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The Socioeconomic implications of Ontario's Joint and Several Liability Arrangement: Insights from Municipal Political Elites in Perth County

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**The Socioeconomic Implications of Ontario's Joint and Several Liability
Arrangement:
Insights from Municipal Political Elites in Perth County**

MPA Research Report

Submitted to

The Local Government Program
Department of Political Science
Western University

Josh Brick
July 2017

Executive Summary

This qualitative research report examines the extent to which municipal political elites in Perth County consider the economic and social implications of joint and several liability. Data for the report is drawn from semi-structured interviews with a Chief Administrative Officer (CAO) or senior leadership staff member from the Municipality of North Perth, Municipality of West Perth, Township of Perth East, Township of Perth South and County of Perth. Findings of this research indicate that participants consider both the economic and social implications of the present state of the legislation; however, comparably it is clear that economic considerations are considered to a greater extent. Following the conclusion, recommendations for future research on this topic are provided.

Acknowledgements

Most importantly I would like to thank my parents, Jeff and Heather, who are the reason I became interested in the study of Public Administration and have endlessly supported me throughout my academic endeavors. If it were not for them, the last five years at the University of Guelph and Western University would have been impossible. I should also apologize to my younger sister, Rachel, who has had to tolerate us contemplate the theory and practice of Public Administration on a nearly daily basis at the dinner table.

I would also like to express appreciation to my supervisor Dr. Caroline Dick, who guided me throughout the process, offering her insight and continued encouragement.

Special thanks are owed to the interview participants who set aside time from their busy schedules to share their expertise and experiences.

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Literature Review

Understanding Joint and Several Liability as per the Ontario Negligence Act

The legislative context of joint and several liability in Ontario serves as a useful starting point for the literature review because it is where the policy currently exists and operates. It is worth noting that the majority of the literature produced on joint and several liability regarding discourse analysis and publications by special interest groups and associations argue in favour of changing this current legislative state.

In considering the legislative context of joint and several liability in Ontario, the most critical piece of legislation is the Ontario Negligence Act, which reads:

Extent of liability, remedy over

1. Where damages have been caused or contributed to by the fault or neglect of two or more persons, the court shall determine the degree in which each of such persons is at fault or negligent, and where two or more persons are found at fault or negligent, they are jointly and severally liable to the person suffering loss or damage for such fault or negligence, but as between themselves, in the absence of any contract express or implied, each is liable to make contribution and indemnify each other in the degree in which they are respectively found to be at fault or negligent. (Negligence Act, R.S.O. 1990, c. N.1)

The most problematic aspect of this act, according to publications by special interest groups and associations has to do with the final sentence of the above excerpt, reading: “each is liable to make contribution and indemnify each other in the degree in which they are respectively found to be at fault or negligent.”

The Law Commission of Ontario (LCO) provides a useful example of this legislation in terms of practical application, highlighting:

“...a court may find defendants 1 (D1), 2 (D2) and 3 (D3) responsible for 70%, 20%, and 10% of the plaintiff’s \$100,000 loss, respectively. The plaintiff may seek to recover 100% of the loss from D2, who may then seek contribution from D1 and D3 for their 70% and 10% shares of the loss. If D1 and/or D3 is unable to compensate D2 for the amount each owes for whatever reason, such as insolvency or unavailability, D2 will bear the full \$100,000 loss. The plaintiff will be fully compensated for \$100,000, and it is the responsibility of the defendants to apportion the loss fairly between them” (LCO, N.d.).

This onus that is placed on the defendants to apportion a loss fairly between them is clearly outlined in a statement that was submitted to the LCO by the Ontario Trial Lawyers Association (OTLA) which notes that “as a policy statement, our legislators have long recognized that, as between an innocent victim and one or more wrongdoers, the innocent victim should not be the one to suffer, if a wrongdoer is unable to pay his or her proportionate share of the damage award” (LCO, N.d.).

Another important consideration of the present state of joint and several liability is that it does not require the Plaintiff to find and sue all of the parties who caused or contributed to damage in order to obtain full recovery (LCO, N.d.). This is a result of liability in solidum as a legal principle, which is outlined in further detail below. As outlined by David Debenham, this is critical in an era where limitation periods are typically very short, ranging from as short as seven days to two years (LCO, N.d.). Further, it is asserted that “in many cases, the Plaintiff is not in a position to know who contributed to their loss, and the Defendants are in a better position to have the necessary information and make this judgment, with solidary liability giving Defendants (who usually have better information regarding who contributed to the loss) a motivation to add all responsible parties to the lawsuit before the expiration of limitation periods (LCO, N.d.).

Liability in Solidum as the Key Legal Principle

This joint and several responsibility of defendants is referred to by the LCO, Advocates Society (AS) and British Columbia Investment Management Corporation as “liability in solidum” (or in other words, “for the whole”). This logic rests on the underlying legal understanding that “a) the single loss suffered by the plaintiff, as a result of b) the joint wrongdoing of concurrent wrongdoers, the result of which is full liability for any wrongdoer, with a right to contribution from the other liable parties” (LCO, N.d.). The fact that harm may not have occurred if it were not for “the concurrent wrongdoing of all liable parties” is a critical element of this legal disposition and helps to formulate the present state of joint and several liability as it stands.

This notion of solidary liability giving Defendants a motivation to add all responsible parties to the lawsuit is what typically implicates municipalities in legal proceedings. The Municipal Act is largely responsible for this increasingly common occurrence, with the legislation prescribing the legal standing of Municipalities and their existence as a binded corporation with powers of a natural person. As per section 9 of the Municipal Act, “a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any Act” (2006, c. 32, Sched. A, s. 8.). The difference in legal standing between municipalities and the province of Ontario also makes the financial responsibility of being named in joint and several liability claims exclusively that of municipalities, as it is legally unacceptable to name the province in a civil claim. This legislative standing of municipalities as a result of the Municipal Act allows for them to be included in civil legal proceedings (and subject to the impacts of joint and several liability as prescribed in the Negligence Act) as Defendants in a way that would not be constitutional with the Provincial or Federal orders of government.

Political Discourse and Present Condition of Joint and Several Liability Debate (2014-Present)

This section of the literature review surrounding political discourse will illustrate recent developments, areas of controversy and disagreement and highlight the varying political perspectives on the subject.

Given the relationship that exists between the province of Ontario (Ministry of the Attorney General in this case) and municipalities (as “creatures” of the province), much of the political discourse that takes place surrounding potential reform takes place at the provincial scale. Beginning in early 2014, MPP (of Perth-Wellington) Randy Pettapiece, who is the Progressive Conservative party’s rural affairs critic has taken a lead on the issue of reform. Pettapiece tabled a motion which called on the government to implement “a comprehensive, long-term solution to reform joint and several liability insurance for municipalities by no later than June 2014,” stating “under the Negligence Act, damages can be recovered from any Defendant, even if they are found to be only 1% at fault” (Canadian Underwriter, 2014). Further, Pettapiece noted that “municipalities often targeted as insurers of last resort can be on the hook for massive damage awards” (Canadian Underwriter, 2014). The 2014 Canadian Underwriter article concluded in highlighting the substantial financial implications of the legislation on various sizes of Ontario municipalities. More MPPs including Glenn Murray (Liberal) of Toronto Centre, Julia Munro (PC) of York Simcoe and Monique Taylor (NDP) of Hamilton Mountain also reported substantial increases in municipal liability premiums. Moving beyond the provincial politics into the more practical application of the legislation, a quote from an interview between Monique Taylor and a City of Hamilton risk management division worker is included in the article which says:

“He told me to think about it this way: two trucks are driving toward each other on a country road. They collide and one veers off and hits a tree on a municipal easement. The judge in this case has an award of \$5 million and finds the

municipality 1% at fault. The driver, who is significantly at fault, only has \$1 million of liability coverage. Thanks to joint and several liability, the municipality is on the hook for the remaining \$4 million” (Canadian Underwriter, 2014).

