

# White Paper on Justice Reform

PART TWO:

## A Timely, Balanced Justice System

*February 2013*



Ministry of  
Justice



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# Minister's Message



I am pleased to present the *White Paper on Justice Reform, Part Two: A Timely and Balanced Justice System*.

This is the second part of our action plan for creating a transparent, timely, and balanced justice system for British Columbians. *Part One* focused on establishing a

new model for transparent governance of the system and on building business intelligence capacity to create a system that is capable of reform and renewal.

*Part Two* builds on this foundation and outlines a plan for reforming justice services to the public so that our system is timely, balanced, and more responsive to the needs of citizens.

This plan reflects a wide-range of advice, consultation, and recommendations from participants in our justice system. Last year, government asked Geoffrey Cowper, Q.C. to conduct a review of the criminal justice system and provide advice on how it could be reformed. Government also asked Gary McCuaig, Q.C. to review the charge assessment process used by the Criminal Justice Branch to determine which cases referred by police are prosecuted. As well, I sought the advice of the Legal Services Society on legal aid reform that could contribute to broad justice system reform. At the same time, government initiated an extensive stakeholder consultation process in order to develop a strategic plan for public safety and policing in B.C. This plan is being released for further public consultation at the same time as *White Paper, Part Two*.

In December, government released the report from Commissioner Wally Oppal on the Missing Women

Commission of Inquiry. This report provided a comprehensive review of the circumstances surrounding the investigation of missing and murdered women from Vancouver's Downtown Eastside and made extensive recommendations for improvement. Government has had the opportunity to do an initial assessment of the report, and *White Paper, Part Two* outlines our early response. A thorough response to all of the report's recommendations will take time and will be ongoing over the coming months and years, but we are committed to working with communities, police, and other levels of government to implement change.

*Part Two* presents innovative solutions that allow us to begin work immediately on meaningful changes to the system within the resources we currently have available to us. It also presents intended reforms that we know are needed in our system if we are to achieve our visionary goals. We are committed to implementing all of the reforms we have put forward in this plan, but some will take longer than others and will be fully implemented as additional funding becomes available.

We have already made progress on the commitments that we made in *Part One*, and I invite you to take a look at the chart at the end of the document where this progress is outlined. We plan to introduce legislation this spring to formally establish the Justice and Public Safety Council to provide governance and leadership for our system, and government is currently working with justice system participants to plan the first annual Justice Summit. I look forward to ongoing engagement and collaboration with all justice system participants as we move forward to implement the commitments we have made in both *Part One* and *Part Two* of the *White Paper*.

A handwritten signature in black ink that reads "Shirley Bond".

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Honourable Shirley Bond  
Minister of Justice and Attorney General

# Executive Summary

Our justice system must be modernized and reformed in a way that meets the needs of British Columbians. In October 2012, government released *White Paper, Part One: A Modern, Transparent Justice System*, which presented an overall vision for justice reform and outlined a plan to create a transparent justice system that is capable of delivering timely, well-balanced services. *White Paper, Part Two: A Timely and Balanced Justice System* expands this reform plan to present a number of short-term and long-term steps that will provide innovative, front-line operations and services to the public in all areas of the law. These steps will put our reform goals into action and make our vision for a timely and balanced system into a reality. *Part Two* contains a combination of concrete action items that will begin immediately as well as visionary ideas for change that will be implemented over the long-term as funding becomes available.

*Part Two* identifies five key themes that form the basis of reform in all areas of the justice system, and within these themes, it presents seven action items to achieve our goals. Our system must focus on *early assistance to citizens* to ensure people receive the information, advice, and guidance they need to make early, informed decisions about their circumstances. In family law, government plans to implement a new Justice Access Centre in Victoria in 2013 and, in the future, expand services to rural and remote communities using technology. These centres involve collaboration with other justice agencies and provide services such as early assessment, information, legal advice, and referrals.

The justice system must deliver *citizen-focused services*. For example, in civil and administrative law, government will shift disputes from the court system and deliver services in ways that meet the needs of the people that use the system. Government is currently working to establish the Civil Resolution Tribunal, which will provide an alternative to court for people seeking to resolve small claims and most strata property disputes. The tribunal will encourage people to use a broad range of dispute resolution

tools, including email, phone, and video, to resolve disputes as early and efficiently as possible.

Our system must focus on *smart choices at the start* to ensure the most direct route is taken to reach solutions at the outset. It is well-known that the best way to reduce re-offending is to assess the risk to re-offend and match interventions accordingly. Government will act to share evidence-based information about risk assessment practices with police, Crown counsel, defence counsel, the judiciary, and other key justice system participants. This initiative will focus on making sure that offenders receive the right intervention at the right time with the goal of reducing behaviour which leads them to re-offend.

The justice system must value *integrated and collaborative approaches* to the way it serves citizens. One of the conclusions of the Missing Women Commission of Inquiry Report is that fragmentation of policing and ineffective coordination between police forces and agencies contributed to the failure of missing women investigations. Government will engage in a process with stakeholders to consider models for delivery of police services, ranging from further integration to the regional delivery of services, while retaining local community-focused policing.

As justice programs are continued and new reform projects undertaken, they must be implemented *based on what works* by using evidence-based practices. Government will establish and implement sustainable evaluation standards that are applicable to all justice reform projects, undertake data analysis to better understand system trends, and apply new approaches if research demonstrates the success of these programs and processes.

Moving forward, government will work to implement the commitments made in *White Paper, Part One* and *Part Two* and will engage with justice system participants to ensure ongoing coordination and collaboration on reform initiatives. Government will also continue efforts to keep the public informed about the progress we make on our goals for a more transparent, timely, and balanced justice system.

# A. Reforming British Columbia's justice system

A well-functioning and accessible justice system is an essential component of all democratic societies. It is the responsibility of those who lead and manage the justice system to make changes that focus on modernizing it and meeting the needs of the people who use it. It is imperative that British Columbians have confidence that our justice system works to keep families and communities safe, is accessible and fair, and is managed within available public resources.

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## *Balance provides access for citizens and timely outcomes*

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In February 2012, government launched the *Justice Reform Initiative* to hear from people who work in the justice system and members of the public about the types of reforms they believe our justice system needs. The two parts of the *White Paper on Justice Reform* outline a road map for achieving transformation. In October 2012, *Part One: A Modern, Transparent Justice System* outlined the overall vision for reform and immediate steps to improve governance, use business intelligence, and enhance planning and decision making to ensure a well-functioning, transparent justice system. Now, *Part Two: A Timely and Balanced Justice System* expands government's reform plan and presents steps that will be taken, both immediately and over the long term, to make sure that the justice system is both timely and balanced.

Government is committed to implementing its vision for reform and making the justice system more responsive to the needs of citizens. We plan to implement reform initiatives as quickly and broadly as possible within the resources available to us. *White Paper, Part Two* contains a combination of concrete action items that will begin immediately as well as visionary ideas for change that will be initiated in future years.

## REAFFIRMING THE VISION OF A TRANSPARENT, TIMELY, AND BALANCED SYSTEM

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As described in *White Paper, Part One*, our system must be strengthened in three ways to become *transparent*, *timely*, and *balanced*.

A *transparent* justice system is one where all participants have a common understanding of system trends, where information that shows how the system is operating is shared broadly, and where those who manage and lead the system are ultimately accountable to the public for system performance. We must adopt modern business practices and technology to make sure justice resources are allocated and managed efficiently and effectively with proportionate and timely outcomes. By having a transparent system, we will be better able to provide the services and supports that the citizens of our province expect.

A *timely* justice system gives citizens the assurance that it is able to respond to and resolve problems

within a reasonable amount of time. Delay is a real and pressing problem that threatens public confidence in the justice system. We must reform processes to reduce delays. While respecting constitutional roles, we need to adopt a common set of measures and goals that will reduce the time to resolution in all types of cases and hold system leaders accountable for taking action to achieve these goals. Putting in place a system-wide approach to scheduling, ensuring modern management practices are used, and focusing on results-oriented reforms will allow us to provide more timely justice to British Columbians.

A *balanced* justice system is one where efforts, expertise, and resources are carefully weighed against risk and applied in the most proportionate way across the system. This means that there is a full range of tools available to justice participants and citizens to



resolve legal issues. It also means that these tools are developed based on sound evidence so that we make sure that solutions are proportionate to the problems they are intended to help resolve. By

continually striving for a balanced justice system, we can increase accessibility to justice for citizens and ensure earlier resolutions.

