

# White Paper on Justice Reform

PART ONE:

## A Modern, Transparent Justice System

*October 2012*



Ministry of  
Justice



# Contents

Minister's message	2	<b>E. Transparent justice: creating common understanding</b>	<b>13</b>
Executive Summary	3	Action item 5: Transformation of justice information systems	13
<b>A. Reforming British Columbia's justice system</b>	<b>4</b>	Action item 6: A justice business intelligence system	13
Three kinds of change	4	Action item 7: Improved ability to track and control system costs	15
<i>Our justice system must be transparent</i>	4	<b>F. Transparent justice: a performance focus</b>	<b>16</b>
<i>Our justice system must be timely</i>	4	Action item 8: Public, evidence-based performance management	16
<i>Our justice system must be balanced</i>	5	<i>Public performance measures to drive executive decision-making</i>	16
The White Paper on Justice Reform: Parts One and Two	5	<i>Aligning research investments in support of performance and reform</i>	17
<b>B. What we know about our system</b>	<b>6</b>	<b>G. Timely justice: efficient case management and backlog reduction</b>	<b>18</b>
The Justice Reform Initiative	6	Action item 9: Collaborating on efficient case management	18
<i>Internal audit</i>	6	<i>Immediate action to reduce the case backlog</i>	18
<i>Green Paper: Modernizing British Columbia's Justice System</i>	6	<i>Supporting a modern system of court scheduling</i>	19
<i>A Criminal Justice System for the 21<sup>ST</sup> Century: The Cowper Report</i>	6	<i>Developing consistent Crown file ownership</i>	19
<i>The McCuaig Report</i>	7	Action item 10: Greater efficiency in routine practices	19
<i>The Legal Services Society Report: Making Justice Work</i>	7	<i>Improving the flow of disclosure</i>	19
The Justice Review Task Force	7	<i>Streamlining admission to and discharge from corrections</i>	19
Other reports and consultations	7	<i>Improving workflow practices in courthouses</i>	20
<b>C. How our justice system must change</b>	<b>8</b>	<b>H. Conclusion</b>	<b>21</b>
Transparent, timely and balanced: turning reform goals into reality	8	Immediate steps, long-term goals and key milestones	21
<b>D. Transparent justice: creating clear governance for the system</b>	<b>10</b>	<i>By March 31, 2013</i>	21
Action item 1: Justice and Public Safety Council	10	<i>By March 31, 2014</i>	21
<i>Secretariat</i>	10	<i>2015 and beyond</i>	21
<i>Project Management Office</i>	11	Looking ahead: White Paper on Justice Reform: Part Two	22
<i>Advisory Board</i>	11	Providing feedback on the White Paper on Justice Reform	22
Action item 2: An annual Justice and Public Safety Plan	12	<b>Appendix 1: Concordance with Recommendations</b>	<b>23</b>
Action item 3: A regular Justice Summit	12		
Action item 4: Greater transparency and better administrative tools	12		

# Minister's message

As Minister of Justice and Attorney General, I am pleased to present the *White Paper on Justice Reform, Part One: A Modern, Transparent Justice System*.

This document is the first of a two-part action plan for creating a timely, transparent justice system that works for British Columbians. It reflects the hard work, cooperation, and commitment of justice system participants who share this Government's desire to see meaningful reforms.

Part One lays the foundation for achieving successful reform and is focused on creating a new model of transparent governance and reducing delays through the use of evidence-based approaches.

Safe communities and access to justice for families across the province are at the heart of our reforms. Our goal is to build on our justice system's many strengths and to be a Canadian leader in finding solutions to challenges that all jurisdictions are facing.

This year has been pivotal for our province's justice system. We've gained important insights into the challenges we currently face and the direction we should take in the future. Government's recent Green Paper, *Modernizing B.C.'s Justice System*, helped us face the reality that, despite a declining crime rate and \$1 billion in annual funding, our justice system is not seeing the outcomes that British Columbians deserve.

The challenges we're facing demand forward-looking ideas and creative solutions; we need to think outside of the box and move to strategic and coordinated efforts across the justice system.

That's why Government turned to Geoffrey Cowper to conduct a critical review of the criminal justice system and provide recommendations to transform our justice system into one that is truly transparent, timely and balanced.

Those three principles guide the 10 Action Items in Part One, actions which will build a governance structure that leads to reduced court delays, quicker access to justice, and the continued reduction of B.C.'s crime rate.

As part of our plan, a new Justice and Public Safety Council will be created to coordinate justice system transformation. Regular Justice Summits and an annual Justice and Public Safety Plan will guide dialogue around system performance. We are also taking immediate action to improve the timeliness of the court system by tackling case backlogs and by supporting the Provincial Court in developing a new court scheduling system.

These steps will position us to shape the future of our justice system. By focusing on outcomes and using evidence-based approaches, we can create a system that truly responds to the needs of our citizens – one that serves British Columbians now, and for generations to come.

I want to thank Geoffrey Cowper, as well as Gary McCuaig, the Legal Services Society and all the individuals and groups that contributed their ideas, for providing us with the blueprint for a two-part action plan. Public engagement in our efforts to deliver improvements in our justice system is key. To see how we are implementing the action items and recommendations in the Cowper, McCuaig and Legal Services Society reports, I invite you to look at the chart at the end of the document.

I look forward to releasing Part Two of the White Paper, which will be informed by recommendations from the Missing Women Inquiry and B.C. Policing Plan, and will complete the Action Items in the Government's justice reform agenda.



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Honourable Shirley Bond  
Minister of Justice and Attorney General

# Executive Summary

British Columbia's justice system requires reform. The 2012 Justice Reform Initiative, comprising several key reports including the review of the criminal justice system by Geoffrey Cowper, QC, assisted Government in identifying three clear reform goals. The system must be transparent, to allow for effective management and accountability. It must be timely, as delay is a real and pressing concern: the system must become faster at what it does. And, it must be balanced, weighing resources against risk and public interest, increasing accessibility, and matching solutions to the problems they are intended to address.

The White Paper is Government's roadmap for justice reform in British Columbia. Part One, this document, outlines 10 separate actions necessary to create a transparent system of justice, one capable of reform and renewal, one capable of delivering fast, well-balanced services.

As Mr. Cowper's report makes clear, transparent governance is a vital first step for the management and improvement of the system. Government will create a Justice and Public Safety Council to set the strategic direction and vision for the justice system, to engage with other justice system participants, and lead the changes that are necessary. A regular Justice Summit and an annual Justice and Public Safety Plan will create clear and useful dialogue around system performance and strategy. Government will also enhance the administrative powers of the court system to support effective management of court resources.

Government will take steps to improve transparency of justice information. This includes a system-wide business intelligence approach, within a broader technology strategy for justice information focused on a performance culture and on outcomes for citizens. Government, in consultation with justice system participants, will also develop a clearly understood justice system performance framework that is meaningful to citizens, and will also work towards a methodology for projecting and managing justice system costs.

Immediate action is required on the timeliness of the court system. The system has a large backlog of cases that must be dealt with. Government will support the Provincial Court in addressing the case backlog, and in developing a new system of court scheduling. Improvements to case management and other justice processes must also be developed and applied without delay.

With the forthcoming Report of the Missing Women Commission of Inquiry and the BC Policing Plan, further information essential to reform will be in hand. Part Two of the White Paper, in the new year, will complete the reform roadmap, drawing on these inputs and building on the efforts to create transparency described in Part One. The work highlighted in Part Two will focus on timely, balanced, justice and public safety operations, on better service to the public in civil, family, administrative and criminal law settings, and on innovation in citizen-focused justice processes.