This aforementioned article and interview-based evidence helps to illustrate a political discourse that is chiefly concerned with the financial repercussions of the legislation on Ontario municipalities, with consideration for the social (current legal value-based) understanding that “the innocent victim should not be the one to suffer, if a wrongdoer is unable to pay his or her proportionate share of the damage award” being limited at best. In other words, the question of where this money would come from to justly compensate innocent victims that are involved in cases where the Defendant cannot afford to pay their proportional cost of a civil claim is largely disregarded by MPPs of each major provincial party.

At this point within the discourse in 2014, a “need for change” appears to have been unanimously forwarded by MPPs; however, the fact that the private member’s bill submitted by Pettapiece did not include specifics about how laws should be changed helps to illustrate an acknowledged degree of complexity that plagues the prospects for change. Recognizing that joint and several liability insurance reform is complex, Pettapiece noted “it involves existing provincial laws, it involves years of legal precedent, and it concerns many competing interests. All of these must be considered. That is why this motion does not dictate a specific avenue of reform. It is not intended to. The government needs to listen to the advice it has received from AMO, from municipalities,

from insurers, from the legal profession and from its own public service. Solutions are not straight forward, but we know they are possible” (Canada Underwriter, 2014).

Fast forwarding two years to 2016, another article was published by the Canadian Underwriter as a follow up to the above events that took place in 2014, with the article stating that a Progressive Conservative MPP is taking the Attorney General “to task” for not changing the negligence laws. Further on, it is noted that later in 2014 a spokesperson for the Ministry of the Attorney General told Canadian Underwriter that the government chose to not make changes to the the legislation due to “significant concerns” raised, which include the “potential burden” on injured plaintiffs (Canadian Underwriter, 2016). This mention of the social implications of reform is a key development for the political discourse of the legislation, with the OTLA further supporting and defending the foremost responsibility of protecting victims.

At this point, Pettapiece is cited asking the Attorney General why the Liberals will not “respect the will of the municipalities across Ontario,” despite previously mentioned unanimous consent from MPPs of all parties in 2014 (Canadian Underwriter, 2016). The Attorney General, responded in saying that there was no support for the motion aside from the insurance company and some of the municipalities (Canadian Underwriter, 2016).

The article concludes in outlining several approaches to reform that were put forth by AMO in the 2010 (which include a pure proportionate system or a raise in the amount of

third-party liability coverage that vehicle owners must buy), while also quoting the Attorney General in saying there was wide consultation on the issue but “the Plaintiffs’ lawyers were very much against any change in the legislation” (Canadian Underwriter, 2016).

This outline of political discourse on the topic between 2014 and 2016 helps to illustrate the conflicting intersection of economic versus social implications of joint and several liability legislation as it stands today.

Academic Research and Theoretical Understandings

The key variables associated with understanding the socioeconomic implications of Ontario’s joint and several liability arrangement include theoretical understandings of social and economic institutions. These variables have been explored and effectively quantified within the academic literature.

Social Institutions in Relation to Liability in Solidum

Within her consideration of how policy makers are driven by different rationales when delegating the realization of social and economic goals, Eckert (2017) outlines areas of potential conflict between the policy objectives. Social regulation is said to “aim at realizing objectives such as income transfer and fairness” (Breyer, 1982, pp. 19-20), or “aggregating welfare and distributional justice” (Ogus, 2004, p. 35). Further, Prosser conceptualizes public service regulation as “a subcategory of social regulation where it

aims at social solidarity by granting universal entitlement to a certain level and quality of service provision” (2006, p. 365).

The current principle of liability in solidum aligns well with these social regulatory objectives and their implications. The partiality of this legal principle with regard to social implications is clearly outlined in a statement that was submitted to the Law Commission of Ontario (LCO) by the Ontario Trial Lawyers Association (OTLA) which says that “as a policy statement, our legislators have long recognized that, as between an innocent victim and one or more wrongdoers, the innocent victim should not be the one to suffer, if a wrongdoer is unable to pay his or her proportionate share of the damage award” (LCO, n.d.). This notion that “the innocent victim should not be the one to suffer” constitutes the basis for the negative social implications that could be incurred in the event that the current legal application of the solidum doctrine (in the Negligence Act) was altered in a way that made it more proportionate. It should be noted that in 1988, the Ontario Law Reform Commission reviewed the matter and concluded that “any unfairness to a defendant flowing from joint and several liability was outweighed by the unfairness to an innocent plaintiff who, under a proportionate liability regime, would be undercompensated if a defendant were insolvent or otherwise unavailable to satisfy judgement” (OLRC, 1988, p. 46).

Economic Institutions in Relation to Liability in Solidum

As outlined by Cohen, “although traditional economic theory has focused on the allocation of goods and services in a market economy, recent developments in economics have

expanded the scope of analysis to virtually all spheres of human behavior” (1976, p.95). Further, economic regulation aims at correcting market failure, involving regulation for competition (Prosser, 2006; Levi-Faur, 2011). As a result, it should be taken that regulation has a role in constituting markets (Shearing, 1993), with “policy autonomy being seen as a precondition to secure a credible commitment to liberalization, given that the state traditionally pursues both operative and regulatory tasks” (Eckert, 2017, n.p.). From a theoretical perspective, the Rational Individual Decision Maker model (grounded in the Smithian model and utility-maximization approach) constitutes the basis for the economic institutional/ implicational understandings.

The current principle of *solidum* does not align well with economic regulatory objectives and their implications. As outlined by the Law Reform Commission of Saskatchewan, “although the economics of insurance lie beneath the surface of the debate, arguments against the *in solidum* doctrine are often couched in terms of simple fairness. Opponents suggest that it is inherently unfair to compel a defendant who may be only 1% at fault to pay 100% of damages because other defendants will not or cannot contribute. Even if the defendant who pays has the ‘deep pockets’ of an insurance company, the result is deemed to be unfair by the critics of the doctrine” (1997, p.9).

Possible Reasons for Lack of Academic Literature on Joint and Several Liability Reform

That being said, the integration of these socioeconomic positive and negative implications coming as a result of joint and several liability in relation to the public interest in Ontario has yet to be explored. More specifically, in researching the University of Guelph (Primo)

and Western University (Libraries) databases there has been no academic literature produced specifically pertaining to joint and several liability in any provincial or national jurisdiction. This is surprising, given that various jurisdictions including Saskatchewan and several States have undergone moderate reform, deviating from the principle of liability in solidum to an increasingly proportional attribution of liability. It should be noted that this observation is not intended to discount the value of publications and submissions by advocacy associations that have been active on the matter, as these sources of information have undoubtedly assisted in establishing the foundation by which social and economic implications can be contemplated for this report.

