

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION of Attorney General

**ISSUE:** Letter to the federal Minister of Justice regarding funding of criminal legal aid.

**DECISION REQUIRED/ RECOMMENDATION:**

s. 13, s. 16

**SUMMARY:**

s. 16, s. 17

**BACKGROUND:**

- Minister Wyant sent his letter, dated November 28, 2013, subsequent to discussions at the recent Federal/Provincial/Territorial (FPT) meeting of Ministers Responsible for Justice and Public Safety regarding federal funding of PT criminal legal aid programs.

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s. 17, s. 16

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- Saskatchewan is well placed to initiate a response as senior staff in its Ministry chairs the PT PWG. Minister Wyant's letter includes points on the following topics:

s. 16, s. 17

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s. 13,s.16, s. 17

**OPTIONS:**

- Send the letter to support Minister Wyant's letter; or
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- 

s.13

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- Not applicable.

**Prepared by:**

Kathleen Rawlinson  
Senior Business & Policy Advisor  
Justice Services Branch  
(250) 356-8083

**Reviewed by:**

James Deitch  
Executive Director, CJLAPD  
Justice Services Branch  
(250) 387-2109

**Approved by:** Jay Chalke, QC  
Assistant Deputy Minister

Date: 17 December 2013

**Approved by:**   
Richard J. M. Fyfe, Q.C.  
Deputy Attorney General

Date: January 6, 2014

**Attachments**

Letter from Minister Wyant to Minister MacKay  
Draft Letter from Attorney General to Minister MacKay

Pages 3 through 8 redacted for the following reasons:

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S. 16

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For DECISION by Attorney General

**ISSUE:** Options for federal funding of criminal legal aid.

**DECISION REQUIRED/ RECOMMENDATION:**

s.13, s.16, s.17

**SUMMARY:**

s. 16, s. 17

**BACKGROUND:**

s. 16, s. 17

- Subsequently, the Saskatchewan Minister of Justice sent a letter to Minister MacKay promoting increased federal funding of criminal legal aid programs. s. 16

s. 13, s. 16

s. 13, s. 16

- In 2003, the DOJ created an Innovation Fund to which PT criminal legal aid programs could apply for funding of innovative service delivery initiatives, subject to certain criteria. The Legal Services Society (LSS), working with ministry staff, submitted a business plan for several potential initiatives, which was successful in obtaining additional funding through this process.

s.13, s. 17

## OPTIONS:

s. 13, s. 17

s. 13, s. 17

**OTHER MINISTRIES IMPACTED/CONSULTED:**

- Not applicable.

**Prepared by:**

Kathleen Rawlinson  
Senior Business & Policy Advisor  
Justice Services Branch  
(250) 356-8083

**Reviewed by:**

James Deitch  
Executive Director, CJLAPD  
Justice Services Branch  
(250) 387-2109

**Approved by:** Jay Chalke, QC  
Assistant Deputy Minister

Date: 9 January 2014

**Approved by:**   
Richard J. M. Fyfe, Q.C.  
Deputy Attorney General

Date: January 15, 2014

s. 17 s. 13

**Approved by:** Lori Wanamaker FCA  
Deputy Minister

**DECISION APPROVED / NOT APPROVED**

**DATE:**

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The Honourable Suzanne Anton, QC  
Minister of Justice and Attorney General

**MINISTRY OF JUSTICE  
JUSTICE SERVICES BRANCH  
BRIEFING NOTE**

**PURPOSE:** For INFORMATION for Suzanne Anton, QC, Attorney General and Minister of Justice

**ISSUE:** A meeting is scheduled for January 14, 2014 for the Attorney General to meet with Geoffrey Cowper, QC.

**SUMMARY:**

- Cowper was appointed by the former Minister of Justice to conduct a review of the criminal justice system. His report, entitled *A Criminal Justice System for the 21<sup>st</sup> Century*, was released by her on August 30, 2012.
- In his report, Cowper makes a number of recommendations to government and the judiciary including the establishment of a governance framework for the criminal justice system, system-wide performance measures, and a province-wide strategic operational plan.
- Following the Cowper report, the government released a two-part *White Paper on Justice Reform* in October 2012 and February 2013.
- The ministry has made substantial progress to implement many of the recommendations made in the Cowper report as well as commitments made in the *White Paper*.

**BACKGROUND:**

- In February 2012, Geoffrey Cowper, QC was asked to lead a comprehensive review of the justice system, including consultation with the Judiciary, Crown counsel, the legal profession, police and others.
- The report entitled, *A Criminal Justice System for the 21<sup>st</sup> Century*, was released by the previous Minister of Justice on August 30, 2012 along with the McCuaig report on the charge assessment process and the Legal Services Society report entitled, *Making Justice Work*.

