



Specialized Courts Strategy

Ministry of Justice

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|---|----|
| MESSAGE FROM THE MINISTER | 2 |
| EXECUTIVE SUMMARY | 3 |
| I. INTRODUCTION | 4 |
| Specialized Courts and Judicial Initiatives in British Columbia | 4 |
| The Benefits of Developing a Specialized Courts Strategy | 4 |
| The Scope of the Specialized Courts Strategy | 5 |
| The Development and Consultation Process | 5 |
| II. THEORETICAL OVERVIEW AND CONTEXT | 6 |
| What do we mean by a Specialized Court? | 6 |
| Problem-Solving Courts | 6 |
| Benefits and Challenges | 7 |
| The Challenges of Measuring Success | 9 |
| III. RESEARCH AND BEST PRACTICES | 12 |
| Match Problems and Solutions | 12 |
| Collaborative Solutions | 13 |
| Evaluation Planning and On-going Monitoring | 13 |
| Adopting Effective Principles and Practices | 14 |
| IV. THREE ACTIONS TO IMPLEMENT FOR SPECIALIZED COURTS IN B.C. | 16 |
| Specialized Courts Strategy Objectives | 16 |
| 1 Governance Structure | 17 |
| 2 Needs Assessment and Business Case Requirement for New Specialized Courts | 19 |
| 3 Assessment of Specialized Courts | 21 |
| V. CONCLUSION | 23 |
| APPENDIX A – An Overview of Specialized Courts and Judicial Initiatives in British Columbia | 24 |
| APPENDIX B – Summary of External Consultation Feedback | 37 |

MESSAGE FROM THE MINISTER

As Attorney General, one of my top priorities is to work with our justice partners to create a justice system that is more timely and accessible to British Columbians in their daily lives. This means ensuring that everyone in our province – no matter their circumstances – can access the justice system in ways that are flexible, responsive and effective.

As part of the [*White Paper on Justice Reform Part Two: A Timely, Balanced Justice System*](#), the Government of B.C. committed to develop, in consultation with the judiciary and other justice partners, a strategic, evidence-based approach for specialized court initiatives.

This strategy delivers on that commitment by providing a plan to work with the judiciary, justice system partners and communities to assess existing specialized courts and the ways in which future specialized court proposals will be considered. While not a commitment to create additional specialized courts, this strategy establishes a way to better monitor the results of existing specialized courts and identify if more should be created.

B.C. currently has a number of specialized courts – including First Nations Courts, Domestic Violence Courts, the Victoria Integrated Court, the Downtown Community Court and the Vancouver Drug Treatment Court – as well as other courts better described as judicial docket initiatives, which are serving British Columbians throughout the province.

Our government recognizes the need to move beyond the traditional justice system to address unique criminal justice issues, and we need to ensure we are doing so in the most effective way possible. This strategy takes into account the unique roles of government and the judiciary while maintaining the principle of judicial independence. It considers best practices and evidence-based approaches to decision making that help to ensure effective justice outcomes.

I would like to thank all those who assisted in the development of the strategy. Through these efforts, we will continue to chart a positive course for specialized courts to better serve the unique needs of citizens and communities across B.C.

Hon. Suzanne Anton, Q.C.
Attorney General and Minister of Justice

EXECUTIVE SUMMARY

The growing number of specialized courts and judicial initiatives in British Columbia and the varied approaches they take indicates that the judiciary, government, communities and service providers are searching for effective solutions to challenges in the justice system. Currently, there is no province wide approach to specialized courts that engages the government and the judiciary jointly. These courts tend to be established in response to a unique community, justice or resource challenge without a province-wide planned, coordinated allocation of limited resources to advance effective justice solutions throughout British Columbia.

This provincial strategy for specialized courts establishes a structured approach for current and future specialized courts that is rooted in validated research, is fiscally responsible, and engages the judiciary, justice system partners and other interested parties. This strategy is limited to specialized courts that include a therapeutic component as opposed to judicial initiatives such as docket courts.

The first section sets out the background and context for the Specialized Courts Strategy. It defines what specialized courts are for the purpose of this strategy, provides an overview of specialized criminal courts and judicial initiatives in B.C., and outlines the benefits of developing a strategy.

Section two sets out four best practices that were identified through a literature review undertaken by the Ministry of Justice (ministry) in 2014, following from the development of the [Framework for Domestic Violence Courts in British Columbia](#).

The final section of the strategy charts a course for the future by setting out three strategic actions:

1. Create a joint governance structure to enable shared decision-making on specialized courts;
2. Create a needs assessment and business case process to assess future proposals for specialized courts which require significant resources or significantly impact government policies and processes; and
3. Develop an assessment framework for existing specialized courts.

This strategy reflects the mutual interests of the ministry and the judiciary to set priorities for the development and administration of specialized courts.

I. INTRODUCTION

Specialized Courts and Judicial Initiatives in British Columbia

The number of specialized courts has grown significantly in the past decade. The 1982 federal white paper, *The Criminal Law in Canadian Society*, recognized that as criminal sanctions are primarily punitive, they should be reserved for the most serious crimes and restorative approaches used wherever else possible. The 1996 changes to Canada's *Criminal Code*, and the Supreme Court of Canada's interpretations of these provisions, reinforced this direction in criminal law reform and provided the basis for judges to use restorative alternatives to incarceration in sentencing.

A number of communities, as well as some justice system participants, have indicated strong support for the establishment of new specialized courts as an innovative and effective response to justice system and community challenges. These projects are often led by a local champion dedicated to bringing about change to attempt to address a challenging situation in their community.

However, despite positive anecdotal results from various participants indicating high levels of satisfaction with specialized courts, more empirical research and evidence would determine whether these courts are achieving their intended objectives.

This strategy is informed by examination of the following 11 specialized criminal courts and judicial initiatives in B.C.:

- Domestic Violence Courts¹ (Duncan, Nanaimo, Penticton, and Kelowna);
- First Nations Courts (Duncan, New Westminster, North Vancouver, and Kamloops);
- Victoria Integrated Court (VIC);
- Drug Treatment Court of Vancouver (DTCV); and
- Downtown Community Court (DCC) (Vancouver).

