall success can be measured through an analysis of collected data, including:

- The number of applicants for articling positions each cycle and the number of students/lawyers accepted.
 - The number of clients served at key intervals.
 - The number of cases referred to the incubator.
 - The number of lawyers who leave the incubator to start their own practice.
 - The financial sustainability of the incubator itself.

In addition to these metrics, success of the incubator can also be measured by assessing community buy-in, the reputation of the incubator with key stakeholders, the professional growth of participants, and compiled feedback from clients.

³⁹ *Salkin supra* note 37 at 203.

Brief Summary – Risks and Advantages of a Legal Incubator for Rural Saskatchewan	
Potential Risks	Potential Advantages
Challenge in securing initial funding and becoming financially self-sustainable.	Potential to provide additional articling student positions which focus on the legal needs of rural and remote communities.
Potentially diverting financing from existing legal service providers.	Potential to buttress existing corporate education initiatives, empowering young lawyers to start their own practices.
Potential challenge in attracting staff.	Potential to provide affordable legal services to rural and remote communities.

An Incubator Designed for Rural and Remote Saskatchewan: Preliminary Recommendations

Based on our research and consultations, we are able to imagine how a future legal incubator designed to meet the needs to rural and remote Saskatchewan might look.

Location: We believe that an incubator would be most effective by being located in a hub centre which already serves the needs of a much larger geographical area (possible locations include La Ronge, Prince Albert, and Moose Jaw). Attraction to any specific centre would be increased by the possibility of subsidized office space through partnerships with other organizations. Mobility of the incubator (including traveling to even more rural and remote areas) is something that could be explored after a successful initial implementation in one location.

Staffing: With one person occupying the roles of Executive Director and Principal, Aspire Legal has proven that such a staffing scheme is possible at the early stages of an incubator. Attracting additional practitioners to act as Principals would alleviate the demands on the Executive Director, allowing them to focus more on the big picture. We believe that retaining articling students beyond a 12-month commitment would meet the goals of empowering and educating young lawyers while offering enhanced affordable legal services to the community.

Services Offered: The aim will be to strike a balance between offering legal services which are easy to access (either through technology, accessible information, or in-person consultations with a lawyer or articling student), and creating a well-rounded practice which fills legal service provision gaps as identified through further research and consultations.

Next Steps

Short Term Goals
<ul style="list-style-type: none">• Identify gaps in service experienced in rural and remote communities which an incubator could potentially fill.• Engage in productive discussions to determine where stakeholders stand on the feasibility and applicability of a Legal Incubator for Rural Saskatchewan.• Create a working plan with next steps for further research and potential implementation of a Legal Incubator.• Determine which persons or organizations can follow through on future research and implementation steps.
Long Term Goals
<ul style="list-style-type: none">• Conduct meaningful consultations with members of the public outside of the legal community to determine if a Legal Incubator is warranted and if so, where it should be located.• Identify the specific legal services a Legal Incubator should provide and begin strategizing on financing and billing strategies and potential innovative technological solutions.• Draft a Mission Statement and Guiding Principles for a Legal Incubator to serve the needs of rural and remote communities in Saskatchewan.• Seek funding commitments (through donations both financial and in-kind).• Open a Legal Incubator to the public and begin offering affordable legal services to rural and remote communities in Saskatchewan.

Conclusion

We recognize that simply increasing the number of lawyers in rural Saskatchewan will not solve the entire access to justice problem. We are convinced, however, that coupled with education which empowers those lawyers to run successful and sustainable practices, increasing the number of lawyers present in rural and remote areas is a foundational piece of the solution. While the Incubator Model may not be the full answer to all of rural and remote Saskatchewan's access to justice issues, we believe that it could fill a number of critical gaps:

- Providing articling positions and continuing legal education which focuses on the legal issues affecting rural and remote citizens, and the 'business' aspects of running a sustainable independent legal practice,
- Raising the number of lawyers whose practice is located in a rural or remote area, or serves the legal needs of those areas,
- Acting as a conduit for the dissemination of legal information to the public, and
- Providing the opportunity for further research.

