

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

Follow-Up Report & Summary Notes

On Improving Access to Civil and Family
Legal Services in Rural Saskatchewan

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DEAN'S FORUM



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Introduction

This document summarizes themes from the 6th Annual Meeting of the Dean's Forum on Access to Justice and Dispute Resolution. Its focus is on the *'Improving Access to Civil and Family Legal Services in Rural Saskatchewan'* project and the content of the Forum day's discussions. A copy of the presentation given on this topic, a list of participants, and small group questions are included in the Appendices.

Summary of Policy Discussion Paper Presented by Students

The 6th Annual Meeting of the Dean's Forum on Access to Justice and Dispute Resolution was held on March 6, 2018 at the University of Saskatchewan College of Law. The Forum day involved presentations and discussions on two topics: ***"Improving Access to Civil and Family Legal Services in Rural Saskatchewan"*** and ***"Civil and Family Justice Metrics: Towards a Framework for Saskatchewan"***. This document summarizes the morning session of the Forum, which focused on the former topic.

The policy discussion paper on *'Improving Access to Civil and Family Legal Services in Rural Saskatchewan'* examined the access to justice crisis in rural and remote areas in Saskatchewan and proposed the implementation of a Legal Incubator to address three major areas of concern:

1. Improving the accessibility of civil and family legal services for people living in rural and remote communities;
2. Enhancing capabilities for future research and innovations on this topic; and
3. Increasing the number of articling students and lawyers practicing in rural and remote areas.

The content of the policy discussion paper was grounded in the Cromwell Report on *Access to Justice in Civil and Family Matters* and the Canadian Bar Association's *Reaching Equal Justice Report*. Research was qualitative in nature, and included consultations with a number of interested stakeholders, including representatives from the following organizations:

- The University of Saskatchewan's College of Law, Native Law Centre, and Edwards School of Business;

- Community Legal Assistance for Saskatoon Inner City (CLASSIC);
- The Provincial Court of Saskatchewan, including judges and registrars;
- The Saskatchewan Urban Municipalities Association (SUMA);
- The Canadian Bar Association's (CBA) Saskatchewan Branch;
- Legal Aid Saskatchewan;
- The Law Society of Saskatchewan; and
- The University of Calgary's Legal Incubator, "Aspire Legal".

The Dean's Forum meeting began with a welcome and introduction to the Dean's Forum topics led by Dean Martin Phillipson of University of Saskatchewan College of Law. Law students Dustin Link, Bonita Mwunvaneza, and Tanner Schroh then presented their policy discussion paper to provide participants with context for the discussions that followed. Participants then met in small groups to discuss the topic in more depth. The discussion group questions invited participants to consider:

1. Information required in order to acquire a more holistic understanding of the legal needs in rural and remote areas in Saskatchewan;
2. Changes needed to design and implement a Legal Incubator in rural Saskatchewan; and
3. Strategies the policy discussion paper may have overlooked to improve access to justice in rural and remote areas in Saskatchewan.

Following these discussions, participants reconvened to report back about the themes from the small group sessions and work towards building consensus around next steps. The large group discussion was facilitated by University of Saskatchewan College of Law Associate Professor Michaela Keet and Dean Martin Phillipson.

Common Themes that Emerged from the Day's Discussion

The discussions prompted by the presentation of the morning's topic were productive and largely positive, with many participants expressing the critical importance of addressing the

issue of access to justice in rural and remote communities. Common themes that arose are grouped below under the following headings:

- Understanding Needs;
- Creating Partnerships;
- Sustainability of Initiatives;
- Designing a Legal Incubator; and
- Conclusions and Steps Forward.

Understanding Needs

All participants present at the Dean's Forum agreed that more research and consultation needs to be conducted to inform the design and implementation of any solutions or initiatives, and that rural communities should be consulted. It was also noted that rural and remote communities do not all share the same needs; therefore, any proposed solution must take into account the individual issues facing the community in which it will be implemented. As the number of consultations conducted during the drafting of the policy discussion paper were limited by both time and resources, specific areas of interest for future research included:

- Collecting data in order to determine the actual legal needs of people in rural and remote communities;
- Collecting data to understand which areas of the province, or specific communities, require greater numbers of legal professionals; and
- Understanding what motivates articling students and lawyers to practice in rural and remote areas, aside from financial concerns.

Creating Partnerships

Many participants recommended collaborating with existing organizations and initiatives in order to both gather data and to inform the potential design and implementation of a Legal Incubator. Groups that were specifically mentioned included public libraries (through the SALI Project) and health centres. Partnering with public institutions that hold the trust of

the communities they serve was identified as one strategy to reach members of the public and engage in planning and legitimacy building for any future initiative.