These specialized courts and judicial initiatives vary greatly in terms of their objectives, approaches and the degree to which they embrace therapeutic components (see Appendix A for a more detailed description of the initiatives).

The Benefits of Developing a Specialized Courts Strategy

A specialized courts strategy will establish a considered and deliberate approach to decisions about existing specialized courts and the development of new specialized courts. It will also allow for a planned and coordinated allocation of limited resources to advance effective justice outcomes.

A specialized courts strategy will ensure best practices and evidence-based approaches that have been demonstrated to be effective in existing specialized courts can be appropriately adopted, and will work to ensure the expenditure of public funds is managed appropriately in an accountable and transparent manner.

¹ It should be noted that the Domestic Violence Courts in Penticton and Kelowna are docket courts which are judicial initiatives to improve case management rather than therapeutic justice initiatives.

Since specialized courts are a relatively new creation, it is not surprising that there are not a significant number of research studies available to confirm their effectiveness. Nonetheless, in B.C., there is widespread institutional and community stakeholder support for exploring further development of specialized courts. This strategy sets out the ministry's overarching policy direction to help guide these efforts.

The Scope of the Specialized Courts Strategy

This strategy proposes a governance model for specialized courts, the details of which are laid out later in this document. The ministry and the judiciary will jointly govern current and future specialized courts which have a significant impact on court administration and other participant resources.

The Development and Consultation Process

The development of the strategy was led by the Justice Services Branch and guided by a Ministry Advisory Committee, which included representatives from Corrections, Court Services, Policing and Security, Community Safety and Crime Prevention, and Criminal Justice branches.

The ministry held two external consultation sessions to solicit input on the structure, goals and overall direction of the strategy. The consultations included staff from other ministries, justice system partners, Aboriginal organizations, community, social and health agencies. A consultation summary report, including a full list of organizations represented, can be found in Appendix B. In addition, one-on-one meetings were held with individuals who were consulted on specific issues related to specialized courts.

II. Theoretical Overview and Context

What do we mean by a Specialized Court?

For the purpose of inclusion in this strategy, we have limited our consideration to specialized criminal courts in the Provincial Court of B.C. As mentioned above, there are judicial initiatives that, for example, address the scheduling of domestic violence cases that have been considered in the review, however, not all judicial initiatives would be included under the governance model proposed for the Specialized Courts Strategy.

In recent years, specialized court processes have been gaining recognition and support as jurisdictions in Canada and around the world seek better solutions to manage criminal offenders.

These courts offer alternatives to the traditional court process. Broadly defined, specialized courts offer more tailored approaches in response to specific challenges. Some specialized courts require significant and ongoing collaboration, as well as the investment of financial and staff resources of various justice system participants, while others simply require a reallocation of existing resources.

There is no single model for specialized courts or the judicial initiatives in B.C. and the approaches vary greatly. Each court has been created to respond to a unique problem or circumstance in the community or offender population they are intended to serve. Even within the same types of specialized courts there can be significant variation in the model or approach. For example, the four domestic violence initiatives in B.C. differ in their intake and screening processes, degree of specialization, and range of court processes involved. As noted above, two are solely docket courts addressing case management while the other two have more therapeutic goals which require community and ministry resources.

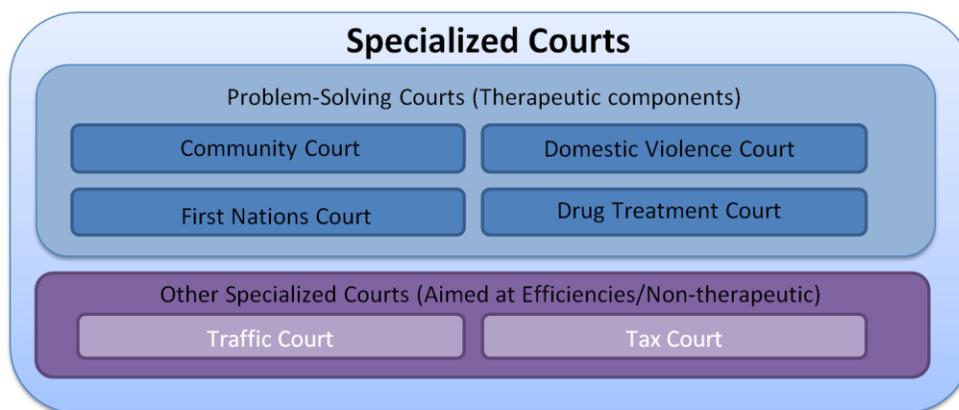
Problem-Solving Courts

Problem-solving courts are a type of specialized court (see Figure 1 below), in which court processes are informed by the theories of therapeutic jurisprudence and restorative justice. Therapeutic jurisprudence suggests that legal rules, processes, and participants, such as lawyers and judges, can have both therapeutic and anti-therapeutic consequences for participants, including offenders or victims, and also the community at large. For example, the adversarial nature of the traditional court system can have profound, and in many cases negative, psychological and emotional impacts on defendants, victims and witnesses.

Restorative justice refers to a non-adversarial and non-retributive approach to justice that focuses on healing, holding the offender accountable, and the involvement of the community to achieve better justice outcomes. As a result, problem-solving courts usually employ therapeutic and restorative components which aim to address the underlying reasons for criminal behaviour within a community context. In this way, they seek to improve outcomes, reduce recidivism, enhance public safety, and ultimately increase public confidence in the justice system.

Other kinds of specialized courts, such as tax and traffic courts, also offer specialized court processes but are concerned primarily with efficiencies rather than bringing about therapeutic results for participants.

Figure 1



While the terms ‘problem-solving court,’ ‘specialized court,’ and ‘therapeutic jurisprudence’ are often used interchangeably, they are conceptually distinct. Not all specialized courts are informed by the theory of therapeutic jurisprudence; those that are, such as drug treatment courts, and most community courts, may be described as problem-solving.

Broadly speaking, most specialized criminal court and judicial initiatives in B.C. have one or more of the following characteristics:

1. A therapeutic component or approach intended to address the underlying causes of offending behaviour;
2. Altered or enhanced and integrated case management components to improve offender outcomes; and
3. A distinct method of judicial case management.