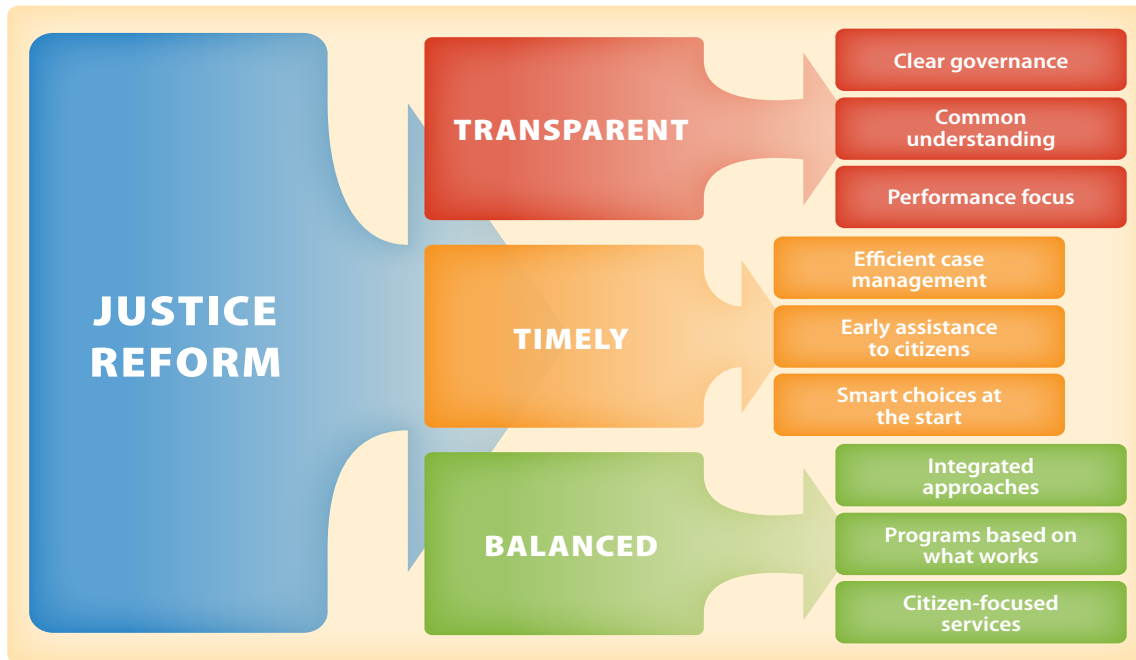


Figure 1: Elements of reform

## WHITE PAPER, PART ONE

Drawing on the goals of transparency, timeliness, and balance, government introduced in *White Paper, Part One* its plan for innovations in a number of key areas. Transparency is the foundation for a modern justice system. We will ensure the appropriate structures are in place for **clear governance** to promote effective leadership and management across the system, a **common understanding** among justice system participants about how the system functions, and a clear **performance focus** for managers.

*Part One* included 10 action items to achieve these goals, and government has already made significant progress towards implementation. This spring we will introduce legislation that will formally establish a Justice and Public Safety Council to provide strategic leadership for justice reform and ongoing system planning. The proposed legislation will require the Council to make public an annual Justice and Public

Safety Plan, as well as information on clear performance measures to assess progress towards justice reform goals. Government intends to release the first plan in fall 2013. The proposed legislation will also establish regular Justice Summits that will include participation from across the justice system. The first summit will be held in March 2013.

In addition to progress on system governance, government has also made progress on the development of a strategic transformation plan for information technology, created capacity to track information about the charge assessment process, and undertaken analysis of criminal cases before the courts to develop reliable data about these cases. We will continue work to implement the medium and long-term commitments made in *Part One* as we also take steps to implement commitments in *Part Two*.

## WHITE PAPER, PART TWO

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*White Paper, Part Two* sets out a number of short-term and long-term steps that will be taken to make the justice system more timely and balanced. **Part Two** focuses on innovative, front-line operations and services to the public, as well as internal policy with respect to administrative, civil, criminal, and family law. It has also taken into consideration the findings and recommendations of the Missing Women Commission of Inquiry, which examined the circumstances surrounding the investigation of missing and murdered women from Vancouver's Downtown Eastside, and the key points from the B.C. Policing and Community Safety Plan, which is a strategic plan for policing and community safety in our province.

In addition to fostering the governance and business intelligence framework for transparency presented in **Part One**, government will promote a cultural shift to a system that:

- focuses **on early assistance to citizens**: government is committed to changing citizens' experience with the justice system. We want to create a system that increases the likelihood of early resolution, and reduces reliance on traditional, high-cost methods of adjudication. From the beginning of an individual's journey through the system, the options and responsibilities available will be made clear. Early assistance to citizens can help people consider the nature and complexity of their problems and reduce conflict, distrust, and fear. Providing information, education, needs assessment, and legal advice when citizens first enter the justice system will help them make informed decisions about their situation that will often lead to resolutions outside of court.
- ensures **smart choices at the start**: Although only a small percentage of legal problems end up in court, our justice system is managed as though most cases will. Government is committed to ensuring that the right services and management are in place so that cases are directed down the most appropriate path to resolution from the outset. Making smart choices at the start is integrally linked to early assistance to citizens and focuses on the value of shifting resources to the front-end of the justice system. Once people become involved with the justice system, there may be a range of options available to find a solution to their problem. Early information, advice, and case management will ensure direct and timely resolution of cases.
- values **integrated approaches**: Citizens are not concerned about which level or area of government delivers a service, only that they are able to receive services seamlessly. Citizens want a system that links justice services with health and social services to facilitate consistent approaches, and allows people to receive assistance when and where they need it. Government is committed to reform that ensures services are coordinated across the justice system, and that recognizes the underlying issues that bring people to the justice system. Taking a more integrated approach will avoid duplication, service gaps, and contradictory approaches. It will also provide greater opportunities to share knowledge and best practices among various service providers and ensure systemic issues are addressed.
- implements **programs based on what works**: Measurement is a necessary component of reform, and government is committed to implementing justice initiatives based on evidence and evaluating them based on clear objectives. Citizens must be confident that government applies public resources for the justice system in the most efficient and effective way possible. This means that projects, programs, and ongoing system processes must be initiated and



continued based on empirical data that shows they work. It also means that demonstrated success and best practices must be shared and applied consistently across the system.

- ▶ ***delivers citizen-focused services:*** Currently, people who encounter the justice system find that it does not always serve their needs, and they are not always able to participate in the management of their own cases. The result is a system that is cumbersome, delayed, and expensive for citizens, both as users of the system and as taxpayers funding it.

Government is committed to placing the needs of citizens at the centre of service delivery. The justice system must be transformed to that of a service culture, where citizens' needs and outcomes are the focus, and investments in justice services align with best practices.

These five key themes form the basis on which government will implement reform in all areas of the justice system. Changes made in administrative, civil, criminal, and family law will be undertaken with a focus on early intervention, coordination and collaboration, best practices, and citizens' needs.

## B. Timely and balanced justice: enhancing access to justice through early assistance

The justice system, unlike other government sectors such as healthcare or education, is not regularly used by citizens. For most people, entering the justice system is a rare occurrence, and can be an unfamiliar and daunting experience. Court is often assumed to be the only way to solve problems. However, the courtroom may not be the best option for many people, and some problems may require a solution outside of the court system. Access to justice must be seen as more than access to court. It involves a range of services that provide citizens with assistance and support to prevent problems where possible, reach early resolution where appropriate, and use the court system only when necessary.

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**Access to justice is more than access to court**

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Not only is court the most costly option for the justice system, it is also the most costly option for users. By making sure citizens have access to early assistance in the form of information, needs assessment, and advice, government can help people understand their options and make informed decisions. This will ensure the most efficient use of government resources, while at the same time better meeting the needs of citizens.

### ACTION ITEM 1: ADVANCE FAMILY JUSTICE REFORM

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People often become involved with the justice system when families experience breakdown of a common-law or marital relationship. Research shows that taking these disputes through the court system is costly, intimidating, and lengthy. This approach often does not lead to solutions that help create positive relationships between family members, especially when children are involved. For more than a decade, government has implemented significant family justice reforms. The *Family Law Act*, which will come into force on March 18, 2013, sets out the principles for these reforms. The new *Act* puts the best interests of children first and focuses on finding early resolution of disputes without going to court.

#### Early assessment, information, and referral

Government envisions a family justice system where people have access to information and guidance before they experience the breakdown of family relationships. We want to help people understand both legal and non-legal issues, so they are able to make informed decisions about their circumstances and so they understand the value of resolving disputes without litigation when possible. Resolving

matters outside of court is usually better for those involved because it is faster, less expensive, and more flexible as family circumstances change.

Government already assists citizens through a network of 24 Family Justice Centres across the province as well as two Justice Access Centres in Nanaimo and Vancouver. Family Justice Counsellors offer information and education, early assessment, referrals, and dispute resolution to help people with issues related to separation and divorce. They help people find solutions, whenever possible, without going to court. However, if people do need to go to court, they are provided with the help they need to be better prepared. In four locations, early assessment is a requirement of the *Provincial Court (Family) Rules* (Rule 5). This means that parties must participate in an assessment meeting with a Family Justice Counsellor before their first court appearance, which often results in early settlements and diverts many cases from court.

Integral to early assessment is determining to what extent, if any, domestic violence may be a factor for families experiencing separation or divorce. The assessment process helps people understand what

services may be appropriate, including dispute resolution services such as mediation. If safety, including the safety of children, is an immediate concern Family Justice Counsellors assist with safety planning.

**Commitment:** Government intends to expand mandatory early assessment to other court locations in the province.

Justice Access Centres provide even greater assistance to citizens. They are unique in that they provide a single point of entry for family and civil justice services and involve collaboration with other agencies. This approach recognizes that people come to the justice system with multiple issues, including those related to housing, debt, and employment. In addition to the information, assessment, and referral services provided at a Family Justice Centre, people also receive support from other agencies, sometimes located onsite, to help find solutions to underlying problems instead of seeking to resolve only the legal dispute.

**Commitment:** A third Justice Access Centre is scheduled to open in Victoria in late 2013, and in the coming years, government intends to use technology to provide Justice Access Centre services to rural and remote communities. Government will also evaluate the Justice Access Centre models to determine the best model for service delivery in different communities around the province.