Community partnerships within the legal community were also identified as essential to any initiative. Addressing unmet legal needs without siphoning off business and funding from existing service providers was mentioned as an issue of concern, however many participants suggested that the current level of unmet civil and family legal needs in rural and remote areas is so great, that provided the Legal Incubator has a defined plan and guiding mission statement, this problem can be avoided.

Partnerships with community leadership will also be of importance to future initiatives, by providing opportunities to take advantage of existing infrastructure, expertise, and goodwill. Health care providers, librarians, and band councils were identified as key stakeholders with valuable knowledge and connections who could assist in the design and implementation of a Legal incubator, and potentially act as 'navigators' within their communities, directing the public towards legal service providers.

Another unique way partnerships were identified was in the area of community buy-in. Community members need to feel ownership in the incubator model. We would also like to ensure that the articling students who participate in the incubator continue to practice in rural areas. It was theorized that students from rural communities would be more likely to remain in rural communities, and would be better able to identify and meet the legal needs of rural customers. It may help, then, to encourage law students who come from rural backgrounds to become involved in the incubator.

Sustainability of Initiatives

Much of the focus of discussions on the Incubator Model surrounded the question of financial sustainability. These concerns largely revolved around the question of whether an organization that provides low-cost legal services could maintain operations over time without relying on donations and fundraising. It was noted, however, that this is an issue which plagues every non-profit organization, and there was no firm consensus within the large group

discussion as to the ideal revenue stream strategy for a Legal Incubator designed for rural and remote Saskatchewan.

More research on this is required, specifically in depth consultations with directors at existing Legal Incubators in order to gain an understanding of the financial sustainability of this type of service provider. The largest costs identified were having a physical location (storefront), and paying the salaries of articling students, practitioners, and researchers.

Designing a Legal Incubator

In terms of the design of a Legal Incubator, consensus emerged on the utilization of in-kind support from either the University of Saskatchewan or other public service providers to support the implementation of an Incubator. As a mission statement, a multi-pronged approach was suggested, whereby a Legal Incubator must both increase the number of lawyers and increase access to legal services.

The potential for multiple Legal Incubators, each with a different area of focus, was also discussed. This strategy would create numerous articling positions and allow for a variety of practice areas and physical locations. Mobility of the Legal Incubator was suggested as one strategy to overcome the vast geographical distances separating remote communities, particularly in Saskatchewan's north.

An interesting concept which prompted discussion was the framing of a Legal Incubator as a 'pipeline' for students interested in rural practice who could intern, article, or practice in an environment focused on the legal needs of rural and remote communities. One suggestion proposed was that future research involve reaching out to students and educators in rural and remote communities at the high school level. This engagement could present rural legal practice as a viable career option for young people interested in returning to and serving the needs of their communities. By presenting them with a tailored, experiential learning opportunity, future participants in a Legal Incubator could be attracted early.

Conclusions and Steps Forward

Although the majority of participants demonstrated enthusiasm for the Incubator Model from a theoretical standpoint, concerns were expressed with the sustainability of such a model and the goals it would be designed to achieve. One area of interest that was not discussed at length but may inform the design of a Legal Incubator is the opportunity this model represents for conducting future research and innovating methods of legal service delivery. All participants agreed that more research needs to be done in order to design a Legal Incubator which:

- Meets the needs of the communities it serves;
- Operates as efficiently as possible, taking advantage of community partners and existing infrastructure; and
- Increases the number of lawyers practicing in rural and remote areas.

In the interest of moving this initiative forward, a number of key stakeholders were identified as being critical to the conversation, including:

- The University of Saskatchewan College of Law;
- The Law Society of Saskatchewan;
- The Saskatchewan Ministry of Justice; and
- The existing legal practitioners within the community proposed as a location for a Legal incubator.

Appendix A: Presentation Slides



DEAN'S FORUM

Improving Access to Civil and Family Legal Services in Rural Saskatchewan

University of Saskatchewan College of Law

March 8th, 2018

Bonita Mwunvaneza, Dustin Link, Tanner Schroh

Topics for Discussion

- ▶ Defining the Issue - Rural Access to Justice
- ▶ Current Developments
- ▶ Potential Solutions
- ▶ The Incubator Model



