A Vision for Experiential Education at Robson Hall: Supporting Students’ Transition to Practice

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A Vision for Experiential Education at Robson Hall
Supporting Students’ Transition to Practice

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1 Introduction

This report presents a long-term vision of strengthened and expanded experiential legal education in the Juris Doctor (JD) program at the University of Manitoba's Faculty of Law. The theme underlying the vision is "Supporting the Transition to Practice." "Transition to Practice" means the lived reality of the transition to practice for Robson Hall students, viewed within the enriched concept of practice proposed by the Faculty's Academic Innovation Committee.1

The vision builds on Robson Hall's long tradition of experiential education and preparing law students for their future careers. It also incorporates to the degree possible what Robson Hall is already doing in terms of experiential education.

The vision has ten components:

1) A commitment to implementing best practices from the Stuckey Report for all experiential education at Robson Hall;2

2) Pursuit of ongoing information-sharing between the Faculty and Canadian law societies regarding curriculum developments in JD and Bar Admission programs;

3) Continuation of mandatory experiential courses in the first two years, with additional emphasis on developing a professional identity and values and the knowledge and skills to work with clients;

4) A legal clinic (or combination of clinics) resourced and designed to meet the best practices for in-house clinics, that provides an intensive "people centered law" placement to one quarter of the 3L class, which forms the foundation for a "Transition to Practice" term in third year;

5) The opportunity for another quarter of the 3L class to participate in a less intensive (3- or 6-credit) externship with a focus on other practice contexts, including those that are less common and/or relate to legal fields in which full-time faculty have expertise;3

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1 Academic Innovation Committee of the University of Manitoba Faculty of Law, Academic Innovation Committee on the Robson Hall J.D. Curriculum: Consultation Paper (Winnipeg: University of Manitoba Faculty of Law, March 2014), online: <http://law.robsonhall.ca/images/stories/Academic Innovation Committee Report 12 March 2014.pdf> [Academic Innovation Committee Report] at 13, 87 and 122.


3 As explained in the Stuckey Report, ibid at 197, "[e]xternships are courses in which a significant part of the learning relies on students either representing clients or performing other professional roles under the supervision
6) An additional group of optional advanced experiential courses with sufficient spaces for each 3L student to take one and which includes courses—clinic students need to have a Transition to Practice Term;

7) Continued delivery of Robson Hall’s mooting program, with relevant for-credit experiential instruction in the Fall Term if such instruction is not otherwise provided (e.g. Appellate Advocacy);

8) Provision of experiential instruction or assessment in the procedural knowledge and skills that students need for live-client placements (e.g. criminal, civil, administrative, and/or family procedure);

9) Integration—or coordination—of experiential instruction and/or assessment to some degree for a majority of the courses offered each year to each class of JD students overall; and

10) Facilitation and support for other student-led initiatives for experiential education, including for credit.

In the pages that follow, I address my reason for taking this approach, proposed terminology, my methodology, and the source and rationale for the theme of "supporting the transition to practice". I then outline each component of the vision, followed by its rationale and resource demands and opportunities. The report concludes with a discussion of potential actions to take now or in the near future as interim steps toward realizing Robson Hall’s vision for experiential education.

of practicing lawyers or observing or assisting practicing lawyers or judges at work”. They differ from in-house clinicals in that the lawyers or judges are not teaching staff of the faculty. The courses at Robson Hall that would fall into this category currently are its internships and its clerkships.
2 Why a "Vision" for Experiential Education?

There are a number of reasons for proposing a long-term vision for experiential education at Robson Hall.

Firstly, adopting a vision allows the Faculty to take smaller steps now to expand experiential education (assuming this continues to be a Faculty goal) knowing that these actions will feed into the long-range plan. Taking interim steps would help the Faculty move forward on its objectives within available resources while demonstrating to the profession and to students that the Faculty is committed to implementing its vision for experiential education.

To assist the Faculty with this exercise, I have identified potential resource demands and opportunities (in addition to targeted fundraising) after each component of the vision and end the report with discussion of possible interim actions.

Secondly, my hope is that this vision can be molded by the Faculty, as necessary, to reflect the Faculty's aspirations for experiential education. The Faculty should be able to add, delete, or modify components.

Thirdly, the resources available now and in the future to expand experiential education are subject to a number of "unknowns". Certainly, increasing the Faculty's financial resources is a critical need for the Faculty at this time. A vision can be a useful focal point for fundraising, especially if it resonates with potential stakeholders, whether these include the government, alumni/the legal profession, students or the private sector.

Finally, the vision finds support in my review and synthesis of findings from the range of sources that I have consulted in my role as Director of Experiential Learning in the last two years. To demonstrate this, I have set out my rationale with references to relevant sources after each component of the vision.
3 Terminology

I noted in my interim report that I would likely revisit the issue of common terminology to describe experiential instruction (as contrasted with other modes) as the Faculty further develops the experiential curriculum.\(^4\) Since then, the External Review recently conducted for the Faculty, also noted the need at Robson Hall for common terminology in this area.\(^5\)

As Robson Hall’s current curriculum continues to use a category of “clinical” courses, and this category may or may not remain in place subsequent to the upcoming curriculum reform, it is difficult to settle on appropriate terminology at this time.

At the same time, experiential instruction has common features, whether it takes place in a classroom setting or a legal clinic. There is considerable consensus in the literature that the primary vehicle for this type of learning is a combination of:

- experiences enacting the professional role in some way, such as by doing or observing what lawyers and judges do;

and

- academic inquiry respecting that experience.\(^6\)

In addition, experiential education has unique qualities that give it a special role in professional university programs. This makes it worthy of special attention within the JD curriculum.

Experiential instruction is critical to effective professional education because novice professionals need to perform complex skills, including cognitive skills, in order to gain the necessary expertise to do their work. This learning takes place through a repetition of the following sequence or cycle: experience, feedback, reflection, connection to broader theory of action, and application of what is learned through the previous steps. Experiential education also engages all three domains of learning: cognitive, psycho-motor and affective (values, attitudes etc.).\(^7\)

\(^4\) Sarah Lutgig, Interim Report to Law Faculty Council (Director of Experiential Learning) (September 2014) [unpublished, archived at University of Manitoba Faculty of Law]. Lutgig, Interim Report] at 5.

\(^5\) Camille Cameron, Brent Cottier, and Kiera Lauber, "Faculty of Law, University of Manitoba – External Review Report" (February 2015) [unpublished, archived at University of Manitoba Faculty of Law] at 12-13.

\(^6\) University of Manitoba, Faculty of Law, “Report of the Focus Group on Advocacy, Lawyering Skills, and Clinical Programs” [unpublished, archived at University of Manitoba Faculty of Law] at 1; Stuckey Report, supra note 3 at 121.


\(^8\) Ibid.
Because experiential education can be more resource-intensive than some other forms such as large lecture-based classes, it is also important to remain aware of the unique contribution that this mode of instruction makes to students' learning, and to reserve this type of instruction for learning objectives that align with these benefits. For example, we know that experiential education is particularly useful for helping students to:

- adjust to their roles as professionals,
- become better legal problem-solvers,
- develop interpersonal and professional skills, and
- learn how to learn from experience.  

By way of illustration, a course with a learning outcome that relates to helping students become better legal problem solvers may be best delivered, at least in part, through an experiential method.

In light of the above considerations and recognizing that there is no perfect solution, I have decided to use "experiential" to describe instruction that shares the features described above, regardless of setting, and to recommend a vision for "experiential" education at Robson Hall. Courses that adopt experiential instruction as their primary mode of instruction will be "experiential courses". This type of instruction or assessment in other settings will be "experiential instruction or assessment" in "other courses".

My rationale is that this terminology allows Robson Hall to adopt a broader vision for experiential education that builds on the experiential course stream in the current curriculum without retaining confusing distinctions in terminology. It also aligns with the language in the Stuckey Report, which I recommend for best practices in this area, and it should work regardless of the outcome of the broader curriculum review. If the Faculty retains curriculum categories that differentiate by primary mode of instruction, it could change the name of the "clinical" courses to "experiential" with relative ease. If the Faculty moves away from these categories, or adopts different ones, it may still identify instruction or courses as "experiential" where necessary to implement its vision.

When I do refer to "clinic" placements or courses, I mean those at the proposed in-house clinic. Also, "externship" will describe courses where students learn under the supervision of legal professionals or judges with organizations that are not under the Faculty's direction and control. Externships would, therefore, include what Robson Hall currently lists as internships and court clerkships as well as Clinical Criminal Law.

6 Stuckey Report, supra note 2 at 123-124.
4 My Process

Set out below are the steps I took to arrive at the recommendations contained in this report. All of these were either set out in my Interim Report, which Law Faculty Council discussed at its meeting of October 9, 2014, or came out of the discussion at that meeting. Relevant findings from each of these steps are set out in the applicable Rationale section for each component of the vision set out in Part 6.

4.1 Best Practices Review

Through discussions with instructors who teach in the experiential curriculum, and a review of the experiential course syllabi, I completed a preliminary assessment of the degree to which Robson Hall experiential instructors are able to follow best practices for experiential legal education. The best practices I assessed are those identified specifically for experiential courses in the comprehensive report prepared in 2007 by R. Stuckey et al., Best Practices for Legal Education: A Vision and a Road Map. 10

As noted below at section 6.1, and in my Interim Report where I proposed this approach, the authors of the Stuckey Report were particularly well qualified to arrive at recommendations for best practices respecting experiential courses. 11 Experts in experiential legal education prepared the Stuckey Report and consulted very broadly in arriving at its recommendations.