Questions for Further Discussion

- 1. What are we missing in terms of our understanding of rural and remote legal needs in Saskatchewan?**
 - a. Moving forward, how could we consult with rural and remote communities meaningfully in order to accurately gauge and appropriately address the most pressing access to justice needs?
 - b. How can we instill a sense of ownership in the process so that communities will not feel that a solution is being imposed on them?
 - c. Are the civil and family law needs of rural and remote communities any different from those in major urban centres?
- 2. What needs to be added or changed to round out the Incubator Model for the rural Saskatchewan context?**
 - a. What should the focus of a legal incubator be to best serve the rural Saskatchewan context?
 - b. Where would the best location be for this type of incubator to be set up?
 - c. How can we ensure that the services provided by the incubator are affordable?
 - d. How can we ensure that the people using the services are those who need it most?
 - e. How can we balance the provision of affordable legal services against the need to generate revenue and thereby avoid depending on donor funds?
- 3. What are other potential solutions that might be worthy of exploration?**
 - a. Increasing the number of lawyers practicing in rural areas will not solve the issue of access to justice, but it could help. What else could help?
 - b. The incubator is a model that can be adapted to suit many different needs. What other areas could it be used in?
 - c. How could we adapt the incubator model for use on reserves and in First Nations communities?

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Appendix A: Current Developments in Other Jurisdictions

Increasing access to justice has become an important consideration for groups across Canada. Governments, at federal, provincial and municipal levels, along with law societies, not-for-profit organizations, and law schools have become involved in the creation, development, implementation, and continued success of reforms and programs that increase access to justice, especially those aimed at the 6.3 million Canadians who live in rural areas. While access to justice programs are as diverse as the Canadians they serve, across the country there can be grouped into three general types of programs. These include programs with a main focus on educating people with little understanding of the legal system, programs aimed at increasing people's ability to access lawyers and the legal system through technology, and programs aimed at increasing the breadth of legal support available in rural locations, largely through programs enticing lawyers to relocate to rural communities, or deregulating who may represent people in legal actions. These groupings are a generalization, as different programs will have significant differences that reflect their circumstances:

1. Education

Education-related access to justice projects are numerous in Canada. Education based programs, like the Public Legal Education Association of Saskatchewan, have a mission to educate, inform, or empower people through increased access to legal education and information. Another, currently operating education program in Saskatchewan is the Saskatchewan Access to Legal Information (SALI) project.⁴⁰ SALI is a partnership between several organizations in Saskatchewan, including CREATE Justice, the Public Legal Education Association of Saskatchewan (PLEA), the Law Society of Saskatchewan (LSS) library, the University of Saskatchewan library, and the Saskatoon Public Library (SPL). Among other objectives, the purpose of this project is to increase access to justice by utilizing library space to support weekly drop-in family law clinics, as well as expanding public access and the robustness of online databases with legal decisions and other resources. These programs can be tailored to specific areas of law, like was the case in Ontario. The Government of Ontario staffed Family Law Information Centres in Ontario courthouses, with court staff providing specific information about court procedure, and legal aid lawyers providing general information on family law, free of charge and regardless of eligibility for representation.⁴¹

Like was stated above, some programs will use aspects of the other categories to achieve their aims. One example of this is in Prince Edward's Island, where their community legal

⁴⁰ <http://law.usask.ca/createjustice/projects/Saskatchewan-Access-to%20Legal-Information.php>.

⁴¹ <https://www.attorneygeneral.jus.gov.on.ca/english/family/infoctr.php>.

information organization established a toll-free telephone line to provide advice, referrals and support to people dealing with legal issues, in a myriad of legal areas.⁴²

2. Technology

The rapid pace of the march of technology has changed the world. Organizations, and industries, have become obsolete, while other organizations and industries have adapted and flourished. The same can be said for the legal system. In Saskatchewan, the legal system has been steadfast in its adoption of technology, as lawyers and judges routinely utilize MacBooks in court to record notes, or perform research on cases while in a trial. Procedurally, Canadian courts have also taken the rise of technology in stride, allowing service through facsimile and, more recently in Federal and Saskatchewan courts, email. Other programs, like the Ontario Telejustice project, utilize technology to improve access to justice in rural communities. Like videoconferencing, which is used in Saskatchewan courts to “reduce or avoid travel for parties, witnesses and judges and to facilitate timely and cost-effective access to justice for parties in the Court,”⁴³ Telejustice projects operate under the same principles, allowing lawyers located in urban centres to communicate and provide advice to clients in rural communities. Specifically, the Ontario Telejustice project is used to deliver services to the Nishnawbe Aski First Nations and only allows urban lawyers and firms to provide pro-bono advice, in order to not place pressure on existing rural practitioners in the area.