If viewed along a spectrum, specialized court and judicial initiatives in B.C. vary greatly, ranging from the DCC, which operates in a dedicated facility and has introduced court processes quite distinct from traditional processes, to the domestic violence docket courts in the Interior, which are focused on judicial case management and have limited community engagement.²

For the purposes of this strategy, the specialized courts considered in scope operate within the criminal justice system (as opposed to hearing civil and family cases).

Benefits and Challenges

Positive results have been reported by various jurisdictions and many offenders and stakeholders indicate high levels of satisfaction with specialized courts.³

Benefits commonly associated with specialized courts include:

² See more detailed outline of the docket court models in Appendix A of the strategy.

³ R.A. Malatest & Associates Ltd. (2011). *Victoria Integrated Court Exploratory Process Report, Reflections on the Court's First Year of Operation*. Victoria: R.A. Malatest & Associates Ltd; Slinger, E. & Roesch, R. (2010). Problem-solving courts in Canada: A review and call for empirically-based evaluation methods. *International Journal of Law and Psychiatry*, 33(4) p. 258-264; Wiener, R. & Brank, E. (2013). *Problem Solving Courts: Social Science and Legal Perspectives*. Springer, New York.

- Improved access to information through the participation of health and social service partners;
- Increased efficiency and improved outcomes, such as fewer appeals; and
- Enhanced sentencing options which employ proven alternative treatment and supervision methods.

Additional benefits commonly attributed to drug courts, the problem-solving courts for which the most rigorous evaluations exist, include reduced drug use, reduced recidivism, the capacity to deal with relapse and its consequences in a timely manner, and the capability to integrate drug treatment with other rehabilitation services to promote long-term recovery.⁴ Decreased recidivism for chronic offenders is among the main advantages reported for community courts. The DCC evaluation, for example, found that, compared to traditional approaches, the DCC produced significantly greater reductions in offending among a subgroup of offenders with complex health and social challenges who were managed by an integrated Case Management Team.⁵

However, specialized courts are not without criticism. Some suggest that heavy financial investment in these courts necessarily taps into public funds that might be better spent strengthening other social support structures. Critics have also commented that the requirement of certain specialized courts for offenders to plead guilty, or the availability of alternative sentence options in specialized courts which are not available in traditional courts (including in some cases, avoiding incarceration) may pose serious concerns. These critics suggest that processes be taken to ensure due process is appropriately reconceptualized and respected within specialized courts,⁶ while at the same time ensuring fairness in the administration of justice in communities that do not have specialized courts.

Problem-solving courts have also been criticized for seeking to use the authority of the courts to address not only the individual offender but also identified challenges in the justice system, including a lack of public confidence and apparent shortcomings in other social programs and services.⁷ The question of where and when vulnerable people should be connecting with social services has also been raised. Critics argue that the justice system is not the appropriate front door to access services and that the coordinated provision of services should be made available much sooner. For example, treatment should be offered to a person with a drug addiction long before they end up in the justice system with a criminal charge. This would be beneficial not only from the perspective of public safety and to the benefit of the offender, but also from a cost-effectiveness perspective. Having courts act as the gateway to accessing services can also lead to unintended consequences, such as entrenching people in the justice system unnecessarily and unintended 'net-widening' (e.g., police arrest someone for a petty crime so they can receive services).

⁴ Walsh, C. (2001). The Trend Towards Specialisation: West Yorkshire Innovations in Drugs and Domestic Violence Courts. *The Howard Journal*, 40(1), p. 32.

⁵ Somers, J., Moniruzzaman, A., Rezansoff, S. & Patterson, M. (2014). Examining the Impact of Case Management in Vancouver's Downtown Community Court: A Quasi-Experimental Design. *PLOS ONE*, 9(3), p. 1.

⁶ Dorf, M. & Fagan, J. (2003). Problem Solving Courts: From Innovation to Institutionalization. *American Criminal Law Review*, 40, p. 1510.

⁷ Nolan, J. (2011). *Legal Accents, Legal Borrowing: The International Problem-Solving Court Movement*. Princeton, University Press, p. 8.

Additional concerns include the concentration of resources in particular courts at the expense of others within a finite public resource pool, and the lack of sufficient empirical evidence to confirm effectiveness.

The Challenges of Measuring Success

A principle of good public management is that all publicly funded initiatives, whether new or existing, should be subject to on-going monitoring and rigorous evaluation to ensure they are meeting objectives and are cost-effective. As noted in the [Framework for Domestic Violence Courts in British Columbia](#), the regular collection, analysis and reporting on outcomes and processes is critical to continually improve the overall functioning of any specialized court process. Both informal monitoring, as well as formal, comprehensive evaluation, is important. In particular, given the variation in specialized court models, research into the variables that result in more effective outcomes will shed much needed light on the question of what models and outcomes can and should be replicated.

In the Downtown Community Court evaluation, the authors describe existing evaluations of community courts generated to date as follows:

Although encouraging, these studies do not address the fundamental question of whether community courts are effective at reducing reoffending, and thereby at improving community safety. Very little of the literature concerning community courts has been published, and no studies of recidivism have yet appeared in peer reviewed journals. A review of the available research on community courts described the literature as “shockingly sparse”. The need for empirical research is amplified by the prospect that community courts may expand in a manner similar to the growth of other problem-solving courts.⁸

Closely linked to, and perhaps a partial explanation for the lack of rigorous evaluations of problem-solving courts, is the lack of consensus on their goals and how the success of courts should be measured in terms of achieving these objectives. Both objective factors, such as efficiency, crime rate, recidivism rate and subjective measures, including public opinion, stakeholder satisfaction, and satisfaction among participants have been employed in various combinations.

Selecting goals and measures of success is complicated by the fact that many of the measures and objectives suggested by practitioners and academics are seemingly contradictory or the information specific to that objective is not or cannot be measured adequately. For example, many problem-solving courts pursue efficiency and reduced recidivism as distinct objectives. However, evidence indicates that for at least some types of cases, increasing the number of court appearances by offenders reduces their probability of re-offending.⁹ Because this practice clearly also reduces the court’s docket-clearing rate, it provides a good example of the challenges that evaluating a court, which appears to be simultaneously pursuing apparently incompatible goals, can present.

⁸ Supra . N. 5, p. 2.

