

INAUGURAL BRITISH COLUMBIA JUSTICE SUMMIT

ALLARD HALL, FACULTY OF LAW, UNIVERSITY OF BRITISH COLUMBIA

MARCH 15-16, 2013

Report of Proceedings

Prepared for the Honourable Suzanne Anton, Attorney General and Minister of Justice; the Honourable Chief Justice Robert Bauman, Chief Justice of British Columbia; the Honourable Associate Chief Justice Austin Cullen, Supreme Court of British Columbia; and the Honourable Chief Judge Thomas Crabtree, Provincial Court of British Columbia

June 17, 2013

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BACKGROUND TO THE SUMMIT

As part of the British Columbia Justice Reform Initiative, the government asked Geoffrey Cowper, QC, to conduct a review of the criminal justice system. Mr. Cowper's report, *A Criminal Justice System for the 21st Century*, submitted in August 2012, recommended that, among other steps, the system should adopt a number of foundational changes to its governance structures. These changes, he suggested, should be designed to enhance cross-system dialogue and understanding, the capacity to plan, and the ability to increase the timeliness of justice services and processes. His specific recommendations included better system coordination and advice to government through a statutory council and advisory boards, the production of an overarching strategic plan, and a regular, inclusive justice summit to consider the most significant issues facing the system's leadership.

In the White Paper on Justice Reform – *Part One: Towards a Modern, Transparent Justice System* – released in October 2012, the government endorsed Mr. Cowper's recommendations regarding governance, and signaled the intention to introduce legislation to support these changes. The White Paper broadened the scope of the original recommendations beyond the boundaries of the criminal justice system to include the components of the justice and public safety sector more broadly. It also stated the government's intention to host a first Justice Summit in March 2013.

The *Justice Reform and Transparency Act* (2013), portions of which were brought into force on April 11, 2013, contains a number of provisions of direct relevance to the Summit. These include the requirement for a Justice Summit to be held at least annually, the establishment of a Justice and Public Safety Council responsible for identifying a strategic vision for the sector, and the requirement that the Council consult broadly in developing an annual Justice and Public Safety Plan.

GOVERNANCE AND PLANNING

The government's White Paper Part One commitment to host an inaugural Justice Summit required early decisions around event governance and subject matter, leading to the establishment of a Steering Committee (see Appendix 3) with representation from the executive and judicial branches of government, as well as independent legal and policing organizations. The Steering Committee was supported by an internal Working Group (see Appendix 3).



The Committee met between January and March 2013, its principal tasks being to develop an agenda, a representative list of participants, and agreement on facilitation, location, and other planning issues. To achieve continuity with Mr. Cowper's report, criminal justice was selected by the Committee as the broad-based topic of the first Summit and as an organizing principle to determine participation.

Recognizing the need to create conditions which would allow a high level of interaction and productive dialogue at the first such event, the Committee requested that participation be limited to not more than 40 to 50 attendees. The Committee agreed further that,

consistent with protocol in similar gatherings in other jurisdictions to encourage free expression, no attribution of comments made during the Summit would be noted in the Summit report.

AGENDA DEVELOPMENT

The Steering Committee, in developing the agenda, agreed that the first Summit was an opportunity to have three important discussions among participants.

White Paper Part One indicated that system performance measures would be a material discussion for the first Summit. However, the Committee concluded that, in the absence of an inclusive and legitimate consensus on **basic system values** (and following from that, desired outcomes), consideration of performance measures would be premature. The Summit provided an opportunity for participants to begin consideration of the basic values of the criminal justice system as a foundational element of future discussions, including that of system performance. Although the initial agenda was based on a single day, the Committee regarded discussion of system values as sufficiently important and complex to require extended consideration. Therefore, an optional event for participants to do preparatory work about system values was added to the afternoon preceding the day of the full Summit.

The second opportunity provided by the Summit was to canvass and discuss substantive **criminal justice priorities** that might be developed into focused Summit topics in the future.