Technology has also been used to increase access to justice by replacing essential court procedures with wholly online programs. An example of this is the BC Civil Resolution Tribunal (CRT),⁴⁴ which is an online tribunal for small claims disputes of \$5,000 and under, as well as disputes of any amount regarding condominium property disputes. The CRT requires all persons utilizing the service to undergo an online solution explorer process that would diagnose the problem, and provide online legal information and self-help tools and allows the small claims process to occur almost entirely online, utilizing facilitators, and requiring a mandatory negotiation between the two parties. Once evidence and arguments are submitted, the CRT provides written, appealable decisions. Instead of increasing access to justice by complimenting the established procedure for the provision of justice, like with videoconferencing, programs like the CRT effectively supplant all aspects of some court matters, and replace every step with an online process.

While online processes have shown to be effective in increasing the number of people accessing justice, they still carry their own issues. Specifically, the lack of technology and technological illiteracy are prevalent in rural areas. A program may allow people to submit claims

⁴² http://www.cliapei.ca/content/page/programs_inquiryline.

⁴³ Saskatchewan Court of Queen’s Bench, *Protocol for the Use of Video Conferencing in the Court of Queen’s Bench for Saskatchewan*, 2018, online.

⁴⁴ <https://civilresolutionbc.ca/>.

and evidence over email or facsimile, but if they cannot access the internet, or do not know how to operate a computer, they are just as disadvantaged as they were before.

3. Increasing the availability of legally trained persons.

The last general group of access to justice reforms in rural communities is perhaps the most difficult. This involves increasing the amount of legal system workers in rural communities. This is the case in South Dakota, where the state government provides funding for 32 lawyers in the State to operate in counties with a population of less than 10,000.⁴⁵ In addition to the funding, the State Bar provides education, technology, online resources, mentorship programs and office management comparable to urban firms. Another program in this vein in Canada is the BC Rural Education and Access to Lawyers Initiative (BC REAL),⁴⁶ which provides funding for second year summer law students in communities with a small populations and a high, unmet demand for local lawyers and support for students who are interested in practicing in rural communities, and support to law firms with regards to hiring, lawyer attraction, and retention for firms in rural BC communities. In Alberta, the Rural Law Opportunities⁴⁷ website operates as an online classified advertising service for lawyers looking for work in rural Alberta.

It is important to note that this group should not be characterized solely as increasing the number of lawyers in rural areas, as it is so much more. While increasing the number of lawyers practicing in an area has been utilized as a strategy for increasing access to justice, it is not the only solution. In Saskatchewan, the Law Society has recognized that accessing justice in Saskatchewan is hampered by the unavailability of lawyers in remote areas of Saskatchewan. They further recognize that provisions of *The Legal Profession Act* restrict the provision of legal services to licensed lawyers and students-at-law. It has been theorized in this province that the provision of legal services in the province could be revised into a “multiple licensing” system,⁴⁸ similar to the provision of medical services, where licensed doctors, nurses, medical technicians, and pharmacists perform different functions. This strategy does not increase the number of lawyers in a community, but increases the number of people who can provide legal services in a community.

⁴⁵ <http://www.ujs.sd.gov/Information/rarprogram.aspx>.

⁴⁶ <https://www.cbabc.org/Our-Work/Initiatives/REAL-Information>.

⁴⁷ <http://studentplacements.ardn.ca/en/home/>.

⁴⁸ <https://www.lawsociety.sk.ca/media/394199/legalservicesconsultation2017.pdf>.

Appendix B: Current Access to Justice Initiatives in Saskatchewan

Several legal system stakeholders in Saskatchewan have worked to address issues concerning rural Saskatchewanians. We feel these projects could be valuable partners in the incubator initiative.

The Courts in Saskatchewan have mandated mediation in all civil cases in an effort to manage the backlog of cases congesting the court system. **The Ministry of Justice** has mandated mediation in all civil cases and some family cases at the Court of Queen’s Bench and case management at Small Claims Court. **The University of Saskatchewan College of Law** has spearheaded a number of initiatives to address the need for increased and expanded access to justice.