My objective here was not to perform a formal evaluation of the delivery of experiential instruction but rather to conduct a general assessment of Robson Hall’s current capacity to apply these best practices as well as any relevant resource needs. I have set out a summary of the best practices and my preliminary assessment in a background paper to this report. 12

11 Stuckey Report, supra note 2.
12 Lugtig, Interim Report supra note 4 at 12.
13 Sarah Lugtig, Experiential Courses Best Practices Assessment (June 2015) (unpublished, archived at University of Manitoba Faculty of Law) (Lugtig, Best Practices Assessment).
4.2 Student Focus Group and Survey

Working in collaboration with Professor Karen Busby of the Faculty, I conducted a discussion with a focus group of students from all three years of the JD program focused on both current and future experiential education at Robson Hall and Professor Busby conducted a survey of 2L and 3L students to gather their experiences with paid and volunteer legal work and their views on receiving credit for this work. 14

4.3 Profession and Judiciary Focus Groups

As noted in my interim report, in consultation and collaboration with the Dean and the Academic Innovation Committee, I developed, coordinated, and facilitated focus group consultations with the judiciary and the legal profession in the summer of 2014. These encompassed the broader curriculum proposal by the Academic Innovation Committee as we and the Dean also wished to consult the profession with respect to those recommendations. Given my timeframe, it made sense to incorporate consultation specific to experiential education into the more general curriculum consultations. In addition, a number of the recommendations contained in the Academic Innovation Committee Report would bear directly on the future direction of experiential education at Robson Hall. 15

4.4 Faculty Retreat – August 2014

In a similar vein, I also worked with others in the Faculty to develop and facilitate a discussion of the Academic Innovation Committee’s curriculum proposal at a faculty retreat in August 2014. 16

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14 Busby, Karen, Law Student Employment Survey (May 2015) [unpublished, archived at University of Manitoba Faculty of Law]; Lugl, Student Focus Group on Clinical Program at Robson Hall – Report (May 2015) [unpublished, archived at University of Manitoba Faculty of Law] (Lugl, Student Focus Group Report).
15 University of Manitoba, Faculty of Law, Profession and Judiciary Focus Group Report (August 2014) [unpublished, archived at University of Manitoba Faculty of Law].
16 University of Manitoba, Faculty of Law, Notes from Faculty Retreat (September 2014) [unpublished, archived at University of Manitoba Faculty of Law].
4.5 Discussion with Academic Affairs Curriculum Committee

As described in my interim report, and discussed with Law Faculty Council on October 9, 2014, when attempting to address a complex need or problem, stakeholders need the opportunity to go back and forth between reflecting on the nature of the problem they are trying to solve and on the available resources to address the problem. Deciding what to do about experiential education is a complex question given the current context surrounding legal education as well as current resource pressures at Robson Hall. For this reason, and at Law Faculty Council's suggestion, I consulted the Academic Affairs Curriculum Committee on their understanding of the problem or need that the Faculty is trying to address through expanding experiential education. This committee has representation from a diverse group of faculty as well as the Manitoba Law Students Association. 17

More particularly, at two meetings of the Committee, I facilitated a discussion about the reasons the Faculty wants to provide more experiential education as part of the JD program. We discussed a list of reasons drawn from the information I had examined to date from a range of stakeholders (i.e. faculty, students, bench and bar, client populations) who have an interest in legal education and considered:

1) What was missing from this list?
2) What should not be on this list and why? (keeping in mind it is to include views of the range of stakeholders affected by legal education)
3) Which of the needs on the list (including any new ones identified) were essential to address? Important but not essential? Less important, but would be nice to address?

The outcome of our discussion is summarized immediately below. Please note that some elements of this description are in my words and have not been vetted by the Committee.

The primary reason that Robson Hall wants to provide more experiential education is to strengthen the educational experience for its JD students, better preparing them for their lives and careers after law school, whatever these may be. This is the primary objective of a university legal education and addresses the interests of the student body, university, public and profession. Additional experiential education would achieve this by:

- Supporting students in developing skills needed for legal practice, from lawyering skills like interviewing, to generalizable skills like problem-solving and inter-personal communication;

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17 Lugtig, interim Report, supra note 4 at 14.
• Encouraging students to begin to develop ethical professional identities as reflective practitioners and life-long learners; and

• Supporting law teachers in using effective approaches for achieving progression in students’ development of knowledge and cognitive abilities respecting the law.\textsuperscript{[20]}

An important additional reason that Robson Hall wants to provide more experiential education is to engage students by addressing learning needs and concerns important to them. These include:

• Remaining competitive with other law schools, which expect to face increasing pressure to offer experiential education due both to reforms to the transitional training component of the licensing process in Ontario and to the potential end of articling in Canada over the long term;

• Making the transition from university to practice less stressful/difficult and more positive for students, not only through knowledge, skill and ethical development, but also through an increased understanding of the overall context of legal work (e.g., range of roles in which lawyers and legal actors engage and the demands these place on these individuals); and

• Better preparing students to meet and contribute to future changes in legal service delivery (e.g., technological advances, multi-disciplinary team-based legal service delivery).

An equally important additional reason for enhancing experiential education at Robson Hall is to better equip, and to encourage, students to address important gaps in access to legal services in the province, including by

• Building capacity of law students to deliver legal services in French (thereby helping to give effect to the constitutional language rights of Manitoba’s francophone minority); and

• Enhancing students’ understanding of and contribution/commitment to access to justice.

The Committee suggested depicting these three main reasons for expanding experiential education through a diagram along the lines set out immediately below. Strengthening the

\textsuperscript{[20]} This particular bullet point is in recognition of the teaching and learning literature holding that experiential instructional activities are particularly effective at teaching more complex cognitive processes and interaction with knowledge.
educational experience is of primary importance but is enhanced by and connected to preparing students to address gaps in legal services and engaging students by addressing their learning priorities.

4.6 Mapping Current Experiential Courses

I used curriculum mapping methodology to analyze the courses in the JD curriculum at Robson Hall that have a primary focus on experiential education as described above. Please note that the map is a working document, which I developed only to the level necessary for my analysis. It is not a definitive statement of the learning outcomes achieved through these courses, which would require a more involved process, a set of agreed-upon learning outcomes, more training for instructors than was feasible or desirable at this stage, and consultation with both instructors and students. It could, however, form the basis for further mapping should the Faculty proceed in that direction with its own curriculum review. My methodology and the curriculum map itself are available as background documents to this Report. 19

19 Sarah Lugtig, Curriculum Mapping Methodology (June 2015) (unpublished, archived at University of Manitoba Faculty of Law) [Lugtig, Curriculum Mapping Methodology]; Sarah Lugtig, Curriculum Map – Experiential Courses (June 2015) (unpublished, archived at University of Manitoba Faculty of Law) [Lugtig, Curriculum Map].
4.7 Review of Other Sources

In addition to the above steps, I have reviewed the literature on teaching and learning in legal education; recent developments in the Manitoba, Prairie, and Canadian context relating to legal education and entry to the profession; the work of the Academic Innovation Committee; subsequent discussion of this work by various stakeholders; my own discussions with the Dean, Associate Deans, faculty, instructors, the Academic Affairs Committee, Robson Hall staff, various groups of students, external individuals and organizations involved in experiential education here and elsewhere; Robson Hall's recently adopted Strategic Plan; and recent information related to Robson Hall's budget.

My own experiences in the past two years at the Faculty have also informed this Report quite significantly. (For an overview of the various duties of my role, please see my Interim Report.26) Particularly helpful has been the range of roles and contexts. As President of the Legal Help Centre [in my capacity as the Law Faculty's representative on the Centre's Board], I have provided leadership and management to support the development of a new student clinic. As coordinator of the Clinical Criminal Law course, I facilitated the development of an intensive live-client course using an externship model. As coordinator and instructor in the Introduction to Advocacy course, I had experience working with sessionals and with volunteer judges and lawyers to develop and deliver a new, intensively experiential approach to this element of the mandatory curriculum in a coordinated and consistent way. As instructor for Poverty Law, I gained experience incorporating experiential instruction into a Perspectives Course, using a range of modalities, including problem-based learning. As coordinator for the trial and appellate advocacy moots, I worked with Faculty, lawyers and judges to develop and deliver a common approach to moot preparation and participation within the Faculty. When called in to trouble shoot or coordinate various other aspects of the experiential program at Robson Hall, I gained an appreciation for how the various components fit together, as well as with other activities, processes and structures of the Faculty and the University, as a whole.

26 Lupola, Interim Report, supra note 4 at 6-10.
5 Why the Theme – "Supporting the Transition to Practice"?

In proposing “supporting the transition to practice” as a theme to animate experiential curriculum reform, I draw inspiration from a 2013 article by Judith Welch Wegner. She is a law professor who is a co-author of the Carnegie Report and is a highly respected contributor to the teaching and learning literature respecting legal education in North America.

Professor Wegner describes how her law school, the University of North Carolina School of Law, adopted an approach that was different from anything previously tried, when they decided “to solicit and adopt courses that emphasized ‘transition to practice.’” As she explains:

They identified a variety of formats that might be employed for such purposes, including: courses taught by traditional faculty members that employed different learning objectives or assessment requirements geared to practice; courses co-taught throughout with practitioners; course taught by traditional faculty members with companion courses (one unit supplemental courses) taught by practitioners that are geared toward practice; courses taught with practitioners with an emphasis on developing sophisticated practice skills and concepts; and other, more diverse formats. 22

Professor Wegner reports that her faculty has “embraced” this new model, finding that it allows them to introduce students to the realities of practice in a more sophisticated way and in a broader array of subject areas than would be possible through traditional clinical or externship courses. Through their new programming students are able to engage in applied learning in areas ranging from “family law to intellectual property, privacy law, estate planning, bankruptcy law, complex litigation, advanced administrative law, advanced family law, and many others.” 23 The school has repurposed some existing course offerings, developed fresh approaches to teaching advanced courses in areas of interest to professors and students alike and not required significant new resources. As she concludes: “The UNC ‘transition to practice’ model has already yielded dividends in engaging faculty members and preparing students more effectively for changing times within the legal profession.” 24

This theme has, therefore, proven a useful organizing concept for successfully reforming a law school curriculum to be more integrated, coherent and progressive. It has also allowed the use of a range of modalities to provide experiential course instruction.

23 Ibid at 66.
24 Ibid.
In addition, a “transition” seems an apt descriptor for the learning process as students move from law school to practice (in the enriched sense). As described in the Carnegie Report, developing from novice to professional/expert is very much a process that takes place gradually over time. Given this, the idea of a transition is also helpful in understanding the relationship between the different but complementary roles that the law school and the profession play in supporting and educating students.24

Perhaps most importantly, the students and the profession and judiciary, in their respective focus groups, identified the transition to practice as a significant issue requiring more support for students. The focus group discussions described this transition as the biggest challenge facing law students today.25 The students described the transition as stressful and said they look to experiential education to help ease the strain.26 Because of this, an approach that explicitly addresses this concern would likely resonate with these important stakeholder groups. This is important if the Faculty wants to increase student engagement and if it plans to seek financial support, including from these groups, in order to advance its goals.

Before leaving this topic, it is worth noting a 2015 report of a national study of recent law graduates (the first of its kind in Canada) on this population’s perception of the value of their law school in preparing them for the transition to practice. I mention it here as an indicator of the importance of the issue and also because of the interesting, and hopeful, results. A significant majority of the law graduates surveyed (approximately 75-80%) reported “[o]n average...high levels of confidence in the positive effects of their law school experiences” on the transition to practice, particularly with respect to “having developed useful skills, being able to advance to the next level in their legal careers, and with the ability to be successful in their careers”.27 A less robust majority (60-70% depending on the indicator) was confident that their law school helped them find the right profession for them, field of law, a satisfying job or the ability to bring commitment to the legal profession when compared to their peers.28 It may be helpful to bring the students’ and profession’s attention to these findings, emphasizing that the Faculty sees itself as building on existing success in this regard.

24Carnegie Report, supra note 7.
25University of Manitoba, Faculty of Law, Profession and Judiciary Focus Group Report, supra note 15 at 2-3.
26LGSC, Student Focus Group Report, supra note 14 at 11-13.
28Ibid.
6 Components of the Vision, their Rationale, and Resource Implications

A more detailed explanation of each proposed component of the vision for expanded experiential education, followed by the rationale, and a high-level discussion of resource implications and opportunities, is set out below.

6.1 A Commitment to Best Practices

A commitment to implementing best practices from the Stuckey Report for all experiential education at Robson Hall.