# A. Reforming British Columbia's justice system

British Columbians need a well-functioning justice system for many reasons. They expect the justice system to keep their communities safe from crime. They expect certainty from the justice system when dealing with civil matters. They expect an accessible justice system that overcomes barriers like distance, and that makes information and options clear. They need to know that the justice system applies proportion to its work. They need to be confident that the system is affordable and is able to manage its costs. Above all, British Columbians expect their justice system to be fair.

## THREE KINDS OF CHANGE

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Our justice system needs reform to make sure these expectations are met. The timing is right: in support of reform, there is clear opportunity for positive change in several areas, and strong will across the system. Since Government released the *Green Paper: Modernizing BC's Justice System*, the condition and future of the justice system has been at the centre of public discussion, including several independent reports as well as opinion and submissions from justice agencies, the professions, and the public. These discussions have been frank, productive and healthy. From this dialogue, it is clear that our justice system must be strengthened in three ways.

### Our justice system must be transparent

We need to make sure the system is *transparent*. This means being more responsive to ordinary citizens, being open about the information that reveals how the system and its programs perform, and being more accountable. It means the leadership of the system within and outside of Government must work together actively in identifying key trends, in ensuring delivery of justice and public safety, and in applying resources in a balanced and accountable way.

We need to make sure the justice system is able to change, by adopting transparent governance. We must acknowledge who has responsibility for changing the system. We must be inclusive in recognizing the many stakeholders in the system,

including B.C. communities and municipalities. We must create a common understanding of system trends, performance, and public accountability, adopt modern systems and management practices which are clearly understood, and report the most significant information publicly.

### Our justice system must be timely

We must ensure *timely* justice for British Columbians. This means ensuring that demand for justice does not meet with avoidable delay, and that processes which can become better and faster do so. It means bringing contemporary management ideas and tools to bear, safeguarding the space and time required for the effective administration of justice in an era of great demand. It means responding to citizens' real-world needs to have accessible justice choices. It means in many cases that the system must be faster. Delays, and the existence of a large court case backlog, are of significant concern.

Timeliness is central to justice, and yet to date the system has not adopted measures or goals geared to reducing the overall time needed to get to resolution. This must change. Courtrooms should only be used when they are the most appropriate venue to solve a particular problem. We must adopt a systems approach to scheduling, common in other areas of life, which promotes predictability and efficient use of the time of all concerned.

## Our justice system must be balanced

We need to deliver a *balanced* system. This means finding the right responses according to the challenges we face. This implies bringing our expertise to bear on our most significant risks. It also means simplifying our processes where citizens need accessible options. It means using the full range of tools available to us to allow more cases to be resolved out of court, while making more time and resources available for those in real need of the court system.

Balance requires early information and advice to citizens in civil, criminal, family and administrative law, allowing them to find the most appropriate path to resolve their problem. It also requires that we examine and challenge traditional practices wherever this makes sense. Achieving the right balance, with efforts and expenditures carefully weighed against risk, also requires reliance on evidence-based approaches to make the best use of justice resources.

## THE WHITE PAPER ON JUSTICE REFORM: PARTS ONE AND TWO

This *White Paper* sets out Government's overall vision for a transparent, timely, and balanced justice system. It also provides detail on the specific steps Government will take to achieve this vision, through systems change, policy innovation and legislative reform. It represents the culmination of intensive review of the key aspects of the system, with input from different perspectives and consideration of alternative approaches.

The *White Paper* is separated into two parts. *Part One*, this document, outlines the steps necessary to create a transparent system of justice. It also outlines immediate steps, using coordinated planning and decision-making, to make real headway towards eliminating the backlog of cases in the courts, and to avoid similar challenges in the future.

*Part Two* represents the next stage with further emphasis on front-line operations and services to the public in the civil, family, administrative and criminal law settings and with respect to public safety. *Part Two*, completing the vision of transparent, timely and balanced justice, is also timed to allow consideration of findings and recommendations of the Missing Women Commission of Inquiry, and to address key points from the forthcoming BC Policing Plan.

### When does Government issue a White Paper, and why?

*In B.C.'s parliamentary tradition, Government may issue a Green Paper to highlight an issue requiring consultation prior to policy or legislative change. Once consultation has occurred, a White Paper signals Government's direction prior to the introduction of legislation or other change to the status quo.*

## B. What we know about our system

The *White Paper* builds on a broad process of input and consultation in the past year, from within and outside the justice system.

### THE JUSTICE REFORM INITIATIVE

On February 8, 2012, Government released the *Green Paper: Modernizing British Columbia's Justice System* and announced the amalgamation of the two ministries into a combined Ministry of Justice. At the same time, Government announced the appointment of Geoffrey Cowper, QC, to chair a review of the criminal justice system. As part of the review, Government engaged Gary McCuaig, QC, to review the criminal charge assessment process. In addition, Government also asked the Legal Services Society, the organization responsible for delivering legal aid in British Columbia, to provide advice on achieving efficiencies in the justice system by improvements in legal aid services.

#### Internal audit

A Government *audit* of the two ministries, conducted in 2011 and released on the same day as the *Green Paper*, noted that given declining rates of crime and a flat or declining criminal caseload, it was unclear why cost pressures on the justice system endured; and that the “lack of a suitable performance management framework makes it impossible to clearly understand the underlying causes.” In general, the audit recommended a range of substantial improvements to the business management and governance of the system, intended to promote a transparent relationship between operational pressures and resource requirements and to make the performance of the system clearer to citizens.

#### Green Paper: Modernizing British Columbia's Justice System

The *Green Paper* identified a number of potential areas of reform, principally in the criminal system, and invited dialogue on three topics where systemic change or transformation might prove fruitful. These topics included greater cooperation within the

framework of independence, recognizing that all justice participants have strong incentives to cooperate on collective goals such as faster justice for the public. They included improved systems thinking, including cross-system planning, and improved application of performance targets, measurement and monitoring. And they included modern management practice, something increasingly urgent as the accountability requirements within Government continue to increase in both operational and financial terms.

#### A Criminal Justice System for the 21<sup>ST</sup> Century: The Cowper Report

Mr. Cowper's mandate was to identify ways in which Government, the judiciary, the legal profession, police and others should work together to address the problems that are impairing the efficiency and effectiveness of B.C.'s criminal justice system. Released in August 2012, the recommendations within the *Cowper Report*<sup>1</sup> included:

- a Criminal Justice and Public Safety Council to institutionalize a governance framework;
- the use of system-wide performance measures;
- province-wide operational strategies (e.g., domestic violence and crime reduction);
- early case resolution and implementation of efficiency measures within the Courts;
- evidence-based offender management and evaluation of specialized courts;
- steps to clarify and affirm judicial administrative powers; and
- improvement of transparency and responsiveness.

1 <http://www.ag.gov.bc.ca/justice-reform/pdf/CowperFinalReport.pdf>



## The McCuaig Report

Mr. McCuaig was asked to conduct a review of the current criminal charge assessment system in British Columbia, in which charges require review and approval by a Crown prosecutor before being laid. The assessment is based on a two-pronged test that mandates a substantial likelihood of conviction, and a determination that a prosecution is required in the public interest. In his review, released within the Cowper Report, Mr. McCuaig concluded that while attention should be paid to streamlining information requirements and discussion on the relative priority of offences against the public order and administration of justice, the current charging standard and charge assessment process should be retained.

## The Legal Services Society Report: Making Justice Work

This *report* was also released along with the report on the Justice Reform Initiative on August 30, 2012. Overall, the report promotes a justice system that focuses on outcomes. In civil and family matters, this means prevention, faster resolution as the goal, and litigation as a last resort. In the criminal context, this means recognizing an accused person's right to representation, but also facilitating resolutions that benefit society by addressing underlying problems that lead to criminal behaviour. The report makes recommendations about a number of enhancements to legal aid services and other program and service initiatives in the criminal, family and civil context that may have the potential to create efficiencies in the justice system.

