

Stephen and Sandra  
**SHELLER**



## *A Legal Incubator for Philadelphia?*

---

Stephen Fox, Temple Law School, 3LE  
[stephen.m.fox@temple.edu](mailto:stephen.m.fox@temple.edu)

May 2016

## Why an incubator?

As the executive director of Lawyers for Equal Justice recently stated, “Right now 80 percent of Americans cannot afford an attorney.”<sup>1</sup> This issue and opportunity has led to a number of changes in the industry, such as the licensing of non-lawyer professionals, innovative fee structures, unbundled services, legal insurance, and the proliferation of online technology companies offering self-help resources and access to attorneys. However, because the cost of legal counsel has remained high, practicing attorneys have not been viewed as offering a solution. This market of underrepresented Americans must be served in a better way. The legal incubator movement responds to this necessity.

## The legal incubator movement

Legal incubators provide an opportunity for people to help this underserved population and make a living.<sup>2</sup> Incubators come in all shapes and sizes, but the theme is relatively consistent across the spectrum: provide recent graduates with the support and training they need to bring legal services to their communities at a reasonable cost.

The most common model operates with 5-10 participants who each run their own firms under the guidance of a supervising attorney and a group of volunteers from the legal community. Participants benefit from formal training, CLEs, mentorship, collaboration, office equipment, software licensing for practice management and legal research, website creation and technical support, and client referrals. The average program spans 18 months and often includes a pro bono requirement, front loaded during the first few months and continuing at a more modest level until the end of the program. There are generally very few restrictions on practice areas, but most programs focus on high need areas such as family, consumer debt, small business, landlord tenant, and immigration.

The growth of the incubator movement is astounding. There are currently 52 programs in the U.S. listed on the ABA Incubator/Residency directory.<sup>3</sup> Forty

---

<sup>1</sup> Stephanie Everett, Lawyers for Equal Justice (Jan. 4, 2016), <http://law.gsu.edu/2016/01/04/incubator-program-lawyers-equal-justice/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Incubator/Residency Program Profiles*, American Bar Association (2016), [http://www.americanbar.org/groups/delivery\\_legal\\_services/initiatives\\_awards/program\\_main/program\\_directory.html](http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory.html).

of those programs started in 2014 or later, and many other programs are planned to open this year.

These developments have, in turn, made it easier to get new programs started. There is an abundance of information available online to help plan and create a new program, including a planning guide, administrative documents for running an incubator, business plans, a pricing toolkit for attorneys, and other helpful articles. (See Appendix B for examples.) Additionally, a recent conference in Kansas City, MO attracted a broad audience of people and organizations interested in pushing the incubator movement forward. The ABA was an active participant at the conference and they have started to collect data to better understand the impact that this movement is having.<sup>4</sup>

Incubators are typically started by a single school or by a partnership of schools and a bar association. The University of Pittsburgh and Rutgers are two examples of a single law school taking the initiative. Pittsburgh's incubator opened earlier this year and currently has five participants who operate solo LLCs and are partnered with experienced attorneys who provide mentorship and support.<sup>5</sup> Rutgers started a unique model in 2014, by creating a law firm that charges clients a low-bono rate and pays participants a \$30,000 stipend for billing 25 hours each week.<sup>6</sup> Lawyers for Equal Justice in Atlanta and the Justice Entrepreneurs Project (JEP) in Chicago are great examples of partnerships with bar associations and schools. These incubators are larger and can make a greater impact on the community.

Like all ventures, these programs also face obstacles, with sustainability being cited as the top challenge.<sup>7</sup> In addition, many program managers tell students to not expect much income for 3 to 6 months. As a result, part-time jobs may be necessary to stay afloat. Vetting applicants is critical to the success of the program. Participants must be dedicated to running their businesses. Most programs require a business plan as part of the application process and for applicants to have a desire to assist low and moderate income clients. Mentorship is another key component. Partnering participants with solo practitioners in the region is crucial to their development and success.

---

<sup>4</sup> Sara Smith, American Bar Association, 2016 Incubator Conference.

<sup>5</sup> Thomas Ross, Pitt, 2016 Incubator Conference.

<sup>6</sup> Andrew Rothman, Rutgers Law, 2016 Incubator Conference.

<sup>7</sup> Sara Smith, *supra*. 62% of surveyed programs rated sustainability as their most challenging problem.