Robson Hall will formally commit to implementing the best practices for experiential instruction identified in “Chapter 5, Best Practices for Experiential Courses” from the comprehensive report prepared in 2007 by R. Stuckey et al, Best Practices for Legal Education: A Vision and a Road Map. These include best practices for experiential courses, generally, and for specific categories of experiential courses, namely, simulation-based, in-house clinics, and externships. To be clear, this component does not include the remaining Best Practices set out in the Stuckey Report, which are far reaching and touch all aspects of a JD curriculum. For a discussion of the Stuckey Report and recommendations regarding the Robson Hall JD curriculum, more generally, I would refer you to the Academic Innovation Committee Report.10

A faculty member will be responsible for communicating the best practices to all affected, and for coordinating/providing the necessary supports, resources and training for instructors to achieve them. By way of example, he or she might develop an on-line manual with a best practices checklist and useful instructional materials and exercises. An accessible digital repository for experiential instructors to share resources would also be valuable as would a meeting with all such instructors at the beginning of each year to share resources and ideas and work on delivering the curriculum in a progressive and coherent way. Sharing such resources among law schools in Canada would also be a worthwhile project to pursue.

Based on my preliminary review, it is clear that many courses and instructors are already implementing many of the best practices.11 This component will, therefore, build on existing

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10 Stuckey Report, supra note 2.
11 Supra note 1 at 68-70, and 78-79.
12 Legg, Best Practices Assessment, supra note 13.
efforts. Additional action will be necessary, nonetheless. By way of example, the Faculty will need to:

- adopt a description of the successive levels of mastery of knowledge and skills that students can expect to achieve in successive years in the JD program, at least for the learning outcomes delivered in experiential courses;\textsuperscript{32}
- provide sufficient teaching resources and supports for students to practice skills in small groups with an instructor or coach, where necessary to achieve the desired level of mastery;\textsuperscript{33}
- provide sufficient, flexible classroom space for in-class exercises;\textsuperscript{34} and
- modify the faculty workload policy to assign commensurate teaching credit for faculty who teach in experiential courses, including moots, internships and clerkships and give individual faculty members the option of receiving teaching or service credit for such work.\textsuperscript{35}

Rationale

A formal commitment to best practices will ensure that Robson Hall uses experiential education where it makes most sense within the curriculum, applies a consistent high-quality approach to curriculum design and delivery, makes expectations clear and accords appropriate resources. Doing so will enhance students’ learning and address many of the recommendations made by the students in their focus group discussion, thereby addressing the main reason and an additional important reason for expanding experiential education as articulated at 4.5, above, by the Academic Affairs Curriculum Committee.\textsuperscript{36}

The Stuckey Report is the most comprehensive report I have found to date addressing best practices for experiential legal education. It is widely adopted by experiential educators, and the authors are highly respected experts in experiential education who consulted very broadly in arriving at their recommendations.\textsuperscript{37}

\textsuperscript{32} ibid at 3-4.
\textsuperscript{33} ibid at 3-4.
\textsuperscript{34} ibid at 4-5.
\textsuperscript{35} ibid at 6-7.
\textsuperscript{36} ibid, a review for best practices will also provide an opportunity to consider other feedback from the student focus group report that is relevant to particular courses.
\textsuperscript{37} Stuckey Report, supra note 2 at 1; also see Clinical Legal Education Association, Handbook for New Clinical Teachers, April 2013, at 15F; and references to the Stuckey Report in the Faculty’s current Legal Methods textbook, Motra McCormay et al., Comprehensive Guide to Legal Research, Writing and Analysis (Toronto: Emond Montgomery Publications, 2013) at 14:10.
Resource Demands

These will vary depending on the best practice and type of course. At a minimum we can anticipate needing additional staff time to gather and develop resources and training for instructors, additional staff or volunteer time to teach and provide feedback to smaller groups of students, additional staff time (instructor or student/lawyer teaching assistant) to grade and provide feedback on written work, resources to develop classroom spaces, and additional instructor time, at least at first, to implement best practices and participate in training and coordination.14

Resource Opportunities (in Addition to Fundraising)

These might include the University of Manitoba funding available to support and develop teaching innovation as well as volunteer time from lawyers (and judges), who usually receive continuing professional development credit from the Law Society of Manitoba for time spent teaching law students.

6.2 Information Sharing Regarding Bar Admission and JD Curricula

Pursuit of ongoing information-sharing between the Faculty and Canadian law societies regarding curriculum developments in JD and Bar Admission programs.

Robson Hall will make a formal commitment to share information with Canadian law societies about its JD curriculum and seek opportunities to obtain such information from law societies. The objective is to maximize opportunities to support students in their transition to practice through experiential instruction in the JD program, in ways that complement what students will learn in Bar Admission programs.

Rationale

The vision for experiential education set out in this report is designed to give Robson Hall flexibility to respond should Manitoba wish - or be compelled - to move in the direction of a clinic placement alternative to articling, similar to the Law Practice Program in Ontario, or an integrated law school and bar admission program, similar to the Integrated Practice Curriculum offered at Lakehead University’s Faculty of Law.16 For example, having an in-house clinic

14 I use the term "staff" in the resource sections to designate an individual retained on contract or employed by the Faculty of Law, whether as faculty, as a professional or as a student, depending on the context.
16 Law Practice Program (February 2015), online: Law Society of Upper Canada <http://www.lsu.on.ca/licensing/process.aspx?id=2143407096>; Integrated Practice Curriculum, online Bora Laskin Faculty of Law (Lakehead University) <https://www.lakeheadu.ca/academics/departments/law/iloc>
program in place would make it easier for Robson Hall to transition to either type of program than it is the case today.

Building capacity to move in the direction of the Ontario models, without committing to do so, seems the wisest course at present. Any significant reforms of this type to the faculty's role in preparing new lawyers for entry to the bar would require the support and agreement of, at least, the Law Society of Manitoba and its partners in delivering the bar admission education program and, potentially, those of other law societies across Canada. The most recent discussions between the Prairie Law Schools and Law Societies indicate that, while interested in better coordinating the law school and bar admission programs across the prairies, they currently do not have an appetite for adopting either of the Ontario models. In note, as well, that the Law Society of Manitoba's recent review of its articling program recommended against any significant changes at this time.40

At the same time, the future is unclear and it would be fair to say that the profession and law schools, here and elsewhere, are adopting a position of "wait and see". The Faculty may desire or need to move in a different direction in the future, possibly by taking on more responsibility for preparing students for admission to practice. Ongoing information sharing respecting curriculum developments in the Faculty's JD program and in relevant Bar Admission courses promises to help improve the student experience and encourage any decisions to move in a different direction to take place in an environment of mutual consideration and support.

Resource Demands
These are negligible as discussions of this type are already happening.

6.3 Adding Professional Identity and Client Skills to Mandatory Curriculum

Continuation of mandatory experiential courses in the first two years, with additional emphasis on developing a professional identity and values and the knowledge and skills to work with clients.

Starting in the first week of law school, a mandatory experiential program will engage students in developing a theory-based, reflective and critical understanding of legal practice, the role of lawyers and other legal professionals, and their own developing professional identity and values.

This component will build on the existing mandatory experiential curriculum, including the judge shadowing in Legal Systems. It will also add emphasis on learning outcomes relating to: developing a critical understanding of legal practice (with practice having the enriched sense described by the Academic Innovation Committee); students' development of their own professional identity and ethical orientation; and the skills for working with clients described above. Each component of the mandatory program will be offered to a small cohort of students in French.

This will include a significant amount of instruction on current and future challenges and developments facing the legal profession and the justice system more broadly, with special attention to access to justice issues and future changes in the delivery of legal services.

Students will also receive "skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism", giving effect to the central recommendation for law schools made by the Truth and Reconciliation Commission. 41 This training will fit well with the development of intercultural competence and ability to act equitably, which are cornerstones of the necessary knowledge and skills base to work effectively with clients.

Along with these more general skills and knowledge, students will develop a knowledge and skill base for the legal tasks that they can expect to encounter in live-client volunteer and for-credit placements in second and third year, such as interviewing, factual research, advising, problem-solving, drafting, negotiating, and advocating.

The mandatory experiential program could start the school year with an intensive session or series on interviewing, problem-solving and advising clients, including basic practice-management skills like file and time management. The objective would be to ensure that students are receiving the preparation they need to engage in both voluntary and for-credit live-client work. The Faculty could partner with members of the bar and judiciary and organizations offering live-client placements to develop and deliver the program.

41 Honouring the truth, reconciling for the future: summary of the final report of the Truth and Reconciliation Commission of Canada (2015), online: Truth and Reconciliation Commission of Canada <http://www.trc.ca/websites/trcinstitution/Files/2015/Exec_Summary_2015_06_25_web_o.pdf> at 399. This would complement other instruction recommended by the Commission, more particularly, "Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations".
Rationale

This component would build on strengths in the current experiential program, continuing to deliver many important learning outcomes that are most effectively taught through experiential instruction, while ensuring better coherence and progression of learning. As a result, it achieves the primary purpose of the experiential program identified by the Academic Affairs Curriculum Committee, above at 4.5. This is to strengthen the educational experience for its JD students, better preparing them for their lives and careers after law school, whatever these may be.

To illustrate, the curriculum map shows that Robson Hall's experiential courses already deliver the oral and written communication and problem-solving skills required by the FLS National JD Competencies, not to mention the additional negotiation and advocacy skills that the Academic Innovation Committee recommends keeping mandatory and that students need for working with clients in upper years. These latter skills are also essential for the early years of practice, as indicated by their inclusion in the FLS National Entry-level Competency Profile.42

The current experiential curriculum further delivers the basic communication and interpersonal skills and the intrapersonal skills such as self-reflection and life-long learning that the Academic Innovation Committee recommends as additional mandatory skills for the JD Curriculum. These are all also important outcomes underlying the current experiential curriculum at Robson Hall.43

The current experiential additionally delivers (to some students) learning outcomes relevant to the performance of legal communication skills in French that the Academic Innovation Committee recommends as optional, but to be made available each year. I note that, as outlined at 4.5, above, the Academic Affairs Curriculum Committee was of the view that preparing some students to deliver legal services in French is an important, if not primary, reason for expanding experiential education at Robson Hall.44

This component would further strengthen what is already a positive and highly valued learning experience from students' perspective. Students in the focus group were very positive about the existing mandatory experiential curriculum at Robson Hall. Emphasizing the connection between what students are learning and their future as legal professionals would help address one of the few concerns they raised about the mandatory curriculum, which was that first year

42 Luglig, Curriculum Mapping Methodology, supra note 19; Luglig, Curriculum Map, supra note 19; also the Federation of Law Societies of Canada's list of minimum competencies for the approved Common Law Degree, as discussed in the Academic Innovation Committee Report, supra note 1, at 26ff; the FLS National Entry-level Competency Profile sets out the requirements for admission to the bar in common law provinces and is based on validated evidence of knowledge, skills, and tasks required for the first five years of practice, as discussed in the Academic Innovation Committee Report, supra note 1, at 41 ff.
43 Idb.
44 Idb; Academic Innovation Committee Report, supra note 1 at 15, 20, 63-64, and 66.
students do not appreciate the importance of the legal research and writing skills that they learn in first year and so do not take them as seriously as they should. As a result, this component also goes a long way to addressing the other main reason that the Academic Affairs Curriculum Committee identified for expanding experiential education, that is, to engage students by addressing their priority learning needs and interests (above, at 4.5).