### Family legal aid reform

It is important to recognize that there are situations where people need legal information or advice from a lawyer, even when they intend to resolve disputes outside of court. Strategically providing access to legal advice at the right time is proven to increase the likelihood of early resolution. Presently, the Legal Services Society (LSS), which delivers legal aid in B.C., collaborates at six Family Justice Centres and two Justice Access Centres to deliver family advice services, and provides family duty counsel services at courthouses across the province. LSS also delivers legal advice for family matters over the telephone through Family LawLINE, and its family law website is

a valuable tool for self-help information. By providing a continuum of legal information and advice services to people as early as possible, government can shift the approach to family justice from an adversarial approach to a problem resolution approach.

**Commitment:** Government intends to support LSS to expand the family legal aid services it currently provides.

### Revised child support process

One specific area of family law that government will reform is the child support process when some family members live outside of British Columbia. Resolving child support issues for inter-jurisdictional cases is more challenging because the process is complex and time-consuming for parents, and results are uncertain. It is also difficult for judges to make decisions because delay means that information may be outdated by the time the case reaches court. A revised system will involve early case management of applications to help parents respond to the needs of their children within prescribed timeframes. It will help family members determine the correct amount of support to be paid and will offer greater flexibility to make changes when family circumstances change. These reforms will be beneficial to citizens because child support cases will be resolved more quickly. Case management will also enable more agreements outside of court, which will increase the capacity in the court system.

**Commitment:** In 2014, government will implement a revised child support process for inter-jurisdictional cases. The result will provide a model which could be expanded to other types of child support services.

### Adult Guardianship

Another area of family law that requires reform is adult guardianship. Adults who face mental incapacity, including syndromes associated with aging such as dementia, and who have not planned for possible incapacity, need a safety net that includes

modern and effective laws governing adult guardianship. Our guardianship laws should reflect the fundamental principles of autonomy, dignity, and the least restrictive and least intrusive intervention. The current legislation, the *Patients Property Act*, does not reflect these modern adult guardianship principles. For example, it does not allow planning to be tailored to meet the needs of individual situations or to be easily changed when people's circumstances change.

The *Adult Guardianship and Planning Statutes Amendment Act*, which has already been passed, strengthens procedural fairness and allows guardianship to be flexible and directed at addressing individual circumstances. The amendments also make sure that the duties of guardians are clearly established, including a duty to foster independence and encourage the adult's involvement in decision-making.

**Commitment:** Using a phased-in approach, government will bring into force provisions of the *Adult Guardianship and Planning Statutes Amendment Act*:

- **Phase 1:** Some provisions of the *Act* came into force on Sept. 1, 2011. These modernized the law relating to the suite of incapacity planning tools, such as enduring powers of attorney, representation agreements, and advance directives.
- **Phase 2:** Provisions of the *Act* related to enhancing the rights of adults undergoing the certificate of incapability process will come into force by July 1, 2014. This phase will address 11 of the recommendations made by the Ombudsperson.
- **Phase 3:** Provisions of the *Act* relating to court guardianship will come into force following phase 2, once the necessary resource implications are determined and resources are available.

## C. Timely and balanced justice: delivering citizen-focused services

### *A system focused on users rather than managers*

Citizens use the justice system in a variety of different ways. They may need assistance in resolving issues associated with a family breakdown, a dispute with a neighbour, or a work-related accident. They may be a witness in a case, a victim of crime, or a victim's family member. They may be someone who is accused of a relatively minor offence or of serious charges, or be a convicted offender. Justice services must be designed to meet the needs of the people who use the system, as opposed to those who manage it. To do this, different services must be matched carefully with different types of problems. They must be available when and where people need them, and they must be delivered using innovative solutions and technology.

### **ACTION ITEM 2: TRANSFORM DISPUTE RESOLUTION**

Currently, with many disputes, the resolution method is not transparent, timely, or balanced. Citizens with less serious civil and administrative disputes are often faced with processes that are complex, lengthy, and unaffordable. Attending court or an administrative tribunal typically requires citizens to take a day off work, and often they do not have access to the tools they need to prepare. In order to transform civil and administrative dispute resolution in B.C., government will support the shift of disputes from the court system to simplified, user-friendly, administrative processes that will focus on providing early resolution services, including online services. Government will also invest in creating efficiencies in the administrative justice system by investing in user-focused early resolution processes and technology supports.

#### **Civil Resolution Tribunal**

Government passed legislation in May 2012 to allow the establishment of the Civil Resolution Tribunal and is now working to implement this alternative to court for people seeking to resolve small claims and most strata property disputes. The tribunal will encourage people to use a broad range of dispute resolution tools to resolve their disputes as early and efficiently as possible, while still preserving formal adjudication as a valued last resort. Canada's first 'online' tribunal, the Civil Resolution Tribunal, will meet citizen needs

by making the majority of dispute resolution services available online or by email, telephone, and video. In-person meetings and hearings will also be possible, but will be used only when necessary. These services represent an attempt to modernize the justice system through a focus on meeting citizen needs, user satisfaction, and continuous improvement through innovation.

**Commitment:** In 2013, government will appoint a Civil Resolution Tribunal chair and will invest in new technology to launch this service.

#### **Road Safety Systems**

The Road Safety Systems (RSS) initiative and related changes made in May 2012 to the *Motor Vehicle Act* support a new approach to traffic tickets, roadside collision, police reporting, and dispute resolution. Changes to the legislation provide for the establishment of an administrative tribunal, which will shift most traffic disputes out of traffic court. The tribunal will be part of an overall dispute resolution process that encourages early resolution, but makes sure people have an opportunity to be heard by an independent decision maker.

What this means for citizens is that drivers who challenge a driving offence will no longer face the cost and inconvenience of attending court. Instead, the

majority of traffic disputes will be resolved through an administrative justice model that will allow resolution to be completed by phone. Self-service options will provide citizens with access to online information about the resolution process, information about their specific case, and online payment options. People will see a reduction in the time it takes to dispute issues, and if a driver faces a licence suspension, a faster dispute resolution process means that dangerous drivers will be removed from the road more quickly. Shifting the majority of traffic disputes out of the court system to an administrative justice model will allow more timely and effective access to justice.

In addition to freeing up court time, the RSS initiative will result in more efficient use of police resources. Electronic ticketing at the roadside will free up police to focus on enforcement activities by eliminating the need to appear in traffic court for disputes of minor driving offences. As well, electronic processes will speed the roadside processing time for police and will allow them to obtain driver history information at the roadside, which means they will be able to more quickly remove drivers who pose a threat to other citizens. These processes will ensure more effective and timely intervention with high risk drivers and will also create business intelligence that will inform road safety policies and the deployment of police resources.

**Commitment:** Over the coming years, government will work to design and implement the Road Safety Systems initiative to shift traffic disputes out of court, improve police efficiency, and make the process more accessible for citizens.

### Tribunal transformation

Historically, administrative tribunals have provided a less expensive, more specialized alternative to court, and the tribunal system in B.C. currently provides accessible dispute resolution services. However, government will make sure the administrative justice system operates as efficiently as possible, avoids adversarial court-like approaches to dispute resolution, and is supported by technology that enhances user access. Currently, most tribunals operate in

isolation from each other. This makes it difficult to identify sector-wide trends, creates challenges for the implementation of system changes, and means that personnel and technology services are often duplicated.

**Commitment:** Government will enable tribunals to reduce costs, complexity, and delay for tribunal users by investing in user-focused dispute resolution processes and technology supports.

Efficiencies will be achieved through shared resources, such as staff, office space, and technology. By concentrating resources and subject-matter expertise, tribunals can free up resources to invest in sustaining or improving service. We will apply lessons learned in other jurisdictions as we explore these opportunities for improvements to the tribunal system.

This does not mean that a uniform set of processes and technology will apply to all tribunals. There are often legal and practical reasons for a tribunal to take a different approach to resolution of a dispute based on the nature of the tribunal's mandate, the impact of its decisions, the background of its stakeholders, and the type of tribunal. However, there will be fewer variations between tribunals that are clustered around similar mandates and common sets of stakeholders. Common performance measures, such as time from the filing to disposition and user satisfaction ratings, will inform tribunal users and administrators. This strategy will support change across the entire sector, rather than one tribunal at a time. Through an increased emphasis on dispute prevention, early dispute resolution, and online dispute resolution services, this initiative will result in better service and increased access for users.

**Commitment:** Government will work with justice system participants to explore opportunities to align the province's tribunals into clusters based on similar mandates and stakeholders.



## D. Timely and balanced justice: ensuring smart choices at the start

### **Early intervention leads to better outcomes**

If advice, intervention, and case management are not available to people, they often proceed down a lengthy and costly adjudicative process, when there may be a better way to reach a resolution. This has an impact on the timeliness of the entire system, and means that those cases that do require formal adjudication may be delayed by those which could be better resolved

outside of court. In order to make sure that the most appropriate and direct path to resolution is taken from the very beginning, government will expand the use of evidence-based approaches in problem solving and improve information sharing, services, and case management. One key change needed to make this work is to encourage justice system participants to share information, commit to streaming cases to early resolution options, and use the courts only when necessary. In particular, organizational self-interest must be set aside in favour of a clear focus on fair and timely results for citizens.