## Philadelphia as an incubator site

The top legal minds gathered in Philadelphia during our country's infancy. Now, 240 years later, this city cries out for a new kind legal innovation. In short, the city of Philadelphia is ripe for a legal incubator. The poverty rate in our city is 28.4%, which ranks highest among large U.S. cities.<sup>8</sup> Legal aid organizations do an incredible job of serving those who cannot afford to pay for legal services, but they are often overwhelmed with demand and suffer from lack of funding. Incubators are not legal aid organizations, but they can take on pro bono clients as a fundamental piece of their mission. Lawyers for Equal Justice, for example, requires participants to perform a minimum of 40 hours of pro bono per month.<sup>9</sup> Most of all, incubators take up where legal aid leaves off. They help to create community conscious small firms that offer counsel at reasonable fees using innovative methods. In combination, this means that the underrepresented population in and around our city will have a means to obtain legal counsel.

Support is a major factor in the success of an incubator. Philadelphia is home to many universities and law firms. We also have an active bar association and an expansive court system. These crucial resources can provide support and also refer clients to the program.

## Possible models

Two suggested models are described below. Of course, there are many other possible variations.

### Philadelphia Legal Incubator (PLI)

This model contemplates a small office in Center City, providing up to 10 cubicles and small meeting rooms for clients. The Center City location would be near the courthouses and serves as a hub for resources including volunteers. The incubator would be organized as a standalone non-profit that manages a group of independent solo practitioners.

The focus of the program will be to produce community-based lawyers who desire to serve low to moderate income clients. The program will seek referrals from courts, local legal aid organizations and the Philadelphia Bar Association. Pro bono should be required, but it should be front-loaded in the beginning of the program to help with training. The program should be between

---

<sup>8</sup> Alfred Lubrano, *Of big cities, Philadelphia worst for people in deep poverty*, Philadelphia Media Network (Mar. 20, 2013), <https://www.philabundance.org/of-big-cities-phila-worst-for-people-in-deep-poverty/>.

<sup>9</sup> Stephanie Everett, *supra*.

18 and 24 months in duration. There should be no fee for the participants during the first six months, but then it should go to \$300-\$500 per month until the end of the program. Malpractice insurance is paid by the participants.

There will be no stipend unless a grant is acquired for that purpose. Student volunteers from law schools and paralegal programs can help with client intake, legal tasks, and administrative work. There should also be few to no restrictions on the practice area and the income of clients. Best efforts should be made to reach the underrepresented market of clients who can afford to pay something.

The costs are hard to estimate, but \$50,000-\$100,000 is a reasonable annual budget. Strategic partnerships and donations will help to control and perhaps reduce these costs. Using part-time supervising attorneys or faculty members will save money. The incubator could be funded by a combination of fees from the participants, grants, and donations from the participating schools, bar associations, private foundations, and law firms. This model is the least expensive to start and operate, and could convert into a law firm model at a later time.

### Residency/Fellowship Program

This model would function as a single law firm, akin to the Rutgers Fellowship Program. Instead of operating through a school, this program would be run independently as a non-profit law firm, supported by a collection of partners. The Rutgers program charges clients a “low bono” rate of \$50 an hour and became self-sustaining in 18 months.<sup>10</sup>

The goal of this firm will be to train socially conscious attorneys to provide low cost services to an underrepresented population. Participants would be hired on as associates with two-year contracts. At the end of their contract, participants can choose to move to a firm, start their own firm or renew their contract based on need.

Participants would go through a two-week training boot camp, and would do closely supervised pro bono work for the following two weeks. From that point forward, each participant would be required to bill 25 hours per week from clients that the program attracts at a low-bono rate. Clients would be obtained through referrals. In return, each participant would receive a stipend between \$30,000-\$40,000.

The main benefit of this program is that it can actually make money and eventually cover its costs. The benefit to the participants is that they can focus on learning without worrying about generating revenue. The initial start-up costs

---

<sup>10</sup> Andrew Rothman, *supra*.

would be higher in terms of salaries, formation, bookkeeping, and insurance. An estimated \$130,000 would be needed for the first year, and about \$110,000 would be required for recurring costs excluding stipends/salaries for the participants. Rutgers hired a full time secretary and the supervising attorney's salary came out of the school's budget since he is also a faculty member.<sup>11</sup> This proposed program could instead have one full time office manager/supervising attorney and use volunteers to help with client intake. The stipend is the largest cost, but that can be scaled to reflect client intake and revenue. For example, a greater proportion of the stipend can be paid in the second half of the contract.