⁹ Gottfredson, D. et al. (2007). How Drug Treatment Courts Work: An Analysis of Mediators. *Journal of Research in Crime and Delinquency*, 44(1), p. 3.

Even when compatible objectives and measures of success are identified, however, causally attributing an outcome to the activities of a specialized or problem-solving court can be problematic due to the fact that all justice initiatives are situated in dynamic and multi-causal environments. For example, lowering the crime rate is an objective identified by many problem-solving courts, and many of them claim success in terms of this measure. Yet crime rates are affected by a wide range of variables, including other justice reforms or initiatives, demographic changes, legal changes, and factors that influence people's likelihood of reporting crime. Changes in the crime rate may also reflect a national trend that cannot be adequately accounted for at the local level.

Proving these causal links is also difficult because few evaluations of specialized or problem-solving courts are able to incorporate experimental designs, such as random assignment. Random assignment, an experimental technique for assigning subjects to different treatments, is widely recognized as the best available method for achieving reliable assessments of program effectiveness. The goal of random assignment is to

generate a comparable group according to pre-selected variables other than exposure to the treatment in question. Because social and legal frameworks are often not flexible enough to accommodate a controlled experiment, many specialized or problem-solving court evaluations have compared outcomes using non-equivalent matched groups. The use of non-equivalent matched groups means that

DCC Evaluation

In March 2014, a comprehensive, three-part evaluation of the Downtown Community Court was released. The first part was an offender outcome evaluation, the second an efficiency evaluation, and the third a series of community engagement surveys. The evaluation found a significant reduction in recidivism for a small percentage of the client population who benefited from the Case Management Program for offenders with complex needs and higher criminogenic risks, compared to matched offenders who received traditional offender services. In terms of efficiency, the DCC was found to have a neutral impact, which is in part explained by the heavy case load assigned to it (beyond what was originally envisioned), and changes made to the DCC's operations after it opened. Ultimately, however, the evaluation points to a need for more research to answer many unanswered questions:

- What elements of the Case Management Program made it successful in reducing recidivism?
- Could similar results be achieved in other courts across the province?
- Did positive impacts extend to other outcomes, such as health and social services?
- Which interventions were most effective?
- What specialized court processes are successful and cost-effective for which populations?

conclusions are drawn by comparing two groups of offenders who may not have been sufficiently similar. That is, pre-existing differences between them could account for the different outcomes in the experimental group. This clearly complicates the task of determining what changes are attributable to the court and limits the ability to draw causal conclusions with certainty.

A further complication is the issue of interpreting outcomes once they have been measured. For example, a decrease in the rate at which crime is reported could be interpreted as indicating the success or failure of a specialized or problem-solving court. As one study of Domestic Violence Court notes, "...treatment-focused Domestic Violence Courts anticipate that victims will have a higher likelihood of reporting domestic violence incidences given the rehabilitative philosophy [of the court]." ¹⁰ A less thorough evaluation of this court might have concluded that the problem-solving approach was increasing the incidence of domestic violence, even though the court was actually a success not only in terms of decreasing the probability of re-offending, ¹¹ but also in terms of increasing victims' confidence in the justice system to such an extent that they were more likely to report these crimes when they did occur.

As one report cautions, "... [m]erely because a program has not been evaluated properly does not mean that it is failing to achieve its goals." ¹² Understanding the problems associated with measuring the success of specialized courts highlights the need for more rigorous evaluations, especially those which move beyond the common yardstick of recidivism. ¹³

¹⁰ Gover, A. et al. (2003). Combating Domestic Violence: Findings from an Evaluation of a Local Domestic Violence Court. *Criminology & Public Policy*, 3(1), p. 112.

¹¹ *ibid*, p. 127.

¹² Berman, G. and Gulick, A. (2002). Just the facts, ma'am: What we know and don't know about problem-solving courts. *Fordham Urban Journal*, 30(3), p. 1028.

¹³ Boyes-Watson, C. (1999). In the Belly of the Beast? Exploring the Dilemmas of State-Sponsored Restorative Justice. *Contemporary Justice Review*, 2(3), p. 273 - 277.

III. Research and Best Practices

The challenges are further complicated by the fact that specialized courts are a relatively new creation and, therefore, there are few peer-reviewed, academic research studies available to confirm their effectiveness.

The [Framework for Domestic Violence Courts in British Columbia](#) finds that, due to the lack of a consistent province-wide approach to specialized courts, there is a potential to miss opportunities to expand on best practices and processes that have been demonstrated to be effective in existing specialized court models. The Framework outlines those best practices and processes and this strategy adopts those findings.

In a broader literature review, the strategy identified the following best practices from current research and lessons learned about specialized courts and justice reform initiatives in British Columbia and other jurisdictions. Although there is an abundance of literature on the subject of specialized courts, only research validated through a peer-review process was included for the purposes of supporting this strategy.

Match Problems and Solutions

Although many jurisdictions are anxious to respond to a highly visible social or crime problem through the establishment of a specialized court, the literature suggests the creation of specialized court processes may not be the most effective or appropriate solution in every situation. Each community faces unique challenges in their court processes and will be best served by a response that takes into consideration local characteristics and is tailored to adequately address a community's particular situation.

The solution to a problem in the administration of justice may not necessarily lie in the court system. Some researchers argue that in the absence of empirical evidence, there is reason to question whether results favouring specialized courts could not be achieved by improving the availability of services and supports in the community alongside the usual administration of justice. Addressing substantial gaps in community services, for example, may be the first step in addressing some of the factors that place individuals at risk for offending.

The first step in developing an appropriate response to a particular issue is to identify the specific characteristics of the problem. This includes providing context and outlining what has or is currently being done to address the problem. The literature urges communities to develop justice strategies that reflect the range of needs and gaps identified by a comprehensive analysis of the problem while giving careful consideration to available resources. The success of a strategy is highly dependent on adequate resourcing. Specialized or problem-solving courts in particular will only be effective if adequate services are available to support them in the community. The analysis should also consider whether existing services in the community could be better utilized or coordinated to respond to a community's needs.

The literature suggests that options should be developed while considering such things as:

- Available resources;
- Structure and scale of the problem;
- The target population;
- Costs and budget available;
- Gaps in services/ availability of services/potential for the development of services;
- Stakeholder interest;
- Coordination of diverse agencies;
- Available quantitative information; and
- Championship.