### **ACTION ITEM 3: IMPROVE EARLY CRIMINAL PROCESSES**

The high number of unresolved criminal cases within the court system is related to increasing complexity of cases. This, in turn, increases the overall length of time required to resolve a case. New tools and alternate processes are needed to resolve criminal cases outside of the court system when possible, and to more efficiently process those that proceed through the court system. In criminal matters, better outcomes and earlier resolution depend on a clear understanding of the needs of and risks posed by the accused, including the risk of reoffending and factors that contribute to criminal behaviour. When this knowledge is properly analyzed and applied, it will lead to the matching of services to the individual. This will maintain public safety and uphold the rule of law while also benefiting the offender and reducing the risk of further criminal behaviour.

### **Improvements to the charge assessment process**

In British Columbia, police investigate crimes and prepare a Report to Crown Counsel recommending criminal charges. Crown counsel are responsible for determining whether or not to charge someone with an offence. When making this decision, the charge assessment standard requires Crown counsel

to apply a two-part test. The first part is the determination of whether there is a substantial likelihood of conviction, an evidentiary test to assess whether there is a strong case to present in court. The second part is a determination of whether a prosecution is in the public interest by considering the particular circumstances of each case and offender, as well as the concerns of the local community.

Effective charge assessment relies on communication and a constructive working relationship between police and Crown counsel at an early stage. This will make sure reports to Crown counsel are properly completed and the necessary information is provided. Improving communication between police and Crown counsel will ensure efficient case management from the beginning and improve the timeliness of cases.

**Commitment:** A number of initiatives will proceed to identify and implement improvements that can be made in communications between police and Crown counsel.

These include:

- an improved disclosure agreement;
- training materials; and

- new processes that will support the development of a closer working relationship between police and Crown counsel.

### Enhancing system-wide knowledge of risk assessment

Research shows that the best way to reduce re-offending is to assess the risk to re-offend and, subsequently, to make sure the right intervention is matched to the right person at the right time. As risk increases, the level, intensity, and type of intervention needs to be adjusted. Referring low-risk individuals to treatment programs with the intention of preventing escalating criminal behaviour or over-supervising low-risk offenders can actually increase their risk of reoffending. It is, therefore, important for public safety and fiscal responsibility that interventions are carefully matched to risk. In addition, when interventions are applied, they must be directly linked to risk factors that actually relate to criminal behaviour. To provide offenders with the best possible opportunity for success, interventions must be tailored to their individual learning style, abilities, and strengths.

Risk assessment is currently used in some parts of the justice system, but not all. By creating a better understanding of risk assessment, the likelihood that offenders will receive dispositions that address their risk factors and needs will increase, which will ultimately reduce reoffending. It will also lead to better communication among justice system participants and ensure a consistent approach to the management of offenders across the system.

**Commitment: Government will act to share evidence-based information about risk assessment practices with police, Crown counsel, defence counsel, the judiciary, and other key justice system participants.**

### Criminal legal aid reform

When people are accused of a crime, it is important that they have access to timely legal advice to understand the nature of charges against them and the options they have to respond to the prosecution.

When people receive advice early in their case, they have the support they need to resolve their case more quickly, usually without going through a lengthy court process. An expanded duty counsel model assigns one lawyer to the same court location on a continuing basis. For a limited period of time, this duty counsel retains conduct of non-complex files and those that can be resolved in that time period. During that time, the duty counsel takes instructions, obtains disclosure, and attempts to resolve matters. A non-lawyer service provider may also support the duty counsel to assemble background information and assist the accused in accessing services that may help address underlying, non-legal problems such as housing or health issues.

Expanded criminal duty counsel has the potential to generate justice system efficiencies and savings through earlier resolutions and the reduction of administrative appearances. Providing the accused with access to continuing legal advice and expanded representation at the front-end will facilitate informed and early decisions. This means cases that can be resolved quickly, will be, thus freeing up court time for cases that are more complex.

**Commitment: Government intends to support the Legal Services Society to test expanded criminal duty counsel.**

### Restorative justice

Restorative justice is an option for addressing criminal prosecutions by repairing the harm caused to victims of crime. It is typically achieved through a process that addresses victims' needs and holds offenders accountable for their actions. Restorative justice can provide opportunities for victim participation, community involvement and can hold offenders accountable in a meaningful way. Government supports the delivery of community-based restorative justice approaches to crime through Community Accountability Programs. These programs involve funding to communities for training-related activities, volunteer outreach and coordination, and support for ongoing operations. There are currently about 50

programs in operation across the province taking on low-risk cases, which are referred by local police departments, schools, First Nations Bands, and Crown counsel.

**Commitment:** Government will continue to expand and support existing Community Accountability Programs, including a training initiative that is currently underway.

In addition, the Inter-ministry Committee on Restorative Justice was established to articulate a coordinated and connected vision for restorative

justice within government and to advance a strategy for promoting best practices. It includes representation from the ministries of Justice, Children and Family Development, and Environment to ensure a cross-sector approach.

**Commitment:** The Committee is exploring opportunities for restorative justice within existing resources, and government intends to expand the use of restorative justice as additional funding becomes available.

## E. Timely and balanced justice: integrated approaches to protect citizens

### *Improved community safety through collaboration and coordination*

Public safety is a key component of our justice system. The cost and complexity of policing is increasing for various reasons such as advances in technology, new types of criminal behaviour, and globalization of crime. Government has a responsibility to set the strategic direction for policing in order to ensure that policing is able to respond to these challenges. To do so, government will continue to actively engage with communities on strategic reform that will make sure policing is adequate, effective, sustainable, and representative of community values. It is critical that policing and community safety initiatives are implemented in a way that is proportionate to the needs and vulnerability of specific groups of individuals.

Government must also ensure the protection and support of society's most vulnerable citizens, including marginalized women and victims of domestic violence. Government has an obligation to make sure that all citizens, regardless of their background or circumstances, are treated equitably and fairly by the justice system, and to make sure that services are equally available to everyone. Justice system participants should have knowledge of cultural sensitivities and the circumstances of vulnerable people, and justice policies and practices should reflect this knowledge.

### **ACTION ITEM 4: UNDERTAKE PUBLIC SAFETY REFORM**

In early 2012, government initiated community consultations and stakeholder engagement in order to develop a strategic policing and safety plan that meets and responds to communities' and citizens' needs. A key topic of discussion during the consultations was the desire to see the provincial government provide stronger leadership, better coordination of services, and alignment with key public safety priorities. In addition to stakeholder input, the B.C. Policing and Community Safety Plan (the Plan) was informed by recommendations made in the Report of the Missing Women Commission of Inquiry (the MWCI Report). The Plan is being released for consultation at the same time as this White Paper. It contains 16 action items with the overall goal of a modern law enforcement framework for British Columbia.

#### **Examine options for models of policing**

Development of the Plan involved community consultation and stakeholder engagement, and consultations will continue into the future as the Plan

is implemented. As part of the Plan, the provincial government will engage with federal and municipal governments to determine responsibilities and funding options for policing. These two requirements were raised consistently in the consultations across the province.

One of Commissioner Oppal's conclusions in the MWCI Report was that fragmentation of policing and ineffective coordination between police forces and agencies contributed to the failure of missing women investigations. As a result, he recommended the establishment of a regional police force for Greater Vancouver to improve overall capacity and effectiveness, communication, access to information, and accountability.

**Commitment:** Government will work with key stakeholders, beginning in 2013 and with a target date for completion in March 2015, to commence a comprehensive project that will:

- Define and clarify policing responsibilities at the federal, provincial, and municipal government levels;
- Consider models of service delivery ranging from further integration to the regional delivery of services while retaining local community-focused policing; and,
- Develop options for funding models that reflect each level of government's policing responsibility and distribute costs accordingly.

### Crime prevention

Overwhelmingly, during the consultations to develop the Plan, stakeholders pointed out the effectiveness of crime prevention by addressing underlying cyclical, cultural, and generational factors that lead to crime. There was clear interest among stakeholders to see the provincial government demonstrate strong leadership through the development and implementation of a provincially led crime prevention strategy. Measures for effective, evidence-based crime prevention approaches, along with opportunities for communities to share and explore best practices have been identified as important features of such a strategy. There is a need to balance provincial leadership with local coordination to ensure communities have the flexibility to tailor approaches to their own unique needs.

Government will create a committee to explore options for crime prevention programming with the goal of sharing and promoting best practices. Consideration will be given to exploring partnerships with academic institutions and organizations that have the capacity and expertise to carry out this

work to ensure a more integrated approach to crime prevention. The committee will also explore opportunities to promote increased awareness and responsibility and provide citizens with simple tools and actions to improve the safety and well-being of their communities.

**Commitment:** Government will establish an Inter-ministry Committee on Crime Prevention that will develop a Provincial Crime Prevention Strategy by March 2014.

### Crime reduction initiative

While crime prevention involves steps to address the root causes of crime before it occurs, crime reduction involves direct action against high-volume criminal behaviour in communities. This includes techniques like crime hotspot analysis and identification of patterns of crime and proactive management of prolific offenders. Recent years have seen the emergence of crime reduction initiatives by various police agencies in British Columbia, but more systematic work and evaluation is needed. The Ministry of Justice will work with the British Columbia Association of Chiefs of Police and municipalities to help set the strategic direction for the initiative, which will include tools for both the public and police on best practices in crime reduction.

**Commitment:** Government is committed to supporting the implementation of an evidence-based, province-wide Crime Reduction Initiative in consultation with the British Columbia Association of Chiefs of Police and local governments. Work commenced in 2013 and development will continue with implementation targeted for March 2015.