## Summary and next steps

Much has been written about the dearth of entry level jobs for new attorneys, the unaffordability of legal services for low and middle income Americans, the need for innovation in law schools and the necessity of entrepreneurial-minded attorneys. Legal incubators offer a viable solution. The notion of new attorneys starting law practices is becoming ubiquitous. Technology has lowered the barrier of entry required to successfully administer legal services. Moreover, law schools are populated with millennial students who are entrepreneurial and willing to make less money to do meaningful work.<sup>12</sup> Incubators provide a nontraditional and sustainable platform to launch community-based counsel. They bridge the gap from law school to practice.

Incubators are flexible by design. They can scale to demand and can structurally adapt to survive. They can afford to experiment with innovative methods and can target specific areas of pain to address issues that face the city at different periods. A legal incubator in Philadelphia is possible, but it will require teamwork. Costs can be saved through partnerships and volunteers. Also, the office space can be co-located with clinics, business incubators or law firms.

The onus should not be on a single party to start a program, but one party will have to bring partners to the table. A steering committee can be started to help lay the foundation for an innovative program in our city. Creating a viable incubator requires collaboration with local authorities, law schools, bar associations, alumni, legal counsel and faculty. Overall, an incubator in Philadelphia would be good for the community, law schools, graduates, and the industry.

---

<sup>11</sup> 2014 Annual Report, Andrew Rothman, Rutgers School of Law, February 2015.

<sup>12</sup> Salkin, Patricia E.; Suni, Ellen; Schaumann, Niels; and Bilek, Mary Lu (2015) "Law School Based Incubators and Access to Justice – Perspectives from Deans," *Journal of Experiential Learning*: Vol. 1: Iss. 2, Article 3.

## Appendix A: Statistics

(Statistics are from Sara Smith's presentation of an ABA survey of 45 programs at the 2016 Access to Justice Through Incubators Programs and Non-profit Law Firms Conference.)

- 20% of ABA accredited schools are affiliated with an incubator.
- 36% of incubators are run by law schools. 18% of incubators are run by a collaboration of law schools and other organizations such as law libraries, legal aid organizations or bar associations. 13% are operated as a non-profit. 9% are run by a bar association. The remaining programs are operated either privately, free standing, legal aid organization, bar foundation or the ATJ commission.
- 46% have an annual budget of less than \$50,000.
- 76% operate as independent solos.
- 349 lawyers are currently involved in an incubator and around 221 lawyers have graduated. 56% of graduates continued to run their own firm.
- 70% require pro bono service. 55% require clients to be moderate income.
- 62% do not limit the practice area.

## Appendix B: Links to Additional Resources

### **ABA Incubator Directory**

[http://www.americanbar.org/groups/delivery\\_legal\\_services/initiatives\\_awards/program\\_main/program\\_directory.html](http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory.html)

### **Perspectives from Deans**

[http://www.tourolaw.edu/JEL/Articles/vol1-2-15/LAW\\_SCHOOL\\_BASED\\_INCUBATORS%20AND\\_ACCESS%20TO.pdf](http://www.tourolaw.edu/JEL/Articles/vol1-2-15/LAW_SCHOOL_BASED_INCUBATORS%20AND_ACCESS%20TO.pdf)

### **Incubator Guide**

<http://www.calbar.ca.gov/portals/0/documents/accessJustice/2014%20Incubator%20Guide.pdf>

### **Incubator in a Box**

<http://incubator.legal-aid.com/trainingresources/incubator-in-a-box-project/>

### **Pricing Toolkit**

<http://chicagobarfoundation.org/pdf/jep/pricing-toolkit.pdf>

### **Blog**

<http://www.lawyerincubators.com>

**Open Legal Services Non-Profit Model**

<http://openlegalservices.org/about/revolution/>

**Research from 2012 – Detailed Program Descriptions**

<http://www.gaje.org/wp-content/uploads/2014/10/Hanover-Report.pdf>

**Rutgers Law Program Paper from 1999**

<https://umkc.app.box.com/s/n27jeus428k8pkcu03dngypv8q77byps/1/6948649850/57347527693/1>

**Rutgers Fellowship Program 2014 Annual Report**

<https://umkc.app.box.com/s/n27jeus428k8pkcu03dngypv8q77byps/1/6948649850/57347522633/1>