CREATE Justice (the Centre for Research, Evaluation, and Action Towards Equal Justice) is continuing research in this area through the Centre’s previous and current Dean’s Forums on Access to Justice. **The Saskatchewan Access to Justice Working Group** meets twice a year to “identify areas in need of reform, and to provide advice and feedback about initiatives related to improving access to justice on a sustained and ongoing basis across the province.”⁴⁹ The annual **Saskatchewan Access to Justice Week** is a vehicle to engage the public, law students, and other stakeholders in the ongoing conversation.

The “**Saskatchewan Access to Legal Information Project**” (**SALI**) is a partnership between CREATE Justice, the University of Saskatchewan library, PLEA, Saskatoon Library and the LSS library. This project will increase access to legal information for residents of Saskatchewan.

Finally, the **Small Urban and Rural Firm Committee (SURC)**, a student committee established as a result of funding from the Canadian Bar Association Saskatchewan Branch has conducted an annual community tour for the past 10 years in locations across the province. These essential tours provide law students with the chance to make personal connections in rural areas, and gain first-hand knowledge of the challenges and opportunities of practicing outside of major urban areas. Additionally, the SURC participates in Professional Development sessions at the College of Law on the subject of rural practice, providing practical information and job search strategies to students by facilitating future connections.

There are also a number of active groups in the province who provide education to those with justiciable issues:

- **Public Legal Education Association of Saskatchewan (PLEA)**.⁵⁰

⁴⁹ “About the Working Group” *University of Saskatchewan College of Law* online: <<https://law.usask.ca/research/research-centres-and-initiatives/saskatchewan-access-to-justice-working-group.php#AbouttheWorkingGroup>>.

⁵⁰ <http://plea.org/>

- The **Elizabeth Fry Society of Saskatchewan** (focus on incarcerated women).⁵¹
- The **Law Society of Saskatchewan** library allows public access. The Ministry of Justice has been collaborating with Pro Bono Law Saskatchewan, the Law Society, Family Law Saskatchewan, court staff, Saskatoon Public Library staff, Legal Aid lawyers, CLASSIC lawyers, PLEA and others to jointly offer legal information sessions about family law to the public at libraries in Regina and Saskatoon.⁵²
- The Government of Saskatchewan runs the **Saskatchewan Family Matters Program**. It offers information and assistance to parents during separation and divorce, with a particular focus on minimizing the negative impact on children.⁵³
- **211 Saskatchewan** is an initiative of United Way.⁵⁴ It provides an online database of services available to residents of Saskatchewan for various needs.
- **Community Legal Assistance Services for Saskatoon Inner City** (CLASSIC) is a student law clinic which provides free legal services to members of Saskatoon’s inner city.⁵⁵
- The **Saskatoon Tribal Council Justice Department** at the White Buffalo Youth Lodge provides support for First Nations people while they deal with matters in the justice system.⁵⁶
- **Pro Bono Law Saskatchewan** offers free legal advice and services through legal professionals who volunteer their time and services.⁵⁷
- A **Legal Services Task Team** has been appointed by the Government of Saskatchewan to explore the possibility of certifying legal professionals other than lawyers.⁵⁸ The idea is that these professionals would be able to provide a limited range of legal services for a lower fee, thereby freeing up lawyers to tackle more complex legal matters.

⁵¹ <http://www.elizabethfrysask.org/>

⁵² <https://saskatoonlibrary.ca/node/5344>

⁵³ <https://www.saskatchewan.ca/residents/births-deaths-marriages-and-divorces/separation-or-divorce/family-matters-program>

⁵⁴ <http://sk.211.ca/>

⁵⁵ <http://www.classiclawn.ca/>

⁵⁶ <http://www.sktc.sk.ca/programs-services/family-community-services/justice/>

⁵⁷ <https://www.pblsask.ca/>

⁵⁸ <https://www.saskatchewan.ca/government/news-and-media/2017/may/05/legal-services-task-team>

Appendix C: Building off the Cromwell & CBA Reports

ACCESS TO CIVIL & FAMILY JUSTICE A Roadmap for Change” (The “Cromwell Report”)

This October 2013 document states three main objectives: 1) to explain the access to justice problem and identify some of the gaps in the civil and family justice system 2) to argue the need for a culture shift as an impetus for justice reform and 3) to provide a framework for creating meaningful change.⁵⁹

In Part 2, six “Guiding Principles For Change” are listed: 1) Put the Public First; 2) Collaborate and Coordinate; 3) Prevent and Educate; 4) Simplify, Make Coherent, Proportional and Sustainable; 5) Take Action; and 6) Focus on Outcomes.⁶⁰

Part 3 targets three primary areas for reform: (A) specific innovations; (B) institutions and structures; and (C) research and funding.