## ACTION ITEM 5: PROTECT MARGINALIZED WOMEN

A goal for the justice system should be to increase the safety of vulnerable members of society. One aspect is the vulnerability of marginalized women, as highlighted in the MWCI Report. It contains analysis and recommendations related to the police investigation of women reported missing from Vancouver's Downtown Eastside between 1997 and 2002 and the circumstances surrounding the Criminal Justice

Branch's 1998 decision to stay charges against Robert Pickton related to a violent assault. The MWCI Report focuses on the justice system's failed response to the missing women, the systemic discrimination inherent in this failure, and the need to improve the response to specific needs of marginalized persons and Aboriginal women in particular. Government is

committed to improving its policies, practices, and services to make sure that those needs are addressed.

The MWCI Report makes reference to the January 2012 national report from the Missing Women Working Group on missing and murdered women in Canada. The national work, led by British Columbia, addressed prevention, intervention, investigation and prosecution issues associated with cases involving serial murders of women.

When the MWCI Report was released, government announced the appointment of the Honourable Steven Point to chair an Advisory Committee on the Safety and Security of Vulnerable Women. Ensuring a thorough and meaningful response to all of the report's recommendations will take time and will be ongoing over the coming months and years. Government, however, has undertaken an initial assessment of the report and is first setting out a process for identifying issues that have already been addressed, those that are able to be addressed in the near future, and those that will require further examination and substantial funding commitments.

### Prevention and protection

The women who went missing from the Downtown Eastside were marginalized by a number of factors, including poverty, addictions, and mental illness. Many had moved to Vancouver from remote communities outside of the Lower Mainland and, with few resources at their disposal, became involved in the sex trade. Effective responses to these vulnerable youth and women requires building on existing knowledge about the reasons people become involved in the sex trade, opportunities for prevention, and options to increase safety for those already in the sex trade.

Government has responded to the MWCI Report recommendations regarding additional specialized services for marginalized women and youth by committing \$750,000 to the WISH Drop-In Centre Society to allow it to expand its services to vulnerable women who work in the sex trade in Vancouver. Government has also committed to work with key communities to identify options for safer

transportation opportunities along the Highway 16 corridor, known as the Highway of Tears, where a number of women have gone missing or been murdered in recent years.

The MWCI Report notes that police need to develop better relationships with marginalized communities, including Aboriginal groups, for the purpose of providing protection, warnings of serial predators, and developing intelligence on suspects who may perpetrate attacks on vulnerable women. These linkages are valuable in establishing whether a woman has gone missing and for how long, vital information in commencing an investigation. Legislative options, such as additional protection orders, may also be useful in providing protection for vulnerable women.

**Commitment: Government will work with the Advisory Committee, led by Steven Point, to identify how government can assist communities to implement locally appropriate measures for supporting their vulnerable youth and women. This will include a review of options for community-police linkages, community mobilization and networks, and legislative measures that could provide additional protection for this vulnerable group.**

### Modernize reporting and tracking of missing persons

The MWCI Report details inadequacies in the police response to citizens who reported missing women, including how the reports were taken, recorded, investigated, and prioritized. It also reports that the public is largely unaware of how to make these reports, including who can report and when. Recommendations for improvement included developing police standards for missing persons reports and investigations and measures to increase the public's involvement in these investigations. As an example, a provincial missing persons website could provide information to the public as well as allow the families of the missing person to obtain current information on the investigation. The RCMP have a missing persons centre and are establishing links with the National Centre for Missing Persons



and Unidentified Human Remains. The centre has a database and website that will address a number of concerns raised in the MWCI Report. The importance of proper investigations of missing persons extends beyond marginalized women to other vulnerable groups. The MWCI Report suggests that British Columbia establish a provincial partnership committee on missing persons to review standards, identify gaps, and put together protocols between agencies.

**Commitment:** In consultation with key stakeholders, government will consider these recommendations in the context of the ongoing development of policing standards and other reforms in response to the MWCI Report.

Missing persons cases often require rapid action by police in order to avoid serious consequences for the victims. Police need current information, such as financial, cell phone, health, and other records to help track the recent movement of the person. Currently, there are barriers to accessing this information, even in urgent circumstances, if there is no evidence that a crime has been committed. Missing persons legislation could overcome some of these barriers by establishing a process for police to obtain this information. Not only would this assist in finding missing persons, the information available could help police determine whether the case should be escalated to a criminal investigation. Currently four other provinces have enacted missing persons legislation, and in 2012, Provincial and Territorial Justice Ministers endorsed the development of uniform missing persons legislation so that cross-jurisdictional investigations can be facilitated.

**Commitment:** Government will examine legislation and practices developed in other Canadian jurisdictions to determine whether similar legislation should be enacted in B.C.

### Improve criminal investigations of missing persons

The MWCI Report identifies a number of critical failures in the police investigations of the missing women. These included aspects of departmental

policies that delayed investigations, poor risk assessment, and variations in missing person policies between police agencies, which created confusion about responsibility for an investigation. The MWCI Report also noted the failure to make the transition from a missing person to criminal investigation and implement the Major Case Management (MCM) model for managing investigations. MCM would have enabled police to track and follow investigative leads, receive and process information effectively, and ensure accountability of the investigative team. Amendments to the *Police Act* in 2012 granted authority to the Province to set provincial policing standards in relation to cooperation and coordination among police agencies in complex investigations involving serious crimes.

**Commitment:** Government will develop standards and best practice protocols for the investigation of missing persons, complex investigations involving serious crimes (including electronic Major Case Management solutions), and cooperation and coordination amongst police agencies.

The MWCI Report also notes that systemic bias was evident in the investigations and police treated the cases of missing marginalized women as a low priority. It recommended that government conduct ‘equality in policing’ audits under the authority of s. 42 of the *Police Act* and create an explicit duty for police to deliver services in a non-discriminatory manner.

**Commitment:** Government will conduct a study to examine the practices and policies of police agencies in B.C. related to ensuring bias-free policing and will, where required, make sure audits are completed and standards are developed related to bias-free policing and the equitable treatment of all persons.

The MWCI Report recommends training for all police officers that includes mandatory cultural awareness and sensitivity training courses. In collaboration with stakeholders, a review of present training and best practices related to cultural awareness and sensitivity training for police will be completed.

**Commitment:** Government will ensure the development and delivery of cultural awareness and sensitivity training for police officers in the province, particularly related to the cultural implications of violence against women in a range of settings including family violence, childhood sexual exploitation, and violence against women in the sex trade.

### Vulnerable witnesses and victims

The MWCI Report makes recommendations with respect to vulnerable victims and witnesses to facilitate and support their participation in the criminal justice system. These include providing a dedicated victim/family liaison person to provide ongoing information about the case, assist in the relationship between the families and the media, and ensure compassion during the investigation. Vulnerable witnesses require ongoing support, beginning early in the investigation and continuing through the trial.

**Commitment:** Government is committed to providing supports and examining how these services could be improved.

The MWCI Report also details the failure to provide adequate support for witnesses who are seen as unreliable. This can impede the prosecution of cases that rely on evidence from these witnesses. The MWCI Report noted that progress has been made in research on the memory capabilities of these persons, which could assist prosecutors in obtaining reliable evidence from them. In addition, prosecution policies should also make sure that equality is recognized as a fundamental principle in the prosecution of these cases, and that specific guidance is given on cases involving vulnerable women.

**Commitment:** Government will review the research on the memory of vulnerable witnesses and incorporate it into training materials for justice system participants, including prosecutors. Prosecution policies, including those that guide the exercise of prosecutorial discretion, will be reviewed to ensure that equality is recognized as a fundamental principle.

## ACTION ITEM 6: RESPOND TO DOMESTIC VIOLENCE

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### Domestic Violence Action Plan

Domestic violence is a serious issue that has devastating impacts for families and communities, and lifelong damaging effects on the children involved. In March 2012, the Representative for Children and Youth (RCY) released an investigative report into the deaths of three children and their exposure to domestic violence. As an immediate response to this report, government established a new Provincial Office of Domestic Violence (PODV), which is responsible for making sure all provincial policies, programs, and services related to domestic violence are delivered in an integrated manner. It is also responsible for monitoring, evaluating, and reporting on the responsiveness and effectiveness of these initiatives.

In October 2012, the PODV released a response to the RCY report findings and recommendations, which made commitments for action. These included

introducing an enhanced flagging system for Crown counsel to improve identification of files involving child victims, reviewing the processes for after-hours bail decisions conducted by teleconference (telebail) in domestic violence cases, training of justice system staff, and reviewing domestic violence community coordination initiatives.

**Commitment:** By June 2013, the Provincial Office of Domestic Violence will deliver a multi-year action plan that will identify a comprehensive approach to addressing domestic violence across government.

### Domestic violence units

Domestic violence units bring together police, victim services, and child protection workers in one location to provide an integrated approach to domestic violence cases. These units conduct investigations,

formal risk assessments, safety planning, and victim-specific support for high-risk cases. There are currently four Domestic Violence Units operating in Vancouver, New Westminster, Abbotsford, and the Capital Region. These units are a proven option for enhancing the criminal justice system response to domestic violence.

**Commitment:** Government intends to work with communities to expand the number of Domestic Violence Units in the province.

## Domestic violence courts

Several reports in recent years, including the RCY report, have recommended the establishment of specialized domestic violence courts. These courts are intended to bring together specialized professionals in order to provide an integrated response to domestic violence cases from various sectors, including police, Crown counsel, victim services, child protection, corrections, and community organizations. They are also intended to provide targeted interventions to better support victims and increase offender accountability.

