

British Columbia
JUSTICE SUMMIT

Twelfth Justice Summit

The Summits, Justice Reform, and Assessing Progress

SFU Joseph and Rosalie Segal Centre

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Report of Proceedings

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Executive summary

The theme of the Twelfth BC Justice Summit was "The Summits, Justice Reform, and Assessing Progress." Participants considered how to enhance the potential of the Summits to identify and accelerate needed reforms in the sector. The primary objectives of the Twelfth Summit were to consider the preferred vision and approach for future Justice Summits and Justice Summit recommendations, and to verify the sector's desire to do more in measuring progress against key indicators.

The keynote address asked Summit participants: "can we measure what matters?" and challenged participants to do more to measure the actual outcomes experienced by users of the justice system. Participants then engaged in dialogue through the day guided by the Summit objectives, with conversations being seeded by presentations on the evolution of the Summit process, on the successes and shortcomings of the Summits to date, and on the potential and current limitations of existing performance measurement.

Five recurring themes emerged from the contributions of many Summit participants:

1. Participants felt that the Summits positively influence sector dialogue and relationships, and aid in problem-solving.
2. To turn good Summit ideas into action more consistently, participants were open to a more rigorous approach to accountability, follow-through, and reporting back.
3. There is interest in the Summits sustaining greater levels of engagement with other sectors, particularly the health and education sectors.
4. There is willingness to do more regarding data and measurement, but a mechanism is lacking. The answer may lie in the work of trusted third parties.
5. There is a need to revisit and redefine the foundational relationship between Indigenous justice organizations and the Summit process.

It was proposed that these ideas might be advanced by a task force in the short term, with recommended solutions returned to a future Summit for consideration. If consensus were reached to adopt a new approach, organizations across the sector could move forward voluntarily towards the successful implementation of the recommendations.

Introduction

Background to the Summit process

The BC Justice Summit process was created in 2013 via the Justice Reform and Transparency Act. The Justice Summits provide a forum for frank discussion between justice and public safety sector leaders in BC, to facilitate innovation in and collaboration across the justice and public safety sector, and to consider how sector performance can be improved. Participants invited by the Attorney General and Solicitor General include the Chief Justices of the Superior Courts and the Chief Judge of the Provincial Court of British Columbia, as well as any other individuals the Ministers consider, based on the theme, to be qualified to assist in improving the performance of the justice and public safety sector.

Each year, the Ministers empower a Steering Committee to organize two Summits around a particular theme and/or with focus on a particular justice issue. Following each Justice Summit, the Committee drafts a report for review by all participants, creates a final version based on feedback, and provides the final report to the Ministers, the judiciary, Justice Summit participants, and the public. Reports from Fall Summits have recently included recommendations following from participants' deliberations on the theme for that year.

Past Justice Summit themes have included criminal justice; the family justice system; violence against women; trauma-informed practice; information-sharing where family, criminal, and child protection proceedings intersect; mental health and substance use; justice and technology; and Indigenous justice. Reports of past Summit proceedings are [archived here](#).

Twelfth Summit theme and agenda development

The theme of discussion identified by the Ministers for the Twelfth Summit, "The Summits, Justice Reform, and Assessing Progress," addressed the Summit process itself, and specifically the linkage between dialogue at the events, recommended actions, and

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follow-up activity. Participants considered how to realize the potential of the Summits to identify and accelerate needed reforms in the sector and discussed the degree to which the sector is grasping the opportunity afforded by the Summits to assess and identify progress.

Selection of this theme occurred further to feedback solicited from past participants in December 2018 on the future direction of the Summits. A key element of the feedback received was many past participants' desire for greater connection between Summit discussions, recommendations, and subsequent actions, and to have some means of finding out "what happened" following past Summits. As the primary strength of the Summits is the enduring good-faith engagement of participants and institutions across the sector at the events, the Ministers requested that the Twelfth Summit be designed to allow participants themselves to deliberate on the most effective approach to these questions, set against the context of the original intent and assumptions of the *Justice Reform and Transparency Act*.

On behalf of the Ministers, the agenda and participant list for the Twelfth Summit were developed by a cross-sectoral Steering Committee with broad representation, including provincial and federal justice organizations and agencies, police, Indigenous justice organizations, prosecutors, the defence bar, NGOs, and other subject matter experts. The Committee included observers from the Superior Courts and the Provincial Court of British Columbia. The Committee, chaired by the Executive Director of Strategic Planning, Performance and Reporting, Justice Services Branch, met through March and April 2019, and was supported by the Justice and Public Safety Secretariat ("the Secretariat").

The Summit agenda is reproduced below in Appendix 2. A full list of Summit participants is provided in Appendix 1. Steering Committee and Secretariat membership is detailed in Appendix 3.

Objectives

As developed by the Steering Committee, the specific objectives of the Twelfth Summit were:

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1. To obtain guidance from sector participants on the preferred vision and approach for future Justice Summits.
2. To obtain input on short and long-term strategies for improving upon the existing Justice Summit process.
3. To clarify the sector's preferred approach and accountability towards Justice Summit recommendations.
4. To verify the sector's desire to measure progress against key indicators and obtain advice on practical performance measurement approaches.

In preparation for these discussions and to provide background, the Secretariat prepared a retrospective analysis of the implementation of relevant Sections of the *Justice Reform and Transparency Act*, included here as Appendix 4.

Summit confidentiality and principle of non-attribution

The Justice Summits are an opportunity for discussion from a wide range of perspectives between persons who come from or experience different parts of the justice system. To enable a safe environment for the open exchange of ideas, participants are asked to commit to confidential discussion. Comments or views expressed in discussion at the Summit by any one individual are not attributed to that person outside the Summit in the absence of that person's consent.

Summit proceedings

Keynote presentation: Can we measure what matters?

At a pre-Summit breakfast, participants heard a keynote address by the **Honourable Thomas Cromwell**, former Justice of the Supreme Court of Canada and former Chair of the National Action Committee on Access to Justice in Civil and Family Matters.

Mr. Cromwell identified “closing the gap between what we know and what we do” as one of the biggest challenges in accessing justice, asserting that reliable and meaningful metrics and benchmarks need to be established across all levels of the justice system in order to evaluate the effects of reform measures. He noted the positive work in British Columbia being done (on the heels of the National Action Committee) to build strong consensus around an Access to Justice Framework, providing stakeholders with a shared frame of reference to monitor, evaluate and learn for initiatives to improve access to justice. He identified better metrics as essential in clarifying needed system change, and in establishing indicators of success. In addition, such metrics are necessary if we wish to move beyond narrative requests and educate Cabinet and/or Treasury Board on the empirical needs of the justice system.

To be able to “measure what matters” in access to justice, Mr. Cromwell suggested reference be made to Kotter’s methodology for leading change, in particular the need to build an early coalition and vision for change based on a shared sense of urgency. In BC, there has been a strong movement towards building a coalition, with a vision for a measurement framework. The Justice Summits’ ability to draw people from various sectors together has assisted, as has the focused work being done on access to justice.

Thus, carefully handled, the prospects of success in BC are excellent, but there remain significant steps to take. Mr. Cromwell stressed the urgency of acquiring information on the justice system, how it works and how it does not, by involving partners who can enable change to occur and stablishing a coalition with the *authority to make change*, rather than just encourage it. The use of metrics must be expanded, paying due care and attention to ensure that measurements are not misleading, and that data collected is not

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used inappropriately. User satisfaction, as opposed to system management, may be the most fruitful measurement focus to adopt. Above all it is critical to change culture that is data-skeptic, by working hard to improve the quality of metrics and their capacity to clarify what must be done.

Summit opening

Welcome and opening remarks

Following the keynote address the Summit moderator, **Kerry Simmons, QC** called the Summit to order and expressed gratitude on behalf of participants to the Musqueam, Squamish, and Tsleil-Waututh peoples on whose traditional territory the Summit was being held.