Finally, the first Summit was seen by the Committee as an opportunity to discuss the ways in which **planning for future Summits** might be carried out. The key questions facing the Committee in planning of the first Summit were those the Committee felt participants themselves might address, such as: What factors would increase the legitimacy and credibility of Summits? How might the process give appropriate attention to the different aspects of the overall justice and public safety sector, including criminal, civil, family and administrative justice and broader questions of public safety? And, how might the best balance be struck between the values of broad and legitimate representation, and effective and productive deliberations?

SUMMIT PROCEEDINGS

A. VALUES IN THE CRIMINAL JUSTICE SYSTEM

Participants were invited to attend an optional facilitated discussion of the basic values of British Columbia's criminal justice system, held on the Friday afternoon prior to the Summit. The outcomes of the optional session would be reported to the Summit the following day. The session was well attended, with more than 90 per cent of invited Summit participants joining the optional event.

At the optional session, participants were divided into small groups. The groups were asked by the facilitator to identify a small number of value statements which might be considered fundamental by some or all participants of the criminal justice system. A plenary discussion followed, in which the small groups provided reports, and participants discussed the range of values that surfaced in this process.

Following the conclusion of the optional session, the facilitator, supported by members of the Working Group, developed a summary of the basic themes that were identified through the optional session. These themes were summarized for further discussion as follows.

- First, some values discussed appeared to be more **fundamental values**, such that they would be predominant, or otherwise limit the application of secondary values. Values in this category included, but are not limited to: respect for the rule of law; fairness; timeliness; and safety of the public.
- A second category included **values that relate to how the system responds to criminal behaviour**. These included, but are not limited to: proportionality; early resolution; promoting and resourcing creative solution; and a willingness to find answers outside the justice system.
- A third category included **values relating to the behaviour of those who work in/are responsible for the justice system**. These included, but are not limited to: evidence-based decision making; shared accountability; resisting measures that limit creativity in the response to criminal behaviour; being respectful and accountable to one another; recognizing independence in role, but dependence upon each other for success; recognizing intra-justice and cross-sectoral impacts in allocating resources; building effective relationships; building respect and trust across the system; and effective collaboration within and across systems.
- The final category was comprised of **values related to building public understanding and confidence in the justice system**. These included, but are not limited to: accountability to the public; identifying measurable outcomes; creative and honest education of the public about criminal behaviour and the effectiveness of the system; demonstrating the cost effectiveness of the system; building public understanding of the value of the system and the need to resource it adequately; ensuring public confidence is based on accurate information; and, recognizing the legitimacy of emotional as well as rational responses to the justice system.

The full Summit convened the following day. At the start of the day, participants were informed that on Friday, March 15, 2013, a bilateral meeting occurred between the Minister of Justice and Attorney General, her two Deputy Ministers, and the Chief Justice of British Columbia, the Associate Chief Justice of the Supreme Court of British Columbia, and the Chief Judge of the Provincial Court of British Columbia to discuss how participation in the work of the Summit would also be protective of the judiciary's independent constitutional role. It was a very productive meeting and work will continue on how the judiciary can remain fully involved, as they want to be, in this multilateral Summit, and how both arms of government can benefit from these Summits and from other bilateral meetings that take place between them.



Summit participants were provided with the summary of the previous day's plenary discussion and returned to small groups. The facilitator asked the groups to consider the summary document and to reflect on the completeness of the values as described and categorized.

In the plenary discussion, small group reports identified additional views on criminal justice system values. New points raised in this discussion include, but were not limited to:

- accountability and transparency of the system;

- the use of creative solutions, such as restorative justice and community courts;
- whether timeliness, public confidence and/or public safety are values or outcomes;
- the danger of erosion of public goodwill on which the system is based;
- the primacy of fundamental justice as a system principle;
- the importance of integration and collaboration;
- the danger of fundamental change based on short-term concerns;
- the need to avoid basing public policy on poorly grounded perceptions;
- whether public confidence is a necessary consequence of fairness;
- the public impact of high visibility measures taken in other justice systems;
- access to legal information, resources and representation;
- the importance of incorporating risk assessment approaches to accused persons and convicted offenders beyond the corrections environment;
- the importance of crime prevention through social development;
- the promotion of positive and creative approaches;
- that independence should be a fundamental value;
- that judicial independence is a fundamental value; and
- whether the public shares the participants' valuation of education about the system.