Reasoning behind the asymmetry of content produced by interest groups and advocacy associations as stakeholders compared to academic authors has to do with the difficulty of maintaining a holistic approach and properly acknowledging and overcoming the difficulty of isolating causation.

There is substantial difficulty in establishing causation in terms of understanding how policy changes affect economic and social outcomes with regard to legal (liability) applications. The significant number of stakeholders that would be impactful throughout the process make it difficult to consider the policy change from a holistic perspective, as has been exemplified by various stakeholder groups below (see criticisms of AMO working paper). This difficulty of establishing causation also poses issues for effective comparative analysis between jurisdictions that have (or have not) reformed legal understandings and applications of liability in solidum. Liability claims that are related to

road accidents are a useful example of this, as differing provincial regulations surrounding variables such as minimum road maintenance standards or private individual insurance premiums can have a profound impact on the way in which liability in solidum would implicate the public interest both socially and economically. Additionally, while case law could be effectively utilized to compare legal applications of liability in solidum in a single jurisdiction, there is undoubtedly procedural and substantive variance across jurisdictions rendering it less significant.

Moving beyond the downsides of comparative analysis as a research tool, it is also very difficult to integrate forms of quantitative analysis into joint and several liability related research, as key variables such as rising municipal insurance premiums as a result of expensive liability settlements are inconsistent on an annual basis and hard to predict. Additionally, other market factors make this difficult to quantify. While this issue could potentially be overcome by aggregating average municipal premium increases in proportion to municipality size (e.g. total budget or population), it is nearly impossible to quantify what percentage or specific value of a municipal insurance premium increase is the direct result of the Negligence Act and subsequent application of joint and several liability.

In terms of using a post-hoc style analysis to consider changes after they have occurred in jurisdictions such as the province of Saskatchewan, unintended externalities posed by private sector stakeholders further complicate the process. For example, in several jurisdictions, deviation from the principle of liability in solidum has provoked auto

insurance companies to increase the mandatory minimum personal insurance for vehicle ownership. This undoubtedly complicates the process for a researcher aiming to quantify the economic implications of joint and several liability in relation to the public interest, as a public cost saving measure has been converted to a privately incurred increase. Relatedly, the high costs for municipalities associated with joint and several liability have been identified as a social cost in that they require organizations to be more risk adverse, potentially omitting certain programs and service delivery options that are critical for a community. While this surely seems logical in the abstract sense, quantifying this social cost is also deeply reliant on other variables such as the culture of the specific municipality as being risk adverse (this could be contingent on the disposition of a senior leadership team or Council) or the specific needs of a community itself (it is possible certain communities would require higher risk services, such as a public mountain biking trail). These two reasons for omitting certain programs or services as a (fractional) result of joint and several liability leads to the next difficulty of researching this topic, which is the inescapable value-based judgements that must be made at the provincial level.

[Publications by Interest Groups and Advocacy Associations](#)

For the purpose of this report, special interest groups and associations are to be understood as collectives that interpret the legal context with a predisposed mission or goal.

Association of Municipalities Ontario (AMO)

A key example of this is the Association of Municipalities Ontario (AMO), with AMO's advocacy deliberately focusing "on ensuring that provincial policies and programs respect municipal authority" (AMO, 2016).

As outlined in the above discourse analysis, the AMO has played a substantial role in quantifying and publicizing the financial implications of the present state of joint and several liability legislation in Ontario. The "flagship" document that comprises the views of the AMO was written by the AMO Municipal Liability Reform Working Group in 2010, named "The Case for Joint and Several Liability Reform in Ontario."

Within "The Case for Joint and Several Liability Reform in Ontario," the main research question is "what effects has the present state of joint and several liability had on municipalities in Ontario in the key areas of building inspections, the scaling back of services, the slow pace of redeveloping brownfield sites and motor vehicle and road safety?" Additionally, the question of "ought Ontario municipalities be insurers of last resort as a result of joint and several liability provisions?" is considered and answered in the recommendations for statute reformation. This being said, the evidence that is used to support a call for reform is grounded in the financial implications of the current state of the legislation. In terms of summative recommendations, the article leans toward a proportionate liability system as the best option for reform. Little explanation of how this reform should take place or evidence of how it has been successful (proportional liability exists in numerous states in the United States) is provided. The recommendation is more

about proportionality as a “principle” for reform as opposed to a specific prescription for reform. This further illustrates the conflicting intersection of economic and social implications of joint and several liability, with the AMO being of the clear opinion that economic implications should take precedence over social implications and justify reform. It should be noted that there is some discussion in the article which involves raising the amount of third-party liability coverage that vehicle owners must buy; however, the article places a much more prominent emphasis on the feasibility and rationality of a purely proportionate system.

Much of the statistical information that is included in the above document was gathered from the “2011 Municipal Insurance Survey Results,” which was also conducted by the AMO. In order to test the hypothesis that the “public policy” of joint and several liability is costing municipalities and taxpayers an unreasonable sum of money, the AMO polled all 444 municipalities in Ontario, receiving a total of 135 responses, which represented approximately 50% of the provincial population. Additionally, a statistical consultant was hired to calculate the inferential statistics for province-wide, weighted results. In order to assess “growth of costs,” a longitudinal trend analysis was used in the research design in order to consider the differences in expenditures between 2007-2011. In terms of findings, it is revealed that since 2007, the liability premiums have increased by 22.2% and “are among the fastest growing municipal costs.” Additionally, total 2011 Ontario municipal insurance costs are said to be \$155.2 million, with liability premiums making up the majority of these expenses at \$85.5 million. It is also noted that these costs are disproportionately affecting small municipalities, with the per capita insurance costs of

municipalities under 10,000 being \$37.56 compared to \$7.72 for large municipalities. Finally, it notes that “based on current trends, insurance costs will rise to \$214 million annually by 2020.” These results prompt the recommendation (in the aforementioned flagship document) that continued advocacy by municipalities is needed to help change the legal environment and explore alternatives such as proportionate liability.

Submissions to Ministry of the Attorney General Stakeholder Consultation Process 2014

In 2014, the Ministry of the Attorney General invited stakeholders impacted by the present condition of joint and several liability to submit positions for a stakeholder consultation process. The table below categorizes these submissions’ positions on perspective reform based on positive and negative economic considerations, positive and negative social considerations and other implications.