Meaningful consultation with partners and stakeholders is essential to accurately identify issues and respond to them effectively. Involving a diverse group of stakeholders in the decision-making process not only allows for the consideration of various options and informed policies and practices, but also has the added benefit of increasing support for the resulting approach or solution.

Collaborative Solutions

While courts are a critical nexus of criminal justice activity, they are only part of any specialized approach. To be effective, they must be designed to respond effectively to the needs of any particular community and be supported by other justice, health and social system partners. Consequently, communities, non-profit organizations and other service delivery agencies have a significant role to play in ensuring the success of any specialized court approach.

Forging collaborative partnerships among public agencies and community-based organizations can facilitate capacity building and broaden available resources. Collaboration can also result in the added benefit of enhancing court efficiency by managing shared clients in an integrated fashion. Justice, health and social service agencies frequently provide services to shared clients. Collaboration and coordination of services can allow for a better use of programs, while improving the effectiveness and efficiency of resource use.

Evaluation Planning and On-going Monitoring

A common theme across the literature is that all initiatives, whether new or existing, be subject to on-going progress monitoring and rigorous evaluation of effectiveness. The lessons learned from the subsequent research should then be used to make adjustments to existing programs and inform future justice initiatives and the allocation of funding and resources.

The methodological limitations found within existing evaluations can often be attributed to the failure to adequately plan for monitoring and evaluation in advance of implementation. Early evaluation planning can allow for the careful consideration of important factors, such as the funds that will be required, the data that will be needed to evaluate the objective, as well as other variables that are of interest.

Assessment of the initiative should include empirically based program evaluations in addition to process evaluations and descriptive, qualitative research. Where possible, evaluations should also address cost-

benefit considerations. It is important that evaluations address both process and outcome, with explicit links between the two displayed through the use of sound research methodologies. Evaluation methods should then be thoroughly scrutinized and validated by a peer review process to validate overall results. This includes looking not only at outcomes but also proving compliance with legal standards.¹⁴

Adopting Effective Principles and Practices

This best practice has two distinct elements. First, new specialized court proposals should, where appropriate, look to adopt evidence-based principles and practices that have been shown to be effective in other jurisdictions. The process of incorporating evidence-based principles and practices should be flexible to allow for modification to accommodate the unique needs of each community.

Second, a growing number of researchers are beginning to express interest in the application of problem-solving court practices in conventional court settings. They suggest that, where appropriate, mainstream courts should implement evidence-based policies and practices that have proven to be effective. Principles and practices that result in improvement in court processes and outcomes, such as integrated services and collaborative decision making, could be applied to conventional court settings.¹⁵

The Risk-Needs-Responsivity (RNR) model, for example, is widely recognized as the most effective way in which to identify and prioritize offenders to make sure they receive appropriate interventions. Justice initiatives that adhere to RNR principles are associated with significant reductions in recidivism, whereas initiatives that fail to follow the principles yield minimal reductions in recidivism and, in some cases, can even lead to an increase in re-offending.

This practice of “institutionalizing innovation” could include exploring which processes would lend themselves well to adoption in conventional courts and what process could guide these efforts.¹⁶

Suggested best practices for specialized court processes which may lend themselves well to “institutionalization” include:

- A problem-solving mindset;
- Direct interaction with defendants;
- Increased informality to improve inclusiveness of the proceedings;
- Monitoring offenders’ performance in treatment;
- Reaching out to social service providers; and
- Enhanced information sharing.

The DCC evaluation found that approaches and solutions developed in the DCC are being adopted beyond the DCC as staff move to positions in other court houses. These efforts to introduce innovative best practices should be encouraged while being mindful of local requirements and capacity.

¹⁴ Quinn, M. (2009). The Modern Problem Solving Court Movement: Domination of Discourse and Untold Stories of Criminal Justice Reform. *Journal of Law and Policy*, 31(57), p. 81.

¹⁵ Farole, D., Puffett, N., Rempel, M. & Byrne, F. (2005). Applying the problem-solving model outside of problem-solving courts. *Judicature*, 89(1), p. 40-42; King, M. (2007). What can mainstream courts learn from problem-solving courts? *Alternative Law Journal*, 32(2), p. 91-95; Wolf, R. (2008). Breaking with tradition: Introducing problem solving in conventional courts. *International Review of Law, Computers & Technology*, 22(1), p. 77-93.

¹⁶ *Supra*. N. 7, p. 12.

The creation of domestic violence units also provides an example of specialized processes being adopted within the justice sector without the need for a specialized court. These units co-locate police, community-based victim services and, in some cases, child protection workers to respond to cases where those involved are deemed to be at the highest risk of violence. Another example found in some court locations around the province is the designated Crown counsel with enhanced file ownership in domestic violence cases. This involves having the same Crown counsel be responsible for handling a file through the various stages in the prosecutorial process, with the intended benefits of providing better victim engagement, earlier file resolution and improved trial preparation.

These types of innovative responses are important to consider as they may address in whole or in part the challenges for which a specialized court might otherwise be deemed necessary.

A Case Study: Surrey Task Force – From Community Court to Integrated Services Network

The Surrey Criminal Justice Task Force was established in March 2014, after community leaders in Surrey advocated for the creation of a community court.

The task force held a two-day workshop in September 2014. The workshop included key stakeholders from the provincial and municipal governments, the judiciary, Surrey RCMP, the health authority and other community organizations.

The workshop reviewed relevant data and current best practices in British Columbia and other jurisdictions to identify problems and potential opportunities. Stakeholders also identified and reviewed existing initiatives and services in the Surrey area. Interviews were conducted with users of the justice system to bring their experiences and perspectives to the workshop. This provided an evidence-based understanding of the challenges Surrey faces.

The Task Force members concluded in their final report that a community court would not address Surrey's particular problems and recommended instead enhancements to service integration.

The Surrey Criminal Justice Task Force Final Report recommended the development of an Integrated Services Network of social, health and justice service providers in a single location to provide a coordinated, collaborative approach aimed at reducing crime in Surrey.