The report argues that too often the focus is on making the system work for those that run the system, not for litigants, or people who need justice. “The focus must be on the people who need to use the system.”⁶¹ The report draws attention particularly to vulnerable groups including Aboriginals, immigrants and rural populations. These groups must be involved in the reform process.

The report highlights that the issue of access to justice to rural communities is a challenging one. Rural communities could potentially face all of the same legal issues as urban communities, with the added barrier of geographical problems. Solutions will need to encompass geographical and logistical barriers as well as economic, educational, and systemic issues which create gaps in the system. Many of the proposed solutions in the report could benefit rural communities, if the innovators remain conscious of the need to place these programs within reach of rural residents.

Reaching Equal Justice Report

This report from the Canadian Bar Association (November 2013), like the Cromwell Report, articulates the need for change in Part 1. Part 2 discusses strategies for change with the end goal of equal justice. Parts 3 and 4 discuss how to make the vision of equal justice a reality. In consultations with the public for the CBA report, four themes arose: 1) legal rights are just on paper; 2) justice systems cannot be trusted; 3) justice is person-dependent; and 4) justice systems are difficult to navigate.⁶²

The report indicates that technology is one proposed solution to filling some of the gaps to accessing justice. With regard to technology, the CBA report cautions that “many rural service

⁵⁹ *Cromwell Report, supra* note 2 at 1.

⁶⁰ *Ibid* at 13.

⁶¹ *Ibid* at 7.

⁶² *CBA Report, supra* note 1 at 17.

providers do not have access to high-speed Internet connections, some lack cell phone reception, and others have little nearby access to fax machines. In addition, rural areas have high levels of illiteracy, which limits the value of text-based information.⁶³ For these reasons, technological solutions alone are inadequate.

The report advocates a “wide range” of models for delivery of legal services to assist all low-to moderate-income Canadians, including remote and/or rural communities.⁶⁴ One very promising innovation that is being implemented in several jurisdictions is the ‘law school incubator’ model. These programs are designed to help graduates transition into sustainable practice.⁶⁵

⁶³ *Ibid* at 84.

⁶⁴ *Ibid* at 101.

⁶⁵ *Ibid* at 101.

Appendix D: Literature Review

Baxter, J. & Yoon, A. “No Lawyer for a Hundred Miles? Mapping the New Geography of Access of Justice in Canada” (2014) What is Access to Justice? *Osgoode Hall Law Journal*, 52(1).

This article focuses on the geographic distribution of lawyers and makes policy suggestions to address the decreasing number of lawyers practicing in rural and remote areas with an emphasis on equitable access to justice. Drawing on the results of a survey of Ontario lawyers measuring their geographic scopes of practice, the authors suggest that physical location alone does not appear to constrain the client population that a lawyer can reach with his or her services. Factors like law firm size and location, law school attended, and lawyer’s area(s) of specialization play a role in impacting the ability to deliver legal services over longer distances. Specifically, lawyers practicing primarily in the area of family law were found to have the smallest geographic scope of practice (70% of clients located within 25 kilometers), while for other civil law practice areas, the geographic scope of practice was found to remain relatively constant with 50% of clients located within 25 kilometers. The authors analogize with the health care context and suggest that policy makers could improve access to legal services in rural and remote areas by implementing a number of different programs: identifying the practice area needs in these locations to create ‘practice bonusing’ incentives coupled with existing location incentives (similar to the Ontario Family Health Network bonusing regime), determining client capacities and needs to create tailored regional-specific solutions, and more efficiently employing communication technologies to deliver services which do not require face-to-face interactions.

“Futures: Transforming the Delivery of Legal Service in Canada” by the CBA Legal Futures Initiative (2014).