While the existing experiential curriculum provides a strong foundation, I am recommending adding emphasis on developing professional values and identity. Many and varied sources support making this addition. These include the program objective recommended by the Academic Innovation Committee, the rationale underlying the experiential program of Robson Hall's current curriculum, the focus group discussions of the profession, judiciary and students, and the primary reasons for expanding the experiential curriculum recommended by the Academic Affairs Curriculum Committee (above at 4.5).

Perhaps not surprisingly, both the Carnegie and the Stuckey Reports also identify this as one of the essential goals of an undergraduate law program. The Carnegie Report describes multiple "apprenticeships" to be pursued during the course of law school: the "cognitive apprenticeship" that is currently the usual emphasis in first year as well as the "apprenticeship of practical skills" and the "apprenticeship of professional identity and values." The Carnegie Report advocates integrating these throughout the program, but note that progression often does not happen past first year. Similarly, the overall program goal that the authors of the Stuckey Report advocate is to "help students acquire the attributes of effective, responsible lawyers.

This is done through teaching "Self-Reflection and Lifelong Learning Skills, Intellectual and Analytical Skills, Core Knowledge of the Law, Core Understanding of the Law, Professional Skills and Professionalism".

In delivering this learning outcome, given the Faculty's academic mission, it will be important to provide opportunities for students to engage critically with knowledge and research about the nature of the profession, the challenges it faces, and likely future developments. The Faculty's job is not simply to prepare students to fit themselves within the existing profession and legal services delivery system, but to engage and equip students to question troublesome aspects and practices, to think about the fundamental changes that they may expect to see during their future careers, and to start reflecting on the kind of profession and justice system they want to

46Lutig, Student Focus Group Report, supra note 14 at 5-7.
47 Michigan State University, Council of Legal Education, "Curriculum Reform at Robson Hall" (1990) Man. L.J. 505 at 607, online: <http://hdl.handle.net/1807/20199> collection=Journals&index=1 (Osborne & Esau) at 618.
48 University of Manitoba, Faculty of Law, Professional and Judiciary Focus Group Report, supra note 15 at 2-3; Lutig, Student Focus Group Report, supra note 14 at 3, 8 and 11.
49See, generally, the Carnegie Report, supra note 7; also see the Academic Innovation Committee Report, supra note 1, at 73-75.
50Stuckey Report, supra note 2, at 65-92; also see the Academic Innovation Committee Report, supra note 1, at 71-73.
build. Of particular importance, in this regard, are issues relating to access to justice and developments in the future delivery of legal services, as described more fully below.\textsuperscript{51} Also critical is the skills-based training recommended by the Truth and Reconciliation Commission. The purpose of this recommendation is to make sure that Indigenous clients no longer have the difficult experiences that residential school survivors faced in both the civil and criminal courts. As explained by the Commission, these experiences were “made worse by the fact that many lawyers did not have adequate cultural, historical, or psychological knowledge to deal with the painful memories that the survivors were forced to reveal” and that “[t]he lack of sensitivity that lawyers often demonstrated in dealing with residential school survivors resulted, in some cases, in the survivors’ not receiving appropriate legal services”. Lawyers clearly need “to develop a greater understanding of Aboriginal history and culture as well as the multi-faceted legacy of residential schools” and law schools have an important role to play.\textsuperscript{52}

I am also recommending additional emphasis on the knowledge and skills to work with clients, including work with clients in French. The curriculum map indicates gaps in the curriculum’s preparation of students in this regard when one considers how many students will be working with clients in the range of volunteer and for-credit settings available to them in upper years. An estimated 130 students volunteer each year in a “real world” legal setting through Pro Bono Students Canada (including 10-20 at the Legal Help Centre) and the University Law Centre. Most of these are in second or third year. A further 50+ students participate in for-credit experiential education placements in third year.

More particularly, as the curriculum map indicates:\textsuperscript{53}

- There is relatively limited emphasis on knowledge and skills relating to working with clients, such as professional ethics, interviewing, factual research, problem-solving, advising, and legal drafting yet students often need these to work with clients as volunteers in second year or through their for-credit placements in third year. I note that these are currently labelled as optional skills and knowledge outcomes in the Academic Innovation Committee report, whereas they appear intended to be mandatory components of the current Robson Hall curriculum.\textsuperscript{54} Adopting this recommendation would, therefore, require keeping these as mandatory learning outcomes at the end of the upcoming curriculum review.

- Students receive very limited, if any, instruction in negotiation or trial advocacy in French, yet can expect to have the opportunity to practice their legal knowledge and skills in French in more complex settings in second or third year.

\textsuperscript{51} Please see the text accompanying notes 65 and 66.

\textsuperscript{52} Truth and Reconciliation Commission, supra note 41 at 215.

\textsuperscript{53} Lugtig, Curriculum Mapping Methodology, supra note 19; Lugtig, Curriculum Map, supra note 19.

\textsuperscript{54} Edau and Osborne, supra note 47 at 618.
• Except for a small number, students in second and third year have very limited opportunities to apply a critical perspective to problem solving in an experiential context, which is a mandatory skill outcome recommended by the Academic Innovation Committee.

• Many students in third year must learn and apply practice management skills as part of live-client for-credit placements, and may start doing so in second year through volunteering, yet do not receive much, if any, instruction on this topic as part of their mandatory experiential program.

One option would be for students to receive intensive professionalism and client-related skills instruction early in the academic year so they have the instruction when they need it, and when it can be most beneficial, that is, before and while they or their peers are engaging in a significant way with clients in a volunteer or for-credit placement. This course of instruction would also include some basic practice management skills such as file- and time-management as these are a natural fit for a program that aims to support the transition to practice. I note that some faculty at the Faculty Retreat in August 2014 suggested creating a weeklong program containing some of these components to start second year.50

I recognize that practice management skills are not currently recommended by the Academic Innovation Committee as learning outcomes for the JD curriculum. This is not surprising as they are not among the FLS National JD Competencies, even though they are part of the FLS National Entry-level Competency Profile. I also understand that the Law Society of Manitoba will be providing instruction in this area as part of its bar admission program. That being said, a number of students do need some basic skills in file and time management in their volunteer and third-year for-credit placements. Also, the profession focus groups emphasized the importance of students receiving some basic instruction in time and file management early on, and the student focus group also advocated beginning business of law/practice management instruction.51 A faculty member who teaches in business-related law has further suggested linking this instruction to intensive instruction in entrepreneurship, which would be a logical fit, valuable to the students and a further way to connect with students learn in the mandatory experiential program to other courses of instruction in the JD program. Likely the Faculty could partner with others who are already involved in providing practice management instruction. It should not be difficult or resource intensive and would show Robson Hall’s commitment to supporting students as they develop the capacity to serve clients and move through their transition to a legal career.

50 University of Manitoba, Faculty of Law, Notes from Faculty Retreat, supra note 16 at 7.
51 University of Manitoba, Faculty of Law, Profession and Judicary Focus Group Report, supra note 15 at 2-3; Lugig, Student Focus Group Report, supra note 14 at 8.
I note that both Career Services and law student organizations have hosted events to teach students some practice management/time management these skills, with mixed results. This indicates both recognition of their importance and the need to incorporate them into the curriculum in order to ensure students have what is needed in this area.

Also, as some student volunteers are already serving some clients in French through the University Law Centre and the Faculty is participating in a partnership to develop a legal clinic offering services in French, it is desirable to develop the opportunity for some students to pursue all mandatory experiential education in French, including trial advocacy and negotiations.

Continuing and strengthening Robson Hall’s long tradition of a robust experiential program in first and second year will make a critical contribution to student engagement. As Professor Wegner explains in an earlier article:

> If students do not have a strong sense of themselves, their interests, and their intrinsic motivations, they may end up drifting without grappling with critical questions about where their professional future should lie.

There is therefore a case to be made that the second year of law school should provide students with an opportunity to grapple with their own doubts and questions about how they might fit within the legal profession. If schools have not taken significant steps to help students engage with the “apprenticeship of professional identity and values,” they may need to take considered steps to do so during the second year. Indeed, it is possible to imagine a second year emphasis that would embrace this dimension of students’ preparation in very whole-hearted ways.57

**Resource Demands**

These are mainly in the form of additional staff time necessary to coordinate and support discussions with instructors to develop and deliver the curriculum; additional instructor time to participate in these discussions and to update syllabi and class activities; and an additional instructor (and, possibly, additional volunteer lawyer and judges) for the French cohort in second year.

A faculty member could quite easily work with the current first year and second year experiential instructors, including those involved in judge-shadowing and other relevant instruction from the Legal Systems course, to develop a coherent “Transition to Practice”

program that achieves most, if not all, of the above objectives. Depending on available resources and other curricular demands, additional credits could be added.

Resource Opportunities

Please see those listed for 6.1, above.

6.4 An In-house Clinic Program

A legal clinic (or combination of clinics) resource and designed to meet the best practices for in-house clinics, that provides an intensive "people-centered law" placement to a quarter of the 3L class, which forms the foundation for a "Transition to Practice" term in third year.

Robson Hall will operate a legal clinic (or combination of clinics) that commits to the best practices for in-house clinics outlined in the Stuckey Report. This clinic will expand the length, number and scope of live client placements that Robson Hall currently offers at the University Law Centre and Legal Help Centre. Clinic volunteers and students will have the opportunity to participate in a skill-appropriate spectrum of legal services in criminal, civil/administrative and/or family law, from early resolution/prevention to mediation and other forms of Alternative Dispute Resolutions to representation as well as to work on innovations in the delivery of legal services to improve access to justice. The latter would form the basis for academic research in this area. There may also be the opportunity to work on public interest advocacy and law reform on systemic issues that affect clinic clients. The cohort of students who have received instruction in French will have the opportunity to provide services in French as part of a placement.

Relevant courses, such as Evidence or Family Law, will be pre- or co-requisites—or preferred preparatory courses—for clinic placements as will other relevant "people-centered law" courses such as the Charter in Criminal Law, Wills and Estates, and Real Estate Law.

Robson Hall would work with Legal Aid Manitoba (University Law Centre) and the Legal Help Centre to determine the clinic's mandate. Depending on its stage of development, the anticipated French-language clinic would also take part. The Faculty and these organizations would discuss which of the organizations' current services and student placements would be offered through the clinic and what additional opportunities there are to expand service, and, therefore, the student experience. Examples of additional opportunities might include early resolution, mediation, full and limited-scope representation in civil and family law, etc. Examples of innovative approaches might include team delivery of legal services, preventative law practice and the like. Robson Hall would also work with its partners to determine an
appropriate governance structure. An additional practical benefit might be the opportunity, through providing remote access to a digital file system, to give all clinic students the flexibility to work on client files both at the law school and at downtown placement locations. Only the Clinical Criminal Law students currently have this option.