(Source): Ministry of the Attorney General Stakeholder Comments Summary	Perspective Impacts of a shift to more proportional application of liability (and discontinuation of liability in solidum)
Positive Social Implications for the Public Interest	<ul style="list-style-type: none"> • The AMO notes that communities would receive better programming and services from municipalities if they did not have to be as risk averse (because of the present legal application of liability in solidum).
Negative Social Implications for the Public Interest	<ul style="list-style-type: none"> • Ontario Trial Lawyers Association (OTLA), Advocates Society (AS) and CDPLA note that the changes would be unfair to plaintiffs (the people most affected by this shift would be those most critically injured). • The Brain Injury Society of Toronto notes that catastrophically injured victims would be forced to forego care and rehabilitation under the proposed models. The wait for specialized

	<p>public residential services for brain injury victims exceeds ten years (see negative economic implications).</p> <ul style="list-style-type: none"> • The Ontario Safety League noted that the proposed changes would reduce road safety because they would reduce accountability. The most catastrophically injured would be hurt the most by this change. • Cycle Toronto note that proposed changes would make the roads less safe because they would reduce accountability for municipalities. • The Toronto Trial Lawyers Association note that the changes would violate the fundamental idea of tort law that a plaintiff should be fully compensated. • The CDLPA note that this shift creates a moral hazard, as offering an exemption or limitation liability for municipalities has a public safety consequence in that an incentive will be removed for municipalities to constantly evaluate safety in their municipality with a view to constant improvement. The consequence of litigation on matters of negligence is a systematic examination of policy procedures, standards and conditions.
<p>Positive Economic Implications for the Public Interest</p>	<ul style="list-style-type: none"> • The Insurance Bureau of Canada notes that settlements would not be driven up to the extent that they are now, thus putting less pressure on municipal insurance prices and premium increases. It is also noted that this would help to address the currently shrinking market capacity for municipal insurance. • The AMO and Insurance Bureau of Canada note that ratepayers would be less likely to experience increases on property taxation as a result of rising municipal insurance premiums.

	<ul style="list-style-type: none"> • Insurance Bureau of Canada notes that the reduced complexity offered by the principle of liability in solidum can save all parties legal costs throughout the litigation period.
<p>Negative Economic Implications for the Public Interest</p>	<ul style="list-style-type: none"> • The Brain Injury Society of Toronto notes that reduction in compensation to catastrophically injured victims would ultimately shift the burden to the public (rather than the defendants implicated by the principle of liability in solidum). • OB, OTLA, CDLPA and AS note that the change would shift costs to plaintiffs to protect themselves (by buying additional insurance) and to the taxpayers, in the form of government-funded services for people with catastrophic injuries, including OHIP and ODSP. • The AS, Ontario Bar Association (OBA), OTLA and CDLPA note that the changes would shift the burden to public funded services like OHIP, ODSP and community support groups.
<p>Other Implications and Noteworthy Points Raised (e.g. legal and research methodology inconsistency or insufficiency)</p>	<ul style="list-style-type: none"> • The Toronto Trial Lawyers Association note that the shift creates a precedent for publicly funded bodies being made exempt from responsibility. The same arguments could be used for hospitals, schools etc. • The Toronto Trial Lawyers Association note that having different rules for municipalities could complicate litigation and shift the burden to other potential defendants. • OTLA and CDLPA note that municipalities already have a number of legal provisions that limit their liability, including the Minimum Maintenance Standard for road maintenance, a gross negligence standard for snow and ice on sidewalks, shortened notice requirements and a prohibition on jury trials. • The AS, OBA, OTLA and CDLPA note that there is no evidence (and heavy reliance on anecdotal

	<p>evidence) that joint and several is a significant driver of insurance costs, with the AMO having demonstrated that costs are increasing but not sufficiently made the case that the increases are a result of joint and several liability.</p> <ul style="list-style-type: none"> • Disconnect between AMO issue framing (“even if a municipality is only 1% liable they can be forced to pay millions) and practice (judges do not make awards this way according to the CDLPA). • All legal associations that were included in the stakeholder consultation brought up a lack of empirical data, with no analysis demonstrating an increase in premiums that is tied to the effect of joint and several liability. • As outlined by the OTLA, “the arguments put forward by those have lobbied for change for more than 20 years, are the same recycled arguments, are overstated, and self-serving. These arguments have been consistently rejected by the courts and legal scholars” (p. 19). • After the fact legal interpretations would form the common law body that would be responsible for the everyday application of an increasingly proportionate liability understanding.
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The imbalance of negative social and economic implications compared to positive social and economic social implications of perspective reform that were identified throughout this stakeholder consultation process ultimately contributed to the provincial decision to not act.

Future Significance of the Joint and Several Liability Debate

As outlined in the discourse analysis, a spokesperson of the Ministry of the Attorney General indicated that the province decided to refrain from making changes to the Negligence Act following the aforementioned stakeholder consultation process, citing the potential burden on injured plaintiffs as a key motivation leading to this decision. While this temporarily puts the debate to rest in terms of the possibility of an actionable governmental response, the politically charged and value-based debate will surely arise again throughout the 42nd Ontario general election, which is to be held on or before June 7, 2018. Interestingly, prospects for change or at minimum, ongoing discussion of the matter is increased by the municipal elections that are to be held on October 22, 2018.

In the likely event that this topic does become an issue throughout the upcoming election campaigns, the way in which political parties and candidates choose to frame and debate an issue that is far beyond common knowledge will have substantial implications for the future state of the Negligence Act and liability in solidum as an upstanding legal principle. This is especially critical given the absence of reliable and accurate information pertaining to joint and several liability outside of publications by interest groups and advocacy associations and a stakeholder consultation process undertaken in 2014 by the provincial government. For this reason, academic literature similar in style to this report that is produced with the intent of exploring the “pros and cons” of acting (reforming toward a more proportional model) and not acting from a holistic perspective could meaningfully contribute to future political discourse and the subsequent policy-making process. In the medium to long-term, assuming that no substantive reform to the Negligence Act takes

place following the upcoming elections, it is plausible to assume that this debate will continue to linger in the shadows, as it has since the late 1980s.

Nature of the Research

Research Aim

Given the above discussion regarding the lack of academic literature concerning joint and several liability in any jurisdiction, let alone Ontario, the aim of this research is exploratory. This means that it is open-ended research intended to investigate how to study something that has not been studied yet (Van Thiel, 2014). More specifically, the aim of this research is to isolate positive and negative social and economic implications in relation to the public interest that come as a result of the present state of joint and several liability and liability in solidum as a legal principle. This research aim also intends to better understand how actors assign meaning and how certain concepts (social and economic implications) are applied in practice (Van Thiel, 2014). The outcome of this research will be detailed empirical descriptions that ideally, could assist in achieving more reliable and accurate analysis by refining the issue for more systematic investigation and formulation of new research questions.

Research Question

For this report, the research question asks: “to what extent do CAOs and other senior leadership administrators in Perth County consider joint and several liability in terms of economic and social implications?” This research question meaningfully contributes to the ongoing political discourse surrounding joint and several liability, as to this point the

majority of stakeholder input and research has excluded municipal staff that have specific training and practical experience working at a municipality that could be implicated by this legislation. It should be noted that certain advocacy associations, interest groups and the media have received input from municipal staff; however, this input was not systematically approached and generally does not consider the full spectrum of available information.

Research Methodology and Design

Research Design

An inductive research style is used for this research. This aligns well with the aforementioned research aims in that it favours theory building as a strategy to offer insight on an issue that has been referred to as complex by provincial politicians and left untouched by the Attorney General since it was formally contested in 2014.