## THE JUSTICE REVIEW TASK FORCE

The former Justice Review Task Force was created by Government with a mandate to identify reform ideas and initiatives that may help make the justice system more responsive, accessible and cost-effective, resulting in a series of *reports* on the civil, criminal and family justice sectors in 2005 and 2006.<sup>2</sup> While

significant actions, including the *Family Law Act*, have resulted from the work of the Task Force, the current broad commitment to reform across the system means there is an opportunity to revisit these recommendations and develop further initiatives around efficiencies, and citizen access to justice.

<sup>2</sup> <http://www.bcjusticereview.org>

## OTHER REPORTS AND CONSULTATIONS

In addition to the three reports commissioned by Government in 2012 for the purpose of the Justice Reform Initiative, ideas for justice reform were influenced by a number of other Government consultations and recent reports prepared by other justice system participants. These include reporting from the Provincial Court of British Columbia with respect to case and workload trends<sup>3</sup>, the Canadian Bar Association submission to the Justice Reform Initiative<sup>4</sup>, and the report of the Public Commission

on Legal Aid<sup>5</sup>. They also include the report of the Representative for Children and Youth on the circumstances surrounding the murders of Kaitlynnne, Max and Cordon Schoenborn<sup>6</sup>, and the reports of the Davies Commission inquiry into the death of Frank Paul<sup>7</sup>. Longer-term influences include consultations on the *Family Law Act* between 2006 and 2011, and consultation on Supreme Court civil rules from 2004 to 2010.

<sup>3</sup> <http://www.provincialcourt.bc.ca/news-reports/court-reports>.

<sup>4</sup> [http://www.cba.org/BC/Initiatives/pdf/CBABC\\_Submission-Justice\\_In\\_Time-Jun\\_6\\_2012.pdf](http://www.cba.org/BC/Initiatives/pdf/CBABC_Submission-Justice_In_Time-Jun_6_2012.pdf)

<sup>5</sup> <http://www.publiccommission.org/About/Main>

<sup>6</sup> <http://www.rcybc.ca/Images/PDFs/Reports/RCY-SchoenbornReportFINAL%20Feb%2027.pdf>

<sup>7</sup> Alone & Cold: Reports of the Davies Commission Inquiry into the Death of Frank Paul (Interim report, February 2009; The Criminal Justice Branch Response, May 2011)

## C. How our justice system must change

Our justice system must be modernized for meaningful reform to occur. At the case or file level, justice professionals perform well in the delivery of operational functions. But skills found in the justice professions do not necessarily provide for effective system management. The problems we face today are a new kind of challenge and are problems that occur in any large, contemporary public system. They are not particularly unique to justice. They relate to sharing and understanding information using new technologies, to modern management practice and accountability, and to measurable, results-oriented reform activities.

### TRANSPARENT, TIMELY AND BALANCED: TURNING REFORM GOALS INTO REALITY

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Government's justice reform agenda, drawing on the goals of transparency, timeliness and balance, implies a number of distinct areas of innovation.

The Cowper Report makes clear that transparency is the foundation for a modern justice system. It requires a **clear governance** structure, in which responsibility for change is openly understood and assumed; a **common understanding** of how the system functions, through broad access to information about the system's parts; and an open **performance focus** for system managers, one that has meaningful linkage to operational practices and system resourcing.

Timeliness means becoming faster, but in smart ways that preserve the values the justice system must protect, including respect for the rule of law. It requires

contemporary, **efficient case management** practice. It means giving **early assistance to citizens** to allow for informed choices. It means making **smart choices at the start** of criminal, civil, family and administrative matters to ensure we take the most efficient route to a sustainable solution.

Balance means applying resources based on evidence and on risk – whether this risk takes the form of broad patterns, or of specific threats. It entails choosing **integrated approaches** in accepting that the actions of one part of the system have effects on the other parts. It means choosing **programs based on what works**, applying research, project management and evaluation rigour to reforms. It requires re-imagining the justice system as one which delivers **citizen-focused services**, challenging traditional assumptions about process.

## REFORMING B.C.'S JUSTICE SYSTEM

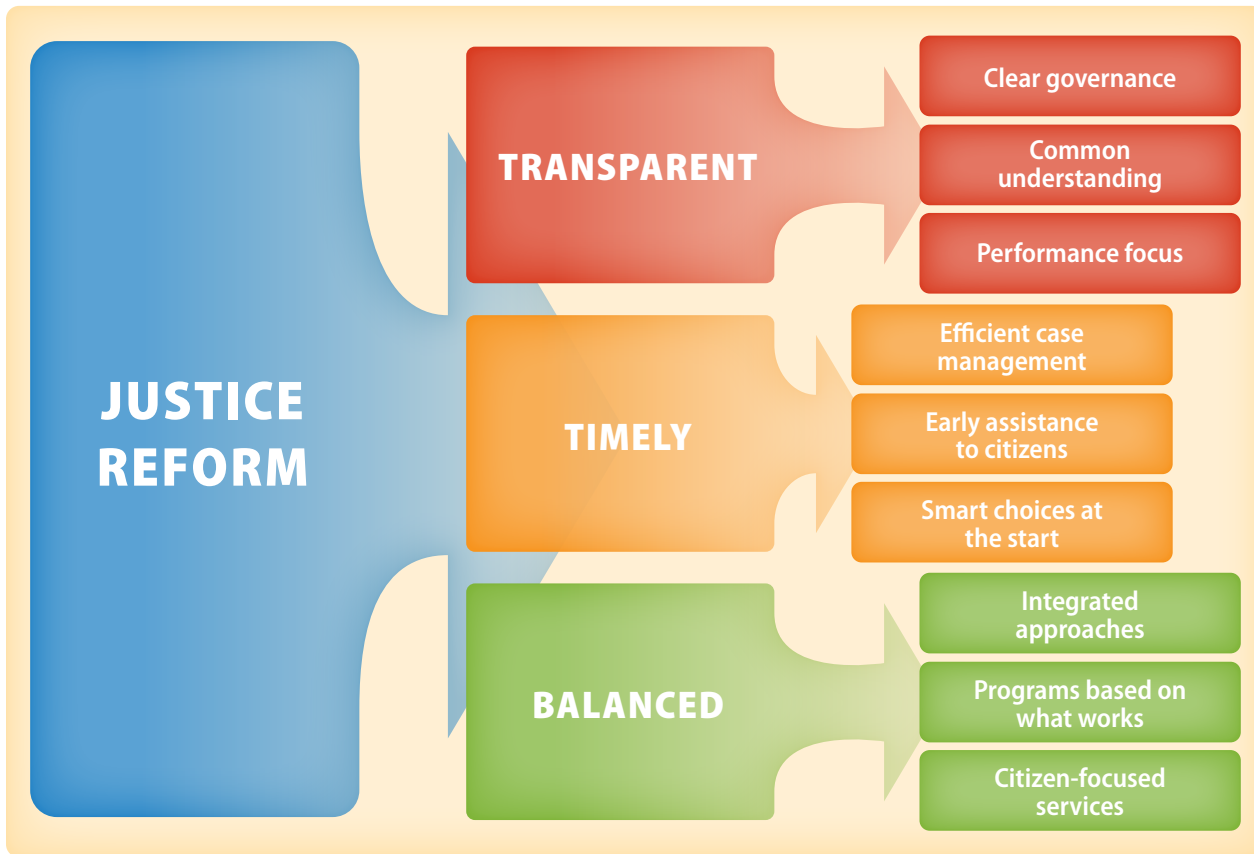


Figure 1: Elements of reform

Figure 1 above reflects the place of these separate types of innovation within Government's three broad reform goals. The *White Paper*, in turn, is organized in *Part One* and *Part Two* to address each of these areas in sequence.