Should an organization decide not to merge into the in-house clinic, it could continue to deliver its program using an externship model, ideally with additional funding support from Robson Hall. However, it is critical that an in-house clinic be developed in order to realize this component of the vision. As explained in the Stuckey Report:

In-house clinic teachers may be uniquely situated to help students “recognize personal and professional strengths and weaknesses, to identify the limits of personal knowledge and skill and to develop strategies that will enhance professional performance.” Such instruction requires the teacher to be attentive to individual students’ attributes and to develop specialized teaching skills that neither externship supervisors or students’ first employers in practice are likely to have. ...

[...]

Another way in which the potential value of in-house clinics may surpass that of externships is that in-house clinics can afford the time to encourage students to “aim beyond the typical standard of the marketplace, a standard often based on ‘theories’ that do more to make the lawyer’s work easier than to serve the clients, and that include elaborate rationalizations for ineffectiveness so as to make it easier to externalize failure. The law school clinical program must start the student on the road to excellence.” Perhaps only in-house clinical courses can give students an “attitudinal and learning model sufficiently strong to insulate the student from external pressures toward mediocrity practice.”

A placement at the clinic would form the foundation for a “Transition to Practice” term in third year. One option for structuring the term would be to combine the clinic placement with a 3-credit advanced experiential course and the 3-credit Legal Profession and Professional Responsibility course, both of which would ideally be scheduled to facilitate students’ participation at the clinic. This would provide a term-long full-time intensive learning experience in people-centered law. Students who participate in a clinic placement will be required to participate in an advanced experiential course that integrates theory and practice in a field of law relevant to the services provided by the clinic(s), such as criminal law, family law, administrative law, or solicitors’ work. Under this option, that students would likely spend 12 hours per week on their other courses, leaving them available to participate in clinic approximately 3 days per week for 13 weeks. A minimum of 10% of this time would be dedicated to a classroom component aimed at enhancing the depth of their practical learning.

Regardless of the structure of the intensive clinic placement, the Faculty will create and maintain links between the clinic’s activities and those of the rest of the JD program, including the full-time faculty. This will be achieved through regular reports to Law Faculty Council and

30 Stuckey Report, supra 2 note at 192.
opportunities for interested faculty to participate in activities at the clinic that relate to their teaching and research.

Rationale

Most law schools in Canada offer an intensive clinical term or placement at an in-house clinic. The student focus group indicated that becoming or remaining competitive with other law schools in terms of experiential education is important to students. They were very interested in having more opportunities for more intensive placements. As noted above at 4.5, the Academic Affairs Curriculum Committee agreed that addressing students' interest in Robson Hall remaining competitive with other law schools is an important reason for expanding experiential education, if not the primary one.

This component builds on the great work of the University Law Centre and the Legal Help Centre to date, and the resources already allocated to support them. By way of illustration, both currently receive grants to partially support their operations from the Manitoba Law Foundation last year. The Legal Help Centre has also just succeeded in securing a commitment from the five biggest Winnipeg law firms to each donate $100 per lawyer per year for three years as the first phase of an overall campaign seeking this level of commitment from all members of the profession.

The University Law Centre operates what is primarily a criminal defence representation service funded by Legal Aid Manitoba (and other partners), with the Law Faculty providing the space, for clients who are financially eligible for legal aid, but whose matters are not eligible. It is located in the basement of Robson Hall and has been operating since the 1970's. Professor David Deutscher has been its part-time director for years. The Legal Help Centre is an independent non-profit organization that provides legal information, counselling, advice and some more targeted assistance to self-represented litigants, which opened its doors in 2011. Dean Turnbull, Professor Vivian Hilder and I were all heavily involved in getting it going, though Madame Justice Colleen Suche was the driving force and its founding President. On its board there are representatives of the Manitoba Bar Association, Law Society of Manitoba, Faculties of Law (me) and Social Work of the University of Manitoba, the bench and bar (e.g. retired Chief Justice Richard Scott; Jim Shaw and Eleanor Wiebe, who both teach as sessionals at the Faculty; and founding President Madame Justice Colleen Suche, who has also served as a judge in residence here) and the community. It is located in premises provided and funded by the University of Winnipeg on a ten-year lease, above Staples at Portage Place.

Also important to note is Legal Aid Manitoba's interest in continuing with the remodeled 8-credit Clinical Criminal Law course (with students conducting University Law Centre files with 1:1 supervision by a lawyer at one of Legal Aid Manitoba's Community Law Centres)

41 ALC Report, supra note 6 at Appendix; see also, Cameron et al, supra note 5 at 13.
42 Lugtig, Student Focus Group Report, supra note 14 at 9-11.
and interest in expanding this option to include legal aid family law work. The Legal Help Centre has also expressed interest in a more intensive course/placement of this nature and in expanding student opportunities.

At the same time, both the University Law Centre and the Legal Help Centre meet a very high demand for service with very limited lawyer/staff support. The University Law Centre takes on approximately 800 files per year through 70 volunteer students throughout the year and 7-12 for-credit students in winter term, supported by a full-time paralegal (who does an excellent job coordinating all of the work of the Centre), a part-time Director (who is also on Faculty and provides substantive supervision to the students), part-time Legal Aid staff lawyer supervisors, four full-time summer students, and part-time student supervisors during the school year. The Legal Help Centre currently serves approximately 60-75 clients per week (up to 3000+ per year), through 35 interns, 20 volunteer students, 1-2 “low bono” articling students, and 4-5 summer students. Its paid permanent staff complement is currently limited to one full-time lawyer, a part-time executive director, and one part-time administrative assistant. Fifty or more volunteer lawyers also take turns attending at the weekly drop-in clinics to help supervise students and assist clients. Other judges, lawyers and community members volunteer on various committees that support the Centre’s work.

It is difficult to compare student clinics as their services and programming differ in quantity, depth and scope. However, Dalhousie Legal Aid Service may provide an interesting point of comparison. It is a full representation legal clinic associated with the Schulich School of Law in Halifax, which engages in community development and support, as well as test case litigation, while also providing individual representation on family and youth legal aid files and poverty law matters. This clinic has been in existence for decades and has a budget of just under $1 million per year, of which the Law School provides 60%. Its 2014 annual report states that the Clinic opened 285 new files in the 2014 calendar year, provided three terms of full-time for-credit placements for a total of 44 3L students over the year (summer, fall and winter), with a staff including an executive director, six staff lawyers, 2 legal assistants, 2 community workers and 4-5 administrative staff.\(^5\)

My experience since 2014 in the roles of Coordinator for the Clinical Criminal Law course and President of the Legal Help Centre have given me direct knowledge of the challenges facing both of these organizations as they strive to continue delivering high quality clinical experiences to our students with limited resources. I also learned the value of having a strong link between the Law Faculty and the organizations that provide clinical placements of this type. Professor Deutscher’s long-standing involvement with the University Law Centre and willingness to deliver bi-weekly seminars, along with my own availability to coordinate the Clinical Criminal Law course, made it possible to reintroduce this course. This meant being able to take advantage of the additional resources that Legal Aid Manitoba was

\(^5\) Dalhousie Legal Aid Services, Annual Report, 2014 (unpublished, archived at Dalhousie Legal Aid Service) at 12.
willing to make available to support intensive clinical placements at the University Law Centre.

Additionally, as President of the Legal Help Centre, I was able to pitch in during a very challenging time for the Centre to provide leadership and management functions, coordinating and collaborating with staff and volunteers to mobilize the additional financial and human resources that the Centre needs for its continued success. During my first year in this role, the Centre operated with only one staff lawyer and either no Executive Director or a part-time one, due to staff transitions and financial challenges. I am happy to report that both our fundraising efforts and our human resources planning have been successful in addressing the challenges in a sustainable way. We have a strong staff team in place, are hiring an additional junior lawyer in the fall and are well on our way to establishing sustainable funding for the Centre.

Together these organizations provide an excellent foundation for a strengthened program that would deliver the benefits of an in-house clinic, provided Robson Hall can facilitate the injection of the additional financial and human resources necessary to remain sustainable and deliver on the unique contribution that an in-house clinic can make. If Robson Hall continues to pursue its collaboration to develop a French language counterpart to the Legal Help Centre in St. Boniface, connecting that project to the development of an in-house legal clinic program would make sense. It too will require resources to remain sustainable.

I am suggesting that the Faculty target a quarter of the 3L class as this would represent a 25% increase in the amount of credit hours currently available to students in for-credit placements at the Legal Help Centre and University Law Centre. It is also approximately the same proportion of the graduating class that Dalhousie Legal Aid Service engages in for-credit placements, as noted above. This target is not set in stone and the faculty may adjust it as it sees fit. What matters most is to commit to a target for this, and the externship program described in the next section, that reflect a reasonable increase in the live-client placement capacity of the law school.

I have made explicit mention of the importance of maintaining links between the clinic's activities and those of the rest of the Faculty to ensure that Robson Hall avoids the common problem in law schools of the clinic and the remainder of the Faculty being isolated from one another. This is a significant issue in clinical legal education that can stand in the way of efforts to make a legal education coherent and progressive. In fact, I am co-presenting a paper on it with a colleague from the University of Calgary at the upcoming Association of Canadian Clinical Legal Educators (ACCLE) conference. I note that discussion of this issue also came up in an external review I am in the process of conducting for the student legal clinic at one of the larger Canadian law schools.

On a different note, developing the opportunities for in-house clinic placements would respond to recent recommendations relating to legal education in three significant national initiatives in the legal and justice communities. The National Action Committee on Access to Justice in Civil and Family Matters, chaired by Justice Cromwell of the Supreme Court of Canada, recommends
promoting "a sustainable, accessible and integrated justice agenda through legal education", advocating initiatives such as "increased skills based learning that focuses on consensus dispute resolution, alternative dispute resolution and other non-adversarial skills", "social, community, poverty law, mediation and other clinical, intensive and experiential programs"; "the theory and practice of family law... as a central feature of the law school program" and "research and promotion of different ways of delivering legal services that provide affordable and accessible services to the public...". 62

Similarly, the Canadian Bar Association’s Reaching Equal Justice initiative recommends that law schools increase their access to justice research, require experiential learning, particularly when it will involve access to justice, and have a student legal clinic that provides representation to low income persons. The Canadian Bar Association’s Futures Initiative Report similarly advocates providing more opportunities for students to gain practical experience in legal clinics as well as a number of ways in which to transform the delivery of legal services. 63

As noted above at 4.5, the Academic Affairs Curriculum Committee further recognized the importance of giving students opportunities to contribute to improving access to justice as an important reason for expanding experiential education.

Turning to the curriculum map, the in-house clinic component would expand students’ opportunities to apply all of the knowledge and skills they develop in the mandatory experiential program in a live-client context and in a range of areas of law. 64

Finally, creating an in-house clinic program would address the desire students expressed during the focus group to have more intensive supervision when they first volunteer in a lawyering role at the University Law Centre. 65

Resource Demands

It is difficult to estimate the cost of this component without knowing what model will be adopted and which organizations will participate, given the existing resources available for each at this time. It is clear, however, that the principal additional need in order to deliver the best

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64 Leglis, Curriculum Mapping Methodology, supra note 19; Leglis, Curriculum Map, supra note 19.