In terms of the research design, this study utilizes a multi-case, cross sectional design that interviews specific individual political elites. The multi-case structure allows for comparison (how several observations are similar or different) within a cross sectional “snapshot.” In other words, this research considers the semi-structured interview responses of specific individual elites whose identity is important to the research (as a result of their direct knowledge and experience with their municipalities’ involvement with joint and several liability legislation).

The unit of analysis, or the object of study is at the scale of the elites (senior public administrators) from each municipality. This is because in this research design, the case

is the extent to which CAOs and other senior leadership administrators from Perth County consider joint and several liability in terms of financial and social implications, whereas the surveyed senior administrators responses are the observations.

In terms of types and sources of information, a qualitative approach is employed throughout the data collection process, with the type of information gathered being perceptions and opinions, frames (ways of thinking about public issues) and facts. Given the value-based element of the research question and necessity of gathering “thick information,” which is measuring the extent to which financial and social implications are considered (and or traded off by senior public administrators), this qualitative approach is ideal. The topic of joint and several liability in the context of municipal affairs is highly complex (as outlined in the literature review) and the application of a quantitative approach that only considers numerical data via survey could compromise the reliability of the data by limiting response accuracy.

Research Method (Telephone Survey and Instrument)

In order to gather information for multi-case cross sectional research design, open-ended interviews via telephone survey were conducted. The survey instrument in the table below lists the questions (in order) that were asked to participants:

Question Number	Question
1)	When you consider joint and several liability (as per the Negligence Act) in relation to your municipality, what are your first thoughts that come to mind?

2)	Are you aware of any positive or negative economic implications that are currently experienced as a result of the present state of joint and several liability?
3)	Are you aware of any positive or negative social implications that are currently experienced as a result of the present state of joint and several liability?
4)	Have you ever considered the positive or negative economic implications that would come from a legislative reform to a more proportional legal application of joint and several liability?
5)	Have you ever considered the positive or negative social implications that would come from a legislative reform to a more proportional legal application of joint and several liability?
6)	What source(s) informed you of joint and several liability?
7)	Are there any questions that were not asked that you think should have been?

Participant Selection

Throughout the recruitment process, emails describing the research study (in the letter of information) were sent to the CAO of Perth County (regional municipality), North Perth (member municipality), Perth East (member municipality), Perth South (member municipality) and West Perth (member municipality). See appendix 1 for a map of Perth County. If interested in participating in the research, CAOs were given the option of

participating in the telephone survey or delegating participation to another senior leadership staff member that would be knowledgeable of the topic.

While the scope of this research study being jurisdictionally limited to Perth County could be considered to be a weakness of the research design, it remained appropriate for two reasons. Firstly, much of the political discourse that has taken place surrounding the topic has originated from MPP Randy Pettapiece, who is the representative from the Perth-Wellington constituency. As a result of this, there is a greater chance of participants being more adequately informed about a topic that may not be common knowledge for other municipal staff. Secondly, the research support staff responsible for recruiting participants and conducting telephone surveys had easier access to the ideal interview participants (administrative elites) in this jurisdiction as a result of professional working experiences. This could seem problematic in terms of the potential for participant response biases; however, Van Thiel notes that while the selection of (qualitative) cases should preferably be guided by theoretical arguments, in reality a more pragmatic approach must often be taken (2014). This pragmatic case selection approach is necessary as it is commonsensical to assume that the logistics and feasibility of interviewing administrative elites such as CAOs would be problematic in other jurisdictions without the aforementioned competitive advantage, with Van Thiel noting: “practical issues such as having to gain access to cases or getting individuals or organizations to cooperate nearly always plays a role” (p. 90). Given the aforementioned reasons for the purposive sample, this is a theoretically relevant population.

Given that the research utilized a non-probability sampling technique in order to conduct telephone survey research directed toward a qualitative inductive research question, administrative elites are the best source of interview-based data. Typically, matters related to insurance policy and joint and several liability would be handled by risk management departments in larger sized municipalities; however, in small to medium sized municipalities such as those found in Perth County, this is handled by senior leadership administrators such as CAOs and heads of corporate services departments, legal services departments or financial services departments.

Operationalization of Concepts

In considering the research question “to what extent do CAOs and other senior leadership administrators in Perth County consider joint and several liability in terms of economic and social implications?” various concepts were operationalized prior to data analysis.

The language “to what extent” measures the impact that financial and social implications as a result of joint and several liability have on the opinions of research participants in Perth County. These opinions have to do with the present state of the legislation and perception of need for change.

Economic implications as a concept is operationalized as a positive or negative implication that is experienced as a result of the present (or more proportional) application of joint and several liability. For example, this could be the municipal contributions to legal decisions that are not rationally proportionate to negligent actions as a result of joint

and several liability legislation (thus costing ratepayers more due to rising municipal insurance premiums) or rising costs incurred under the Ontario Health Insurance Plan as a result of the hypothetical transition to a more proportional application (due to shifted costs no longer incurred by municipalities in a publically funded healthcare system).

Social implications as a concept is operationalized as a positive or negative implication that is experienced as a result of the present (or more proportional) application of joint and several liability. For example, this could be the existing value principle (within the present Canadian legal understanding of joint and several liability) that no victim should be harmed and not properly compensated, regardless of the financial disposition and proportionally attributed liability of defendants or a municipality foregoing program and service delivery due to heightened risk adversity.

Data Analysis

While this research process was open ended with ample opportunity for participants to discuss their opinions beyond the scope of the telephone survey instrument (questions), responses were divided into smaller data units utilizing a coding manual. This allowed for aggregation of data at the scale of the County and upheld strict confidentiality agreements that disallowed the use of any identifiers in the research output (due to value-based positions and elite staff participants). See the coding manual in appendix 2.

Ultimately, the coded responses from participants were utilized to determine the extent to which CAOs and other senior administrators considered joint and several liability in terms of positive and negative social and financial implications.

Results

Theme One: First Thoughts on Joint and Several Liability in Ontario

When asked of their first thoughts on joint and several liability in Ontario, there is a congruence of views among participants that the legislation is an economic disadvantage. Such understanding is very clear among participants who are senior leadership members of municipalities in Perth County:

“I think of protecting the municipality.”

“Potential undue hardship on municipalities and particularly municipal insurers. This legislation creates an unfair playing field when we talk about risk management.”

“It is not at all an equitable system in terms of responsibility for incidents in terms of who pays costs relating to awards made by courts.”

“From a financial perspective, I think that municipalities are held accountable for a lot more incidents than they have control over.”

“The potential liability that we could incur even if we are found 1% liable. From a risk management perspective we ask what the things are that we need to do to mitigate potential risk against it, looking at our limits in our insurance policy and so forth. We need to make sure that we have enough coverage to be able to handle any type of claim.”

Theme Two: The Extent to Which Municipal Elites Consider Economic Implications of Joint and Several Liability

When asked about positive or negative economic implications of joint and several liability, participants spoke more frequently of negative economic implications; however, positive economic implications were also mentioned:

“For municipalities the potential liability for covering claims for things that we are not found to be negligent in is a negative economic implication. Should tax payers be the one fitting the bill?”

“If you reduce costs in one side of the equation it is going to shift to the other side. Joint and several liability is already factored into the premiums that go into insurance and this will cause shifts. If risk shifts that premium will change.” (*Speaking of Joint and Several liability in relation to OHIP).