## D. Transparent justice: creating clear governance for the system

Governance is central to the implementation and success of the reforms set out in this *White Paper*. The current justice system has several characteristics – strong and constitutionally entrenched traditions of independence among the participants, a number of distinct professions, and highly differentiated work environments – which, though unintended, can make accountability unclear and thus undermine well-intentioned efforts at reform.

### ACTION ITEM 1: JUSTICE AND PUBLIC SAFETY COUNCIL

A principal recommendation of the Cowper Report is the institutionalization of a combined management and executive structure within the Ministry of Justice. While the mandate of the Cowper Report was the examination of the criminal justice system, more strategic management and coordination across the entire justice system – incorporating not only criminal but civil, family and administrative justice – is strongly in the public interest.

Government commits to take the necessary measures to create a Justice and Public Safety Council

**The Council  
will coordinate  
decision-making**

within the Ministry of Justice that will be responsible for setting the strategic direction and vision for the justice

system, and for leading the change that is necessary to achieve that vision. The Council will be chaired by the Deputy Minister of Justice in that position's capacity as Chief Operating Officer for the Ministry of Justice. The membership of the Council will include members of the executive having responsibility for civil, family, administrative and criminal justice.

While the Council will be established by statute as the central location of executive decision making regarding the justice system *within Government*, the independence of key actors in the system precludes

them from being part of the Council. Significantly, this includes many external bodies which have critical roles to play in the justice system. The Council, through the Justice Summit and other engagements, will routinely create opportunity to bring these other participants (as well as key stakeholders such as local government) into the governance decisions for the system, and provide the means whereby the interests and views of these actors, the processes they administer, and the citizen interests they serve, are afforded appropriate place in dialogue over system performance and reform.

#### Secretariat

A Secretariat will support the Council with broad coordination of justice policy, and by facilitating collaboration across justice partners in reform initiatives aligned with the Justice and Public Safety Plan. On behalf of the Council, the Secretariat will oversee implementation of a common business intelligence framework for the system, including the acquisition, analysis and reporting of justice sector data; the delivery of system performance measures and system performance management; and systemic analysis, research and evaluation, including partnership with non-Governmental expertise where necessary. The Secretariat will ensure the effective functioning of the Council through administrative support.

## Project Management Office

As noted in Government's *Green Paper*, the need for a well-institutionalized culture of project management across the justice system is a priority. Government will establish a Project Management Office (PMO) within the Ministry of Justice, under the auspices of the Council and integrated with the Secretariat, to assist in the development of project management expertise as a complement to subject matter expertise. Projects will be designed and executed according to accepted project management standards, and will be constructed in such a way as to facilitate efficient, clear and financially responsible reforms of the justice system.

## Advisory Board

As recommended in the Cowper Report, the Council will receive guidance from one or more advisory boards whose members will primarily be external to government. The advisory boards will act as an expert advisory group providing a diverse range of perspectives. The structure of the advisory boards will be designed to allow specific guidance on distinct areas of the system, including criminal, civil, family and administrative justice, and matters of public safety.

## TRANSPARENT GOVERNANCE AND ACCOUNTABILITY

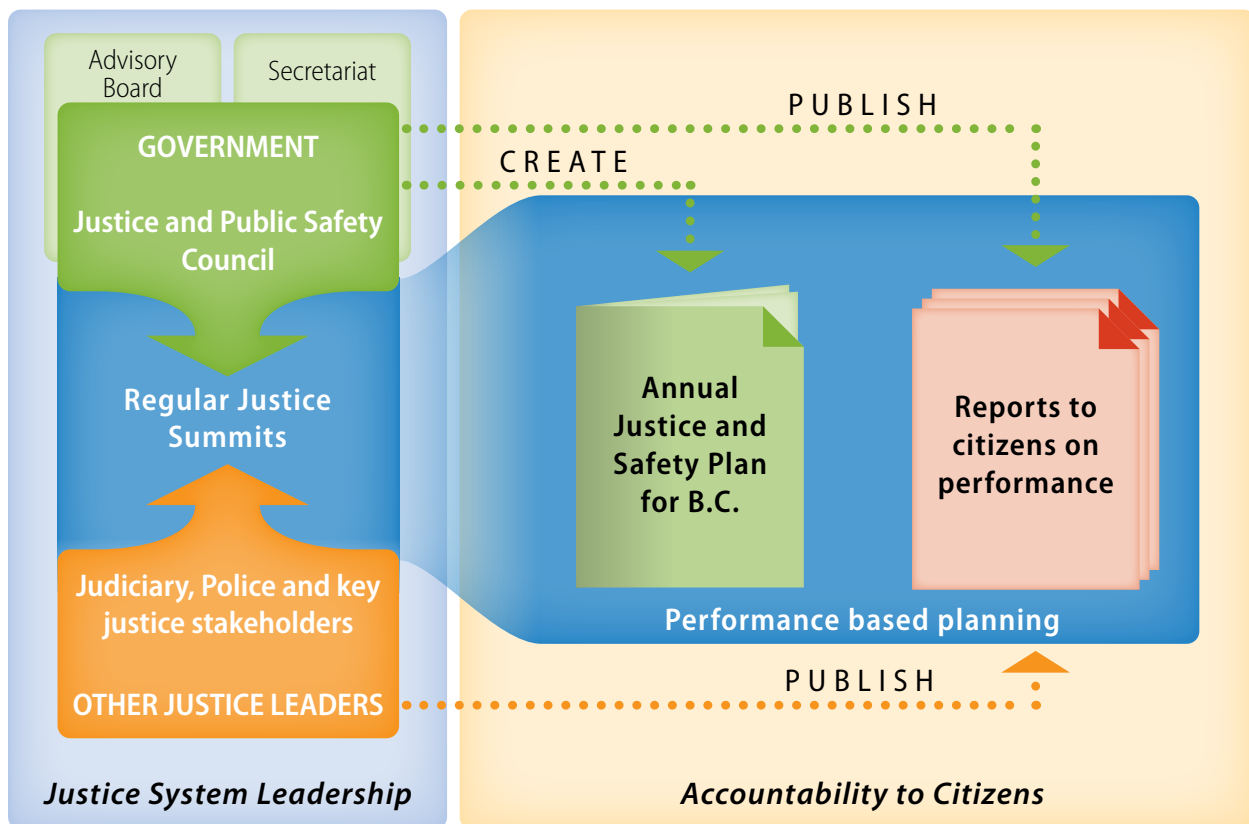


Figure 2: Reforming the governance and accountability of the justice system

## ACTION ITEM 2: AN ANNUAL JUSTICE AND PUBLIC SAFETY PLAN

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The Council will be responsible for developing an annual Justice and Public Safety Plan including an annual performance report on delivery of the plan. In the Plan, the Council will set goals for the justice system overseeing measurement and public

reporting on the performance of the system. The Plan will also link justice system reform initiatives to strategy, including adherence to appropriate standards of project management, evaluation and cost containment.

## ACTION ITEM 3: A REGULAR JUSTICE SUMMIT

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*The Plan will communicate a clear strategy*

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Justice Summit meeting. The Summit will include justice system leaders and other stakeholders by invitation to discuss progress and the direction of

Government will promote meaningful engagement between key justice system participants by holding a regular

Summit. The Summit will deliver recommendations for future action by the various justice system participants and the Justice Council. The inaugural Summit will be held in March 2013.

A key requirement for the success of the Summit will be the underpinning of a common and definitive suite of measures relating to justice system trends and performance.