**Commitment:** Government is committed to working with the judiciary and other justice system participants to explore the establishment of a framework for domestic violence courts. Such a framework would establish a set of common goals for any specialized court initiatives that take into consideration best practices and outcomes from jurisdictions that have implemented such courts.

## F. Timely and balanced justice: implementing programs based on what works

### *Reform based on evidence not anecdotes*

In the past, many projects have been initiated, continued, and even expanded based on anecdotal information from people who use, work in, and manage the system. This standard is not high enough. New initiatives must be undertaken based on evidence of the nature of problem and the need for a specific type of intervention. They must also be evaluated based on clear and commonly agreed upon objectives. When initiatives show demonstrated success, the results must also be shared and applied consistently across the system.

### **ACTION ITEM 7: REQUIRE THE USE OF EVIDENCE-BASED APPROACHES**

A balanced justice system, where resources are applied proportionate to the risks presented, must be one in which reforms are measurable, sustainable, and grounded in rigorous analysis of system data. Reforms must be evidence-based. To achieve this, significant change is required in the way reforms are developed and measured within the system. Change is also necessary in the system's culture, with respect to the acceptance of measurement as a necessary aspect of reform activity and as an important tool in dismantling a culture of delay.

#### **Measurement is an essential part of reform**

The justice system contains many processes. The importance of the system has meant that in the past, when problems with these processes were identified, solutions were often quickly applied. However, too often solutions have been implemented with a sense of urgency before problems have been appropriately measured and before the expected impacts of the solutions have been clearly specified. Past solutions in justice have often been implemented through reliance on anecdotal analysis without rigorous data analysis. The consequences of this approach are that system problems have been only loosely identified, and the impacts of prospective solutions have in turn been poorly tracked. In view of the scale of investment in the justice system, this approach must change.

**Commitment:** The impacts of justice reforms must be clearly demonstrated when compared to original baseline measures. Through the adoption of contemporary performance measurement and project management practices, new justice reform projects undertaken will have three important common characteristics:

- 1. Clear problem definition:** Problems requiring innovation and reform will be clearly specified at the outset of any reform activity. Where the problem is associated with correcting a pattern or a trend, the problem will be stated in clear empirical terms.
- 1. Clear definition of success:** Similarly, the intended outcomes of reform projects will be stated clearly before the project is started. It must be clear to observers at the outset what project success will look like from an objective standpoint.
- 1. Clear method of measurement:** The method of measuring reform outcomes and reporting on progress of any given project will be plainly stated and communicated frequently and publicly.

#### **Monitor and evaluate**

In scientific research, the measures of a successful experiment must be free from bias and have the ability to be verified objectively. This means that

it must be possible to prove whether or not the experiment *worked*. Similarly, when government invests in program reform on behalf of citizens, it is vital that we are able to demonstrate objectively whether intended results were achieved.

Reform projects require clear objectives that are understood and agreed upon by project participants and remain consistent throughout the life of the project. Knowing whether or not any particular project worked – *evaluation* – requires sound methodology that has the ability to demonstrate quantifiable change. Citizens must be confident that public resources are being invested in initiatives that improve the system, and that projects or processes are adjusted or discontinued when they are not working. Expected outcomes, monitoring, and evaluation plans will be made clear, and communicated internally and to the public in plain language, at the outset of projects.

**Commitment:** Government will establish and implement sustainable evaluation standards, applicable to all justice reform projects.

### Applying rigour to reform

Two areas of immediate concern to the timeliness of the system are the increased volume of administration of justice offences, and the significant time and resource costs associated with large criminal cases. Ongoing work on the outcomes of the Downtown Community Court is also relevant to timeliness, as well as to efficiency and service delivery concerns. All three issues are ideal for the application of enhanced rigour and measurement.

Administration of justice offences are used to help manage offenders and accused in the community, and may be laid when an offender or accused violates terms set out in a court order. They include such offences as failure to appear in court, breach of a probation order, or being unlawfully at large. As a percentage of overall court cases, the category of administration of justice offences has increased over the past 10 years. The reasons for this are not well understood, and the ways in which different organizations and agencies, such as police, prosecution,

and corrections, pursue these charges have not been explored thoroughly. The resource implications of the growth in this category of offence – their impact on court volumes – may be very significant.

Large criminal cases present a similar area of resource concern combined with unclear data and complex multi-agency involvement. Large criminal cases create disproportionate financial, personnel, and procedural pressures on the justice system. While there is a general belief that problems and inefficiencies are related to case management and the pre-trial process, the causes of inefficiencies and significant cost drivers have not been identified empirically to date. Large criminal cases require significant resource commitments from all areas of the system, and the actions or inactions of one area have significant impacts on other areas. It is therefore imperative that a systemic and integrated approach be taken to identify and address problems associated with large criminal cases.

**Commitment:** Given the complexity of both these areas of concern, government will undertake specific reform projects with respect to: (a) understanding the growth in administration of justice offences; and (b) cost and resource containment in large criminal cases. In these, as in other reform projects, the measurement characteristics identified above will be clearly exhibited.

Vancouver's Downtown Community Court (DCC) was implemented in 2008 to test an integrated delivery model for justice, health, and social services to deal with offenders more quickly and efficiently. The outcomes from this pilot will inform other communities in the response to offenders with multiple needs. The DCC continues to be a priority for government, and its final evaluation, which includes a report on offender outcomes and recidivism rates, will be released in fall 2013.

**Commitment:** In consultation with the judiciary, government will take into consideration results of this evaluation as well as evidence from other specialized court models to develop

**an evidence-based, integrated, and strategic approach for specialized court initiatives in the province.**

### **Implementing “what works”**

Well established justice practices from other jurisdictions are often supported by extensive validation and cumulative research. Through an annual research plan, linkages between justice system priorities and solidly researched approaches from other jurisdictions will be used to promote reform activity in British Columbia. Where established research demonstrates the success of a program or process, we will make sure this knowledge is applied where it may be beneficial.

An opportunity to apply the “what works” approach exists with respect to research on recidivism, the risk of repeat offending. Research has long established that offenders vary in the risk to re-offend. BC Corrections, like many other correctional

organizations, uses assessment tools to determine whether an offender is at high or low risk of reoffending. This helps determine the most appropriate intervention for that individual and enhances public safety.

This same knowledge of offender history, circumstances, and likelihood to re-offend may well be applicable more broadly across the justice system. It may, for example, be useful during the pre-trial process to inform the bail and sentencing positions of Crown counsel and defence counsel. Research studies in the United States have shown benefits to the accused, the justice system, and to public safety when pre-trial risk assessments for bail decisions are completed.

**Commitment: Government will conduct a feasibility study regarding the application of a pre-trial risk assessment tool in British Columbia and provide recommendations for implementation.**



# G. Conclusion

Part Two of the White Paper on Justice Reform lays out seven action items to be implemented by government.

## 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, 2014

- Open a new Justice Access Centre in Victoria
- Implement a revised child support process for inter-jurisdictional cases
- Appoint the Civil Resolution Tribunal chair and invest in new technology to launch the tribunal
- Proceed to identify and implement improvements in communications between police and Crown counsel
- Share evidence-based information about risk assessment practices with police, Crown counsel, defence counsel, the judiciary, and other key justice system participants
- Support existing Community Accountability Programs, including a training initiative that is currently underway
- Establish an Inter-ministry Committee on Crime Prevention and develop a Provincial Crime Prevention Strategy
- Act on a number of priority recommendations from the Missing Women Commission of Inquiry based on advice received from the Advisory Committee on the Safety and Security of Vulnerable Women
- Determine whether missing persons legislation should be enacted in B.C.
- Review the current police training curriculum to ensure it incorporates the key values inherent in culturally sensitive policing
- Review policy that guides prosecutorial discretion on charge assessment

to ensure equality is recognized as a fundamental principle

- Deliver a multi-year action plan on domestic violence
- Connect with the judiciary and other justice system participants to explore a framework for domestic violence courts that ensures a coordinated, sustainable, and evidence-based approach
- Establish and implement sustainable evaluation standards, applicable to all justice reform projects
- Initiate reform projects to understand the growth in administration of justice offences and the cost and resource containment of large criminal cases
- Initiate a study to determine the feasibility of a pre-trial risk assessment tool for criminal cases

### By March 31, 2015

- Bring into force provisions of the **Adult Guardianship and Planning Statutes Amendment Act** related to enhancing the rights of adults undergoing the certificate of incapability process
- Design and develop the Road Safety Systems initiative
- Work with stakeholders to define and clarify policing responsibilities and develop options for funding models at the federal, provincial, and municipal government levels
- Engage in a process with stakeholders to consider models for police service delivery ranging from further integration to the

regional delivery of services while retaining local community-focused policing

- Develop options for funding models that reflect each level of government's policing responsibility and distribute costs accordingly
- Support the development of a province-wide Crime Reduction Initiative in consultation with the British Columbia Association of Chiefs of Police and local governments
- Conduct a study to examine practices and policies of police agencies related to bias-free policing and determine where audits are needed to ensure the equitable treatment of all persons
- Complete the development of policing standards governing the investigation of missing persons, Major Case Management, and inter-agency cooperation and coordination
- Connect with the judiciary and other justice system participants to consider an evidence-based, integrated, and strategic approach for specialized court initiatives in the province

## 2015 and beyond

- Expand mandatory early assessment in family disputes to other court locations
- Use technology to provide Justice Access Centre services to rural and remote communities
- Comprehensively evaluate the physical and virtual Justice Access Centres to

determine the best model for service delivery for different communities

- Support the Legal Services Society to expand family legal aid services
- Bring into force provisions of the *Adult Guardianship and Planning Statutes Amendment Act* related to court guardianship
- Fully implement the Civil Resolution Tribunal
- Fully implement the Road Safety Systems
- Explore opportunities to align the province's administrative tribunals into clusters, and build a common case management system for tribunals
- Support the Legal Services Society to test expanded criminal duty counsel
- Expand the use of restorative justice
- Ensure that appropriate audits are completed and provincial standards developed related to bias-free policing and the equitable treatment of all persons
- Oversee the development of a suite of cultural awareness and sensitivity training courses for all police officers in British Columbia
- Work with the British Columbia Association of Chiefs of Police to examine options to identify a single Major Case Management solution
- Work with communities to expand the number of Domestic Violence Units in the province

## LOOKING AHEAD: ONGOING ENGAGEMENT AND REFORM

Government will continue work to implement the medium and long-term commitments made in *White Paper, Part One* and begin work immediately to implement commitments that have been made

in *Part Two*. We will continue to engage with participants from across the justice system to ensure coordinated and collaborative efforts are made to implement justice reform. The first step in this

engagement is the inaugural Justice Summit, which will be held in spring 2013. A group of justice system leaders is currently planning the Summit, which will facilitate a constructive dialogue and build a foundation for future Justice Summits.