Upon conclusion of the plenary discussion, there was consensus that the process of value identification was incomplete and should continue. Summit participants supported the suggestion of the facilitator that, prior to the next Summit, additional focused work be undertaken to develop a draft statement of criminal justice system values for consideration at the next Summit. Participants were invited to provide feedback on the draft Report of Proceedings.

B. CRIMINAL JUSTICE PRIORITIES

Upon completion of the values discussion, the Summit moved to consideration of priority issues within the criminal justice system. After three individual presentations from different perspectives on key issues within the system, participants were invited by the facilitator to develop, in their small groups, a short list of priority issues which might be usefully addressed at a future Justice Summit, or would inform the development of the annual Justice and Public Safety Plan mandated by the *Justice Reform and Transparency Act*. Participants then returned to plenary.

There were many issues developed in discussion. By theme they included:

1. improved inter-system coordination regarding the intersection of **criminal justice and public health** (i.e., mental illness, harm reduction/substance abuse);
2. **access to justice** issues, including the funding of the legal aid system;
3. **evidence-based justice**, including professional and public education, research and knowledge transfer regarding best practices (i.e., risk assessment/proportionate response, crime prevention), and evaluation and performance measurement;
4. the **protection of vulnerable populations** (i.e., domestic, family or partner violence, other violent crime, and overrepresentation of Aboriginal persons in the criminal justice system);
5. **accountability and transparency** across the system and with other systems (i.e., addressing information and privacy issues, identifying and prioritizing the information participants need to access, and sharing and making available data on how the system is functioning and on measuring performance.);
6. the **economics of community safety**, including the costs of policing;
7. further work on **establishing shared values** and how they might be applied;
8. identification of **system efficiencies** (i.e., those achievable with technology supports, or targeting specific categories of delay, examining each stage of the criminal process, efficiency and cost items associated to disclosure); and
9. **system governance under the *Justice Reform and Transparency Act*** (i.e., relationship of the Summit, Council, Advisory Boards, planning and other work).

Upon conclusion of the plenary discussion, Summit participants supported the facilitator's recommendation that the Steering Committee work within these suggestions in ongoing consultation with respect to future Summit agendas. A small number of those themes would be selected as focus points for future Summits.

C. PLANNING FOR FUTURE SUMMITS

Following the final small group discussions, in which participants discussed questions related to ensuring the ongoing legitimacy, credibility and effectiveness of the Summit process, participants noted the following points:

- While over the longer term Summits might occur annually, the current momentum requires at least two Summits per year, with the next ideally being held in fall 2013.
- While the agenda for the first Summit was necessarily broad, future Summits will require a tighter focus and extensive preparatory work involving participants.
- Summit preparation and planning should reflect the need to consider all aspects of the system (i.e., administrative, civil, criminal and family justice as well as matters of public safety).
- Summits need to accomplish two distinct objectives: foster proactive involvement of the justice and public safety community as well as meet the statutory requirements (e.g. consultation on a draft Justice and Public Safety Plan).

The Summit concluded with an invitation from the facilitator to participants to indicate to Summit organizers their willingness to participate in the development of future Summits and to work on two topics requiring further work:

1. values identification and
2. priority setting.

FALL 2013 JUSTICE SUMMIT

Summit participants suggested that a second Justice Summit be held in the fall 2013. The full agenda for this event would be determined in consultation with Summit participants and other stakeholders. Participants anticipated that it would include consideration of a draft statement of values upheld by the criminal justice system. Participants also reflected on the participant makeup of future Summits, which could include expanded Aboriginal participation, as well as representation from other government policy areas.

APPRECIATION

The Steering Committee would like to express its thanks to the participants at the inaugural Justice Summit, whose commitment and goodwill contributed greatly to the event.

For assistance in the development and realization of this first Summit, special thanks are due to: the British Columbia Court of Appeal, the Supreme Court of British Columbia, the Provincial Court of British Columbia; the Law Society of British Columbia; the British Columbia Association of Chiefs of Police; the Canadian Bar Association (BC Branch); the Legal Services Society; and the Public Prosecution Service of Canada.