“Annual costs have increased from the year 2000-2017, with the premium being 3.6 times greater. Other market factors increasing asset value and historical situations have also contributed to this increase, but joint and several liability has also had an impact. More specifically, when we ask our insurance providers about our premium increases they come back with saying that a municipality is more likely to be named in a suit than an organization or an individual.”

“It depends on whether the public interest is the claimant or the rate payers of the municipality who pick up the tab. If we are considering it from the perspective of the ratepayers, it is a negative economic implication because a court can find a municipality 1% liable and get 99% of the costs from that municipality even though others may have had a lot more negligible acts that they have done wrong.”

“We can’t be held hostage by the insurance mentality. We shouldn’t stop offering programming because of joint and several liability or the risk of being 1% liable. Some insurance premiums are higher as a result of joint and several liability.”

“It is important to look at the concept of what most municipalities consider a user pay system. If someone contributes to the loss or harm of someone, it is appropriate that their insurance should be higher to pay for that. This shouldn’t just be deferred to the municipality through property taxes. If these costs are

a result of people driving carelessly, it is appropriate that their insurance rates are higher.”

Theme Three: The Extent to Which Municipal Elites Consider Social Implications of Joint and Several Liability

When asked about positive or negative social implications of joint and several liability, participants spoke equally of each disposition:

“While we try to not let this affect our service delivery, joint and several liability does have an impact on potential innovative or higher risk programs.”

“We need to make sure that people who may have been hurt as a result of no negligence on their own are somehow compensated, but this should be a broader public interest and not so much the impact to an individual municipality.”

“In terms of a social implications, a lot of municipalities don’t implement certain services. There are two reasons for this. Firstly, because of perceived risk (e.g. recreation and transportation) discretionary decisions are made by council because of potential liability. Indirectly, municipalities don’t have the funds available to do those programs because of rewards awarded by courts. This is a social consequence caused by taking away money that municipalities could put towards other services.”

“A positive implication of the current state of joint and several liability has to do with municipalities being very aware of safety policy and how important it is to maintain and train for that.”

“I understand the stance that lawyers and the legal community have taken, specifically within the Ministry of the Attorney General Stakeholder consultation exercise in 2014, in upholding joint and several liability as a mainstay of the legal system. I can understand the importance of ensuring that those harmed are properly compensated by whatever means necessary.”

Theme Four: The Ways by Which Municipal Elites Have Come to be Informed of Joint and Several Liability

When asked about the way that they were informed of joint and several liability, there was a small amount of variance in participant responses. Four out of five participants mentioned that presentations and publications by municipal associations including the Association of Municipalities of Ontario (AMO) and the Rural Ontario Municipal Association (ROMA) contributed to their knowledge. Four out of five participants also mentioned that their municipal insurance provider had made presentations about joint and several liability, with one participant noting that “there are only a handful of municipal insurance providers, which causes them to be aware of the topic and place an emphasis on discussing it with municipalities.” Randy Pettapiece, the local member of provincial parliament who was responsible for pressing the issue in the provincial legislature 2014 was also listed by four participants as a source of information. This included his presence in the media and vocalization of the private member’s bill put forth to the legislature. One participant noted that they were familiar with the Ministry of the Attorney General Stakeholder consultation exercise summary published in 2014 and that they had also read a publication on the matter produced by Provincial Offences Administrators.

Theme Five: Additional Considerations

At the end of the interview process, participants were asked if any questions were not asked that they thought should have been:

“In terms of the evidence based component that AMO has had difficulty with (see Attorney General Stakeholder Consultation comments 2014), determining whether or not municipalities have seen a direct impact to their claims or premiums as a

result of joint and several liability is important. In the past, when our premiums were going up, I tried to figure out how much was based on claims experience versus other market forces and this was very difficult to establish. Interestingly, certain municipalities have gone to the market and have been able to get a better deal. I believe that joint and several liability is already factored into premiums, so isolating that risk premium is the critical element of this. This type of research may be impossible given all of the other variables that come into the equation; however, research that talks to insurance providers or associations could be useful in figuring out how they determine it.”

“I understand that there are two separate and unconnected sides to the argument—this is why the province has been reluctant to change Ontario’s joint and several liability. It really depends on how risk avert a municipality’s take on risk is, with this ultimately being contingent on how risk avert a council is and whether or not they want to deal with the potential of joint and several liability. Research including these decision-makers could be useful, although I believe we may also live in a more litigious society.”

“Perhaps there should be a provincial pool or larger pool of municipalities that looks after these claims. From a broader perspective, in our health benefits, once we reach a significant point our drug costs are reinsured. There has got to be someone out there who would reinsure these claims at some point.”

“I understand how this is difficult to research, but it would be interesting to see what the implications have been on a specific municipality. More specific research that makes claims such as ‘across the province, awards are X for car accidents’ and ‘of X rewards, municipalities have been allocated amount X even though they are X liable.’ Focusing on a specific component of joint and several liability could help to make better sense of a confusing and diverse legal arrangement.”

Discussion, Conclusion and Recommendations for Future Research

Discussion of these results revolve around the aim of the research question, which explores the extent to which CAOs and other senior leadership administrators in Perth County consider joint and several liability in terms of economic and social implications. It will also include limitations of this research, a conclusion based on discussed variables (economic and social implications of joint and several liability considered by participants) and recommendations moving forward for future research on the topic.

Economic Implications

To What Extent?

As indicated by the research data, participants considered economic implications of the present state of joint and several liability to a greater extent than social implications. The mention of economic implications in the “first thoughts” of all five participants is indicative of this greater consideration, with the necessity of protecting the municipality, undue hardship placed on the municipality and overall in-equitability of the system being the main trends in participant responses. Furthermore, throughout discussion of perspective reform and appropriateness of the present condition of joint and several liability, participants spoke most confidently and commonly of the positive implications that would come of reform and the negative implications that come of the present state of the legislation.

(Economically) Implicating More Parties: Where does the Province fit in?

That being said, when participants spoke of reform it had more to do with changing the way (or lack thereof) by which the province is implicated in the settlement process and less about the necessity of liability in solidum as an appropriate principle to uphold in our legal system. In other words, the disproportionality in settlement contributions that can come as a result of joint and several liability (as a result of the principle of liability in solidum) was less problematic for participants than the fact that municipalities are responsible and implicated in these type of claims. This is a critical point that should be taken into consideration throughout future reform debate.

Social Implications

To What Extent?

As indicated by the research data, participants considered social implications of the present state of joint and several liability to a lesser extent than economic implications. When asked of their first thoughts about joint and several liability, no participants mentioned social implications.

Positive Social Implications: Recognition and Responsibility

While shadowed by more commonly cited economic implications, several participants spoke of social implications. Three participants indicated that the present state of the legislation and risk of litigation causes them to be more up to date and well versed in risk management related procedure, with one participant saying “a positive implication of the

current state of joint and several liability has to do with municipalities being very aware of safety policy and how important it is to maintain and train for that.”