As we move forward in the months and years to come, government will continue to inform the public on the progress we have made to achieve our goals of a more transparent, timely, and balanced justice system. This will most notably be done through an annual Justice and Public Safety Plan, the first of which is anticipated to be delivered in fall 2013.

## **PROVIDING FEEDBACK ON THE WHITE PAPER ON JUSTICE REFORM**

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Comments on the White Paper are encouraged by April 15, 2013, 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 3V3  
Attention: Justice Reform**

# Appendix 1: Progress on White Paper, Part One commitments

*White Paper, Part One* included ten action items. We are pleased to update that we will meet all of the specific commitments that were intended to be complete by March 31, 2013 and that we have made significant progress to achieve commitments made under each of the ten action items.

White Paper, Part One Action Items	Status Update
<b>Action Item 1: Justice and Public Safety Council</b>	This spring, government intends to introduce legislation to formally establish the Justice and Public Safety Council to support open, transparent, and accountable leadership for the province's justice system.
<b>Action Item 2: An Annual Justice and Public Safety Plan</b>	The proposed legislation will require the Council to develop an annual Justice and Public Safety Plan to set strategic direction and vision for the system. The first Plan is expected to be prepared and released in fall 2013.
<b>Action Item 3: A Regular Justice Summit</b>	The proposed legislation will require that a Justice Summit will be held at least once a year to encourage innovation and facilitate collaboration across the justice sector. The first Summit will be held in March 2013.
<b>Action Item 4: Greater Transparency and Administrative Tools</b>	The proposed legislation will require the Justice and Public Safety Council to gather and share information to allow for clear performance measures to help assess progress towards proposed goals and to publicly report results each year.
<b>Action Item 5: Transformation of Justice Information Systems</b>	Government is developing a strategic transformation plan on information technology to be delivered by March 2014.
<b>Action Item 6: A Justice Business Intelligence System</b>	Government has developed and is testing data analytical capacity regarding the charge approval process in criminal cases in order to develop reliable, consistent, and automated metrics in this area.
<b>Action Item 7: Improved Ability to Control System Costs</b>	Government has established an Executive Steering Committee to formalize research and reform of the largest cases proceeding through the justice system.
<b>Action Item 8: Public, Evidence-Based Performance Management</b>	The Justice and Public Safety Plan to be released in fall 2013 will include a specific number of clear performance measures for the justice system.
<b>Action Item 9: Collaborating on Efficient Case Management</b>	Government has established an Executive Steering Committee to formalize research and reform of the largest cases proceeding through the justice system.
<b>Action Item 10: Greater Efficiency in Routine Practices</b>	Over the last six months, the Ministry of Justice has undertaken at least four workshops on the <i>Lean</i> process and has scheduled at least six more in order to provide employees with the knowledge and tools necessary to make their work practices more efficient.

## Appendix 2: Concordance with recommendations

White Paper, Part Two highlights seven action items that government will take steps to implement. It was 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<sup>1</sup>, the McCuaig Report<sup>2</sup>, and the Legal Services Society Report<sup>3</sup>. This White Paper was also informed by the Missing Women Commission of Inquiry, the Report from the Representative for Children and Youth, and the BC Policing and Community Safety Plan consultations. The tables below summarize how government's action items respond to some of the recommendations made through these reports and consultations.

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- 1 A Criminal Justice System for the 21st Century, (2012): <http://www.ag.gov.bc.ca/public/justice-reform/CowperFinalReport.pdf>
  - 2 British Columbia Charge Assessment Review, (2012): <http://www.ag.gov.bc.ca/public/justice-reform/CowperFinalReport.pdf> (Schedule 11)
  - 3 Making Justice Work: Improving Access and Outcomes for British Columbians, (2012): <http://www.lss.bc.ca/assets/aboutUs/reports/submissions/makingJusticeWork.pdf>

## TIMELY AND BALANCED JUSTICE: ENHANCING ACCESS TO JUSTICE THROUGH EARLY ASSISTANCE

Government Action Items	Major External Recommendations	Commitments
<b>Advance Family Justice Reform</b>		
<b>Early assessment, information, and referral</b>	<p>The Family Justice Reform Working Group (2005)<sup>4</sup> Recommendation 6 recommended that people be required to attend a dispute resolution session before they are allowed to take a first contested step in a court process. Recommendation 4 also recommended that a needs assessment service be available to people at early stages of a dispute.</p> <p>The Family Justice Reform Working Group (2005) Recommendations recommended a hub be established as a front door to the justice system, including information and advice services, needs assessment and screening, and access to mediation services.</p>	<p>Government intends to expand mandatory assessment to other locations in the province.</p> <p>Government will open a third Justice Access Centre in Victoria in late 2013. Other Centres are located in Nanaimo and Vancouver. They provide a single point of entry for family and civil justice services, and use a needs assessment process to match clients to resources. They provide information, advice, and mediation services as well as referrals to other service providers. Government also intends to use technology to provide Justice Access Centre services to rural and remote communities.</p>
<b>Family legal aid reform</b>	LSS Report recommended increased family and child protection duty counsel services (p.29), support for mediation services (p.33), and expansion of family telephone advice services (p.35).	Government intends to support LSS to expand the family legal aid services it currently provides.
<b>Revised child support process</b>		In 2014, Government will implement a revised child support process for inter-jurisdictional cases. The result will provide a model which could be expanded to other types of child support services.
<b>Adult Guardianship</b>		Using a phased in approach, Government will bring into force provisions of the <i>Adult Guardianship and Planning Statutes Amendment Act</i> .

<sup>4</sup> A New Justice System for Families and Children: Report of the Family Justice Reform Working Group to the Justice Review Task Force (2005): [http://www.bcjusticereview.org/working\\_groups/family\\_justice/final\\_05\\_05.pdf](http://www.bcjusticereview.org/working_groups/family_justice/final_05_05.pdf)



## TIMELY AND BALANCED JUSTICE: DELIVERING CITIZEN-FOCUSED SERVICES

Government Action Items	Major External Recommendations	Commitments
<b>Transform Dispute Resolution</b>		
<b>Civil Resolution Tribunal</b>		In 2013, Government will appoint a Civil Resolution Tribunal chair and invest in new technology to launch this service. The tribunal will provide an alternative to court for people seeking to resolve small claims and strata property disputes.
<b>Road Safety Systems</b>		Government will design and implement the Road Safety Systems initiative to shift traffic disputes out of court, improve police efficiency, and make the process more accessible for citizens.
<b>Tribunal transformation</b>		Government will invest in user-focused dispute resolution processes and technology supports to enable tribunals to cut costs, complexity, and delay for tribunal users. Government will also work with justice system participants to explore opportunities to align the province's tribunals into clusters based on similar mandates and stakeholders.

## TIMELY AND BALANCED JUSTICE: ENSURING SMART CHOICES AT THE START

Government Action Items	Major External Recommendations	Commitments
<b>Improve Early Criminal Processes</b>		
<b>Improvements to charge assessment processes</b>	<p>Cowper Recommendation 2.4 recommended a new approach to pre-charge resolution be taken that maximizes the opportunity to resolve matters before formal charge approval is complete.</p> <p>Cowper Report Recommendation 2.4 recommended an abbreviated report to Crown counsel form should be considered for appropriate cases by the Police/Prosecution Liaison Committee in consultation with the Legal Services Society and the defence bar.</p>	<p>Government will proceed with a number of initiatives to identify and implement improvements that can be made in communications between police and Crown counsel. These include an improved disclosure agreement, training materials, and new processes that will support the development of a closer working relationship between police and Crown counsel.</p>
<b>Enhancing system-wide knowledge of risk assessment</b>	<p>Cowper Report Recommendation 2.6 recommended that the BC Corrections proposal to educate and inform other justice participants of best practices in the assessment of risk should be implemented.</p>	<p>Government will act to share evidence-based information about risk assessment practices with police, Crown counsel, defence counsel, the judiciary, and other key justice system participants.</p>
<b>Criminal legal aid reform</b>	<p>Cowper Report Recommendation 2.4 recommended that LSS be supported to provide legal services to promote early resolution.</p> <p>LSS Report (p. 25) recommended expanded criminal duty counsel.</p> <p>McCuaig Report Recommendation 10 recommended that LSS examine the feasibility of employing duty counsel on a longer term basis.</p>	<p>Government intends to support the Legal Services Society to test expanded criminal duty counsel.</p>
<b>Restorative justice</b>	<p>Cowper Report Recommendation 2.3 recommended a province-wide plan for diversion, including restorative justice should be developed to include education, quality assurance and control, performance measures, reporting, and evaluation.</p> <p>Cowper Recommendation 2.10.4 recommended expanded funding for restorative justice programs should be made available, and innovative methods of funding should be assessed in cases where the offender would otherwise be subject to a significant criminal penalty.</p>	<p>An Inter-ministry Committee on Restorative Justice was established to articulate a coordinated and connected vision for restorative justice and advance a strategy for promoting best practices.</p> <p>Government will continue to expand and support existing Community Accountability Programs, including a training initiative that is currently underway.</p> <p>Government intends to expand the use of restorative justice as additional funding becomes available.</p>