65 Leglis, Student Focus Group Report, supra note 14 at 4.
practices for in-house clinics would be for the Faculty to retain additional staff lawyers to supervise the law students and to deliver the academic component of the clinic program. As a rough guide, the annual cost for adding each full-time supervising lawyer would be in the range of $100,000 to $140,000, for salary, benefits, and related costs (depending on any applicable collective agreement requirements, level of experience/year of call, and year in which hired).

Resource Opportunities

Supporting the legal clinic would likely be a focal point of fundraising efforts by the Faculty and could build on the recent fundraising success of the Legal Help Centre. Also noteworthy is the funding the Faculty currently has from the Federal Department of Justice to support the provision of supervision to students offering legal services in French.

6.5 Expanded and Diverse Externship Program

The opportunity for another quarter of the 3L class to participate in a 3- or 6-credit externship with a focus on other practice contexts, including those that are less common and/or relate to legal fields in which full-time faculty have expertise.

This component would include and add to existing externships such as the court clerkships and the business law, corporate counsel, Public Interest Law Centre and Manitoba Law Reform Commission internships. It could also expand international experiential opportunities which are currently limited to the highly popular and successful Mishpatim Program in Israel each summer and the international internships that individual students are able to secure on their own (or with help from the Faculty) from time to time, for which they can receive credit.

The Faculty would develop new externships in consultation with interested faculty. Opportunities might include: additional placements at the Vickar Business Law Clinic, clerkships with the provincial court and administrative tribunals and internships with the Crown, government departments or law offices, human rights advocacy organizations, First Nations governments and Indigenous organizations, and organizations assisting vulnerable populations such as seniors or refugees. Externships could also include other paid and volunteer work placements, whether local or international, provided they fulfill the externship program requirements.

The externship program would have clear and consistent criteria for students, faculty and on-site supervisors that would meet the best practices for externships identified in the Stuskey Report. By way of example, all students would come together on a regular basis in one or more small groups for an academic component in which they will discuss and reflect on their
experiences, have relevant readings and complete some form of written assignment. One or more faculty would have the responsibility of coordinating the externships and others in relevant fields would provide guest seminars throughout the term.  

There would be both a 3-credit and a 6-credit option for the externships to address the different needs that organizations may have in designing a high quality learning experience for students.

The target of sufficient externships for a quarter of the 3L class would mean that half the class has an opportunity for a live-client experience in third year. It would also represent an increase of approximately 25% in the number of current externship placements (in places other than the University Law Centre and Legal Help Centre). Depending on the number of 6-credit placements, the increase in externship credit hours overall may be further increased. As was the case for the in-house clinic, the target is not set in stone and the Faculty may adjust it as it sees fit. What matters most is to commit to a target that reflects a reasonable increase in the live-client placement capacity available for third year students.

Also important to recognize is that the number of clinic and externship placement can grow over time to reach the target. If student interest levels off below the target, this would be an additional reason to adjust it.

Rationale

Exterisnships provide an opportunity to offer complex and challenging experiential instruction in practice areas and fields that will not be addressed in a clinic offering people-centered law services and to engage students who may not be interested in an intensive clinic experience. This, together with additional experiential instruction in other courses, will enable the Faculty to deliver experiential education in a broader range of areas.

As shown in the curriculum map, when compared to the range of substantive legal areas that students study in their Doctrinal and Perspectives courses, the areas of law applied in the experiential context are more limited. The focus tends to be on criminal, corporate/commercial, administrative, family and the range of civil law issues that may arise at the Legal Help Centre. Also, with the exception of understanding the law in context, which is present in many of the optional experiential courses, there are limited opportunities for students to apply the additional mandatory knowledge outcomes recommended by the Academic Innovation Committee in a real world context. The curriculum map also shows that students in second and third year have limited opportunities to apply a critical perspective to problem solving or to perform additional forms of alternative dispute resolution (i.e. other than

66 Lupple, Best Practices Assessment, supra note 13 at 7-12.
negotiation) in an experiential context, both of which are optional outcomes recommended by the Academic Innovation Committee. This component provides a great deal of flexibility for faculty members interested in delivering any of these learning outcomes in an experiential way serving real people.

A robust and coordinated externship program would build on the successes to date while enhancing the student learning experience with a consistent focus on best practices. It would also offer both students and the Faculty greater flexibility. Students will have a live-client option that may respond better to their needs and interests and does not require the intense commitment of a clinical term. Faculty will have the opportunity to contribute their expertise to benefit students' experiential education. I note that the students in the focus group were very favourable to expanding externship opportunities, suggesting, as an example, more corporate law internships to help non-profit organizations.

A coordinated externship program could also open up more possibilities for students to participate in externships for credit over the summer in diverse locales. As evidenced in the student focus group and survey, a significant number of law students perform legal work over the summer both on a volunteer basis and for pay. This is work that could form the basis of a meaningful externship experience if augmented with an academic component. Students were quite supportive of the idea of such students receiving credit for this type of work provided it meets relevant academic requirements. Students already have some limited opportunities to earn credit over the summer for volunteer placements and in the popular Mishpatim program. Adding a summer component to a coordinated externship program would enhance Robson Hall's capacity to provide more of these opportunities. It is also an opportunity to move forward on this component target without allocating significant additional resources.

Resource Demands

The primary resource need on the part of the Faculty to expand the externship program would be additional staff and instructor time to develop and coordinate the externships and to develop and deliver the academic portion.

Resource Opportunities

The national administration of Pro Bono Students Canada has informally expressed interest to me in partnering with the Faculty on coordinating for-credit externships, should Robson Hall

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68 Lugtig, Curriculum Mapping Methodology, supra note 19; Lugtig, Curriculum Map, supra note 19;
69 Lugtig, Student Focus Group Report, supra note 14 at 3.
70 Ibid at 10; Busby, supra note 14.
move in this direction. This means there is a potential ready-to-adapt infrastructure available to coordinate such a program.

6.6 Optional Advanced Experiential Courses

An additional group of optional advanced experiential courses with sufficient spaces for each 3L student to take one and which includes courses clinic students need to have a Transition to Practice Term.

Instructors on faculty and within the bench and bar will be encouraged to continue to offer, and to develop, advanced courses that support the transition to practice in specialized areas. There will be sufficient spaces in experiential courses on criminal law, family law, administrative law and solicitors' work in serving individual clients such as wills/estates and real estate law to support students' clinic experience. Other successful experiential courses such as Art of the Deal, Advanced Legal Research and Advanced Advocacy could also be continued and possibly expanded. Where needed to ensure sufficient spaces for all 3L students, the Faculty will invite faculty and sessionals to develop existing or new courses to have a primary focus on experiential instruction. The format for these courses should be flexible, as has been the case with the "transition to practice" courses at the University of North Carolina School of Law.

Rationale

This component builds on existing courses, while inviting innovation that draws on the strengths of full-time faculty and sessional instructors. When combined with an intensive clinic placement, such a course deepens students' learning and orient them in an experiential way to life-long learning. Not surprisingly, students in Legal Help Centre, Clinical Criminal Law and Business/Corporate Law placements find it very helpful to augment their learning in the placement with focused academic instruction and simulation opportunities in related fields of law.

The recommendation to add experiential course work in solicitors' transactions relating to people-centered law, such as real estate and wills and estates, is because students in the Legal Help Centre internships often deal with these matters. I note that these skills were a central feature of the recommendations leading to the current experiential curriculum and are part of
the FLS National Entry-Level Competency Profile.\textsuperscript{70} I also understand that student feedback on the proposal of the Academic Innovation Committee has requested course content in this area.

I am suggesting that the Faculty adopt a target of sufficient spaces for the 3L class as the optional experiential courses that Robson Hall has offered in the recent past (including Advanced Legal Research, given its experiential method of instruction) already meet the target of each student having a place. As a result, the Faculty may be able to fulfill this component by continuing its past practice in offering optional experiential courses yet will retain flexibility to adapt, modify and add to these in the future. Having sufficient spaces for clinic students in related courses is to ensure that they can complete a "Transition to Practice" term, as described above.

As with the other targets in this report, this target of each 3L student having access to a specialized experiential course in addition to, or instead of, a clinical placement or externships, is not set in stone and the Faculty may adjust it as it sees fit. What matters most is to commit to a target that, together with the other experiential course offerings, reflects a reasonable increase in the number of experiential opportunities available for third year students.

As opportunities to develop new courses arise, ideally instructors could give attention to the priorities students express, such as through the focus group and curriculum consultation. One suggestion was to have an optional course on the "business of law".\textsuperscript{71}

It is noteworthy that scheduling of and registration for the range of experiential courses described in this and previous components will become more complex. It is already challenging with the current curriculum. The Faculty will likely need to implement new methods of informing students of the experiential options and helping them plan their programs early in their law school careers, as well as more off-line coordination of course registration.

Resource Demands

These are negligible unless and until the Faculty must create new courses in order to meet the target.

\textsuperscript{70} Osborne & Etco, supra note 47 at 618; Lugig, Curriculum Mapping Methodology, supra note 19; Lugig, Curriculum Map, supra note 19.

\textsuperscript{71} Lugig, Student Focus Group Report, supra note 34 at 8.
6.7 Continuing the Mooting Program, Adding Relevant Instruction in the Fall

Continued delivery of Robson Hall’s mooting program, with relevant for-credit experiential instruction in the Fall Term if such instruction is not otherwise provided (e.g. Appellate Advocacy).

Robson Hall will continue its strong trial and negotiation mooting program, including its integration with mandatory courses in these skill areas. The Faculty will provide adequate recognition and support to the lawyers and judges who, through their leadership and coaching, make this program possible.

Robson Hall will also continue its participation in the Kawaskimhon moot and four to five appeal moots each year, with selection, including a “tryout”, for the appeal moots, taking place in the spring. In addition to the Laskin (Constitutional/Administrative Law), Davies (Corporate Securities Law), and Gale (Criminal and Charter Law) appeal moots, the Faculty will choose one or two additional appeal moots to pursue each year. When developing the roster of competitions each year, the Faculty will alternate, or add, competitions of significant interest to faculty and students such as the International Competition of Mediation Advocacy and the Fox (Intellectual Property) Moot, subject to coaches and resources. The Faculty will also give special consideration to the possibility of participating in the Jessup Moot (international law) again, subject to available coaches and resources.

For all moots, there will, ideally, be a coaching team of at least three people, including at least one full-time faculty member and one member of the legal profession or judiciary. The additional moots may rotate over time. However, each must have a faculty member associated with it, relate to a course offered at the Faculty and create an overall slate of moots that has a balance of private and public law topics and of corporate/business and people-centered law.