IV. Three Actions to Implement for Specialized Courts in B.C.

A key theme that emerged from consultations with external stakeholders is that specialized courts need to be developed, monitored and administered in a more coordinated and strategic way.

Moreover, a strategic approach to specialized courts can ensure a more proactive and coherent approach to planning – meaning important considerations such as established best practices can be considered in the development or adjustment of specialized court processes.

This strategy sets out three actions to implement for specialized courts, focusing on evaluation and monitoring, developing a community-led needs assessment and business case requirement for new court proposals, and establishing a governance structure that is designed to more proactively manage the strategic decision-making for specialized courts in B.C. This approach aims to achieve the following objectives:

Specialized Courts Strategy Objectives

- 1** Specialized courts should have clearly stated objectives, decision-making structures, monitoring and evaluation plans and tools in place.
- 2** Specialized courts should be included and identifiable in the ministry and judiciary data collection activities and reports.
- 3** Decision-making around specialized courts should be transparent and made on the basis of rigorous, publicly available reports and evaluation.
- 4** Community and justice sector partners who play a central role in the day-to-day work of specialized courts should be involved in local operational decision-making.
- 5** Best practices and lessons learned from specialized courts should be proactively shared between practitioners working in other specialized courts across the province.
- 6** Innovative policies and processes which have been found effective in evaluations of existing specialized courts should be implemented in traditional courts where appropriate.

1 | Governance Structure

ACTION 1 – Implement a bi-lateral governance model based on five governance principles

The judiciary and ministry will be responsible for strategic decision-making about current and future specialized courts which affect court administration significantly to require joint governance. There are five principles proposed which could form the basis of this governance structure.

The court system in B.C. currently operates according to an executive court administration model. Inherent in this model is a requirement for the ministry and the judiciary to work together in the area of administration, given that neither the judiciary nor the ministry has full responsibility over the delivery of court services to the public.

The ministry and the judiciary have respective roles and responsibilities, given the constitutional division of powers and the current executive court administration model which are set out in a Memorandum of Understanding (MOU) between the Attorney General, Chief Justices and Chief Judge. The MOU sets out the following areas of responsibility:

| Judiciary's Responsibility: | Ministry's Responsibility: |
|---|--|
| <ul style="list-style-type: none">• Judicial administration to support independent adjudication | <ul style="list-style-type: none">• Court administration/ functioning courtrooms and staff |
| <ul style="list-style-type: none">• Assignment of judges | <ul style="list-style-type: none">• Funding/budgeting/planning |
| <ul style="list-style-type: none">• Case scheduling/court lists | <ul style="list-style-type: none">• Human resources and facilities |

To ensure clear and coordinated direction for the future of specialized courts in B.C. there is a need for a governance structure for strategic decision-making at the provincial level. To be effective, the governance structure will enable decision-making about the establishment, development, monitoring and evaluation of specialized courts, and be able to support decision-making by local organizations at the community level. In order to create successful specialized court initiatives, there would also need to be engagement with a broad range of agencies that would participate in and be affected by the initiative.

Governance Principles

The ministry will be guided by the following overarching principles:

- Principle 1 **Specialized courts are not a first resort** – consideration should always be given

to the most effective response to a local criminal justice problem.

- Principle 2 **Any specialized court should first be established as a time-limited pilot** – subject to data collection, modification and evaluation before a long-term decision is made.
- Principle 3 **Decisions should be evidence-based** – initiatives should not be driven by a single perspective and should be based upon objective analysis of available evidence.
- Principle 4 **Management of specialized courts should match their degree of specialization** – specialized courts should be viewed on a spectrum. Courts which are more similar to regular courts should have a governance structure more similar to regular courts while those that are more complex and unique should have a distinct management structure.
- Principle 5 **Governance decisions should be informed by justice system partners and communities** - Although the ministry and judiciary will retain decision-making authority in their respective areas of jurisdiction, the effectiveness of specialized courts is dependent upon the involvement of other justice and community partners whose views must also be considered.

The applicability of the above principles in joint governance decisions on the activities of a specialized court will depend on the nature and the complexity of the initiative. To ensure the right balance is struck, the governance model will focus on the management of strategic issues that impact specialized courts (such as ensuring best practices are shared between courts and that a court is operating in accordance with legal standards and due process policies), while leaving day-to-day operations to be addressed at the local management level. This will ensure specialized court proposals continue to consider regional circumstances, including resource availability and other local dynamics.

The ministry and the judiciary will limit joint involvement to governance issues involving specialized courts that have a significant additional impact on court administration. Governance issues that are wholly within the ambit of judicial administration and do not have any substantial impact on court administration or other participants' resources would be excluded from the governance model. If a business case for a new specialized court demonstrates that it would have a substantial impact on government resources, processes or policies it would then require the approval of the Office of the Chief Judge, the Ministry of Justice and the Ministry of Public Safety and Solicitor General, and others, as appropriate, in order to proceed. The Ministry of Justice would approve on the basis of court-related services, e.g., prosecution and legal aid resources, while the Ministry of Public Safety and Solicitor General would approve on the basis of program services, e.g., corrections, policing or victim services.

2 | Needs Assessment and Business Case Requirement for New Specialized Courts

ACTION 2 – Implement a two-step process to respond to requests for new specialized courts involving a needs assessment and business case requirement

Community proposals for new specialized court initiatives that impact court administration significantly to require joint governance should include a needs assessment to clarify the problem and determine the best solution. If a needs assessment is successful, a business case should be completed and receive the approval of the Office of the Chief Judge and the Ministries of Justice and Public Safety and Solicitor General.

Needs Assessment

Proposals for new specialized courts should have a clear definition of the problem they are trying to address. To assist communities and local champions in this exploration, a needs assessment will be recommended for all proposals to initiate a new specialized court where financial and other resources are impacted. The process itself would be community specific and could take a number of different approaches, for example, a planning workshop with community partners or a written assessment completed by an external consultant with appropriate expertise.

The needs assessment should look holistically at the presenting issues and determine the most promising areas for improvement. This includes considering whether a realignment of existing services would adequately respond to the identified issue. This process would be community specific and involve consultation and collaboration with the ministry and the judiciary as appropriate.