As outlined above, while several participants acknowledged the necessity of ensuring that harmed individuals are properly compensated for their loss, there was disagreement toward the municipal responsibility of settling these claims, with one participant saying “we need to make sure that people who may have been hurt as a result of no negligence on their own are somehow compensated, but this should be a broader public interest and not so much the impact to an individual municipality.”

The Intersection of Economic and Social Implications: Risk Adversity and Program and Service Delivery

A key theme to be taken from this research has to do with the relationship between increased risk adversity as a result of joint and several liability and the effective delivery of programs and services. Two participants spoke of this specifically, with one saying “while we try to not let this affect our service delivery, joint and several liability does have an impact on potential innovative or higher risk programs.” The other noted that “in terms of social implications, a lot of municipalities don’t implement certain services. There are two reasons for this. Firstly, because of perceived risk (e.g. recreation and transportation) discretionary decisions are made by council because of potential liability. Indirectly, municipalities don’t have the funds available to do those programs because of rewards awarded by courts. This is a social consequence caused by taking away money that municipalities could put towards other services.”

In short, this relationship can be considered as a negative social implication (reduced program and service delivery) as a result of a negative economic implication (the necessity of being risk adverse or lack of funds due to past settlements). While it is difficult to effectively quantify the degree to which these implications truly affect a municipality (e.g. determining the necessity of programs and services varies from municipality to municipality and as outlined above, it is difficult to establish the exact impact of joint and several liability on municipal finances) it is worth noting that they are closely related and mutually dependent.

Limitations of This Research

Several limitations exist within this research. These include the limited participants in the research, the jurisdictional scope of the research and the variance in knowledge of research participants given the specialized nature of the topic.

Firstly, it must be recognized that while the aim of this research was to systematically gather insights from municipal political elites, who have typically been absent in publications by advocacy associations and stakeholder input sessions (see aforementioned AMO working paper and Ministry of the Attorney General Stakeholder comments summary), Council members as key decision-makers are left out. When it comes to the decision-making process for municipal matters pertaining to joint and several liability, political elites such as CAOs and other senior leadership staff have a key role in advising and informing Councillors, although it is ultimately the Council that decides how a municipality acts.

Secondly, for reasons previously outlined in the methodology and research design section, the jurisdictional scope of this research was limited to upper-tier and member municipalities within Perth County. Relatively speaking, these organizations that the participants serve are small-medium sized according to AMO's working methodology. This limited scope of the research excludes potentially different perspectives from larger organizations that undoubtedly have greater budgetary allocations and potentially more claims. Additionally, it should be noted that within AMO's "The Case for Joint and Several Liability Reform in Ontario" publication, it is asserted that small-medium sized municipalities experience the negative economic implications of this legislation more significantly compared to their larger counterparts (AMO, 2010).

Finally, the varying degrees of knowledge exemplified by participants on this specialized topic throughout the interview process must also be acknowledged. While larger municipalities typically utilize a specialized risk management style department to handle affairs related to joint and several liability and other insurance policy, this topic is just one of the many hats worn by CAOs and other finance oriented senior leadership members in small to medium sized municipalities. This is not meant to discount the expertise and insight that has been graciously provided by the research participants, but instead to highlight the possibility that if participants were exclusively responsible for risk management and insurance related affairs at their municipality their considerations may have differed as a result of more specialized knowledge and experience.

Even within the data gathered for this research, there was variance in the sources of information that contributed to the way by which participants consider economic and social implications of joint and several liability. While all participants had been exposed to sources of information that are indisputably more attentive to the negative economic implications of joint and several liability for municipalities (such as the AMO working paper in favour of reform, presentations by insurance providers or Randy Pettapiece and his submissions to the legislature), only one participant spoke with familiarity of the Ministry of the Attorney General Stakeholder Consultation exercise. Interestingly, this participant who had been exposed to that publication that had an increased regard for the negative social implications of perspective change as well as the negative economic implications of change had a more neutral outlook on the matter compared to other participants (who were generally more interested in the negative economic implications of the present system and positive economic implications of perspective reform to a more proportional model). While numerous other factors could have contributed to this happenstance, it is worth noting that variance in knowledge and exposure to different publications could contribute to differing responses.

Conclusion

In answering the research question that asks *“to what extent do CAOs and other senior leadership administrators in Perth County consider joint and several liability in terms of economic and social implications?”* it should firstly be taken that economic implications were considered to a greater extent than social implications. This is evident in participants’ first thoughts regarding joint and several liability, where all five participants

cited economic related implications with none citing social implications. Additionally, when asked more specifically of economic implications, participants provided lengthier, more detailed responses that had to do with factors including unfairness in claim apportionment, the consequences of needing to be risk averse and the potential for rising insurance premiums.

This being said, the prominence of economic implications compared to social implications exhibited throughout the interviews with participants does not mean that they did not consider social implications to any extent. While social implications were absent in the initial thoughts of participants, they were generally aware of this side to the argument and in favour of ensuring that those harmed are properly compensated by whatever means necessary. This indicated that rather than being opposed to the legal principle of liability in solidum, participants are in favour of the province exploring ways to better protect and alleviate the economic and social vulnerability currently experienced by municipalities as a result of the present state of the legislation.

In sum, it should be taken that while political elites in Perth County consider both economic and social implications in relation to Ontario's joint and several liability arrangement, economic implications are considered to a greater extent.

Recommendations Moving Forward

Future Research Topics and Questions

A) Empirical research that quantifies the (AMO suggested) relationship between the present application of the Negligence Act and rising insurance premiums for municipalities must be conducted in order to better understand and legitimize the arguments in favour of reform. As previously outlined, research that was heavily reliant on anecdotal information and lacking empirical evidence was cited by legal organizations as a key reason for dismissing claims made in the AMO document “The Case for Joint and Several Liability Reform 2010.” Ideally, this type of research would utilize a random sample and include a large number of cases in order to isolate (and determine the extent to which) joint and several liability as outlined in the Negligence Act is a factor in rising municipal insurance premiums. This type of research would require participation from both municipal staff and private insurance representatives that are responsible for establishing premiums.

B) Legal research that considers the effectiveness of protections that are currently in place for municipalities with regard to liability claims (e.g. Minimum Road Maintenance Standards) should be undertaken to evaluate the true necessity of legislative reform. It would be critical for this research to consider precedential evidence using the relevant case law in order to evaluate the appropriateness of interest groups and the media referring to joint and several understandings of liability in sordium as the “1% rule.” This form of secondary analysis could focus on one specific protection (e.g. Minimum Road

Maintenance Standards) for a large sample of municipalities or take the form of a case study focusing more in-depth on fewer municipalities.

C) While the province of Saskatchewan and various states in the United States have adopted more proportional understandings of liability in their legislative frameworks, little comparative academic research has been undertaken beyond brief submissions by legal associations to the Ministry of the Attorney General stakeholder consultation in 2014. Comparative academic research on these case study opportunities could help to better inform policy-makers of the social and economic implications of reform in the future. This being said, major barriers such as key institutional differences and difficulty quantifying economic and social considerations in empirical terms must be overcome in order for this research to take place.