Debra Sparrow of the Musqueam band extended greetings on behalf of Chief Wayne Sparrow and welcomed participants to the unceded traditional territory of the Musqueam people on which the Justice Summit was being held. She stressed the importance of establishing a foundation on which justice could be built, after centuries of colonial experience in which "laws that were created to diminish a people were not laws, but a framework for a crime," and affirmed that it was now critical for Canada to collaborate with Indigenous peoples to find a balance.

The **Honourable Mike Farnworth**, Minister of Public Safety and Solicitor General welcomed participants. He underscored the importance of considering the Justice Summit process, to assess what was working and what could be improved. Sometimes the work of the Summits has prompted change, but at other times less impact has been realized than anticipated. The Justice Summits' challenges are those associated with working within a system but failing to work together presents its own risks. When public agencies pull together to address issues collaboratively, their strength is multiplied. Minister Farnworth affirmed the need for ongoing healthy, regular and enduring dialogue on important aspects of the justice system.

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Summit overview

Facilitator **David Loukidelis, QC** welcomed participants to the Summit, reminding attendees of the confidentiality of discussions held throughout the day. He reviewed the objectives of the Justice Summits as provided for in the *Justice Reform and Transparency Act* (JRTA), including the requirement to "facilitate innovation in, and collaboration across, the justice and public safety sector." He provided a brief overview of the day's agenda, noting that the discussion would encompass the history, progress and future direction of the Justice Summits, as well as addressing the question of performance measurement in BC's justice and public safety sector.

Session 1: The Justice Summit journey so far

As established by the Steering Committee, the objectives of the first substantive session were to situate participants in the day's discussion by providing background context and, in an initial discussion, receive feedback on the existing processes for the Justice Summits.

Initial presentation

The session commenced with a presentation by **Dr. Allan Castle**, coordinator of the Summits since their inception, reviewing the experience of the eleven Justice Summits held since 2013. Dr. Castle asked participants to recall that the Summits, and the legislation which provides for them, stem from a period of acute system stress between 2010 and 2012. While the immediate origins of the Summits can be found in the Cowper report and other contemporary critiques of the justice system, he argued that the Summit process set out in the *Act* owes more to repeated well-meaning but unsuccessful efforts over a much longer period to establish a collaborative, multilateral approach to justice problem-solving in the province.

Dr. Castle sketched the evolution of the Summit process, from an originally precarious situation characterized by significant challenges of relationships and trust to the current environment in which the Summits are an accepted and increasingly valued forum for problem-solving. However, each step along the way has been accompanied by new challenges. The original uncertainty around good faith dialogue has increasingly been

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replaced by trust and growing diversity, but those positive changes have also been accompanied by the growing desire to accomplish meaningful reforms which the Summits alone have not always been able to ignite. The challenge now is to find ways to make the recommendations of the Summit stick, provided they are feasible and sustainable. This may require new or amended approaches.

In concluding, Dr. Castle encouraged participants not to discount the profound change effected by the Summits over six years in creating an enduring norm of dialogue and collaboration within the justice and public safety sector, when in previous decades less well-institutionalized efforts had withered rapidly. The challenge is to build on this strength by finding ways to match action to our dialogue.

Plenary discussion

The Facilitator invited participants to consider the following questions in small discussion groups at each table:

1. What have been the most impactful aspects of the Justice Summit process to date and what made them particularly effective? What could be done to further improve upon the existing process?
2. What have been the least impactful aspects of the Justice Summit process to date and what were the reasons and barriers for these challenges?

Following a limited period of discussion, the Facilitator invited table representatives to provide responses to each of the questions their group considered. Note that it should not necessarily be inferred by the reader that any one point reproduced here reflected a consensus or indeed represented a majority view among participants.

Most impactful aspects of the Summits to date, and potential improvements

Participants offered a range of insights on this question. Five main points which emerged in the discussion are summarized here.

The quality (and equality) of dialogue has benefited participants. From the beginning of the Summit process in 2013, conversations have felt free-flowing. The methodology adopted by the Summit organizers over time has provided an opportunity for non-

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attributed and open conversations representing a multitude of perspectives. Participants are typically non-political decision makers who benefit from the opportunity to step out of their roles for a short time. We should consider expanding participation to include the next layer of associated organizations to ensure the right people are in the room. Given the capacity in the room, greater efforts could be made by organizers to take advantage of participants' strengths.

The Summits are a unique venue for forging connections. The Summits provide an opportunity for on-the-ground people to collaborate with and learn from government and judiciary on critical initiatives, and *vice versa*. This has included the important areas of domestic violence and sexual assault. In turn this has led to establishment of new relationships across the justice sector, assisting the development of coordinated responses to issues which can lead to better outcomes.

The voices of lived experience at Summits can promote change. Lived experiences shared at the Summit on Mental Health and Substance Use were found to be both impactful and informative. This benefit to the Summit dialogue led some participants to ask for further involvement of participants with lived experience who are willing to engage in difficult dialogue at future Summits.

Positive work on Indigenous Justice needs a sustained approach. The Indigenous Justice Summits prompted open discussions, were impactful and well-attended, and were based on a productive partnership between Indigenous and government organizers. However, this success and the Indigenous Justice Strategy overall requires a long-term focus, with a more explicit commitment to ongoing collaboration with Indigenous peoples being needed.

Time may still be used more effectively in Summit planning. Regarding the two-Summits per year approach, the first Summit of the year should present a broad theme containing specific sub-topics. At the second Summit of the year, there should be greater focus on the sub-topics identified at the first Summit. We should consider reducing the time between Summits so that the first discussion is still fresh in participants' minds.

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Least impactful aspects of the Summits, and the reasons for these challenges

Participants offered five main points in the discussion, which are summarized below.

The Summits should be more systematic in engaging Indigenous peoples. Indigenous voices and organizations are not always heard or fully considered in the design and delivery of the Summits, and participation has been uneven. We should consider revisiting whether the foundational principles of the Justice Summits, and their organization and participation, are adequately informed by Indigenous justice issues.

Recommendations that “don’t stick” may have been poorly grounded. Topics presented for consideration at the second Summits have sometimes felt structured by the Committee rather than being open to further discussion. Some recommendations lack accountability or traction and may not be universally accepted. Recommendations could be better formed to enhance the likelihood of success.

Greater follow-up and tracking of recommendations is needed. Clarification is needed on why some recommendations do not proceed, and a process for following up on recommendations is needed. Tracking recommendations would help measure the Summit's success.

Implementation of recommendations requires more rigorous organization. Funding and accountability for implementation are typically uncertain. The same individual participants are often involved in implementing multiple recommendations, which can be burdensome. Funding is often required to implement recommendations but is often unaddressed. To resolve this, greater clarity is required regarding accountability and funding for recommendations. Going further, sector participants might consider developing a memorandum of understanding or "Summit treaty" outlining how Justice Summit recommendations will be implemented.

The Summits would benefit from expanded “upstream” participation. Many issues considered at the Summits have potential solutions which require collaboration with social sectors and organizations outside justice and public safety, particularly the health and education sectors. While there has been some success at creating a dialogue across sectors (*e.g.* at the Sixth and Seventh Summits which addressed mental health and

substance use), a more sustained pattern of engagement and problem-solving is desirable.

Session 2: From foundations to future focus

Building on the initial discussion, in the second session of the day participants moved to a deeper discussion of the roles, responsibilities, accountabilities, and follow-up associated with Justice Summit recommendations; i.e., "what happens next" after Justice Summits make recommendations. In this session participants were also asked to explore opportunities which may exist through the *Justice Reform and Transparency Act* to further motivate sector transformation and coordination, and to identify potential vehicles for promoting action.