## ACTION ITEM 4: GREATER TRANSPARENCY AND BETTER ADMINISTRATIVE TOOLS

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Government is committed to a number of positive steps that, without impinging on judicial or operational independence, will make the responsibility and accountability for managing the system and leading reform clearer to all involved, and empower those with the greatest ability to effect meaningful change.

Government will propose legislative changes to create greater transparency, managerial authority, and overall accountability within the justice system. These changes will include clarifying and enhancing the authority of the Chief Judge of the Provincial

Court regarding the administration of the Court, realignment of the regional organization structure of the Provincial Court to support more effective and efficient administration, and enabling the Supreme Court to reassign judges to areas where there is greatest demand.

These changes would enable setting the appropriate judicial complement of Provincial Court judges to be established in a transparent manner, and revisited as necessary. The changes will also enable publication of performance measures.

## E. Transparent justice: creating common understanding

Information has a vital role in the justice system and is central to issues of transparency and accountability (see Figure 3, below). Three areas of reform are required in the near future. We must ensure that the system manages and shares information efficiently, in ways that allow for timely decisions and in ways that serve citizens directly, through transformation of the current information environment. We must also build the business intelligence capacity to see across the justice system's varied data holdings, analyze the system's strengths and weaknesses and make informed decisions about reform. Finally, we must ensure that the key aspects of the system we wish to measure are actually measurable, by gathering the data required to make judgements about system performance.

### ACTION ITEM 5: TRANSFORMATION OF JUSTICE INFORMATION SYSTEMS

Achieving the timely delivery of justice services to citizens, and the most efficient flow of information through the system, means a transformation of information management and accompanying technology supports serving civil, family, administrative and criminal processes. Systems approaches are required. An excellent example of such an approach is current work on electronic disclosure that brings corrections, prosecution, and courts information strategies in alignment in the secure sharing of criminal case

*Information to meet citizens' needs, create knowledge, and achieve efficiency*

information management and accompanying technology supports serving civil, family, administrative and

disclosure. Further work in this area will continue to improve transmission of evidence from police to Crown counsel to defence counsel and on to the accused, thus enhancing privacy through role-based identification and authentication. But there is much more work to do in improving timely, transparent, citizen-centered service.

Changes reflecting the next generation of citizens' access to justice require careful planning, innovation and consultation. Government is committed to active consultation over the coming year with justice system participants and citizens. By March 31, 2014, Government will table a formal Technology Strategy for Justice Information.

### ACTION ITEM 6: A JUSTICE BUSINESS INTELLIGENCE SYSTEM

A key to using information technology to deliver transparent, timely and balanced justice is management's capacity to see and understand how the system operates. This capacity is known as **business intelligence**: the analysis of system data to aid in management, operations and strategy. The Cowper Report encouraged Government to develop a sound business intelligence system as a

*Timely data on performance across the entire B.C. justice system*

Report encouraged Government to develop a sound business intelligence system as a

way of providing timely, meaningful data on system performance. Business intelligence will also form a key element of the Technology Strategy. There have been significant early advances made in business intelligence to date, including work within corrections, the court system, and police data. However, the business intelligence capacity of the justice system is still at an early stage and cannot yet be relied upon to inform strategic decision-making, or to deliver empirical support for management choices. It is also time to bring other stakeholders and justice

participants outside government, such as municipalities, into discussions of how best to build this important management tool and share its benefits.

While the full development of justice system business intelligence will take time, important milestones will be reached in the next year. Immediate work has commenced to improve understanding of potential efficiencies in the process of charge assessment

between police and Crown counsel. Another important building block, a business intelligence view of the overall criminal caseload in B.C., will shortly commence development. Dialogue over bridging and sharing information across the system will be initiated by Government with the goal of a common BC Action Plan on Justice Business Intelligence by March 31, 2014, as a component of the broader Transformation Strategy.

## THE ROLE OF INFORMATION IN JUSTICE SYSTEM ACCOUNTABILITY

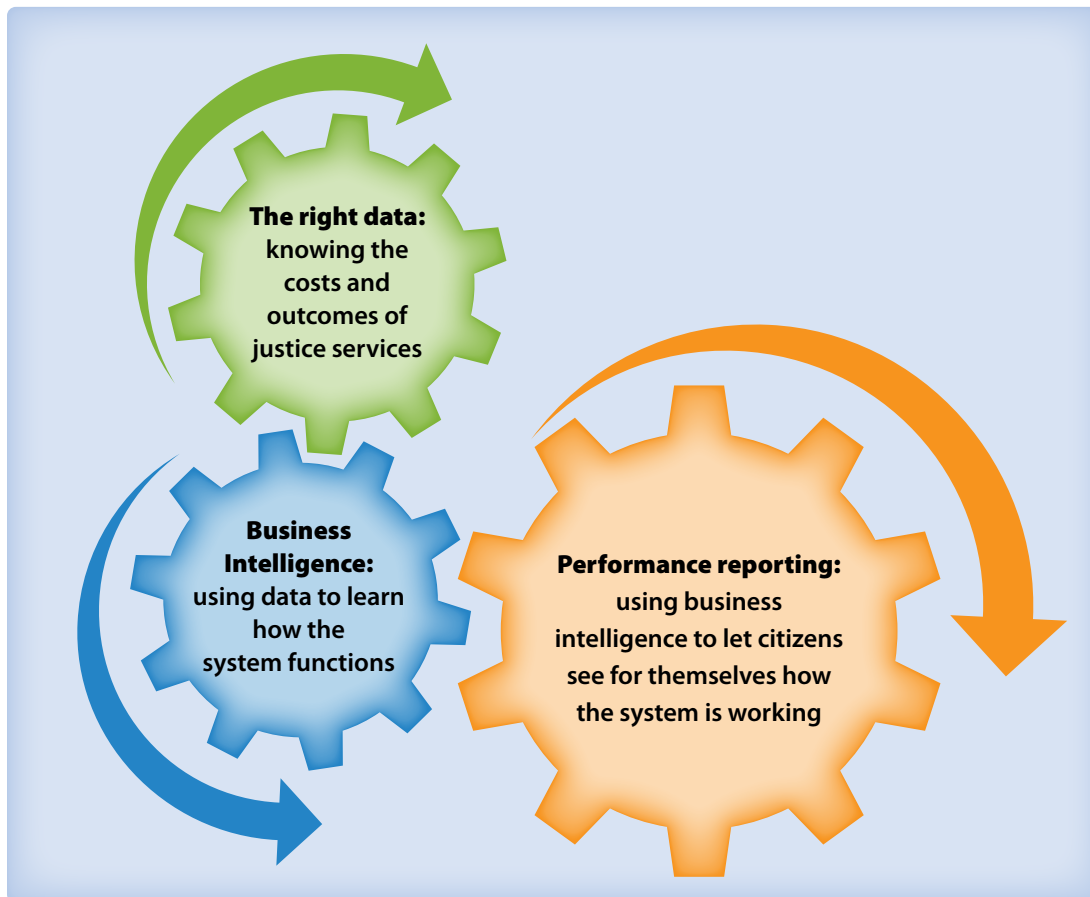


Figure 3: How data supports justice system accountability to citizens



## **ACTION ITEM 7: IMPROVED ABILITY TO TRACK AND CONTROL SYSTEM COSTS**

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The justice system lacks key tools essential for resource planning, for effective communication with funding bodies, for understanding the resource impacts of system reforms, and for understanding the financial implications of system trends. System managers also need to be able to understand the effect that reform in one area of the system has on other areas. Without this capacity, effective stewardship of justice resources is difficult or impossible.

Government is committed to determining the key justice cost drivers, to advance an objective dialogue about system funding and allow realistic projections. An early start in building an overall resource picture will come in Government's commitment to develop in 2013-14 a sustainable methodology, in cooperation with the judiciary, to determine the right judicial

complement for the Provincial Court in British Columbia. This method will be transparent, linked to measurable system demand, and enable appropriate adjustments in future.