In the fall term, Robson Hall will offer experiential instruction in knowledge and skills relevant to the moots (other than the negotiation and trial moots, which are already tied to the mandatory experiential program) and give mooters first priority in registration for the instruction. One example might be to offer a 3-credit appellate advocacy course, with significant practical experience in developing case theory, legal arguments and persuasive written and oral submissions for all students who enroll in the course. Appellate and Kawaskimhon mooters would have priority in enrolment so that they will have the opportunity to prepare written legal arguments or other submissions with feedback prior to receiving their moot problem. However, the course need not be limited to students involved in the moots.
Robson Hall will also “pilot” attaching a student researcher to one of the moots where these are common (e.g. the Gale). If this is successful, there is sufficient interest from the student body, and there is financial support to fund their travel to the moot competition, it will add student researchers to some or all of the remaining appellate moot teams over time.

Rationale

This component continues Robson Hall’s strong tradition of participating successfully in trial advocacy and negotiation competitions. This is facilitated by the integration of these competitions with mandatory experiential education in second year and the leadership of respected professors, judges and lawyers who coach the teams once they move on to the regional and national/international steps of the competition.

This component also builds on Robson Hall’s continued success in participating in the Kawaskimshon moot, a unique opportunity for students for advanced experiential education in alternative dispute resolution models based in Indigenous traditions, and advanced legal knowledge on issues relevant to Indigenous communities. This participation has been made possible by the ongoing leadership and support of members on faculty who have expertise in these areas.

This component further incorporates and builds on recent developments in the Faculty’s appellate moot program. The Faculty has participated in four to five appellate moots each year for the past two years, bringing it on par with other law schools of a similar size. It has also developed coaching teams that have a mix of faculty and lawyers and consistent opportunities for students to practice their oral advocacy before “judges” from the legal community and judiciary. This shares the workload of training and providing feedback to students and allows students to benefit from a range of expertise. Finally, the Faculty has offered a workshop to the mooters on oral and appellate advocacy each of the last two years, allowing for students to receive consistent information about best practices and to share and learn from each other and from appellate advocacy experts, whether external or within the faculty.

When developing the roster of competitions each year, it will be important for the Faculty to make its best efforts to include other competitions not mentioned above of significant interest to faculty and students such as the International Competition of Mediation Advocacy, the Fox (Intellectual Property) Moot, and the Walsh Family Law moot, subject to coaches and resources.

I am also recommending that Robson Hall develop and deliver advanced experiential instruction in knowledge and skills relevant to moots other than the trial and negotiation moots, to be delivered in the fall term. One example would be an appellate advocacy course in
the Fall term in which the appellate and Kawaskimhon mooters would receive first priority for enrollment and would continue to receive 3 credits for their participation in the moot itself. The reason for this recommendation is that students involved in these moots receive relatively limited instruction and practice in developing and drafting written legal submissions before having to do so in a very compressed time period as part of the moot. Students and coaches advise that this creates a challenging learning environment for them. Also students who do not want to participate in a moot competition may never receive this opportunity in law school. Many other schools provide appellate advocacy instruction to their students before they participate in moots. As a final note, the course would need to take place in the Fall term instead of being integrated with the moots in the Winter term. The timing of the various steps of the moot competitions and diversity of topics and schedules for the range of moots makes it impracticable to organize a more general appellate advocacy course around them in the Winter term.

I am further recommending that the Faculty pilot the use of a student researcher with one of the moots where such a position is common (e.g. the Gale). The faculty involved in coaching moots are of mixed views on whether students researchers are desirable or feasible in a law school of this size. At the same time, the student focus group advocated strongly to create these positions, noting that they would increase experiential opportunities for students who are not as interested in oral advocacy. 72 Trying it with just one moot for now to see how it works (before deciding whether the Faculty wants to expand this opportunity) may help make the best decision.

I further recommend that the Faculty give special consideration to the Jessup Moot in international law as it has the second highest uptake of the appellate moots, at 14 law schools across Canada, (first being the Gale, with 19) and its focus on international law and the global context seems a good fit for the research and teaching interests of our faculty. As noted on its website:

Jessup is the world's largest moot court competition, with participants from over 550 law schools in more than 80 countries. The Competition is a simulation of a fictional dispute between countries before the International Court of Justice, the judicial organ of the United Nations. One team is allowed to participate from every eligible school. Teams prepare oral and written pleadings arguing both the applicant and respondent positions of the case.73

72 Legally, Student Focus Group Report, supra note 14 at 2.
Continuing the current features of Robson Hall’s moot program, while enhancing opportunities to practice written advocacy and other knowledge and skills and exploring the option of adding student researchers, accords with the student focus group’s extremely positive feedback about moot opportunities at the Faculty and desire to expand the program.74

Because of the excellent coaching support in the moot program, the Faculty is already achieving many of the best practices in the Stuckey Report. Two issues in this regard should be revisited, however. The first is that faculty coaches do not receive teaching credit for their participation in the moots. If the Faculty wishes to aspire to the best practices in the Stuckey Report, this issue should be addressed in an equitable way in the workload policy.75

The other issue is the perception among the students in the focus group that the students who progressed in the trial and negotiation competitions were spending more time in preparing and participating than would typically be required by a 3-credit course, especially if they proceeded beyond the first regional competition. I am aware that the Academic Affairs Committee considered this issue with respect to the negotiation competition and was not satisfied by the information available that an additional 3 credits were warranted, which was the only option available to the Committee. As the broader curriculum review progresses, if there is more flexibility in awarding credit for this course, the question of credit allocation where there are successive levels of competition could be revisited.76

Resource Demands

For fundraising purposes, the Faculty uses an estimate of $10,000 per year to support a moot. Using this measure, adding a student researcher will likely require an additional $1-2,000 per moot. At present, the Faculty has been able to raise the necessary funding or subsidies for three of the appeal moots in which we currently participate (the Gale, Davies and Fox-IP Moots) and all of the remaining moot events/competitions. This leaves a need for $8,000 to $12,000 per additional moot depending on whether the Faculty adds a student researcher. Should Robson Hall pursue the Jessup Moot, depending on students’ success, there may be additional costs associated with international travel.

Extra teaching credit to recognize faculty involvement, commensurate with the amount of time required for coaching moots, would also have resource implications. A rough estimate might be a 3-credit course release every 4 years of moot participation, provided the Faculty member’s

74 Lugig, Student Focus Group Report, supra note 14 at 2-3.
75 Best Practices, supra note 13 at 4-5.
76 Ibid at 2.
time commitment over that time period is commensurate with that required for a 3-credit course.

There is also the need for additional instructor time to develop and deliver the appellate advocacy course. However, this course would likely be well suited to a sessional instructor and the Faculty members who coach the mooting teams could likely help in developing and delivering the course as part of the expectations for the teaching credit/course release described above.

Resource Opportunities

Based on past experience, moot competitions are a popular and successful fundraising focus, indicating that this will be the best way to secure the necessary funds.

6.8 Experiential Instruction in Procedure

Provision of experiential instruction or assessment in the procedural knowledge and skills that students need for live-client placements (e.g. criminal, civil, administrative, and/or family procedure).

Students will receive experiential instruction in which they research and apply procedural knowledge relevant to future work with clients in a practical context in some way. This could include a range of procedural areas from criminal and civil to administrative and family. As a result of this component, all courses teaching criminal and civil procedure will integrate or coordinate with experiential instruction or assessment of some kind. The Faculty could implement this component in a myriad of ways as long as the instruction involves one or more teaching or assessment activities that allow students to observe and/or apply knowledge in practice contexts.

Rationale

Please see the rationale for 6.9, below.

Also, the curriculum map indicates that students receive very limited opportunity to practice researching procedural legal issues and applying their research in first or second year, yet are called upon to apply this knowledge and skill in volunteer placements with live clients in second year and also in for-credit live-client and some simulation courses in third year.
I note that researching procedure is not currently a learning outcome area identified in either the FLS National JD Competencies or the Academic Innovation Committee’s recommendations, while it is one of the learning outcomes new lawyers need to demonstrate in order to be called to the bar as identified in the FLS National Entry-level Competency Profile.77 Also, if it wishes to support a robust experiential program along the lines described above, Robson Hall will need to continue to teach the foundational concepts of both civil and criminal procedure, making each a pre- or co-requisite for those live-client placements where students need this knowledge, as well as other procedural areas relevant to student placements.

Students in the focus group spoke very favourably of integrating basic practical knowledge about legal procedures and facilities into doctrinal course work.78

Resource Demands

Those would include instructor, staff, teaching assistant (student or lawyer) and/or volunteer judge or lawyer time to develop instructional activities and assessment and to provide feedback or coaching in small groups.

Resource Opportunities

Help with providing feedback might be provided by volunteer judges and lawyers (who receive continuing professional development credit for their time teaching students). Borrowing or building on resources used in bar admission courses and in such courses delivered by other law schools may be a further resource opportunity.

6.9 Integrating/Coordinating Experiential Instruction for a Majority of Courses Overall

Integration—or coordination—of experiential instruction and/or assessment to some degree in a majority of the 1L and 2/3L courses offered each year overall.

Experiential instruction and/or assessment activities will form part of and/or be coordinated with the majority (but not all) of the JD courses available to all students each year. In assessing whether a majority of courses on offer integrate experiential learning, we would include all experiential courses offered, as described in 6.3-6.8, above. As a result, this component would

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77 Lugtig, Curriculum Mapping Methodology, supra note 19; Lugtig, Curriculum Map, supra note 19.
78 Lugtig, Student Focus Group Report, supra note 14 at 11-12.
likely affect less than half of the remaining courses on offer each year (courses which are currently labelled “Doctrinal”, “Elective” or “Perspective” in the JD curriculum).

The Faculty could implement this component in a myriad of ways as long as the instruction involves one or more teaching or assessment activities that allow students to observe and/or apply knowledge in practice contexts. Instructors would receive the necessary resources to perform their responsibilities with respect to this component. The practice context chosen would be relevant to the course content and would encompass the enriched concept of practice featured in the Academic Innovation Committee Report. The experiential component might as easily include activities relating to law reform, public legal education and public interest advocacy as drafting a legal document.

Ideally, sufficient resources would allow problem-based learning to feature in a number of these courses. As explained by Queens’ University’s Centre for Teaching and Learning:

| Problem-based learning is based on the messy, complex problems encountered in the real world as a stimulus for learning and for integrating and organizing learned information in ways that will ensure its recall and application to future problems. Problems are raised at the start of the topic, before they have been taught some of the relevant knowledge. By actively engage with the problem, learners develop skills around finding information, identifying what information they still need and possible sources of that information. Learners are able to connect what they are learning in class to their own lives and important issues in their world. |
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Because this Report focuses on experiential education, this component speaks only to integration of experiential instruction into courses. It bears noting that, as recognized in the Academic Innovation Committee Report, integrating critical perspectives and substantive doctrinal material in the various courses of the JD curriculum, including experiential courses, is also extremely important to the overall curriculum. 30

The Faculty will identify experiential components in syllabi (as with the other important aspects of instruction it is integrating as noted above) and will provide the necessary support in designing, delivering and grading them. As a group, instructors participating in this initiative will also receive support in tracking and coordinating these activities each year to ensure they are reflecting a sufficiently varied range of practice contexts and avoiding duplication, and to share ideas, resources, and precedents.