Initial panel discussion

To begin the discussion, a cross-sectoral panel were invited to reflect on the original intent of the Justice Summits and how the process has developed. Panelists included the **Honourable Robert J. Bauman**, Chief Justice of British Columbia; **Lynda Cavanaugh**, Assistant Deputy Minister, Court Services Branch; **Tracy Porteous**, Executive Director, Ending Violence Association of BC; **Mark Sieben**, Deputy Solicitor General; and **Doug White**, Chair of the BC First Nations Justice Council. The discussion was facilitated by David Loukidelis. Key observations during the panel discussion were as follows. As noted above, no inference of unanimity or majority opinion should necessarily be made by the reader.

It was noted that the Justice Summits are a commendable initiative that should not be changed significantly, aside from a process for ensuring implementation of recommendations. A mechanism is needed to hold participants in the Justice Summits accountable for implementing its recommendations, in a manner that respects the courts, police and prosecution services and similar to steps taken in the international arena to monitor efforts towards implementation of bilateral or multilateral agreements.

Practically speaking, the Justice Summit may need a group tasked with focusing on the Justice Summit's outcomes. Routine care should be taken over the creation of multiple

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recommendations, given the tendency of government to be overburdened with recommendations more generally. Barriers to implementing Summit recommendations include lack of time to implement new initiatives (and the complexity of their collateral effects on other systems when there is time), as well as the issue previously mentioned regarding the degree to which recommendations are “pre-baked” and thus poorly grounded.

It was observed that collaboration amongst anti-violence organizations and experts in BC is unparalleled across the country, and the Summits have made direct contributions to this collaboration via some key Justice Summit recommendations. These include developing a way to share information across sectors to better respond to domestic violence, and implementation of trauma-informed training for the entire criminal justice system. Following the discussion of Interagency Case Assessment Teams (ICATs) at the Fourth and Fifth Justice Summits, opportunities for program expansion emerged rapidly. ICATs are making a major difference in preventing domestic homicides and lowering rates of child removals.

Greater diversity may increase Summit effectiveness. The Summits allow sharing of information within the justice sector, and provide an opportunity to build relationships, create momentum for change, and learn about the life experiences of others. They provide an opportunity to meet with a growing and varied group of participants and stakeholders, including government, all three levels of the court system and practitioners, which other sectors could learn from. Having the right people in the room sparks ideas which may be taken away and implemented.

Recently, the Summits have focused on Indigenous justice, which has been one key step towards reconciliation. Canadian society more generally has experienced some significant progress, including the Truth and Reconciliation Commission (TRC), which acknowledges what has occurred in our shared history. However, research on impacts of a truth and reconciliation process in West Africa shows that victims experienced high levels of post-traumatic stress disorder (PTSD), anxiety, and depression after participating. We should not assume that richer, more truthful dialogue about what has happened to Indigenous

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people can be easily sustained or is cost-free, or that such conversations at Summits will be benign for the people engaging in the discussion.

The Justice Summit has prompted some important recommendations, but the foundation on which the Justice Summit was built should be re-assessed, as Indigenous leaders are interested in participating in discussions on doing things differently. The situation is beyond urgent as Indigenous people are heavily overrepresented in jails and care and under-represented in other areas of the justice system (e.g. as parole officers or corrections officers).

Breakout discussions

Participants transitioned to their designated breakout discussion rooms in groups of approximately 20, to consider the following questions with facilitators:

1. Describe how the sector can collectively best ensure the intended actions arising from Justice Summits (through recommendations or otherwise) have clear roles, responsibilities, accountabilities, and follow-up processes for all involved organizations.
2. Given the original intent of the JRTA, and more recent aspirations within the sector (e.g. Access to Justice BC), what is the optimal way to drive collaborative transformation efforts? Building on collaborative successes to date, what opportunities exist to advance these efforts?

Plenary discussion

Participants reconvened when the breakout discussions concluded. The breakout session facilitators summarized their group's discussions, with key points emerging following these discussions as follows. Note that it should not necessarily be inferred by the reader that any one point reproduced here reflected a consensus or indeed represented a majority view among participants.

Distinguish between the strategic role of the Summit and tactical follow-through. It is clear that legislation can bring people together for discussions. It may also be able to hold

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them accountable. However, sector participants should consider whether the function of the Summit should be *more strategic and less operational*, leaving the tactical mechanisms to another group (or groups) with greater resources. The Summit could identify key topics to be operationalized and could also determine the relative priority of different initiatives.

Existing legislation may offer all the necessary vehicles. Tactically, a sub-group of the Justice Summit could frame out the recommendations and liaise as needed with sector organizations. The Summit could also task standing bodies or new groups to identify and bring forward issues for consideration. As it stands, under the JRTA the existing Justice and Public Safety Council could be repurposed and repopulated to play such a bridging role between the Summits and sector organizations. Alternatively, Section 4 of the JRTA has provisions for advisory boards sufficiently loosely defined that it might be used to bring the necessary body into being.

Build more robust connections to other processes and sources of ideas. The organization of Summits should extend more regularly across boundaries to establish appropriate and robust links with other initiatives. Ensure appropriate representation: the lack of broader representation hinders the ability to bring change, speak authoritatively, and garner opinions from across the sector (beyond government). Similarly, a formal mechanism is needed to enable communications with First Nations and Métis representatives. It is also important to hear from people with lived experience, as their voices could help inform the Summit's direction.

Consider whether the Justice Summits have run their course. It may be that the Summit's functions could be transferred to A2JBC or another better-suited body. Consideration might be given to which organization is best placed to do more.

Session 3: Planning, performance and accountability

In the third substantive session of the day, the attention of participants was directed to the question of performance measurement in the sector. The objectives of the session were to clarify the level of interest amongst sector leadership with respect to performance measurement, tracking and reporting via the Justice Summit process; to

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obtain practical insights on how ongoing performance monitoring could best be achieved; and to determine what role, if any, Justice Summits should have in performance monitoring and strategic planning across the sector.

Initial presentation

Professor Yvon Dandurand of the University of the Fraser Valley Criminology Department provided context for discussion of performance measures with an initial presentation. His remarks focused on the development of credible and practical performance measures.

Professor Dandurand spoke frankly about the current shortcomings of justice performance measurement in British Columbia, identifying numerous areas where good intentions and ambitions have not been fulfilled or sustained. These include efforts to establish performance measures which rely only on available data, the purpose of which is almost always operational rather than managerial or strategic; extensive conceptual work on performance measures which is never implemented; failure to update vital datasets; poor methodologies which are replicated and make available data much less useful; outdated information management systems, which are unable to capture performance data; the selective use and mis-use of data for various purposes; and lack of public access to data.

Professor Dandurand also highlighted patterns of active or passive resistance to performance measurement efforts: deliberate delays, stalling the process by insisting on a review of all data; asking for a detailed feasibility study, then emphasizing the costs; convincing politicians to withdraw support for performance measurement. He challenged participants in the room to reflect on these and other challenges in measuring performance within the sector, and to consider whether an entirely different mechanism for establishing and monitoring performance goals, targets and indicators, is required.

Small group discussions

The Facilitator invited participants to discuss in small groups at their tables the following questions.

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1. What role should Justice Summits have in sector strategic planning? What responsibilities do sector organizations have to align with the sector strategic plan?
2. Describe the challenges in measuring, tracking and reporting out on sector performance indicators that accurately reflect current priorities? What can be done to overcome these challenges?
3. Describe the most appropriate mechanism and/or process for establishing and monitoring sector performance goals and indicators and reporting out on progress towards those goals.

Plenary discussion

After considering the prepared questions, participants were invited by the Facilitator to report out key themes identified by their groups.

The role of the Summits in sector planning, and sector alignment with a common plan

Participants offered two main points in response to this question, summarized below. Again, it should not necessarily be inferred by the reader that any one point reproduced here reflected a consensus or indeed represented a majority view among participants.

Set modest expectations. It is important to acknowledge the significant diversity within the sector. At best, we may be able to identify some areas of common ground amongst participants in the sector and allow planning and actions to flow from there. Under such an approach, the Justice Summit could provide high level direction on which agencies could work towards implementation.