D) As outlined in the third limitation of the research, the participant who had been exposed to the Ministry of the Attorney General Stakeholder Consultation publication had a more neutral outlook on the matter compared to other participants (who were generally more interested in the negative economic implications of the present system and positive economic implications of perspective reform to a more proportional model). While numerous other factors could have contributed to this, research that aims to establish a correlation between information exposure and participant outlooks on joint and several liability could meaningfully contribute to this discussion and political discourse in the future. This is especially critical given the complexity of the topic and wide variety of non-academic information sources.

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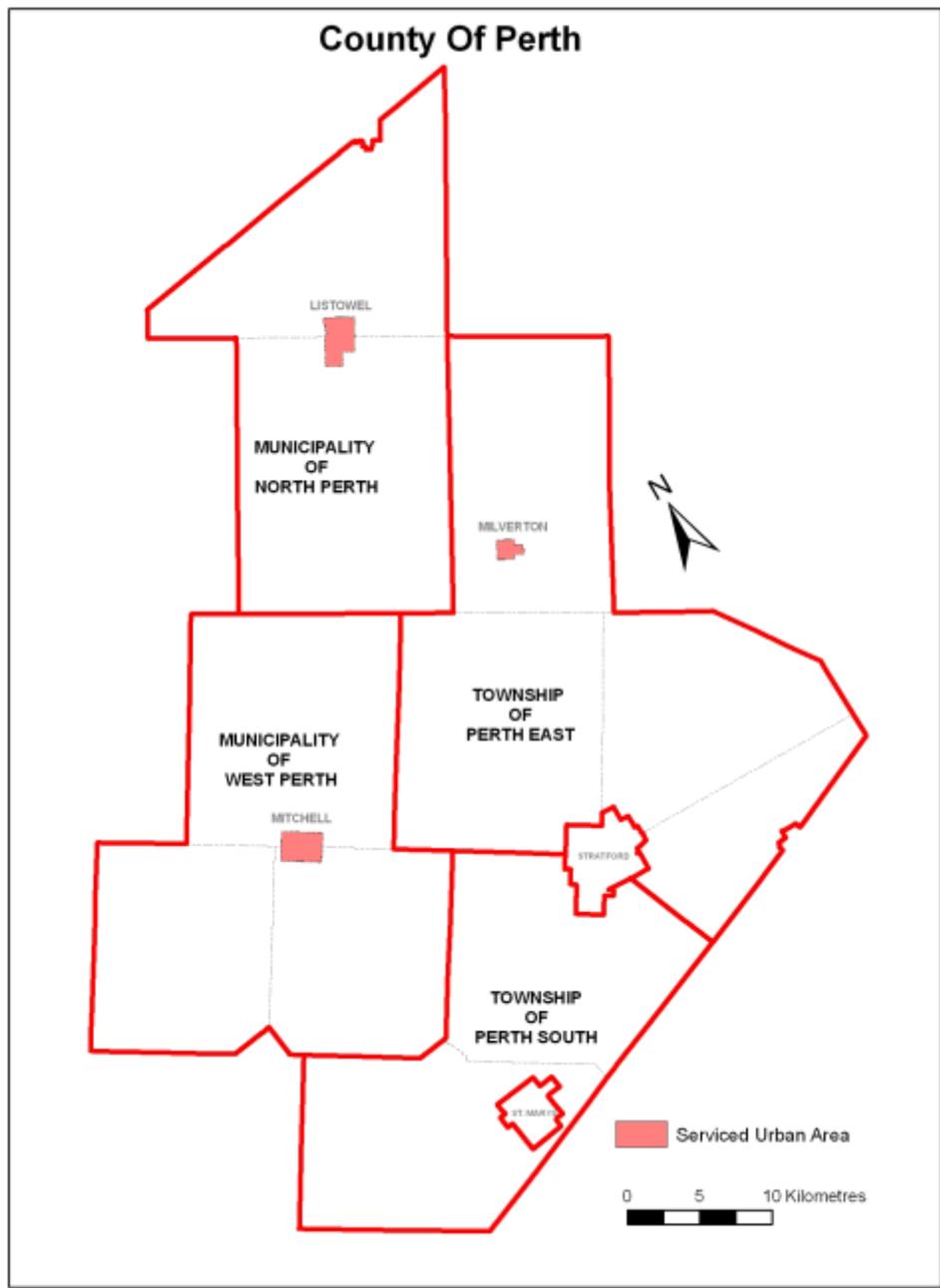
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Appendix

1) Map of County of Perth



2) Research Coding Manual

Q1): When you consider joint and several liability (as per the Negligence Act) in relation to your municipality, what are your first thoughts that come to mind?

Theme 1: Economic	Theme 2: Social	Theme 3: Other
1A. Positive Economic Implication 1B. Negative Economic Implication 1C. Neutral Economic Implication	2A. Positive Social Implication 2B. Negative Social Implication 2C. Neutral Social Implication	3A. Specify 3X. No response

Q2): Are you aware of any positive or negative economic implications that are currently experienced as a result of the present state of joint and several liability?

Theme 1: Implication Specific to Respondent's Municipality	Theme 2: Implication Specific to all Ontarians	Theme 3: Other
1A. Positive Economic Implication 1B. Negative Economic Implication 1C. Neutral Economic Implication	2A. Positive Economic Implication 2B. Negative Economic Implication 2C. Neutral Economic Implication	3A. Specify 3X. No response

Q3): Are you aware of any positive or negative social implications that are currently experienced as a result of the present state of joint and several liability?

Theme 1: Implication Specific to Respondent's Municipality	Theme 2: Implication Specific to all Ontarians	Theme 3: Other
1A. Positive Social Implication 1B. Negative Social Implication 1C. Neutral Social Implication	2A. Positive Social Implication 2B. Negative Social Implication 2C. Neutral Social Implication	3A. Specify 3X. No response

Q4): Have you ever considered the positive or negative economic implications that would come from a legislative reform to a more proportional legal application of joint and several liability?

Theme 1: Implication Specific to Respondent's Municipality	Theme 2: Implication Specific to all Ontarians	Theme 3: Other

1A. Positive Economic Implication 1B. Negative Economic Implication 1C. Neutral Economic Implication	2A. Positive Economic Implication 2B. Negative Economic Implication 2C. Neutral Economic Implication	3A. Specify 3X. No response
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Q5): Have you ever considered the positive or negative social implications that would come from a legislative reform to a more proportional legal application of joint and several liability?

Theme 1: Implication Specific to Respondent's Municipality	Theme 2: Implication Specific to all Ontarians	Theme 3: Other
1A. Positive Social Implication 1B. Negative Social Implication 1C. Neutral Social Implication	2A. Positive Social Implication 2B. Negative Social Implication 2C. Neutral Social Implication	3A. Specify 3X. No response

Q6): What source(s) informed you of joint and several liability?

Theme 1: Formal Sources	Theme 2: Informal Sources	Theme 3: Other
1A. Presentations by Insurance Companies 2B. Literature Produced by Interest Groups and Advocacy Associations 2C. Submissions to 2014 Attorney General Stakeholder Comments 2D. Media Publications	2A. Word of Mouth Through Interactions with Peers and other Co-Workers	3A. Specify 3X. No response

Q7): Are there any questions that were not asked that you think should have been?

Theme 1: Specify
1A. Specify 1X. No Response