29 Problem Based Learning, online: Queen's University Centre for Teaching and Learning <https://www.queensu.ca/cit/resources/topicspecific/problembased.html>
30 supra, note 1 at 114.
Rationale

As described at 4.5, above, one of the primary reasons the Academic Affairs Curriculum Committee identified for expanding experiential education in the JD program is to support law teachers in using effective approaches for achieving progression in students' development of knowledge and cognitive abilities respecting the law. This finding was in recognition of the teaching and learning literature holding that experiential instructional activities are particularly effective at teaching more complex cognitive processes and interaction with knowledge. As shown in the Academic Innovation Committee's review of the teaching and learning literature relating to legal education, there is significant support for the claim that context-based instruction of this type deepens learning and leads to more complex cognitive skills.83

A form of experiential instruction that features significantly in this literature is problem-based learning. It is also very common in professional university programs in other fields such as business and medicine, including at this University. The University of Manitoba's Centre for the Advancement of Teaching and Learning advocates this mode of instruction and provides free training sessions. Professor Vivian Hilder is just completing a study leave in which she explored the use of this type of learning, particularly in a flipped classroom model, in other law schools and will be preparing materials to assist our instructors to incorporate it in their teaching. I have incorporated this type of instruction in my Poverty Law Seminar and found it an excellent method to engage students in critical thinking and in applying knowledge in more sophisticated ways.

There is broad support for integrating experiential instruction in other courses, or coordinating it with such courses. Both the student and the profession focus groups recommended incorporating this type of learning, including problem based learning with successive feedback. The student group also spoke favourably of current efforts by some faculty to give students multiple opportunities to practice and receive feedback on their legal analysis skills in doctrinal courses. Many faculty at the August 2014 retreat, and the Academic Innovation Committee, also favoured incorporating experiential instruction in other courses.84 Indeed, my review of the syllabi of Doctoral and Perspectives courses showed that a number of instructors, both from the full-time faculty and from sessional instructors, are already incorporating some context-based instructional activities or assessment.

As noted above, while the focus here is on incorporating experiential instruction, this would likely be part of a broader project within the Faculty of more fully integrating critical perspectives, experiential instruction and substantive doctrinal material across the curriculum.

83 Academic Innovation Report, supra note 1 at 67ff.
84 University of Manitoba, Faculty of Law, Profession and Judiciary Focus Group Report, supra note 15 at 1-3; Lugig, Student Focus Group Report, supra note 14 at 7; University of Manitoba, Faculty of Law, Notes from Faculty Retreat (September 2014) (unpublished, archived at University of Manitoba Faculty of Law) at 1-2.
Also, a review of the curriculum map shows that, when compared to the broad range of substantive legal areas that students study in their Doctrinal and Perspectives courses, the range of areas of law applied in experiential courses are relatively limited. With the exception of understanding the law in context, which is present in many of the optional experiential courses, there are limited opportunities for students to apply the additional mandatory knowledge outcomes recommended by the Academic Innovation Committee in an experiential course. 44

The curriculum map also indicates that most students do little or no legal writing (based on legal research) in second year, but several do so in a live-client context (volunteers) in second year or through internships or clerkships in third year. 45 Assignments that incorporate legal writing in first and second year courses that are not primarily experiential would greatly bolster the progression of students' learning in this regard and could take pressure off of the mandatory experiential curriculum to deliver these outcomes. They might be cross-credited with experiential courses, perhaps with an arrangement under which their primary instructor and experiential instructor could share the grading and feedback tasks, each working to their strength. I understand that additional opportunities for legal writing were also a recommendation of the students in response to the Faculty consultation on the Academic Innovation Committee's curriculum proposal.

Adopting the above target and explicitly recognizing where it is addressed in course syllabi will reflect Robson Hall's commitment to supporting students in their transition to practice, in the enriched sense, recognizing the range of fields in which students may end up working.

I am suggesting that the Faculty adopt a target of a majority of the courses offered overall to the 1L and 2L/3L classes each year as this would represent a significant commitment, while likely being achievable. As with the other targets in this report, this is not set in stone and the Faculty may adjust it as it sees fit. Moreover, practical realities of course scheduling may require an alternative method of tracking or articulating such a target. What matters most is to commit to a target that, together with the other experiential course offerings, reflects a reasonable increase in the number of experiential opportunities available for all students.

Additional support, guidance, tracking and coordination will make integration and/or coordination of experiential activities and assessment easier and should encourage voluntary adoption to the point of achieving the target. Help with developing assignments and activities, and with marking and providing feedback, will also be necessary, perhaps through contracting with teaching assistants from the student body or from newer lawyers in the community (as the Law Society does for marking bar admission assignments).

44 Lugig, Curriculum Mapping Methodology, supra note 19; Lugig, Curriculum Map, supra note 19.
45 Id.
Resource Demands

These would include instructor, staff, teaching assistant [student or lawyer] and/or volunteer judge or lawyer time to develop instructional activities and assessment and to provide feedback or coaching in small groups.

Resource Opportunities

Help with providing feedback might be provided by volunteer judges and lawyers [who usually receive continuing professional development credit for their time teaching students].

Borrowing or building on resources used in bar admission courses and experiential courses offered at other law schools may be a further resource opportunity.

It is important to remember that faculty and sessionals already have a number of relationships and connections with other schools that could facilitate this sharing of course resources. Using myself as an example, I am currently Robson Hall’s representative on the board of the Association of Canadian Clinical Legal Educators (ACCLE) and am incoming Chair of the Canadian Bar Association’s Standing Committee on Access to Justice, the work of which has a significant legal education component. Others at our Faculty have similar kinds of connections in a range of areas, thereby providing a rich resource for accessing ideas and materials for experiential instruction.

6.10 Facilitation and Support for other Student-led Initiatives.

In addition to the above nine components to expand experiential education, the Faculty will continue to facilitate and support student-led initiatives for experiential education, including for credit, where available resources allow.

Rationale

The Faculty has a strong tradition of supporting student-led initiatives to enhance their learning through experiential opportunities. By way of illustration, the Faculty has provided in kind and financial support for experiential volunteer opportunities, whether at the University Law Centre or the Legal Help Centre, through Pro Bono Students Canada, or another setting. The Faculty has also worked creatively to facilitate students’ involvement in service learning opportunities.
both internationally and here at home, including for credit. As part of its experiential education program, the Faculty will remain committed to facilitating and supporting these, and other, activities, particularly where they involve a student-led initiative. In addition to the rationale described above at 6.5, this component has the potential of advancing all three of the important objectives identified by the Academic Affairs Curriculum Committee, as well as the important values of developing professional identity and lifelong learning described above at 6.3.

Resource Demands and Opportunities

Please see 6.5, above. Individual initiatives may also come with unique funding demands and opportunities.
7 Interim Actions and Next Steps

The Faculty will need additional financial and human resources to implement all of the components of the above vision. The hope is that the vision will give it the necessary focal point to raise the necessary funds, whether through fundraising, a tuition increase, other strategies or some combination thereof. That being said, there are likely some steps it can take now or in the near future within available resources to show its commitment to pursuing its vision and to achieve its objective of expanding experiential education. A range of possible interim actions to choose from, in accordance with Faculty priorities, are set out below:

1) Discuss and decide on the components of the Faculty’s long-term vision for experiential education, using this report as a resource and consulting stakeholders as necessary.

2) Publicly commit to implementing the Faculty’s vision for experiential education.

3) Dedicate a faculty permanent position or positions responsible for implementing the Faculty’s vision of experiential education, in conjunction with other curriculum reform and strategic planning.

4) Pursue an interim plan. A non-exhaustive list of possible interim actions from which to choose for the plan is set out below.

- Formalize the mutual commitment of the Law Society of Manitoba and Robson Hall to coordinate future developments in the JD and bar admission curricula so that they complement one another in supporting the transition to practice and avoid duplication.

- Continue the Legal Help Centre internships, continuing to provide additional funding support, as available from the tuition funding earmarked for student support, to ensure the Centre’s sustainability.

- Provide regular updates to Law Faculty Council on Robson Hall’s experiential education activities.

- Adopt a description of the successive levels of mastery of knowledge and skills that students can expect to achieve in successive years in the JD program, at least for the learning outcomes delivered in experiential courses.
- Put in place small group instruction where mastery through repetition and individualized feedback is the objective in experiential courses.
- Create a manual for experiential instructors, that includes best practices check lists, resources and the like.
- Develop and deliver training for experiential instructors, including the opportunity to share ideas and resources.
- Engage instructors in reviewing and updating all experiential course content and syllabi to reflect best practices.
- Continue to deliver the remodeled Clinical Criminal Law course.
- Coordinate the steps necessary to create a "Transition to Practice" Term, including an intensive placement at either the Legal Help Centre or the University Law Centre, or both.
- Continue the existing mooting program.
- In collaboration with the first year and second year experiential instructors, including those involved in relevant instruction from the Legal Systems course, develop a coherent "Transition to Practice" mandatory experiential program that achieves the desired objectives.
- Develop and deliver "skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism", giving effect to the central recommendation for law schools made by the Truth and Reconciliation Commission.
- Work with instructors of criminal and civil procedure to incorporate experiential instruction and/or assessment.
- Work with interested faculty members to incorporate experiential instruction and/or assessment in their other courses.
- Organize a meeting of all instructors engaged in experiential instruction to track, share and coordinate.
- Work with the Dean to arrange additional help with assignment design, marking and feedback, whether from teaching assistants (students or new lawyers) or experiential instructors.
• With partners, develop and deliver an intensive session or series of sessions on professionalism and client related skills that would take place at the opening of second year.

• In collaboration with interested faculty, develop an externship course and additional externship placements that relate to faculty interests.

• Consider whether and on what terms to include credit for legal work that students complete over the summer.

• Develop and deliver an advanced appellate advocacy course.

• Pilot having a student researcher for one of the appeal moots.

• Incorporate solicitors’ transactions as experiential assignments or activities in relevant courses.

• Develop materials for potential funders that set out the vision and rationale for an experiential education program that supports the transition to practice and incorporate these into the Faculty’s fundraising plan.

• Engage the Legal Help Centre and Legal Aid Manitoba (University Law Centre) (and French-language program partners) in a discussion of the in-house clinic component.

• Support the development of a French-language cohort for Advocacy and Negotiations.
8 Conclusion

This report presents a long-term vision of strengthened and expanded experiential legal education in the JD program at the University of Manitoba’s Faculty of Law, with the aim of better supporting students’ transition to practice, in the enriched sense of practice described by the Academic Innovation Committee. The vision builds on Robson Hall’s long tradition of experiential education and preparing law students for their future careers. It also incorporates to the degree possible what Robson Hall is already doing in terms of experiential education.

My hope is that a long-term vision, supported by the information set out in this report, will provide a focus for discussion that will lead the Faculty to determine its own vision for experiential education and to use it as a springboard for raising the necessary resources.
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