Conversely, consider that sector strategic planning may be an unachievable goal. The lack of commonality of mandate, the structural independence seen across the sector and the adversarial system may be sufficient to render any sector-wide planning ineffective or irrelevant, no matter how well-intentioned.

Challenges in measuring, tracking and reporting out on sector performance indicators

Participants offered three main points in response to this question, summarized below.

Data quality is essential to ensure confidence in measurement. It is important, but difficult, to ensure data is consistently gathered across the sector, and governance is key.

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Data must be carefully defined and corrected at the right point (for example, making it possible to identify as First Nations, Métis or Inuit by self-report, rather than the general terms Indigenous or Aboriginal). Consider the objective of the data and why it was initially collected as it may be incompatible for other purposes.

Data integration is the key to strategic insight. Data is best utilized to address strategic issues (*e.g.*, the over-representation of the Indigenous population in the justice system) when information from several different organizations is combined to show correlative relationships and the effect of interventions. Privacy concerns are an issue but are manageable.

A focus on data collection and analysis is not cost-neutral. This is particularly true for non-profit organizations. Time and resources are needed to collect data; expertise is required to analyze and use the data effectively.

An effective mechanism to establish, monitor and report on sector performance goals

Participants offered several points in response to this question, summarized below.

There is broad recognition of the value of data and measurement in diagnosing and addressing sector-wide issues. What is missing is an effective mechanism for acquiring and analyzing sector information while mutually respecting the independence of system participants.

Focus on user outcomes, not on processes. When designing performance measures, consider what the ultimate goal of the intervention or policy is for the user, rather than counting organizational outputs. Consider what "success" looks like, determine how the outcome will be recorded, and then design a measure that fits.

Independent third-party approaches to data are emerging. The Access to Justice Centre of Excellence at UVic (ACE) is adopting a data observatory model, one which would have capacity to analyze data relevant to the performance of the justice system in terms of access. ACE is coordinating two colloquiums this year to review the A2JBC measurement framework and seek to identify data they may have (or can obtain) which might align with each of those measures.

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A collaborative approach is necessary for centralized data gathering. The Justice Summit should not direct what data needs to be collected arbitrarily, but a common vision could be developed to report on sector performance and the Justice Summit could have a role in relation to data-sharing.

BC has significant data integration opportunities. BC has the most complete linked data for its population in corrections, which combined with health data and social development data has significant potential for performance measurement. Such information could assist *e.g.* in knowing the effect of Gladue implementation and improved design of interventions. Similarly, the Integrated Data Office within the BC government has taken important steps to facilitate the cross-sectoral use of data for public benefit.

Summary of themes and next steps

In closing, the Facilitator reviewed some key themes from the Summit discussion which could provide the basis for consideration of next steps, in those areas of discussion where there had been a significant degree of clarity.

He noted that five recurring themes had emerged from the contributions of many Summit participants at the Twelfth Summit:

1. In general, participants feel the Summits have had a strongly positive influence on the quality of dialogue and relationship-building across the sector, and in doing so have created numerous opportunities to problem-solve issues faced by multiple parts of the sector.
2. To be more consistent in turning useful Summit discussions into action, many participants were willing to consider a more rigorously-constituted approach to accountability, follow-through and reporting back (though not all were convinced this was feasible). This might be achieved by reconsidering what is possible under the existing provisions of the JRTA (i.e. repurposing/reconstituting the Justice and Public Safety Council) or by some other means.

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3. There is interest in sustaining greater levels of engagement with other sectors, particularly the health and education sectors, as the Summits problem-solve around common issues manifested by justice and public safety sector clients.
4. There is willingness on the part of many participants to do more regarding data and measurement in diagnosing and addressing sector-wide issues, but the sector lacks an effective mechanism or vehicle to deliver what is required. Some participants expressed a degree of wariness of data measurement initiatives. The answer may lie in the work of trusted third parties beyond the executive and judiciary, and there is significant activity in this space.
5. There is a need to revisit and redefine the foundational relationship between Indigenous justice organizations and the Summit process. These foundations were lacking at the outset of the process but are needed to sustain an effective dialogue aimed at securing better outcomes for Indigenous people.

As a next step, these ideas might be further articulated by a task force in the short term, with recommended specific solutions returned to a future Summit for consideration. If consensus is reached to adopt an initiative, organizations across the sector could move forward voluntarily towards the successful implementation of the task force's recommendations.

Summit Closing

The **Honourable Melissa Gillespie**, Chief Judge of the Provincial Court of British Columbia, extended appreciation for participants' meaningful engagement on some difficult issues, and offered the following observations.

The Justice Summit process provides an opportunity for community and Indigenous leaders, Ministers, and prosecution leaders, to discuss some serious and significant issues, including the overrepresentation of Indigenous people in the justice system.

There has been significant discussion on what happens to the recommendations of the Justice Summit, which were sometimes challenging to complete for various reasons. As such, consideration is needed on who implements the recommendations, where the

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accountability resides, and whether there should be a model for accountability, by virtue of bringing them back to the individual participating organizations.

Retired Justice Cromwell provided some helpful insight earlier, based on his observations of bringing together this powerful group. He recognized that the group could raise significant justice issues and bring important and difficult perspectives to issues arising on a daily basis. The Justice Summits enable relationships and create trust between leaders who recognize the value of collaboration on issues of common concern. The Summits have been built by strengthening relationships and by listening to different views.

The discussions focused on the future of the Justice Summit, and what would happen if it were to be discontinued. She urged participants to consider how the issues taken on by the Summits might be considered without such a venue, and how else we might hope to change perspectives in a meaningful way; in short, she asked, how can we afford not to have the Justice Summits?

Senator **Alan Edkins** of the Métis Nation of British Columbia offered greetings and introduced himself in Michif, the traditional language of the Métis people. He reviewed the Métis Nation senate's mission statement which recognized "the people first, the people always." Senator Edkins added that as a union president for 15 years, he had learned to see beyond one side of an issue. He commended participants for convening to support justice and unity.

To bring the Summit to a close, Attorney General **David Eby, QC** extended thanks to the previous speakers for their presentations, to the key actors in the justice system for their attendance, and to the Moderator, Facilitator, and organizers of the Summit for their hard work.

The Twelfth Summit was then declared adjourned.

Appreciation

The Steering Committee would like to express its thanks to Elder Al Edkins of Métis Nation BC. The Committee would also like to express true appreciation to the people of

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Musqueam, and to Debra Sparrow of the Musqueam Band, for the hosting of the Summit on their traditional unceded territory.

The Committee would like to thank the Honourable Thomas Cromwell, Dr. Allan Castle, the Honourable Robert Bauman, Tracy Porteous, Lynda Cavanaugh, Doug White, Mark Sieben, Yvon Dandurand and the Honourable Melissa Gillespie for their remarks at the Summit. The Committee also wishes to thank Kerri Simmons, QC, and David Loukidelis, QC, for welcoming participants and directing the conversation with warmth, humour, and respect.

Finally, the Steering Committee would like to thank all participants at the Twelfth British Columbia Justice Summit, whose willingness to speak openly and personally contributed so much to the event.

Summit feedback

Comments on this Report of Proceedings and the Summit process are encouraged and may be emailed to the Justice and Public Safety Secretariat at justicereform@gov.bc.ca.