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Our Research

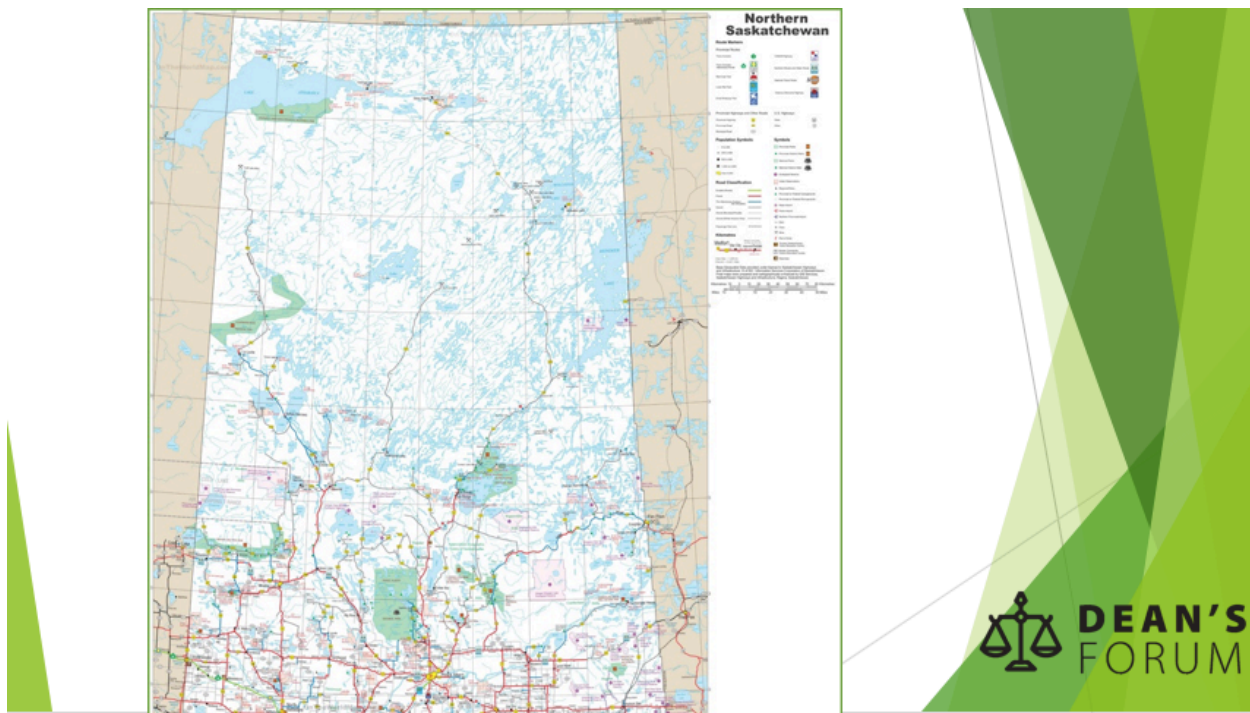
- ▶ Focus on Civil and Family Legal Systems
- ▶ Consultations
- ▶ Limitations
 - ▶ Addressing Specific Legal Issues facing Indigenous Peoples
 - ▶ Addressing Criminal Issues
 - ▶ Sheer Scope of the Issues



Introduction

- ▶ “To me, legal rights are an unfulfilled promise.” Person with disability, Toronto.
- ▶ “No more fairy tales about having access to a justice system.”

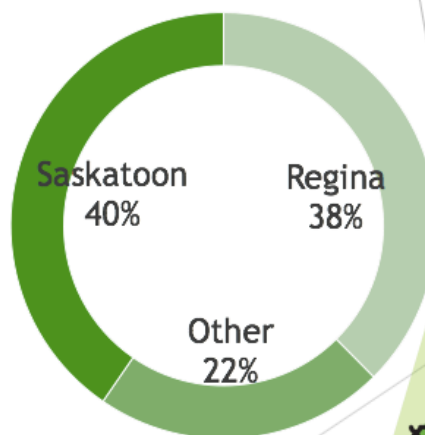




Defining the Issue

- ▶ Saskatchewan's Rural Population
- ▶ Sheer Amount of Civil and Family Justiciable Issues
- ▶ Disproportionate Percentage of Urban Representation

Practice Location of Lawyers in Saskatchewan



Current Programs and Stakeholders for Rural Saskatchewan



Potential Solutions

- ▶ Technology (e.g. PBLs videoconferencing)
- ▶ Legal Education (e.g. PLEA, SALI Project)
- ▶ Non-Lawyer Professionals (MoJ & LSS)
- ▶ Incentives (e.g. GRP)
- ▶ Incubator (requires multi-stakeholder collaboration)

The Incubator Model

What is a Legal Incubator?

- Experiential Learning in a Structured Environment
- Innovative Solutions to Systemic Deficiencies

What is it Not?