The following elements should be considered when developing a needs assessment:

1. Review of current programs, processes and resources.
2. Presentation of evidence (*e.g., What data and other evidence is available to assist in identifying the issue or problem?*).
3. Problem identification (*e.g., What are the gaps to be addressed, as presented by the data?*).
4. Identify possible solutions (*e.g., Is the development of a specialized court the best course of action? What are some alternatives? How would data show change?*).
5. Evidence of community and stakeholder support.

If, following a needs assessment, it becomes clear that changes to social, health or justice services would best address the presenting issue without materially changing the court process then the outcome would be to pursue another solution rather than develop a new specialized court.

Business Case Rationale

Decisions about the creation of new specialized courts where there are significant impacts on both funding and resources would be made based on a proven business case rationale. If the needs assessment indicates the desirability of formally pursuing changes to court practices and/or services provided by participants in court or as a result of the court's involvement, then the community proponents of the specialized court may be required to prepare a business case outlining:

1. The problem to be addressed;
2. What specialized court processes will be introduced to address the problem;
3. How these processes align with policy priorities and evidence-based principles (e.g., risk-needs-responsivity principles for offender management or implementing a process for early and/or timely case resolution, and victim safety considerations);
4. The overall objectives of the intended specialized court processes;
5. The alternatives considered;
6. All the affected parties and a description of the anticipated impact on them;
7. The benefits expected;
8. The required costs and expected funding source;
9. How ongoing operational decisions including changes are to be made and by whom; and
10. The nature of planned monitoring and evaluation activities, including criteria to determine whether the court has met its stated objectives, including:
 - a. The number of years to be covered by the evaluation;
 - b. Proposed performance measures;
 - c. Description of what data is needed and how this data will be collected;
 - d. Reporting timelines and intended audience; and
 - e. Description of new funding requirements and how they will be met.

In addition, it will be useful to identify opportunities to work more collaboratively with academics in the field and to consider whether there could be an ongoing role or partnership with third party institutions in supporting the development and evaluation of a business case process for new specialized courts.

3 | Assessment of Specialized Courts

ACTION 3 – Develop an assessment framework for existing specialized courts

An assessment framework is required in order to lay the foundation to begin monitoring and evaluating all existing specialized courts.

Assessing the impact of specialized courts, as well as judicial initiatives, can be challenging. The benefits they bring are often difficult to measure, and hard to isolate from other dynamics at play in the real world environment. Many specialized courts primarily involved a reallocation of existing resources and do not have monitoring and evaluation plans. With the exceptions of the DCC and DTCV, most specialized courts in B.C. are functioning relatively independently at the local level and usually operate in isolation from ministry and judiciary performance measurement activities.

For specialized courts within the scope of this strategy, it is recommended that consideration be given to using the [Justice and Public Safety Council's performance measures¹⁷](#) in future evaluation planning.

In the case of some specialized courts, development of an evaluation methodology will be made more challenging by the fact that there may not be specified objectives set forth against which results can be evaluated. Furthermore, in many cases required data is either not currently collected or difficult to access. As a result, measuring the performance of specialized courts in B.C. may be complex and will take some time to develop.

Building a Framework

The principle of public accountability requires that the operational outcomes of jointly governed specialized courts be managed effectively. It is clear work must be done to strengthen the performance measurement capacity of specialized courts. In order to build an assessment framework, collaborative efforts should take place on a number of fronts guided by a properly funded and resourced research and evaluation committee (committee). Ministry staff and the judiciary will need to work collaboratively as part of this committee to manage the calendarization of evaluation reports and expiration of time-limited pilots so that jointly governed specialized courts are not established and continued without assessment. This process will also serve to ensure liaison with community partners involved in the day-to-day operation of specialized courts.

The committee would guide efforts to develop and implement an evaluation framework. The ministry and judiciary already gather considerable data through various case management systems including the Justice Information System (JUSTIN). JUSTIN supports the tracking of key administration activities carried out by enforcement agencies, Crown counsel, the judiciary, Court Services and Corrections in the processing of a file from report to Crown counsel, through to disposition. JUSTIN tracks court case and

¹⁷ Performance measures can be found beginning on page 25 of the April 2015 to March 2018 Justice and Public Safety Strategic Plan.

court administration details. However, current file information gathering practices do not capture whether a case was heard before a specialized court, except for the DCC and the DTCV, which have a unique location and filing convention style. Similarly, performance metrics captured by the provincial judiciary's computerized scheduling system may offer little data for the evaluation of specialized courts. Although evaluation efforts could be carried out using qualitative information sources (e.g., interviews) quantitative evaluation based on empirical data needs to be considered.

Additional opportunities to improve data collection for use in future evaluations of specialized courts may be available through the development of business intelligence systems occurring in the ministry to support the implementation of the Justice and Public Safety Council's [Strategic Plan for the Justice and Public Safety Sector](#) and should be pursued.

The committee could also be tasked with the following:

- a) Develop an annual or multi-year evaluation plan for all specialized courts in B.C.;
- b) Develop criteria for consideration of new proposals for specialized courts and how these can be assessed objectively. These criteria would support efforts to determine the target population of specialized courts. There currently is not a clear answer to what kinds of crime and social problems are amenable to or appropriate for specialized courts, and what conditions must exist for these courts to be able to provide best outcomes;
- c) Consider how to institutionalize the innovations piloted at specialized courts by providing guidance on taking the problem-solving orientation and adapting it into the traditional court system;
- d) Facilitate the creation and administration of a "practitioner network." This could provide specialized court users with formal and informal opportunities to solicit advice from their counterparts in other courts. These efforts could take shape in a variety of ways, including the creation of a web site or email list serve; sharing evaluation documents among court users within and across sites; developing a best practices manual with input from all specialized court practitioners; or developing and distributing a newsletter; and
- e) Investigating technological enhancements. Aside from one-time studies, which can be expensive and time consuming, new advances in information technology could assist in creating a practice of continuous self-monitoring. New advances in information technology should allow specialized courts to monitor performance and, in future years, specialized courts and those who study them should be able to compare various models and approaches more readily.

By way of creating an assessment framework, specialized court initiatives, whether new or existing, could be subject to monitoring and evaluation. These assessments would be expected to inform any improvements to the initiative and, eventually, whether to continue with the pilot as a permanent initiative or whether to reallocate resources to another initiative. Evidence from the research would also be considered to inform future justice initiatives.