The Steering Committee would also like to thank Dean Mary Anne Bobinski, Associate Dean Benjamin Goold, and staff of the University of British Columbia, Faculty of Law, as well as the Law Society of British Columbia and their Chief Executive Officer, Tim McGee, for their generosity and flexibility in creating the best possible setting for the Summit.

Finally, the Steering Committee would like to thank the Summit moderator, Tim McGee; the Summit facilitator, George Thomson; the Honourable Mr. Justice Richard Wagner of the Supreme Court of Canada, Geoffrey Cowper QC, Professor Yvon Dandurand, Deputy Chief Constable Doug LePard of Vancouver Police Department, Kasandra Cronin of LaLiberté Cronin LLP, and Michelle Burchill of UBC Law, as well as the many individual employees of justice and public safety organizations in British Columbia who made direct personal contributions to the success of the Justice Summit.

SUMMIT FEEDBACK

Comments on this Report of Proceedings and the Summit process are encouraged and may be emailed to 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 Summit

APPENDIX 1: SUMMIT AGENDA

**INAUGURAL JUSTICE SUMMIT
AND
BC JUSTICE LEADERS DINNER
ALLARD HALL, FACULTY OF LAW, UBC
FRIDAY, MARCH 15 AND SATURDAY, MARCH 16, 2013**

AGENDA

Friday, March 15

Justice Summit – Forum

2:30 – 5:00 Afternoon session: Identifying the Values which Guide the Criminal Justice System

BC Justice Leaders Dinner¹

6:00 to 6:45 – Reception

7:00 to 9:00 – Dinner

7:00 to 7:05 Welcome from Mr. Tim McGee, Summit Moderator

7:05 to 7:10 Welcome from Associate Dean Benjamin Goold, on behalf of Dean Mary Anne Bobinski

7:15 to 7:30 Opening remarks from Minister of Justice and Attorney General Shirley Bond

7:30 to 8:30 Dinner

8:30 to 8:50 Keynote Address: Honourable Mr. Justice Richard Wagner, Supreme Court of Canada

8:50 to 9:00 Thank you to keynote speaker: Chief Justice Lance Finch, British Columbia Court of Appeal

9:05 Evening close: Tim McGee, Summit Moderator

¹ The BC Justice Leaders Dinner was held to coincide with, but did not form part of, the Justice Summit. It was an opportunity to include Summit participants and many other justice system leaders in an overall recognition of commitment, shared responsibility, partnership and opportunity with respect to our system.

Saturday, March 16

Justice Summit — Forum

8:30 – 8:45 Welcome and Overview of Summit

- *Welcome to participants – Tim McGee, Summit Moderator*
- *Format and goals of the Summit –George Thomson, Facilitator*

8:45 – 9:15 A New Framework for the Criminal Justice System

The goal of this session is to orient participants with respect to the key provisions of the Justice Reform and Transparency Act, and to outline the opportunities provided in the Act for an inclusive planning process.

- *The Justice Summit: Strengthened Relationships and New Opportunities*
- *The Justice Reform and Transparency Act: Broadening The Justice Dialogue*

9:15-10:45 Values in the Criminal Justice System

The goal of this session is to generate, consider, and refine a draft list of values which are essential to the oversight and practice of the criminal justice system. These values need not be of equal weight to all participants, nor need they be commonly held. However, they should be foundational for at least some participants in the criminal justice system.

- *Report back from Friday afternoon session (10 minutes)*
- *Small group sessions (45 minutes)*
Groups of 10 or fewer discuss draft values and answer following questions:
 - Should the list be amended, reduced or expanded?
 - Do any of these values reinforce one another?
 - Do any of them conflict with one another?

11:00-11:45 Identifying the Criminal Justice Priority Issues a Summit Should Address

The goal of this session is to offer, and have Summit participants consider, a diverse, non-exhaustive set of perspectives on sector-level topics or priority issues which might be addressed using the Summit framework in the next year, and/or which may be addressed in the Justice and Public Safety Plan.