Beyond this step, Government commits to develop, in accordance with existing industry practice and standards in the public and private sectors, appropriate means of measuring the justice resources expended in support of specific operational activities. Government will also work with other justice system participants in developing similar measures across the system. Early work in this area will begin immediately with respect to human resources expended on large cases, and will include the development of methods for tracking relevant personnel costs on such cases by March 31, 2014.

## F. Transparent justice: a performance focus

Government, in consultation with justice system participants, will develop a cohesive, responsive framework for justice system performance management. This framework will aid Government in determining the health of the justice system, guiding future resource and policy decisions, and communicating justice system performance to the citizens of British Columbia.

### ACTION ITEM 8: PUBLIC, EVIDENCE-BASED PERFORMANCE MANAGEMENT

Four conditions must be met in implementing a performance management framework for the

#### *Publish performance measures that have meaning for citizens*

justice system. The performance framework should identify a limited number of specific performance measures with established targets which should make sense to the citizens on whose behalf the justice system exists. They should represent in clear terms what it is that the system is intended to deliver. These targets must be measurable. In some cases, important aspects of system performance are not tracked in ways that make trend analysis possible or comparisons meaningful. Where new data is required, it must be gathered. Outcomes must be monitored and reported to all levels of government, and to the public, in a clear manner. Finally, performance results must be used by justice leaders in making current and future strategic decisions and resource deployments.

The framework will focus on a small set of key system measures that are relevant to citizens regarding how the system functions. Government supports the Cowper Report's identification of the time between the reporting of a criminal incident to the police and the date of ultimate disposition of the case as a highly relevant performance measure. Similarly, in the administrative, civil and family sectors, values such as timeliness, citizen satisfaction with the fairness of justice processes and accessibility, represent highly relevant performance measures from the perspective of citizens. The system must also be able to demonstrate fiscal accountability through a

transparent relationship between investment and return, and to show through measurement how that accountability is maintained.

At the first Justice Summit in March 2013, Government will introduce proposed measures to be used in tracking the development of a transparent, timely and balanced justice system. These measures will address the performance of the justice system in the criminal, civil, family and administrative justice settings from a citizen perspective, as well as tracking the high-level resource efficiency of the system. A report on these measures will form a key part of the agenda of the inaugural Summit. Subsequently finalized, the measures will be implemented as a regular report from the 2013-14 fiscal year onward. Additional measures may be added through consultation and as new data sources come on stream.

#### **Public performance measures to drive executive decision-making**

The Cowper Report underscores the role played by public performance reporting in promoting accountable system management. As part of the work of the Justice and Public Safety Council, the creation of an annual Justice and Public Safety Plan (Plan) and its consideration at Justice Summit events represents a major opportunity to consider system performance measures. Accordingly, the measures to be developed as described above will be presented and updated regularly, to stakeholders and the public, by the Council and via its Plan. The performance management framework and individual measures will be maintained, and their calculation made transparent, by the Secretariat in fulfillment of the Council's mandate.

The Justice and Public Safety Plan will reflect the experience of the prior 12 months, outline new directions for the year to come, and provide a direct report of progress against specified measures and targets.

In addition to reporting through the Justice and Public Safety Plan, Government is committed to further development and expansion of the *JusticeBC Data Dashboard*. Launched in 2012 and already containing extensive court case and corrections data, the Dashboard will be expanded in the near future with inclusion of data on other significant system activities.

### Aligning research investments in support of performance and reform

#### *Use research to base justice programs on what works for citizens*

Government is committed over the long term to a justice system that builds on insights from rigorous

academic and applied research. Justice policy should wherever possible be evidence-based, and measures of system performance should be built on the basis of solid and defensible methods.

Three current investments in knowledge infrastructure place B.C. on a strong footing to ensure the coming reforms are well-grounded in fact and experience. Government, through work

conducted by the Ministries of Justice, Health and Social Development, has developed the means to measure high-level ways in which resource usage is connected. We know behaviour of offenders can be linked heavily, for instance, to substance dependency, which may be treatable. Because of links like this, knowing how public dollars are spent to address health and crime outcomes is critical. Work has also progressed in partnership with the academic community on effective computer modelling of the justice system, allowing planners to assess some of the long range impacts of proposed reforms before real-world implementation. Finally, collaborative criminology research into effective crime reduction techniques has been pioneered in Canada by B.C. police forces and local universities and represents a significant asset in the development of an effective, results-oriented and province-wide crime reduction strategy, as recommended in the Cowper Report.

On the strength of these assets, B.C. is now a national leader in well-integrated academic support of justice operations. On establishment, the Justice and Public Safety Council – with its mandate to coordinate justice policy, research and evaluation and to plan for the system as a whole – will seek actively to bolster system-level reform efforts by leveraging this experience and these partnerships.

## G. Timely justice: efficient case management and backlog reduction

The changes discussed in the previous three sections of this *White Paper*, building a transparent governance structure and information environment, are foundational for much of the innovation required of the system in the next few years. But there are also steps which Government can and must take immediately using the resources and tools that are available right now. They may be brought to bear on one of the biggest issue the justice system faces: cases, when set for trial, proceed too slowly. We now have a large backlog of cases that must be dealt with, adding further pressure to the scheduling of cases. Coordination of information between justice partner agencies, and the ways in which files are managed, need improvement to speed up routine processes. Cases which might have benefitted from early resolution nevertheless continue to wait in the queue.

### ACTION ITEM 9: COLLABORATING ON EFFICIENT CASE MANAGEMENT

The delivery of timely resolution of criminal court cases requires immediate attention to the existing backlog of cases. It also requires more lasting innovation in case management and scheduling systems to reduce the likelihood of development of case backlogs in future.

#### Immediate action to reduce the case backlog

Case ‘backlog’ refers to the volume of cases set for trial that remain unresolved in the court system. The case backlog in the Provincial Court remains unacceptably high. The number of criminal cases that are set for trial and have been open for 14 months or longer currently exceeds 2500. In addition to the resulting delay in proceedings and access to justice, the backlog’s existence places indirect and unhelpful pressure on other aspects of the system. Reduction of the backlog is also an important precondition for implementation of the Provincial Court’s forthcoming initiative on modernized scheduling (as discussed below).

#### *Focused reduction of court backlogs*

Working with the Court, Government intends to take immediate steps to reduce the existing backlog. The alternatives in achieving this goal include increased use of mediation to resolve child protection cases, increased use of technology to provide for a province-wide virtual court for dispositions, review of existing prosecution files where the case is at risk of a stay of proceedings related to delay, and creation of a pilot disposition court in a location with significant backlog. This work will begin immediately with respect to cases that have been open for 14 months or longer. Government will continue to work with the Court to reduce the backlog further by March 2014.

In addition, Government will work co-operatively with the Provincial Court and with the Legal Services Society in assessing the potential impact of expanded duty counsel services in criminal cases by piloting an early resolution initiative in the next fiscal year that is focused on new cases. The mandate of duty counsel includes provision of early advice and representation to individuals at initial appearances. A piloted expansion of the service may be directed at providing continuity of duty counsel to those cases where it appears an early resolution will result from focusing resources at the initial stage.

## Supporting a modern system of court scheduling

The Office of the Chief Judge of the Provincial Court has taken leadership on effecting reforms to Provincial Court scheduling by 2013-14, reforms which the Cowper Report welcomes and which Government will fully support.