In light of the major changes redefining the legal profession in Canada, the CBA Legal Futures Initiative has identified several key findings which can guide the future of the practice of law. Embracing the diversity of the legal profession means not only seeing that diversity reflected in governing bodies, but also freeing lawyers to work differently through new structures and in conjunction with other professionals. Shifting towards the introduction of new business models requires enhanced regulation of entities to allow continued innovation while maintaining rules of professional conduct and protecting the public. By collecting more comprehensive data on service delivery and the practice of law itself through the creation of a center of expertise, innovative solutions can be identified and endorsed. This report suggests that the liberalization of regulations (including allowing lawyers to enter into economic relationships with non-lawyers, and fee-sharing with non-lawyers) could result in greater access to legal services for rural and underserved communities by enabling the profession to develop new and creative ways to provide lower cost services.

Ha-Redeye, Omar. "Cold, Hard Justice Lessons from the Fleet: Innovation from the Bottom Up." (2017) 34 Windsor Y B Access Just.

In this article, the author discusses the resources and practice models used by Fleet Street Law, a law practice located in Toronto that evolved into one of the first legal incubators in Canada. In this instance, the use of an innovative business model addressed two main issues: increasing access to justice by allowing for greater service of low income and marginalized populations in the area, and providing essential supports for racialized and minority lawyers early in their career. The legal incubator model is presented as directly tied to the CBA's Legal Futures Initiative by focusing on mentorship relationships which help recent law school graduates 'learn by doing' and eventually transition into sustainable practice arrangements. The author outlines the challenges of creating the Fleet Street Law incubator, specifically the time and financial limitations (operating on a cost-recovery basis) which hindered the ability of incubator lawyers to engage in detailed debrief experiences and reflection. Existing legal incubators in the United Kingdom and United States which focus on specific practice areas or client groups are presented as valuable examples which could be implemented by Canadian law schools and legal practitioners to address both the access to justice crisis and the difficulty of recent law school graduates in securing articling positions. The greatest success to date of Fleet Street Law has been the support provided to young practitioners, however, the lack of stable funding has forced the incubator to reduce both the number of practitioner-participants and services offered.

Lynch, Brian L. "Access to Legal Services in Rural Areas of the Northern Rockies" (2015) Indiana Law Journal: Vol. 90: Issue 4, Article 8.

Framing the problem of access to justice in rural areas of the United States as being related to both the challenge of attracting and retaining private attorneys in rural areas and satisfying the need for low-cost legal services, this article discusses current innovations and recommends the creation of what it calls 'Town Legal Centers'. The author posits that simply attracting lawyers to rural areas alone cannot solve the larger issue of access to justice, due to a number of issues including ethical and economic conflicts of interest, travel and logistical demands, and high levels of community scrutiny. Current strategies being employed in the region are examined, from expansion of the existing network of Legal Aid offices, to the use of 'video courtrooms' and legal hotlines. The author proposes the creation of 'Town Legal Centers' in partnership with existing public infrastructure (e.g. libraries and other public buildings) as a cost-effective means of utilizing available and under-utilized office space and technology to allow the public in rural or remote areas to access information and communicate with private lawyers, legal aid organizations, and law students. The development of a referral system mandating pro bono volunteerism in exchange for participation is a method the author suggests could be implemented to increase access to justice.

“Northern Access to Justice Committee – Final Report” by the Saskatchewan Ministry of Justice and Attorney General (September 2007)

The Northern Access to Justice Committee began meeting in December 2006 and was composed of legal community stakeholders from a wide variety of organizations and backgrounds. In their September 2007 Final Report, the Committee defined the access to justice issue in Northern Saskatchewan as arising from geography, cultural and linguistic differences, and a lack of understanding of the role of the courts and justice system in resolving community, family, and individual concerns. This report focused on three issue areas: jurisdiction and expansion of the Courts’ role, services, and geography and technology. The Committee gave a number of recommendations, including: enhancing public legal education accessibility in the North, enhancing access to legal self-help kits, and developing recruitment and retention strategies for justice workers in Northern communities. The report stressed building on local capacities and taking advantage of technology in order to strengthen connections between the justice system and Northern communities.

Pruitt, Lisa R. & Showman, Bradley E. “Law Stretched Thin: Access to Justice in Rural America” (2014) UC Davis Legal Studies Research Paper Series, Research paper No. 391.