- The Cowper report focuses on changes to improve the operation of the criminal justice system and enable it to better achieve the goals of creating safe communities and a fair and just system.
- Cowper makes a number of recommendations to government and the judiciary, which can be grouped around nine themes:
  1. **Governance** - establish a governance framework for the criminal justice system through a Criminal Justice and Public Safety Council (Council) within the ministry, supported by a Secretariat and assisted by an external Advisory Board. Council responsibilities would include overall management of the criminal justice system, including a Criminal Justice and Public Safety Plan for the province, performance measures for the criminal justice system as a whole, oversight of multi-sectoral initiatives, and annual public progress reporting on criminal justice data.
  2. **Active management of system performance** - through distribution and use of system-wide performance measures and targets for timeliness and other key business intelligence information, and convening a Justice Summit to consider reform progress, and to provide a forum for reform dialogue on a frequent basis.
  3. **Province-wide operational plans** - on domestic violence (led by the Provincial Office of Domestic Violence) and on crime reduction (with leadership from the policing community), both to be developed in collaboration with the Criminal Justice and Public Safety Council; and that the Criminal Justice and Public Safety Plan for the province include a performance goal for increased use of restorative justice programs.
  4. **Early case resolution** - including greater opportunity to resolve matters before formal charge approval is complete; consideration of a streamlined process of pre-charge reports from police for appropriate cases; Crown counsel file ownership as the default administrative process in criminal matters; improved legal aid support to accused; and, concurring with McCuaig's recommendation that the charge assessment function remain with the prosecution service.
  5. **Efficiency measures within the court system** - including initiatives to: create timelines for early resolutions; improve the process and scheduling project in the Provincial Court; and, substantially reduce the time to trial and reduction of the current case backlog. Cowper also recommends broader use of judicial justices be considered by the Provincial Court and that the Supreme Court Criminal Committee be resourced to retain project management expertise to assist in developing best practices in pre-trial and trial management.



6. **Evidence-based practice regarding offender management** - including implementation of the Risk Assessment and Case Management proposal of BC Corrections, and establishment of a working group under the Council to develop best practices for conditions of release into the community and for enforcement and supervision of those conditions.
  7. **Provincial Court Reform** - Amendments to the *Provincial Court Act* to clarify and affirm administrative capacity in the Provincial Court including the role, powers and duties of its Chief Judge, Executive Committee, Management Committee, and to provide for a professional judicial administration officer with a defined role and responsibility; to permit the Attorney General to refer questions concerning judicial administration to the judiciary; and, providing a means of determining a specific judicial complement.
  8. **Improvement of transparency and responsiveness of Court processes** - through client-focused initiatives such as alerts regarding developments and resolutions in particular cases, and online and courthouse-based user surveys that focus on service standards and ideas for improvement; and online exit surveys for victims following complaint resolution. Also suggested is improved scheduling of witnesses using modern information technology.
  9. **Evaluation of dedicated court approaches** - such as that taken by the Victoria Integrated Court regarding outcomes for offenders with mental illness and addictions, with a view to determining their suitability for broad implementation.
- Although the financial implications of these recommendations were acknowledged in his report, Cowper did not make any specific recommendation as to the general level of funding for the criminal justice system.
  - Following the Cowper report, government released a two-part *White Paper on Justice Reform*:
    - *Part One: A Modern, Transparent Justice System* was released in October 2012. It outlined ten action items to create a transparent justice system through improved governance, business intelligence, planning, and decision making.
    - *Part Two: A Timely, Balanced Justice System* focused on front-line operations and services to the public in civil, family, administrative, and criminal law, public safety operations, and innovation in citizen-focused

- justice. The Paper takes into consideration recommendations from the Missing Women Commission of Inquiry Report and consultations undertaken for the BC Policing and Community Safety Plan.