11:45-12:30 Priorities for Criminal Justice, Part One

The goal of this session is to have participants in small groups identify (on flipcharts) a hierarchy of no more than five topics for future Summit consideration.

1:45 – 3:15 **Priorities for Criminal Justice, Part Two**

The goal of this session is, with a narrowed list of topics in hand, for participants to discuss in more depth what they think needs to be done to address the topics well in future Summits.

- Small group sessions (45 minutes)
- Report back in plenary (45 minutes)

3:30-4:30 **Preparing for Future Summits**

The goal of this session is to consider and identify key elements in ensuring a successful Summit process going forward.

A facilitated plenary discussion of a number of issues relating to future Summits. These may include:

- membership/participation
- ways of ensuring inclusiveness and diversity while keeping Summit events manageable and affordable
- bridging/organization (e.g., a formal Steering Committee, interim working groups)
- Summit format
- reporting and communications

4:30 **Closing**

Remarks by Facilitator

Closing by Tim McGee, Summit Moderator

APPENDIX 2: SUMMIT PARTICIPANTS

Anhorn	Michael	Executive Director	Canadian Mental Health Organization, B.C.
Bayes	Shawn	Executive Director	Elizabeth Fry Society of Greater Vancouver
Benton, QC	Mark	Executive Director	Legal Services Society
Bond	Honourable Shirley	Minister of Justice and Attorney General	Government of British Columbia
Braker, Q.C.	Hugh	President	Native Courtworkers and Counselling Association of B.C.
Brecknell	Honourable Michael	Associate Chief Judge	Provincial Court of British Columbia
Callens	Craig	Deputy Commissioner	E Division RCMP
Cavanaugh	Lynda	Assistant Deputy Minister	Community Safety and Crime Prevention, Ministry of Justice
Chalke, QC	Jay	Assistant Deputy Minister	Justice Services Branch, Ministry of Justice
Crabtree	Honourable Thomas	Chief Judge	Provincial Court of British Columbia
Cronin	Kasandra	Barrister	LaLiberté Cronin
Cullen	Honourable Austin	Associate Chief Justice	Supreme Court of British Columbia
Dandurand	Yvon	Professor	Senior Associate at the International Centre for Criminal Law Reform and Criminal Justice Policy and Associate Vice-President, Research and Graduate Studies, University of the Fraser Valley
Devlin, QC	Martha	Senior General Counsel	Public Prosecution Service of Canada
DeWitt-Van Oosten, QC	Joyce	Assistant Deputy Attorney General	Criminal Justice Branch, Ministry of Justice
Dinwoodie	Murray	Chief Administrative Officer	City of Surrey
Finch	Honourable Lance	Chief Justice	British Columbia Court of Appeal
Fowler	Richard	Barrister	Fowler and Smith
Fyfe, QC	Richard	Deputy Attorney General	Ministry of Justice
Gill	Honourable Gurmail	Associate Chief Judge	Provincial Court of British Columbia
Gottardi	Eric	Barrister	Canadian Bar Association – BC representative
Graham	Jamie	Chief Constable	Victoria Police Department/President BC Municipal Chiefs of Police
Haugli	Brad	Inspector	Penticton South Okanagan Similkameen Regional Detachment/President BC Association of Chiefs of Police
Jamieson, QC	Gene	Legal Officer	Provincial Court of British Columbia