Appendix I: Summit Participants

Anderson, Lisa (Assistant Deputy Minister, Community Safety and Crime Prevention, Ministry of Public Safety and Solicitor General)

Arend, Elenore (Assistant Deputy Minister, BC Corrections, Ministry of Public Safety and Solicitor General)

Avison, Don (Executive Director and CEO, Law Society of British Columbia)

Bauman, Honourable Robert (Chief Justice of British Columbia)

Bayes, Shawn (Executive Director, Elizabeth Fry Society of Greater Vancouver)

Belak, Brenda (Legal Counsel, Supreme Court of British Columbia)

Benton, Mark, QC (Executive Director, Legal Services Society of British Columbia)

Bond, Allison (Deputy Minister, Ministry of Children and Family Development)

Boucher, Denis (Regional Deputy Commissioner, Correctional Service Canada)

Butterworth-Carr, Brenda (Assistant Deputy Minister and Director of Police Services, Police Services Division, Ministry of Public Safety and Solicitor General)

Cavanaugh, Lynda (Assistant Deputy Minister, Court Services Branch, Ministry of Attorney General)

Cronin, Kasandra (Partner, LaLiberté Cronin & Company)

Dandurand, Yvon (Professor of Criminology, University of the Fraser Valley)

Davey, Michelle (Superintendent, Vancouver Police Department)

De Jager, Ted (Superintendent, RCMP "E" Division; President, BC Association of Chiefs of Police)

Downey, Tracy (Executive Director, Prince Rupert Aboriginal Community Service Society; Member, British Columbia First Nations Justice Council)

Eby, Honourable David, QC, MLA (Attorney General of British Columbia)

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Edkins, Al (Chairman, MNBC Senate, Métis Nation of British Columbia)

Farnworth, Honourable Mike, MLA
(Minister of Public Safety and Solicitor General of British Columbia)

Feulgen, Sabine (Associate Deputy Minister, Ministry of Health)

Fyfe, Richard, QC (Deputy Attorney General, Ministry of Attorney General)

Gall, Chris (Director of Natural Resources, Métis Nation of British Columbia)

Gerhart, Todd (Chief Federal Prosecutor, Public Prosecution Service of Canada, BC Region)

Gillespie, Honourable Melissa (Chief Judge, Provincial Court of British Columbia)

Govender, Kasari (Executive Director, West Coast LEAF - Women's Legal Education and Action Fund)

Harrington, Molly (Assistant Deputy Minister, Ministry of Social Development and Poverty Reduction)

Hinkson, Honourable Christopher (Chief Justice, Supreme Court of British Columbia)

Holmes, Honourable Heather (Associate Chief Justice, Supreme Court of British Columbia)

Juk, Peter, QC (Assistant Deputy Attorney General, BC Prosecution Service)

Lee, Michael, MLA (Opposition Critic for Attorney General)

Leung, Karen (Legal Officer, Office of the Chief Judge, Provincial Court of British Columbia)

Loukidelis, David, QC (David Loukidelis Law Corporation) (Facilitator)

Lymburner, Ward (Superintendent, Major Crime Section, RCMP "E" Division)

McBride, Heidi (Executive Director and Senior Counsel, Superior Courts Judiciary)

McHale, Jerry, QC (Director, Access to Justice Centre of Excellence, University of Victoria)

Merrill, Nancy, QC (President, Law Society of British Columbia)

Miller, Mark (Executive Director, John Howard Society of the Lower Mainland)

Morris, Mike, MLA (Opposition Critic for Public Safety and Solicitor General)

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Nevin, Caroline (Chief Executive Officer, Courthouse Libraries BC)

Ng, Gloria (Counsel, Winwright Law)

Porteous, Tracy (Executive Director, Ending Violence Association BC)

Rai, Steve (Deputy Chief Constable, Vancouver Police Department)

Robertson, Wayne, QC (Executive Director, Law Foundation of British Columbia)

Rudolf, Sally (Legal Counsel, Court of Appeal for British Columbia)

Salter, Shannon (Chair, Civil Resolution Tribunal)

Sandstrom, Kurt, QC (Assistant Deputy Minister, Justice Service Branch, Ministry of Attorney General)

Sieben, Mark (Deputy Solicitor General, Ministry of Public Safety and Solicitor General)

Simmons, Kerry, QC (Executive Director, Canadian Bar Association BC Branch) (Moderator)

Smith, Lissa (Vice President and Minister of Justice, Métis Nation of BC)

Somers, Julian (Professor, Faculty of Health Sciences, Simon Fraser University)

Sparrow, Debra (Weaver and Artist, Musqueam Band)

Stubbs, Eric (Assistant Commissioner, Criminal Operations Officer, RCMP "E" Division)

Thatcher, Stephen (Assistant Commissioner, Lower Mainland District Commander, RCMP "E" Division)

Thomas, Daleen (Justice Coordinator, Métis Nation of British Columbia)

Veenstra, Bill, QC (Past President, Canadian Bar Association, BC Branch; Jenkins Marzban Logan)

Walsh, Taryn (Assistant Deputy Minister, Ministry of Mental Health and Addictions)

Westell, Kevin (Partner, Pender Litigation)

White, Douglas (Chair, British Columbia First Nations Justice Council)

Wishart, Honourable Susan (Associate Chief Judge, Provincial Court of British Columbia)

Appendix II: Summit Agenda

Pre-Summit Networking Breakfast		
Time	Proposed Sessions	Presenter(s)
7:30-8:30 am (60 minutes)	Registration and Networking Breakfast <ul style="list-style-type: none"> Building Relationships-Table Discussion Presentation: “Can we measure what matters?” <ul style="list-style-type: none"> Presenter to begin at 8:00 am 	Honourable Thomas Cromwell (Hosted by Kerry Simmons Q.C.)
Official Proceedings		
Time	Proposed Sessions	Presenter(s)
8:30-8:45 am (15 minutes)	Welcoming to the Traditional Territory and Opening Prayer	Debra Sparrow
8:45-9:15 am (30 minutes)	Opening <ul style="list-style-type: none"> Participant welcome Official Justice Summit opening from the Minister of Public Safety and Solicitor General Introduce Indigenous Elders 	Honourable Mike Farnworth (Hosted by Kerry Simmons Q.C.)
9:15-9:25 am (10 minutes)	<ul style="list-style-type: none"> Agenda overview and plan for the day Review and confirm Justice Summit objectives Summary of what to expect as a result of the Justice Summit 	David Loukidelis Q.C.
9:25-9:45 am (20 minutes)	Session #1 - Justice Summit Journey So Far: Overview <ul style="list-style-type: none"> Setting the context and history of the Justice Summits Chronology of prior events, evolution of the process, key recommendations and issues Introduce questions for upcoming plenary discussion: <ul style="list-style-type: none"> Question 1: What have been the most impactful aspects of the Justice Summit process to date and what made them particularly effective? What could be done to further improve upon the existing process? Question 2: What have been the least impactful aspects of the Justice Summit process to date and what were the reasons and barriers for these challenges? 	Allan Castle
9:45-10:25 am (40 minutes)	Session #1 - Justice Summit Journey So Far: Plenary Discussion	David Loukidelis Q.C.