## TIMELY AND BALANCED JUSTICE: INTEGRATED APPROACHES TO CITIZEN SAFETY

Government Action Items	Major External Recommendations	Commitments
<b>Undertake Public Safety Reform</b>		
<b>Examine options for service delivery and funding models for policing</b>	<p>During consultations for the development of the Policing and Community Safety Plan, some stakeholders expressed the need to identify policing responsibilities at the various levels of government, and develop options for funding models.</p> <p>MWCI Report<sup>5</sup> Recommendation 9.1 recommended that the provincial government commit to establishing a Greater Vancouver police force through a consultative process with stakeholders.</p>	<p>Government commits to working with key stakeholders to define and clarify policing responsibilities and to develop options for funding models that reflect each level of government’s policing responsibilities.</p> <p>Government will engage in a process with stakeholders to consider models for service delivery ranging from further integration to the regional delivery of services while retaining local community-focused policing.</p>
<b>Crime prevention</b>	<p>Throughout the consultations for the Policing and Community Safety Plan, stakeholders expressed their views about the effectiveness of crime prevention initiatives and the need for Government to take a strong leadership role.</p>	<p>Government will establish an Inter-ministry Committee on Crime Prevention that will develop a Provincial Crime Prevention Strategy by March 2014.</p>
<b>Crime reduction initiative</b>	<p>Cowper Report Recommendation 2.3 recommended a province-wide crime reduction plan be developed under the direction of the BC Association of Chiefs of Police in Collaboration with the Criminal Justice and Public Safety Council.</p>	<p>Government is committed to supporting the development of a province-wide Crime Reduction Initiative in consultation with the BC Association of Chiefs of Police and local governments. Work commenced in 2013 and development will continue with implementation targeted for March 2015.</p>

<sup>5</sup> Forsaken: The Report of the Missing Women Commission of Inquiry, (2012): <http://www.missingwomeninquiry.ca/obtain-report/>

Government Action Items	Major External Recommendations	Commitments
<b>Protect Marginalized Women</b>		
<b>Prevention and Protection</b>	<p>MWCI Report Recommendation 1.1 urged the government to provide funding to existing centres that provide emergency services to women engaged in the sex trade to enable them to remain open for 24 hours.</p> <p>MWCI Report Recommendation 6.2 recommended that the Provincial Government fund a community consultation process led by Aboriginal organizations to develop and implement a pilot project designed to ensure the safety of vulnerable Aboriginal youth during the rural-urban transition.</p>	<p>Government has committed \$750,000 to the WISH Drop-In Centre Society to allow it to expand the services it provides to vulnerable women who work in the survival sex trade in the Downtown Eastside.</p> <p>Government will work with the Advisory Committee led by Steven Point to identify how Government can assist communities to implement locally appropriate measures for supporting their vulnerable youth and women. This will include a review of options for community-police linkages, community mobilization and networks, and legislative measures that could provide additional protections for this vulnerable group.</p>
<b>Modernize reporting and tracking of missing persons</b>		
	<p>MWCI Report Recommendation 7.5 recommended that the Provincial Government establish a provincial partnership committee on missing persons to facilitate the collaboration of key players in the ongoing development of best practice protocols for missing persons cases.</p> <p>MWCI Report Recommendation 8.1 recommended that the Provincial Government enact missing persons legislation.</p>	<p>In consultation with key stakeholders, Government will consider recommendations related to missing persons reports in the context of the ongoing development of policing standards and other reforms in response to the MWCI Report.</p> <p>Government will examine legislation and practices developed in other Canadian jurisdictions to determine whether similar missing persons legislation should be enacted in B.C.</p>
<b>Improve criminal investigations of missing persons</b>		
	<p>MWCI Report Recommendations 7.1 – 7.4 recommended provincial standards be developed and best practice protocols established for missing persons policies and practices.</p> <p>MWCI Report Recommendation 8.2 -8.4 recommended that the provincial government mandate the use of Major Case Management, that the Director of Police Services develop MCM standards and mandate accountability under the standards and that issues related to MCM be reviewed.</p> <p>MWCI Report Recommendation 4.1 recommended that the Director of Police Services undertake equality audits of police forces in B.C. with a focus on police duty to protect marginalized and Aboriginal women from violence.</p> <p>MWCI Report Recommendation 4.12 recommended that police officers undergo mandatory and ongoing experiential and interactive training concerning vulnerable community members.</p>	<p>Government will develop standards and best practice protocols for the investigation of missing persons, complex investigations involving serious crimes (including electronic Major Case Management solutions), and cooperation and coordination amongst police agencies.</p> <p>Government will conduct a study to examine the practices and policing of police agencies in B.C. related to ensuring bias-free policing and will, where required, ensure audits are completed, and standards developed, related to bias-free policing and the equitable treatment of all persons.</p> <p>Government will ensure the development of and delivery of culture awareness and sensitivity training for police officers in the province.</p>
<b>Vulnerable witnesses and victims</b>		
	<p>MWCI Report recommendation 4.9 recommended that the Provincial Government develop guidelines to facilitate and support vulnerable and intimidated witnesses by all actors within the criminal justice system.</p>	<p>Government is committed to providing supports for vulnerable witnesses and examining how these services could be improved.</p>

MWCI Report Recommendation 4.8 recommended that the Provincial Government fund three law reform research projects on aspects of the treatment of vulnerable and intimidated witnesses.

Government will review research related to vulnerable victims and witnesses to facilitate and support their participation in the criminal justice process. This research will be incorporated into training materials for justice participants, including prosecutors.

MWCI Report Recommendation 4.3 recommended that the Provincial Government amend the B.C. Crown Policy Manual to explicitly include equality as a fundamental principle to guide Crown Counsel in performing their functions.

Prosecution policies, including those that guide the exercise of prosecutorial discretion, will be reviewed to ensure that equality is recognized as a fundamental principle.

MWCI Report Recommendation 4.4 recommended that the Provincial Government develop and implement a Crown Vulnerable Women Assault Policy to provide guidance on the prosecution of crimes of violence against vulnerable women.

MWCI Report Recommendation 4.5 recommended that the provincial government adopt a policy statement in the B.C. Crown Policy Manual requiring that a prosecutor's evaluations of how strong a case is likely to be when presented at trial should be made on the assumption that the tier of fact will act impartially and according to the law.

Government Action Items	Major External Recommendations	Commitments
<b>Respond to Domestic Violence</b>		
<b>Provincial Office of Domestic Violence</b>	Cowper Report Recommendation 2.10 recommended that the Provincial Office of Domestic Violence, working collaboratively with the Criminal Justice and Public Safety Council, should prepare a plan to reduce domestic violence.	By June 2013, the Provincial Office of Domestic Violence will deliver a multi-year action plan that will identify a comprehensive approach to addressing domestic violence across Government.
<b>Domestic violence units</b>		Government intends to work with communities to expand the number of Domestic Violence Units in the province.
<b>Domestic Violence Courts</b>	RCY Report Honouring Kaitlynn, Max, and Cordon Schoenborn Recommendation 7 recommended establishment of specialized domestic violence courts.	Government is committed to working with the judiciary and other justice system participants to explore the establishment of a framework for domestic violence courts.

## TIMELY AND BALANCED JUSTICE: IMPLEMENTING PROGRAMS BASED ON WHAT WORKS

Government Action Items	Major External Recommendations	Commitments
<b>Evidence-Based Approaches</b>		
<b>Empirical Analysis of Problems</b>	Cowper Report Recommendation 2.10.2 recommended an administration of justice offence cross-sectional working group be established to better understand trends, understand best practices, and develop pilot test strategies.	Government will undertake a reform project to understand the growth in administration of justice offences.
<b>Monitor and Evaluate</b>		
<b>Apply What We Know</b>	<p>Cowper Report Recommendation 2.10.3 recommended new approaches such as that taken by the Victoria Integrated Court should be fully evaluated to determine whether they improve outcomes for offenders with mental illness and addictions, so that they can be considered for broader implementation.</p> <p>Cowper Report Recommendation 2.6 recommended that the B.C. Corrections proposal to educate and inform other justice participants of best practices in the assessment of risk should be implemented.</p>	<p>In consultation with the judiciary, Government will take into consideration results of the evaluation of the Downtown Community Court as well as evidence from other specialized court models to develop an evidence-based, integrated, and strategic approach for specialized court initiatives in the province.</p> <p>Government will conduct a feasibility study regarding the application of a pre-trial risk assessment tool and provide recommendations for implementation.</p>