**Prepared by:**

Jillian Hazel  
Senior Policy Analyst  
Justice Service Branch  
250-386-8062

**Approved by:**

James Deitch  
Executive Director  
Justice Services Branch  
250-387-2109

**Attachment:** Ministry's progress on recommendations

**Approved by:**

Jay Chalke QC  
Assistant Deputy Minister

Date: 13 January 2014

**Approved by:**

  
Richard J. M. Pyfe, QC  
Deputy Attorney General

JAN 13 2014

### Summary of Ministry's Progress on Recommendations

Recommendations	Ministry Initiatives
<p>1. <b>Governance</b> - establish a governance framework for the criminal justice system through a Criminal Justice and Public Safety Council (Council) within the ministry, supported by a Secretariat and assisted by an external Advisory Board.</p>	<ul style="list-style-type: none"> <li>- Government passed the <i>Justice Reform and Transparency Act</i>, which came into force on April 11, 2013. This legislation creates the Justice and Public Safety Council.</li> <li>- The ministry has established a Justice and Public Safety Secretariat.</li> </ul>
<p>2. <b>Active management of system performance</b> - through distribution and use of system-wide performance measures and targets for timeliness and other key business intelligence information, and convening a Justice Summit to consider reform progress, and to provide a forum for reform dialogue on a frequent basis.</p>	<ul style="list-style-type: none"> <li>- Two Justice Summits have been held and the next Summit is planned for spring 2014.</li> <li>- A vision for the justice system has been drafted and circulated to justice system partners for input.</li> <li>- The first Justice and Public Safety Plan will be completed by March 31, 2014, including system-wide performance measures.</li> </ul>
<p>3. <b>Province-wide operational plans</b> - on domestic violence (led by the Provincial Office of Domestic Violence) and on crime reduction (with leadership from the policing community),</p>	<ul style="list-style-type: none"> <li>- The Provincial Office of Domestic Violence will deliver a multi-year action plan that identifies a comprehensive approach to addressing domestic violence across government.</li> <li>- Government committed in <i>White Paper, Part Two</i> to supporting the development of a province-wide Crime Reduction Initiative in consultation with the BC Association of Chiefs of Police and local governments by March 31, 2015.</li> </ul>
<p>4. <b>Early case resolution</b> - including greater opportunity to resolve matters before formal charge approval is complete; consideration of a streamlined process of pre-charge reports from police for appropriate cases; Crown counsel file ownership as the default administrative process in criminal matters; improved legal aid support to accused; and, concurring with McCuaig's recommendation that the charge assessment function remain with the prosecution service.</p>	<ul style="list-style-type: none"> <li>- In <i>White Paper, Part One</i>, government committed to implementing a model of Crown file ownership. Implementation of the project will occur in 2014.</li> <li>- The ministry will provide the Legal Services Society with an additional \$2M beginning in 2014/15. A portion of this funding will be used to test an expanded criminal duty counsel model.</li> </ul>
<p>5. <b>Efficiency measures within the court system</b> - including initiatives to: create timelines for early resolutions; improve the process and scheduling project in the Provincial Court; and, substantially reduce the time to trial and reduction of the current case backlog.</p>	<ul style="list-style-type: none"> <li>- The ministry is supporting the implementation of the new Provincial Court scheduling system. Roll out of the new system will begin this year.</li> <li>- In <i>White Paper, Part One</i>, government committed to reducing the backlog of cases in Provincial Court. To do so, 70 additional hearing days were allocated to Surrey, Port Coquitlam, Nanaimo, and Terrace Provincial Courts for CFCSA trials.</li> </ul>

<p>6. <b>Evidence-based practice regarding offender management</b> - including implementation of the Risk Assessment and Case Management proposal of BC Corrections, and establishment of a working group under the Council to develop best practices for conditions of release into the community and for enforcement and supervision of those conditions.</p>	<p>- In <i>White Paper, Part Two</i>, government committed to sharing evidence-based information about risk assessment practices with police, Crown counsel, defence counsel, the judiciary, and other justice partners. Work on this initiative is currently underway.</p>
<p>7. <b>Provincial Court Reform</b> - Amendments to the <i>Provincial Court Act</i> to clarify and affirm administrative capacity in the Provincial Court including the role, powers and duties of its Chief Judge, Executive Committee, Management Committee, and to provide for a professional judicial administration officer with a defined role and responsibility; to permit the Attorney General to refer questions concerning judicial administration to the judiciary; and, providing a means of determining a specific judicial complement.</p>	
<p>8. <b>Improvement of transparency and responsiveness of Court processes</b> - through client-focused initiatives such as alerts regarding developments and resolutions in particular cases, and online and courthouse-based user surveys that focus on service standards and ideas for improvement; and online exit surveys for victims following complaint resolution. Also suggested is improved scheduling of witnesses using modern information technology.</p>	<p>s. 13</p>
<p>9. <b>Evaluation of dedicated court approaches</b> - such as that taken by the Victoria Integrated Court regarding outcomes for offenders with mental illness and addictions, with a view to determining their suitability for broad implementation.</p>	