Government is committed to support and engage collaboratively with the Provincial Court in the redesign of the trial scheduling system and in the

**Court scheduling will be modernized** move towards fully electronic files. Government will work with the Provincial Court to ensure the most efficient and effective utilization of resources and facilities to create consistent and efficient workflow, including development of the Electronic Court Project (E-Court) to use advances in technology to improve access to justice for participants in the court system. This will assist in ensuring cost-effective and efficient court processes.

## Developing consistent Crown file ownership

Creating real efficiencies with the court process will allow citizens greater access to timely justice. As many areas of the system are dependent on each other, improvements in scheduling of criminal cases will be complemented by ensuring that there is consistency of management of prosecution cases. Government endorses the Ministry of Justice's commitment to explore and develop case-management models, where feasible, that enhance Crown counsel 'ownership' of prosecution files. This will reduce the number of prosecutors involved in each file. Information will also be gathered about decision points and impacts along the life of a prosecution file for business analysis, costing and planning purposes. These changes will be developed immediately and implemented fully in the 2013-14 fiscal year. In the longer term, Government will address similar strategies in the civil and family justice systems.

## ACTION ITEM 10: GREATER EFFICIENCY IN ROUTINE PRACTICES

Significant efficiencies are available through the improvement of the many frequently repeated processes in courthouses, Crown offices, correctional centres and other justice locations. Employee-led grassroots re-engineering of work practices (rather than top-down management approaches) through *Lean* process improvement methodology has significant potential.

### Improving the flow of disclosure

The work of prosecutors, defence and the courts is often delayed by inefficient transfer of case information between parties, particularly to defendants who may need to review the material with counsel in a corrections facility. The challenge is to speed the flow of key information while ensuring the continued protection of rights and privacy. Government is working to improve the way this information flows, securely, from prosecutors to accused persons in corrections centres and their defence counsel. This change is expected to address significant delays in

pre-trial information management. This system is to be implemented by March 2014.

### Streamlining admission to and discharge from corrections

Each year, provincial correctional centres and community corrections offices process over 125,000 admissions and discharges. The workflow involved with this is not restricted to the corrections environment – these clients impact other justice system partners and to address these demands a collaborative approach is necessary. The sheer volume of admissions and discharges across the justice system necessitates a process that is as efficient yet accurate as possible. The workload pressures faced by the justice system require all possible mitigation strategies be pursued so that resources can be redirected to respond to these pressures. By March 2013 Corrections Branch personnel, applying *Lean* methodology, will report back on admission and

discharge efficiencies that may be implemented in 2013-14 and beyond.

### **Improving workflow practices in courthouses**

The need for consistent work practices between court locations has been identified by staff and members of the public. Increased service continuity

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***Everyday work will be simplified***

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to the public should improve confidence in the justice system and in the ability for staff to be

effective in their roles. In addition to addressing these concerns, there are improvements in timeliness and quality of services that can be identified by employee-led identification of efficiencies across a broad range of functions, and by implementing consistent operational approaches from location to location. Government is committed to a systematic review of workflow practices and employee-led improvements within Court Services. The project will identify an action plan for improvements in service delivery by March 2013 and will include the use of *Lean* methodologies.

## H. Conclusion

This document, *Part One* of the *White Paper on Justice Reform*, lays out 10 separate steps to be implemented by Government. These steps are part of the overall transition to a transparent, timely and balanced system of justice. The majority of these initiatives are directed towards creating a solid foundation for change – in particular, creating a transparent system of justice in which the accountability for performance and reform is clear, in which the right venues exist for open exchange of information and ideas, and in which information about the system is shared in a common framework for the good of the whole and on behalf of citizens. As shown in Figure 4 below, this creation of transparent governance is the basic foundation of reform, and sets the stage for innovation to improve timeliness and balance. The remaining steps outlined in *Part One* include immediate steps which can be taken to improve the efficiency of case management, scheduling, and information flows in the justice system.

### IMMEDIATE STEPS, LONG-TERM GOALS AND KEY MILESTONES

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For the initiatives noted in this document, Government has set out the following milestones.

#### By March 31, 2013

- Introduce legislation to create the Justice and Public Safety Council and to support court reform and data transparency.
- Create the Advisory Board, the Secretariat, and a Project Management Office.
- Host an inaugural Justice Summit including leadership from across the justice system.
- Consult on and develop a performance management framework for the justice system
- Conduct intensive work to reduce the case backlog in Provincial Court.
- Identify efficiencies in court services workflow and corrections admission and discharge.
- Improvements to information flow from Crown to defendants.
- Efficiencies in court services and corrections admission/discharge workflow.
- Transformation strategy for justice information, with a B.C. plan for business intelligence.
- A methodology for determining the judicial complement for the Provincial Court.
- Establish and implement a method of costing resources in large criminal cases.
- Implement a model of Crown file ownership in criminal cases.
- Further reductions in the backlog of cases in the Provincial Court.

#### By March 31, 2014

- Publish an inaugural Justice and Public Safety Plan.
- Hold two further Justice Summits timed to further the system's planning process.
- Implement the performance management framework developed in 2012-13.
- Support implementation of a new Provincial Court scheduling system.

#### 2015 and beyond

- Full elaboration of a model for costing justice system processes.
- Transformation of IT systems, and business intelligence implementation.

## TOWARDS A REFORMED JUSTICE SYSTEM

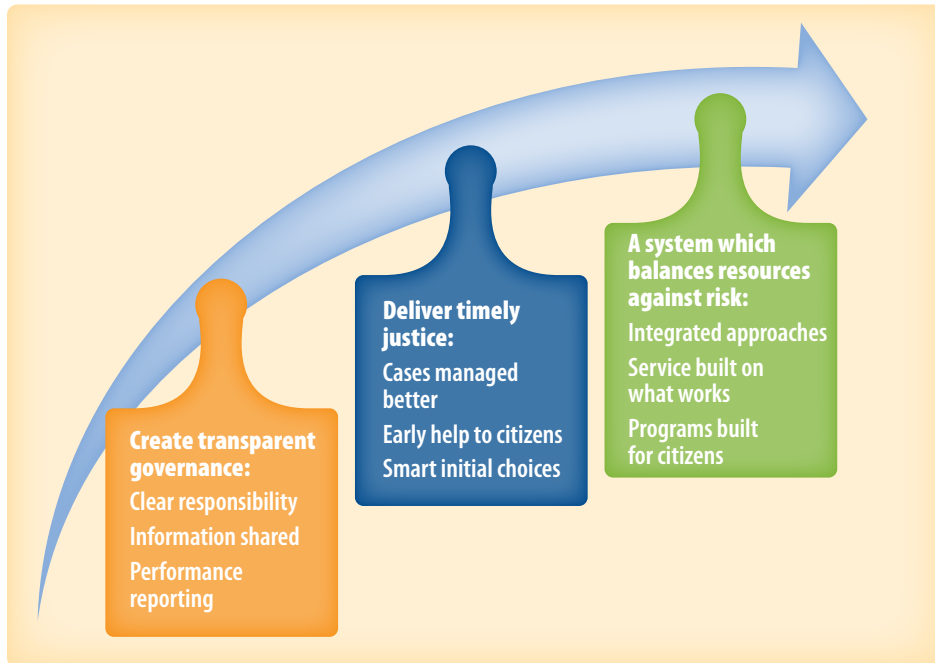


Figure 4: The sequence of justice reform

## LOOKING AHEAD: WHITE PAPER ON JUSTICE REFORM: PART TWO

Much can be done immediately, but there is also more to do. Two key pieces of consultation and reporting – the Missing Women Commission of Inquiry, and the public inputs leading to the BC Policing Plan – will shortly be provided to Government and released to the public.