Jardine	Kevin	Assistant Deputy Minister	Court Services Branch, Ministry of Justice
Jones	Dave	Chief	New Westminster Police Department
Juk, QC	Peter	Director, Appeals and Special Prosecutions, Criminal Law Division	Criminal Justice Branch
Kraemer, QC	Frank	Executive Coordinator	Supreme Court of British Columbia
LePard	Doug	Deputy Chief Constable	Vancouver Police Department
Mason	Heidi	Director, Legal Advice and Representation	Legal Services Society
McBride	Heidi	Law Officer	Supreme Court of British Columbia
McGee	Tim	Chief Executive Officer	Law Society of British Columbia
Merchant	Brent	Assistant Deputy Minister	Corrections Branch, Ministry of Justice
Morrison	Dr. Brenda	Director	Centre for Restorative Justice and Assistant Professor, School of Criminology, Simon Fraser University
Outerbridge	Tim	Law Officer	British Columbia Court of Appeal
Parkin	Ben	Assistant Director	Law Department, City of Vancouver
Pearson	Paul	Barrister	Mulligan, Tam, Pearson
Pecknold	Clayton	Assistant Deputy Minister	Policing and Security Programs Branch, Ministry of Justice
Phillips	Honourable Nancy	Associate Chief Judge	Provincial Court of British Columbia
Porteous	Tracy	Executive Director	Ending Violence Association
Prior	Robert	Chief Federal Prosecutor	Public Prosecution Service of Canada
Robertson, QC	Wayne	Executive Director	Law Foundation
Ruebsaat	Gisela	Legal Analyst	Ending Violence Association
Russell	Clark	Director of System and Service Coordination	Ministry of Children and Family Development
Shackelly	Darryl	Provincial Trainer	Native Courtworker and Counselling Association of B.C.
Simmons	Kerry	President	Canadian Bar Association – B.C.
Thomson	George	Director	National Judicial Institute
Vance	Kenneth	Senior Policy Advisor	Union of British Columbia Municipalities
Veresh	Tim	Executive Director	John Howard Society, Lower Mainland
Walter	Bernd	Chair	BC Review Board and BC Human Rights Tribunal
Wanamaker	Lori	Deputy Minister of Justice and Deputy Solicitor General	Ministry of Justice
Wilkinson	Craig	Executive Director	Provincial Court of British Columbia

APPENDIX 3: STEERING COMMITTEE AND WORKING GROUP

STEERING COMMITTEE

Members:

Jay Chalke, QC	Assistant Deputy Minister, Justice Services Branch (Chair)
Associate Chief Justice Austin Cullen	Supreme Court of British Columbia
Associate Chief Judge Gurmail Gill	Provincial Court of British Columbia
Eric Gottardi	Barrister, Peck and Company/Canadian Bar Association BC Branch
Joyce DeWitt-Van Oosten, QC	Assistant Deputy Attorney General, Criminal Justice Branch
Mark Benton, QC	Executive Director, Legal Services Society
Mark Fisher	Chief Constable, Oak Bay Police/BC Association of Chiefs of Police
Robert Prior	Chief Federal Prosecutor, Public Prosecution Service of Canada
Tim McGee	Chief Executive Officer, Law Society of British Columbia (Summit Moderator)

Facilitator:

George Thomson	Director, National Judicial Institute
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Ex-officio:

Allan Castle	Executive Lead, Justice and Public Safety Secretariat
Nancy Pearson	Manager, Stakeholder Relations, Justice Services Branch
Heidi McBride	Law Officer, Supreme Court of British Columbia
Gene Jamieson, QC	Law Officer, Provincial Court of British Columbia

WORKING GROUP

Members:

Allan Castle	Executive Lead, Justice and Public Safety Secretariat (Chair)
Barbara Greeniaus	Executive Advisor, Justice and Public Safety Secretariat
Darrion Campbell	Executive Director, Corporate Planning
Elenore Clark	Deputy Provincial Director, Community Corrections, Corrections Branch
Gene Jamieson, QC	Law Officer, Provincial Court of British Columbia
Heidi McBride	Law Officer, Supreme Court of British Columbia
James Deitch	Executive Director, Criminal Justice and Legal Access Policy Division, Justice Services Branch
Nancy Pearson	Manager, Stakeholder Relations, Justice Services Branch
Richard de Boer	Director, Policy and Legislation, Criminal Justice Branch
Toby Louie	Executive Director, Corporate Policy and Planning Office

Special assistance provided by:

Andrew Mitchell	Stakeholder Relations Officer, Justice Services Branch
Edna Philippides	Executive Assistant, Justice Services Branch
Julie Meier	Executive Assistant, Justice and Public Safety Secretariat
Tiny Vermaning	Administrative Assistant, Justice Services Branch