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	<ul style="list-style-type: none"> Plenary discussion prompted by the Justice Summit overview and questions provided above 	
10:25-10:40 am (15 minutes)	Wellness Break	
10:40-11:30 am (50 minutes)	<p>Session #2 - From Foundations to Future Focus: Opening Panel Discussion</p> <ul style="list-style-type: none"> Reflecting on the original intent for the Justice Summits and how the process has developed since its inception. Discussing potential future opportunities to enhance the existing process to align with evolving sector needs. 	Lynda Cavanaugh Honourable Robert J. Bauman Tracy Porteous Doug White (Hosted by David Loukidelis Q.C.)
11:30 am-12:30 pm (60 minutes)	<p>Session #2 - From Foundations to Future Focus: Breakout Discussions</p> <ul style="list-style-type: none"> Question 1: Describe how the sector can collectively best ensure the intended actions arising from Justice Summits (through recommendations or otherwise) have clear roles, responsibilities, accountabilities, and follow-up processes for all involved organizations. Question 2: Given the original intent of the <i>Justice Reform and Transparency Act</i>, and more recent aspirations within the sector (e.g. Access to Justice BC), what is the optimal way to drive collaborative transformation efforts? Building on collaborative successes to date, what opportunities exist to advance these efforts? 	Facilitated discussion
12:30-1:15 pm (45 minutes)	Lunch	
1:15-2:00 pm (45 minutes)	<p>Session #2 - From Foundations to Future Focus: Plenary discussion</p> <ul style="list-style-type: none"> Brief summaries of each breakout discussion Summary of themes and exploration around where there is consensus, disagreement, and suggestions Opportunity for additional participant comments 	David Loukidelis Q.C.
2:00-2:30 pm (30 minutes)	<p>Session #3 - Planning, Performance and Accountability: Opening Presentation</p> <ul style="list-style-type: none"> Performance planning, accountability and the Triple-Aim 	Yvon Dandurand
2:30-3:15 pm (45 minutes)	<p>Session #3 - Planning, Performance and Accountability: Table Discussions</p>	Self-facilitated discussion

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	<ul style="list-style-type: none"> • Question 1: What role should Justice Summits have in sector strategic planning? What responsibilities do sector organizations have to align with the sector strategic plan? • Question 2: Describe the challenges in measuring, tracking and reporting out on sector performance indicators that accurately reflect current priorities? What can be done to overcome these challenges? • Question 3: Describe the most appropriate mechanism and/or process for establishing and monitoring sector performance goals and indicators and reporting out on progress towards those goals. 	
3:15-3:30 pm (15 minutes)	Wellness Break	
3:30-4:15 pm (45 minutes)	<p>Session #3 - Planning, Performance and Accountability: Plenary discussion</p> <ul style="list-style-type: none"> • Participants asked to reflect upon their table discussions • Summary of themes and exploration around where there is consensus, disagreement, and suggestions • Opportunity for additional participant comments 	David Loukidelis Q.C.
4:15-4:30 pm (15 minutes)	<p>Summary of Next Steps</p> <ul style="list-style-type: none"> • Summary of key takeaways from the day • Overview of the process for producing the summary report and next steps 	David Loukidelis Q.C.
4:30-5:00 pm (30 minutes)	<p>Closing</p> <ul style="list-style-type: none"> • Closing remarks from the Chief Judge of the Provincial Court • Reflections from Indigenous Elders in attendance • Official Justice Summit closing from the Attorney General 	Honourable Melissa Gillespie Métis Elder, Alan Edkins Musqueam Elder, Gail Sparrow Honourable David Eby Q.C. (Hosted by Kerry Simmons Q.C.)
5:00 pm	Adjourn	

Appendix III: Summit Organizing Team

Steering Committee

Elenore Arend	Assistant Deputy Minister, BC Corrections Branch
Mark Benton	Executive Director, Legal Service Society of British Columbia
Allison Bond	Deputy Minister, Ministry of Children and Family Development
Kasandra Cronin	Partner, LaLiberté Cronin & Company
Tami Currie (Chair)	Executive Director, Strategic Planning, Performance and Reporting, Justice Services Branch
Yvon Dandurand	Professor of Criminology, University of the Fraser Valley
Tracy Downey	Justice Coordinator, Prince Rupert Aboriginal Community Service Society; Member, BC First Nations Justice Council
Richard Fyfe	Deputy Attorney General
Todd Gerhart	Chief Federal Prosecutor, Public Prosecution Service of Canada
David Loukidelis	David Loukidelis Law Corporation Summit Facilitator
Denis Boucher	Regional Deputy Commissioner, Correctional Service Canada
Lynda Cavanaugh	Assistant Deputy Minister, Court Services Branch
Mark Sieben	Deputy Solicitor General
Kerry Simmons	Executive Director, Canadian Bar Association BC Branch Summit Moderator
Lissa Smith	Minister of Justice, Métis Nation of British Columbia
Stephen Thatcher	Assistant Commissioner, Lower Mainland District Commander, RCMP "E" Division

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Observers:

Heidi McBride	Executive Director & Senior Counsel, Superior Courts Judiciary
Sally Rudolf	Legal Counsel, Court of Appeal for British Columbia
Brenda Belak	Legal Counsel, Supreme Court of British Columbia
Karen Leung	Legal Officer, Office of the Chief Judge, Provincial Court of British Columbia

Justice and Public Safety Secretariat

Tami Currie	Executive Director, Strategic Planning, Performance and Reporting, Justice Services Branch
Mark Fassina	Director, Partnerships and Indigenous Engagement and Relations, Strategic Planning, Performance and Reporting, Justice Services Branch
Elizabeth Niessen	Engagement & Relationship Coordinator, Strategic Planning, Performance and Reporting, Justice Services Branch
Allan Castle	Principal Consultant, Castle Consulting Corporation Summit Coordinator

Appendix IV: Implementation of the Justice Reform and Transparency Act: a six-year retrospective

This document was originally prepared by the Secretariat for the Justice and Public Safety Council and was provided to Summit participants in advance as preparatory material.

This paper examines the implementation of elements of the Justice Reform and Transparency Act (SBC 2013) in the six years from passage of the legislation to March 31, 2019. The paper begins with historical context; a summary of each relevant Section of the Act is then provided, along with comment on that legislative provision and on current practice. The conclusion summarizes the overall degree of compliance with the legislation.

The focus is on Sections 1-9 and Section 11 of the legislation, dealing with the provision of advice on system reform, sector planning, and performance measurement and including Sections 7 and 8 which are not yet in force. The remainder of the Act, including Section 10 and the consequential and related amendments in Sections 12-31 which deal primarily with the judiciary and with aspects of the relationship between the executive and judicial branches of government, or are otherwise pro forma provisions, are out of scope for this paper.

Background to the legislation

Backlog, Green Paper and Internal Audit

In February 2012, in the context of a growing backlog of criminal cases in BC courts, the Government of British Columbia released a Green Paper on Justice Reform as well as an audit of the provincial justice system conducted by the Ministry of Finance Internal Audit and Advisory Services. Both reports highlighted apparent issues of cost and delay, and also pointed to apparent difficulties the sector had in resolving these issues through collaborative action and - where action was taken - in establishing the effectiveness of those reforms. Upon release of these documents, Geoffrey Cowper, QC was asked by the Premier to conduct a review of the criminal justice system in the province by July 2012.

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The review was welcomed by the Chief Justices and Chief Judge of the province's three Courts, who in addition issued a statement expressing that judicial independence as a constitutional safeguard must be preserved in any approach to improved planning, efficiency, or performance measurement the province might elect to pursue.

Cowper Report and White Paper

Cowper's report of August 2012, A Criminal Justice System for the 21st Century, which was restricted to an examination of the criminal justice system, found a 'culture of delay' notwithstanding recent improvements in the case backlog. Cowper identified the system's greatest challenges as the lack of integrated planning, the absence of a general commitment to timeliness, and slow uptake of modern management techniques and technologies. His recommendations most germane to this analysis included:

- establishment of a Criminal Justice and Public Safety Council comprised of senior bureaucrats within the Ministry, with responsibility for overall management of the criminal justice system, oversight of multisectoral initiatives, the development of a Criminal Justice and Public Safety Plan, and associated performance reporting, and supported by a Secretariat;

Limitations of the Cowper report

The Cowper report established the rationale for the planning and advisory provisions of the JRTA. Without diminishing that rationale on its own terms, limitations of the report include the following:

- *The report explicitly places the situation of Indigenous peoples regarding the justice system out of scope. Though prepared at the same time as the Oppal inquiry and primarily driven by efficiency concerns, it has since been observed by Indigenous leaders and others that this silence is a profound weakness of the report.*
- *It is not clear in the report how the recommended Council is distinct from the combined Ministries' executive committee; and thus, what additional benefit or leverage is gained through the Council's creation.*
- *The backlog concern which underpinned the review appeared to be diminishing at the time as Cowper himself noted and has since effectively disappeared. Judicial stays are now lower than in many other provinces. The 'culture of delay' observation may deserve reconsideration.*

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- creation of an advisory board to the Secretariat with independent academic or outside expert representation, as well as police, victim and broader public representation; and
- creation by statute of a Justice Summit including all levels of court and justice system leaders as a means to facilitate collaboration among all justice participants, to consider progress in the process of reform, and to discuss changes in direction or new initiatives.