- Off the Shelf Solution
- Articling Positions of Last Resort



Current Legal Incubators in Canada



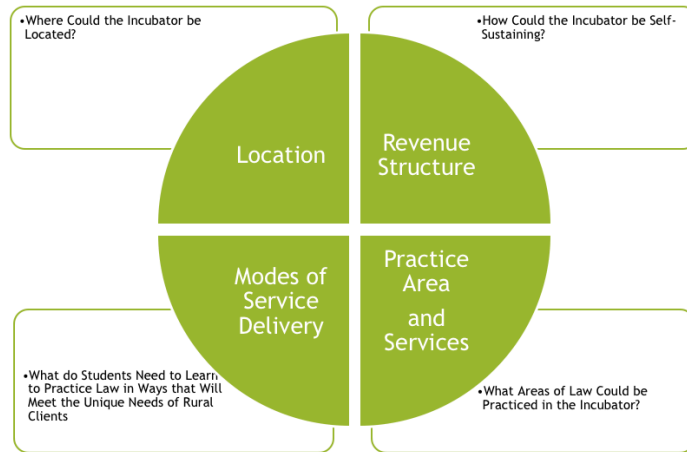
- ▶ University of Calgary
- ▶ Exclusive Focus on Family Law
- ▶ 1 Principal / Executive Director
 - ▶ 4 Articling Students
- ▶ Not for Profit
 - ▶ Sliding Scale Fee Structure



- ▶ Toronto, Ontario
- ▶ Range of Practice Areas
- ▶ 6 "Advisory Group" Practitioners
 - ▶ Over 50 participants in last 7 years
- ▶ Cost Recovery



Imagining an Incubator in Rural Sask



Opportunities



Challenges

- ▶ Start-up Risk
- ▶ Licencing
- ▶ Staffing
- ▶ Funding



Steps Forward

- ▶ What we Know
 - ▶ Limited Access to Technology
 - ▶ SRLs are Increasing
 - ▶ Abandoned Claims Increasing
 - ▶ Graying Bar
- ▶ What We Need to Know
 - ▶ Needs of Rural Communities
 - ▶ Gaps Between Needs and Services
 - ▶ What Needs are More Prevalent in Rural Areas





Change will not happen quickly, but every step along the right path, with a common vision and commitment to measure how effective each innovation has been in achieving that vision, can help. Missteps can be corrected when evidence shows a better way, but we should not waiver about the need to start walking, or the ultimate destination.

Questions for Discussion

- ▶ What are we missing in terms of our understanding of rural and remote legal needs in Saskatchewan?
- ▶ What would need to be added or changed to round out an Incubator Model for the Rural Saskatchewan Context
- ▶ What are other potential solution that might be worthy of exploration?



Appendix B: Questions Posed to Participants

- 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?

Appendix C: Discussion Groups

Group 1 (via Videoconference):

Facilitator: Janelle Anderson (*Saskatchewan Ministry of Justice*)

Recorder: Bonita Mwunvaneza and Desirée Steele (*Law Students*)

- Kara-Dawn Jordan (*Law Society of Saskatchewan*)
- Carly Romanow (*Executive Director, Pro Bono Law Saskatchewan*)
- Glen Gardner, Q.C. (*Saskatchewan Deputy Minister of Justice*)
- Ron Anderson (*Saskatchewan Ministry of Corrections and Policing*)
- David Rusnak, Q.C. (*Senior Practitioner, Yorkton*)
- Melanie Hodges-Neufeld (*Law Society of Saskatchewan*)
- Bill Selnes, Q.C. (*Senior Practitioner, Melfort*)

Group 2:

Facilitator: Michaela Keet (*Associate Professor, College of Law*)

Recorder: Clair McCashin (*Law Student*)

- Charmaine Panko (*Practitioner, Dispute Resolution Sector*)
- Larry Chartrand (*Director, Native Law Centre*)
- Sarah Buhler (*Professor, College of Law*)
- Joel Janow (*Executive Director, PLEA*)

Group 3:

Facilitator: Beth Bilson, Q.C. (*Secretary, University of Saskatchewan*)

Recorder: Dustin Link (*Law Student*)

- Gerry Tegart, Q.C. (*Chair, Access to Legal Services Committee*)
- Martin Phillipson (*Dean, College of Law*)
- Evert Van Olst, Q.C. (*Law Foundation of Saskatchewan*)
- Doug Surtees (*Associate Dean Academic, College of Law*)

Group 4:

Facilitator: Talon Regent (*Practitioner, Moose Jaw*)

Recorder: Alex Santos (*Law Student*)

- Chief Judge James Plemel (*Provincial Court of Saskatchewan*)
- Craig Goebel (*Chief Executive Officer, Legal Aid Saskatchewan*)
- Leah Howie (*Law Reform Commission of Saskatchewan*)
- Evatt Merchant, Q.C. (*Canadian Bar Association, Saskatchewan Branch*)

Group 5

Facilitator: Heather Heavin (*Associate Dean Research & Graduate Studies, College of Law*)

Recorder: Tanner Schroh (*Law Student*)

- Kylie Head, Q.C. (*Saskatchewan Ministry of Justice*)
- Chantelle Johnson (*Executive Director, CLASSIC*)
- Darcy Dumont (*Law Student*)