Situating their analysis of rural legal practice within the larger body of access to justice scholarship, the authors propose building on the successes of South Dakota’s Project Rural Practice (an incentive program offering subsidies to lawyers practicing in rural areas). The authors argue for a ‘thickened’ and future-focused conception of access to justice, whereby in the rural context such access would be an aspiration of the entire community – including the public sector, religious institutions, and for-profit enterprises. Arguing that the Project Rural Practice should be supplemented by programs aimed at assisting vulnerable populations, the authors also advocate for additional support for lawyers practicing in rural areas, ranging from the use of technology, to subsidized transportation, and the creation of urban-rural partnerships within the legal community. Simplifying legal processes to enhance public understanding of the legal system and support pro se litigants is also recommended.

“Rural & Remote Access to Justice: A Literature Review” by the Canadian Forum on Civil Justice for the Rural and Remote Access to Justice Boldness Project (2015).

Commissioned to support the work of the Rural and Remote Access to Justice Boldness Project, the authors of this report identify the unique legal issues faced by rural Canadians and the barriers to accessible rural service delivery. Analysis of the demography of rural areas suggests while the national rural population is diverse, individual rural communities are often homogenous and are frequently of a lower socio-economic status relative to urban populations. Legal problems in these communities are often indivisible from demographical issues and tend to ‘cluster’, meaning that collaboration and partnerships with a range of service delivery groups

can be an effective means of not only improving access to justice, but also of addressing endemic community issues. The 'Digital Divide' is presented as a significant obstacle to relying on communication technology to solve access to justice issues. The authors suggest overcoming access to justice barriers by: training and empowering individuals to assess, identify, and refer legal problems, enhancing collaborative inter-professional service provision, harnessing technology to improve and promote legal awareness, and developing coordinated national strategies to address these issues at a systems level.

Salkin, Patricia E., Suni, Ellen, Schaumann, Niels & Bilek, Mary Lu, "Law School Based Incubators and Access to Justice – Perspectives from Deans." (2015) *Journal of Experiential Learning*, Vol. 1, Issue 2, Article 3.

Following the Second Annual Conference on Law School Incubators and Residency Programs hosted by the California Western School of Law in 2015, the authors (all Deans of American law schools) outlined their understanding of the fundamental issues for consideration prior to launching an incubator. The authors argue that while many law students and graduates may be interested in serving the needs of 'modest and moderate-means' clients, the current system does not prepare students to deliver these services in a small or solo economically viable practice, contributing to a widening access to justice gap. The authors advocate for law schools sponsoring incubators for several reasons. Incubators offer a post-JD opportunity for guided mentoring and experiential learning in the business of starting and running a viable law practice, and can foster a commitment to pro bono service while concurrently meeting needs in the community in which they are based. It is suggested that while maintaining a connection with its sponsoring law school (including mentoring and educational support), the incubator itself should bear the cost of rent, supplies and equipment, and networking in order to promote self-sufficiency. Success of an incubator can be measured by a number of different metrics but should always include consideration of the professional growth of incubator lawyers and a return on institutional investment.

Appendix E: Estimated Startup Budget

XYZ Legal Incubator			
Cost Item	Monthly Cost	One-Time Cost	Total Costs (Annual)
MONTHLY COSTS			
Executive Director Salary	\$8,333		\$100,000
Articling Student Salaries for Four Students	\$15,000		\$180,000
Employee Payroll Taxes and Benefits	\$1,400		\$16,800
Rent/Lease Payments	\$1,500		\$18,000
Advertising/Promotion/Website	\$400		\$4,800
Postage/Shipping	\$200		\$2,400
Office Supplies	\$200		\$2,400
Utilities	\$600		\$7,200
Insurance	\$250		\$3,000
Bank Service Charges	\$100		\$1,200
Accountant Fees	\$400		\$4,800
Bank Loan Repayment (including Interest) on a loan of \$200,000	\$1,800		\$21,600
Law Society Fees and Insurance	\$666		\$8,000
Continuing Legal Education	\$500		\$6,000
CPLED Costs	\$1,066		\$12,800
Legal Database Access			
ONE TIME COSTS			
Accounting System		\$5,000	\$5,000
Information Technology		\$10,000	\$10,000
Office Supplies		\$1,000	\$1,000
Furniture		\$3,000	\$3,000
Renovation Expenses		\$5,000	\$5,000
Miscellaneous Setup Costs		\$2,000	\$2,000
Opening Announcements		\$500	\$500
TOTAL COSTS	\$32,415	\$26,500	\$415,480