In response to the Cowper report, the government issued a White Paper in two parts. Part One (A Modern, Transparent Justice System) committed the government to legislation addressing the above recommendations, broadening the scope to include the broader justice and public safety sector; i.e., not only criminal, but civil, family and administrative law as well.

Justice Reform and Transparency Act (including Sections not in force)

As the government's principal response to the Cowper review, the Justice Reform and Transparency Act (JRTA) received Royal Assent on March 14, 2013. The Act itself is attached as Appendix 2.

The relevant Sections of the Act are summarized, with commentary on the legislation and on current practice, below.

Section 1: Definitions

This Section defines the Council, the justice and public safety sector, the Justice Summit, and 'qualified candidates' (for appointment to the Council).

Comment on legislation

Of interest is the broad scope of the sector as defined, which appears to be well beyond the boundaries of the administration of justice and public safety normally within the operational control of the executive branch of the provincial government. Additionally, the authority given to the Minister to appoint 'any other individual' appears to open the door to non-government Council members. The membership of the Justice and Public Safety Council originally appointed on April 14, 2013 was entirely composed of executive

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branch leadership (Deputy Ministers and Assistant Deputy Ministers), a situation which has remained unchanged through several rounds of membership renewal.

Comment on practice to date

To date, the Council's membership remains comprised of individual holding executive positions in the public service, most of whom are from the Ministry of Attorney General and Minister of Public Safety and Solicitor General. There is one appointee from the Ministry of Children and Family Development, and one from the Ministry of Mental Health and Addictions. There is yet to be an appointment to the Council outside those working in these four ministries. The Council mostly takes the form of a subset of the Justice executive. In the absence of 'outside' members, for obvious reasons it has regularly been challenging for members to differentiate their statutory responsibilities as Council members from their roles (also often statutory) as office-holders in the executive. The Chair's ability to promote the Council's plan document is limited by the potential for role confusion on the part of observers. Similarly, it is often difficult for government staff to assimilate the different role played by the Council with respect to reporting, communications, and alignment with government messaging.

The Council maintains, with the Summits, an arms-length-from-government communications posture (differential branding, minimal engagement with corporate government communication approvals, and a web presence outside the government domain). While the Summits' relative independence fully merits this approach, the Council's own independence remains restricted by its membership profile.

Section 2: Justice and Public Safety Council

This section establishes the Council via appointment of a qualified candidate as the Chair and other qualified candidates as members. No other criteria (of e.g. size or composition) are set out.

Comment on legislation and on practice to date

See comments on S.1 above and S.3 below.

Section 3: Objects of the Council

This Section sets out the responsibilities of the Council. The Council is required to create a vision for the sector after appropriate consultation (per S.5) with 'its advisory boards,' Summit participants and/or other sector participants. It must also create a strategic plan which (per S.6) aligns with the vision it has established.

The Council is also required both to collect information on the sector and to facilitate the collection and sharing of information by others, in furtherance of visioning, planning, management, decision-making, performance measurement, and formation of strategy. The Council is further required to promote collaboration and cooperation in the sector, and to provide the Minister with advice, recommendations, and other functions as requested.

NOT IN FORCE: S.3(c), the requirement to engage in performance reporting per S.7.

Comment on legislation

Arguably, the reality of the composition of the current Council does not align neatly with all of the provisions of this Section. As the justice Ministries' joint executive committee presumably provides the current Ministers with the support set out in S.3(g) and has always done so, a Council inclusive of perspectives different from those of government executive members is likely to add value to discussion in this area.

Comment on practice to date

The Council currently does not collect or hold data independent of the constituent organizations of the sector. Information for such reporting, whether using aggregate data or in narrative form, is gathered by staff and/or consultants on an annual request basis and collated manually for the purposes of the annual strategic plan and associated performance indicators.

The Council does not currently, in any meaningful way, facilitate the collection and sharing of information by others. Its profile in the sector is very low, largely as an enforced consequence of its membership and the desire not to create role confusion on the part of key partners. As a result, the Council in its own capacity does not engage meaningfully in

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promoting collaboration and cooperation, or in providing advice and recommendations to the Ministers, other than with respect to the selection of topics for the Justice Summit and guidance regarding its implementation.

Regarding the vision, see comment under S.5. Regarding the plan, see comment under S.6.

Section 4: Advisory boards

This Section empowers the Minister to establish advisory boards to provide advice on a potentially broad range of topics, and to appoint chairs and vice-chairs of those boards. The Council may advise the Minister as to the possible composition of such a board or boards, but there is no requirement that it do so.

Comment on legislation

It is not clear from the legislation what the intended advisory or reporting relationships are between the Minister, the Council, the advisory board(s) and/or for that matter the Justice Summit. The advisory boards may possibly be seen as providing more specialized direct advisory services to the Minister than would the Council on some pressing, emergent issue; however, the Act also refers in S.3 to the Council consulting with 'its' advisory boards.

Comment on practice to date

As no advisory boards have been created to date, there is no evolution of practice to assist in interpretation.

Section 5: Strategic vision

The Council is required to create a vision for the sector after appropriate consultation with 'its advisory boards,' Summit participants and/or other sector participants.

Comment on legislation

There is no mention as to whether the vision is to be established once or updated at intervals. Presumably the intent is the latter but that is not explicit.

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Comment on practice to date

The Council in 2013 developed a vision for the sector, including a set of aligned goals, cascading objectives, identification of performance gaps, and a set of principles. The vision was circulated and discussed at the Second BC Justice Summit in November 2013, with edits being made at that time. These elements are set out each year in the Council's strategic plan, including updates to performance gaps where progress has been made or where circumstances have become more concerning (several such updates have been made). Additionally, the Council has developed, and in its planning largely adhered to, four operational priorities. Beyond the Second Summit, the degree of sector involvement with the vision has been limited. The most significant linkage to the vision has been in the Service Plans of the Justice Ministries, which since 2014 have with some amendments largely reflected the four goals of the JPSC vision (fairness, protection of people, sustainability and public confidence) as organizing strategic principles. Nongovernment engagement with the vision is very limited.

Section 6: Strategic plans

The Council must develop and publish a strategic plan each year, applicable to the following three fiscal years, which must align with its previously-established strategic vision. The plan must set out goals, impediments to those goals, and strategies to achieve the goals/reduce the impediments. It must also establish performance measures regarding overall progress and the effectiveness of individual strategies.

Comment on legislation

There is a significant tension between the requirements of this Section which are clear and prescriptive regarding the elements of any particular annual version of the Council's strategic plan, the loose criteria for selection of the Council's membership in S.2, and the broad definition of the sector in S.1. The Act is silent on the mechanism by which the Council might expect its plan to be applied, and on the linkage between the Council's membership and the operational parts of the sector which may be implicated in any particular annual plan. More broadly, the legitimacy, authority or standing of the Council with respect to the scope and implementation of its plan is unaddressed. Similarly, the

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Act is silent on the expectation that sector participants will align and/or comply with the Council's plan, and on any obligation to do so.

Comment on practice to date

The Council has prepared six annual strategic plans. In 2014, the Council identified that a body composed only of government executives could not adequately develop and establish objectives and performance measures for all areas of the sector. It was recognized the Council might benefit from greater representation from areas, such as policing and/or legal aid, for example. This issue - the balance of membership in light of the mandate of the Council - might be considered more generally with respect to improvements of the Act.