In the new year, Government will release *Part Two* of the *White Paper on Justice Reform*. Part Two will detail how Government will provide early assistance to citizens requiring assistance from the

justice system; and facilitate sensible early choices in promoting access to justice. It will also address steps required to achieve a balanced system of justice, in which Government will create integrated problem-solving structures for justice operations; cement evidence-based approaches as the basis of policy, reform, and evaluation in the justice system; and provide increased alternatives to traditional justice processes, where these alternatives are in the interests of citizens and where acceptable standards of justice integrity are maintained.

## PROVIDING FEEDBACK ON THE WHITE PAPER ON JUSTICE REFORM

Comments about the *White Paper* are encouraged by December 15, 2012 and may be emailed to [JusticeReform@gov.bc.ca](mailto:JusticeReform@gov.bc.ca). Written communication may be sent to:

Ministry of Justice  
Province of British Columbia  
1001 Douglas Street  
Victoria, BC V8W 3V2  
Attention: Justice Reform

*The ministry does not give legal advice or represent individuals or groups outside government, and cannot answer questions about or offer comments on matters before the courts.*



# Appendix 1: Concordance with Recommendations

*Part One* of the *White Paper on Justice Reform* highlights 10 Action Items that Government will take immediate steps to implement.

As noted earlier in Section B, the White Paper has been informed by input and consultation from within and outside of the justice system. As part of the Justice Reform Initiative, Government commissioned three reports between February and August 2012: the Cowper Report, the McCuaig Report, and the Legal Services Society Report. The tables below summarize how Government’s action items presented to date respond to recommendations made in these reports.

These action items are not exhaustive. Following receipt of the report of the Missing Women Commission of Inquiry and completion of the BC Policing Plan, in Part Two of the *White Paper*, Government will address further recommendations made in the Justice Reform Initiative and other reports.

## TRANSPARENT JUSTICE: CREATING CLEAR GOVERNANCE FOR THE SYSTEM

Government Action Items	External Recommendations	Key Strategies
<b>1. Justice and Public Safety Council</b>  <b>Secretariat</b>  <b>Project Management Office</b>  <b>Advisory Board</b>	Cowper Report Recommendation 2.1 recommended a Criminal Justice and Public Safety Council with responsibility for overall system management, a Secretariat with policy and project management expertise, and an Advisory Board to provide independent, expert representation. The LSS Report (p.14) also recommended a dedicated Reform Secretariat to provide cross-sectoral leadership and foster culture change in the justice system.	While the mandate of the Cowper Report focused on the criminal justice system, Government will implement a governance structure that includes strategic management and coordination across the entire justice system, including criminal, family, civil and administrative justice.
<b>2. An annual Justice and Public Safety Plan</b>	Cowper Report Recommendation 2.1 recommended that the Council prepare a Criminal Justice and Public Safety Plan.	
<b>3. A regular Justice Summit</b>	Cowper Report Recommendation 2.1 recommended a Justice Summit for justice system leaders to consider progress on reform and new reform initiatives.	
<b>4. Greater transparency and better administrative tools</b>	Cowper Report Recommendation 2.7 recommended amendments to the Provincial Court Act, including clarification of the role and powers of the Chief Judge, a specific judicial complement, recognition of and clarification of the Executive Committee and the Management Committee of the Provincial Court, and the ability for the Attorney General to refer questions concerning judicial administration to the Court.	In consideration of the Cowper Report recommendations and in consultation with the judiciary and other justice system participants, Government will propose legislative changes to create transparency, managerial authority, and accountability within the system.

## TRANSPARENT JUSTICE: CREATING COMMON UNDERSTANDING

Government Action Items	External Recommendations	Key Strategies
5. Transformation of justice information systems	Cowper Report Recommendation 2.2 recommended that the Secretariat have responsibility for the acquisition, analysis, and reporting of Criminal Justice data.	Led by the Council, Government will table a formal Technology Strategy for Justice Information by March 31, 2014.
6. A justice business intelligence system	Cowper Report Recommendation 2.2 recommended the distribution of business intelligence information to local professionals and staff to encourage discussion and debate.	Government will improve the capacity to see and understand how the system operates by developing a common Action Plan on Justice Business Intelligence by March 31, 2014.
7. Improved ability to track and control system costs	Cowper Report Recommendation 2.7 recommended amendments to the Provincial Court Act to provide for a specific judicial complement.  McCuaig Report Recommendation 11 recommended gathering workload data to assist in workload allocation.	Government is committed to determining the key cost drivers across the justice system in order to permit dialogue concerning system funding and allow realistic cost projections. Government commits to working with the judiciary to determine the appropriate judicial complement for the Provincial Court.

## TRANSPARENT JUSTICE: A PERFORMANCE FOCUS

Government Action Items	External Recommendations	Key Strategies
8. Public, evidence-based performance management  Public performance measures to drive executive decision-making  Aligning research investments in support of performance and reform	Cowper Report Recommendation 2.1 recommended that the Criminal Justice and Public Safety Plan include system-wide and sub-system performance measures and a measure for timeliness based on the interval from the reporting of a complaint to its resolution. It also recommended public reporting on criminal justice data and progress reports.  Cowper Report Recommendation 2.2 recommended that the Secretariat establish methods to systemically gather data for annual performance reporting.	By March 2013, Government will identify a specific set of justice system performance measures that are relevant to citizens.  Government will report publically on performance measures through the Justice and Public Safety Plan and expand the JusticeBC Data Dashboard.  Government commits to a justice system that builds on evidence from rigorous academic and applied research.

## TIMELY JUSTICE: EFFICIENT CASE MANAGEMENT AND BACKLOG REDUCTION

Government Action Items	External Recommendations	Key Strategies
<p><b>9. Collaborating on efficient case management</b></p> <p><b>Immediate action to reduce case backlog</b></p> <p><b>Supporting a modern system of court scheduling</b></p> <p><b>Developing consistent Crown file ownership</b></p>	<p>Cowper Report Recommendation 2.5 recommended a project to reduce current case backlog, and Recommendation 2.11 recommended the appointment of an additional five judges to the Provincial Court to address this issue.</p> <p>LSS Report (p.25), Cowper Report Recommendation 2.4, and McCuaig Recommendation 10 recommended expanded criminal duty counsel.</p> <p>LSS Report (p.27) and Cowper Report Recommendation 2.4 recommended changes to the legal aid tariff to facilitate legal assistance in a disposition court.</p> <p>Cowper Report Recommendation 2.5 recommended that the Council support the implementation of a Provincial Court process and scheduling project.</p> <p>Cowper Report Recommendation 2.4 and McCuaig Recommendation 6 recommended that the prosecution service use Crown file ownership where appropriate.</p>	<p>Government will implement a strategy to reduce backlog, which may include increased use of mediation to resolve child protection cases, a province-wide virtual court for dispositions, review of existing prosecution files, and a pilot disposition court.</p> <p>Government is assessing the impact of expanded criminal duty counsel services and an early resolution pilot project.</p> <p>Government is committed to supporting the Provincial Court in reforms to court scheduling.</p> <p>The Ministry of Justice will explore and develop case-management models where feasible that enhance Crown counsel ownership of prosecution files.</p>
<p><b>10. Greater efficiency in routine practices</b></p> <p><b>Improving the flow of disclosure</b></p> <p><b>Streamlining admission to and discharge from corrections</b></p> <p><b>Improving workflow practices in courthouses</b></p>	<p>Cowper Report Recommendation 2.8 recommended that Criminal Justice Branch reform initiatives should be implemented, which included new technology and information-flow projects to improve the flow of disclosure.</p>	<p>Government will implement a system by March 2014 that improves the way information flows securely from prosecutors to accused.</p> <p>By March 2013, Corrections Branch personnel, applying Lean methodology, will report back on admission and discharge efficiencies that may be implemented.</p> <p>By March 2013, Government will report on a systemic review of workflow practices to improve efficiency and service delivery within Court Services.</p>