As a consequence, the plans have come to contain a review of recent developments in the sector, updated high level sector performance indicators and descriptive data, and the assertion of key strategic operational priorities. There are no specific objectives in the plan documents, or any suggested pathways. The strategic plans, while containing significant amounts of useful information, discuss ends but not means. They are not true plans and do not attempt to represent a strategy or strategies for the broader sector.

Section 7: Public reporting [NOT IN FORCE]

This Section if in force would require the Council to develop, provide to the Minister and subsequently publish an annual report of performance with respect to the goals, strategies and performance measures set out in its strategic plan. The Council would also be required in its report to make recommendations designed to improve the improved functioning of the sector, and to consider any audit findings made under S.8.

Comment on legislation

This Section would, if in force, encounter some of the same issues as strategic planning (S.6). While theoretically empowered to measure, report and make recommendations on any aspect of the sector, in practice the Council would be severely constrained in conducting performance reporting in areas of the sector where it was not perceived to have standing (whether for reasons of membership or process).

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Comment on practice to date

Although this Section has not been brought into force, between 2013 and 2015 the Council oversaw the development of a set of high-level performance measures for the sector, further to engagement with Summit participants at the Second Summit and subsequent work on the measures by an internal technical group guided by a cross-sectoral External Review Committee. In 2015 the Council elected to publish these measures annually on a voluntary basis, initially as a stand-alone Update on Performance Measurement, and more recently as part of its Strategic Plan. Four iterations of these measures have now been published. There has been a high degree of consistency in what is measured and in methodology; however, it is commonly observed that what is being measured is 'what is available, not what is needed.'

Section 8: Audits and reviews [NOT IN FORCE]

This Section if in force would empower the Council to commission audits or reviews of any material intended for use in its annual report.

Comment on legislation

This Section would in theory provide the Council with the means of independently establishing the quality, reliability and validity of information used in the development of its vision and plan, as rationale for component strategies, or as evidence of performance. In practice, it is hard to see how this would work in any situation where the membership of the Council and its perceived areas of legitimate influence and competence did not overlap with the functions or information being reviewed or audited.

Comment on practice to date

There has been no practice in this area.

Section 9: Justice Summit

This section requires the Minister to hold a Justice Summit at least annually, to facilitate innovation in and collaboration across the sector. Invited attendees may include the Chief Justices and Chief Judge, who in turn determine any other judicial attendees; Council members; and any other individuals the Minister may feel would assist the process of

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improving sector performance. Summit agendas may deal with cross-jurisdictional comparisons, discussion of the Council's strategic vision, recommendations on priorities, strategies or new initiatives, assessing performance, or any other topic within its general mandate. The Summit may report to the Minister on the outcome of its deliberations.

Comment on legislation

Relative to the requirements placed by the Act on the Council, the Summit's legislated terms of reference are much looser. There are no effective limitations on form, content or participation beyond those discretionary elements mentioned. There is no formal requirement to report to the Minister, although the Summit may do so, and no obligation to produce any material for the benefit of the public.

Comment on practice to date

The Summits are commonly held to be the most successful element introduced under the JRTA. At time of writing, eleven Summits have occurred, typically two each year. Topics discussed, while initially general and lacking diversity of participants, have quickly moved to cover many of the most important and challenging issues faced by the sector, such as family law, violence against women, mental health, and Indigenous justice, and have become far more inclusive. On this last theme, the 2018 Summits played an important role in helping to break down barriers of ignorance and uncertainty and in creating multiple channels of connection between sector office-holders and Indigenous justice experts and communities. The Summits have been established as a non-partisan, often technical forum which has retained the active involvement of leadership across sector. While discussions are ongoing regarding ways to enhance Summit outcomes, there are already key successes following discussions of trauma-informed practice, digital information management, and other Summit recommendations.

The Summits have developed more process organically in places where the legislation was relatively silent. Successive steering committees have established norms of bipartisan attendance, low media profile and non-attributed conversation, respect for the bilateral executive-judicial relationship, arm's length development of the agenda by a cross-sectoral committee, and arm's length preparation, delivery and publication of reports.

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One concern expressed at various points to date about the Summits has been the perception of imbalance between 'justice-side' and 'public safety-side' topics and attendance. Viewed through the lens of net investment in the sector, policing in particular represents approximately half of all federal, provincial and municipal expenditure. However, of the eleven Summits held to date, a focus on issues directly germane to policing has been less frequent. Similarly, inclusion of policing, while strong at the leadership tier, has not always been at levels matching the degree of police involvement in operational aspects of issues discussed.

Section 10: Memoranda of understanding

Out of scope for this discussion.

Section 11: Independence not restricted

This establishes that independence at law, including but not limited to judicial independence, is not restricted by the Act.

Comment on legislation

This Section underscores the reality of the many independent-yet-interdependent relationships within the sector. For many participants, engaging with the forms of the JRTA such as the Summits or the Council, and complying and aligning with requested planning and performance activity, is unavoidably voluntary. This fact has implications for the planning and reporting mechanisms in the legislation - implied or explicit, in force or otherwise.

Comment on practice to date

The participation in any kind of joint planning process of organizations who must retain independence of operational decision-making is a balancing act. The relative success of the Summits in sparking useful conversation across professional boundaries has led to an increasing interest in many quarters in finding ways to have the Summits result more regularly in action. Notwithstanding the vagueness in the JRTA with respect to compliance with the JPSC Strategic Plan, it is likely that a more prescriptive approach to the Plan might falter on its own merits due to participants' concerns over infringement of

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independence. Paradoxically, the less prescriptive approach of the Summits has led to the development of organic norms which might not have survived had they been scripted in legislation.

Sections 12-31

The remainder of the JRTA is out of scope for this discussion.

Conclusion

The JRTA was government's response in 2013 to the recommendations made by Cowper and others regarding the justice and public safety sector's track record in planning, collaboration and performance measurement. The Act established three entities:

1. a Council, responsible for planning and performance measurement for the whole sector;
2. a Summit, in which the broader leadership of the sector might be engaged on reform issues; and
3. advisory boards, to provide advice on specific issues.

The record of these three creations, both in terms of what they have produced and in terms of the sector's compliance with the legislation, is variable.

The Council has not achieved its primary legislated purpose of planning and development of performance measures for the whole sector. While meeting its deadlines for key deliverables, the content of deliverables has not matched the spirit or intent of the legislation. In part this under-delivery relative to the legislation is a consequence of the Council's own membership composition. However, it is also true that the prescriptive nature of the planning provisions in S.6 may make such a plan difficult or impossible to implement in a sector characterized by a high degree of operational independence, and in the absence of a logic model which sets out how and why such planning should operate.

The Summits, although they have not led to broader reform of the sector, have been successful as an initiative. They have also created a number of positive outcomes. In contrast to the Council's challenges with respect to its own membership and its required

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deliverables, the Summit has an extremely general mandate. This, arguably, has created the space for independent participants to control, define and adjust their own degree of engagement. Efforts to codify Summit process have been rejected in favour of development of unwritten norms. These developments, overall, have increased the representativeness, diversity, independence and effectiveness of these forums.

No advisory boards have yet been created. To date there has been no sustained interest expressed in their establishment, and no attempt at articulating how they might relate to, or improve, the functions of the Council or the Summits.

Should the question of legislative amendments emerge in future, it may be worthwhile reflecting on what is possible in an environment of high structural independence. The Summits, with a general legislative mandate and drawing their population freely from across the sector, have prospered. The Council, with a precise set of deliverables, and with a membership drawn from government only, has not met with the same degree of success. Planning in our sector may grow faster from norms than from prescribed behaviour.

This paper has considered the implementation of the JRTA largely from the perspective of the original government rationale and response. It has only considered in passing how the provisions of the JRTA may be viewed by non-government participants in the sector. The Council may wish to use the forthcoming Summit as an opportunity to learn the views of other sector participants regarding the importance and viability of the underlying objectives of the Act: collaborative, multilateral visioning, planning, and measuring of progress towards justice reform.

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