V. CONCLUSION

This provincial strategy for specialized courts establishes an evidence-based, integrated and strategic approach for current and future jointly governed specialized courts in British Columbia. The strategy was informed by lessons learned from current academic literature on specialized courts, the results of the final evaluation of Vancouver's Downtown Community Court, assessments and learnings from other specialized court models, empirical data and consultations with stakeholders.

The strategy charts a course for the future by setting out three strategic actions that focus on evaluation and monitoring, developing a community-led needs assessment and business case requirement for new court proposals, and establishing a governance structure designed to proactively manage the strategic decision-making for jointly governed specialized courts. To ensure clear and coordinated direction for the future of specialized courts in B.C., this strategy sets out a governance structure for strategic decision-making at the provincial level. This governance structure will facilitate decision-making about the establishment, development, monitoring and evaluation of specialized courts, and will be able to assist with the engagement of local organizations at the community-level.

This strategy is a first step towards a more proactive and strategic process for the management of specialized court initiatives. It will evolve over time as evidence is gathered and our understanding of best practices develops in consultation with the judiciary and other interested parties.

Appendix A – An Overview of Specialized Courts and Judicial Initiatives in British Columbia

The following overview provides a detailed description of the eleven specialized criminal courts and judicial initiatives currently operating in British Columbia. B.C.'s specialized courts and judicial initiatives reflect a great degree of variation, ranging from courts that require substantial resourcing, such as the Downtown Community Court, to courts that require very few additional resources, such as the domestic violence docket courts in the interior.

Vancouver's Downtown Community Court (DCC)

The DCC opened on September 10, 2008, in response to a recommendation made by the British Columbia Justice Review Task Force and its Street Crime Working Group. The DCC was implemented as a partnership between the provincial government, the Provincial Court of British Columbia and 14 other justice, health and social services agencies.

The DCC was designed to take an innovative, problem-solving and more efficient approach to crime in the city's core. The DCC integrates justice, health and social service agencies to deal with offenders more quickly and effectively through a coordinated and informed response. Staff from participating organizations, including health, income assistance, housing, and victim services are located together in a new courthouse, along with Crown counsel, defence counsel, a police officer and probation officers.

The DCC hears the following types of offences that occur within the court's geographic jurisdiction where the accused does not elect to have a trial:

- Provincial offences (e.g., driving while prohibited);
- Criminal Code offences (in the absolute jurisdiction of the Provincial Court, summary conviction offences, and hybrid offences where Crown counsel chooses to proceed summarily), and drug possession offences under the Controlled Drugs and Substances Act; and
- Offences that occur outside of the designated catchment area may proceed in the DCC for disposition at the request of the defence and where the Crown counsel consents when the accused has charges already being addressed at the DCC.

The DCC deals with approximately 2,000 accused per year. This includes approximately 200 individuals with complex health and social challenges who are managed in a comprehensive and intensive manner. Cross-disciplinary, integrated case management teams work to create individualized plans for these offenders in order to address issues such as housing, employment, financial assistance, mental health and substance use.

The goals of the DCC are to:

1. Improve justice system efficiencies through the adoption of innovative case management practices;

2. Integrate justice, health and social services to hold offenders accountable while producing better outcomes for offenders by responding to their needs and circumstances; and
3. Contribute to a livable community and afford new opportunities for community participation in the criminal justice system.

Domestic Violence Courts

There are three distinct Domestic Violence Court models in British Columbia.

Domestic Violence Court — Duncan

Established in 2009, the Domestic Violence Court in Duncan is a judge-led initiative that takes a collaborative and therapeutic approach to justice by bringing together various community services and government agencies. The primary objective of the court is to stop violence in relationships and keep families safe. All domestic violence offences, except the most serious offences, and Criminal Code section 810¹⁸ applications can be scheduled in this court. On average there are approximately 40 to 45 files scheduled for each court date (usually one day every two weeks).¹⁹

Representatives from various service providers attend court. There is no office space at the courthouse for service providers or community agencies to meet; however, the courtroom is opened early to provide time for service providers to meet with victims and accused persons. Community Corrections staff provide information about the offenders' progress prior to court.

Domestic Violence Court — Nanaimo

The Domestic Violence Court in Nanaimo was established in 2013 through a collaborative effort of the Community Coordination for Domestic Safety (CCDS) Committee whose membership includes representatives from government agencies and community service providers.

All domestic violence related offences for adult accused persons, except for murder offences, and Criminal Code section 810 applications can be scheduled in this court. On average there are approximately 50 to 60 files scheduled for each court date (usually one day every two weeks)²⁰. Cases may be adjourned for longer periods of time to facilitate the engagement of victims and accused persons with service providers.

The CCDS Committee has established six goals for the court:

1. To strongly promote the prevention and reduction of domestic violence within families and relationship settings.
2. To promote the collaboration of specialized resources in a Domestic Violence Court in order to improve safety and services for victims and offenders.

¹⁸ Criminal Code of Canada, **Sec 810(1)** An information may be laid before a justice by or on behalf of any person who fears on reasonable grounds that another person will cause personal injury to him or her or to his or her spouse or common-law partner or child or will damage his or her property.

¹⁹ *Framework for Domestic Violence Courts in British Columbia*, p. 11

²⁰ *ibid*, p. 12.

3. To improve the response of the criminal justice system to victim needs and safety planning through connections with community resources that promote timely and appropriate service delivery.
4. To offer therapeutic and culturally appropriate sentencing options to offenders thus encouraging the early acceptance of responsibility and improved accountability of offenders.
5. To support families which have experienced violence in their relationship but wish to remain intact.
6. To provide these responses in an integrated domestic violence courtroom setting which promotes timely and appropriate responses to individual domestic violence files.

Domestic Violence Docket Courts — Kelowna and Penticton

The Domestic Violence Docket Courts in the Interior are primarily designed to increase efficiency and case management of domestic violence cases that have a high level of trial uncertainty so that resources in other courts can be used for cases with higher trial certainty. A Provincial Court Practice Direction sets out the types of cases to be scheduled in the docket courts and provides specific case management and scheduling requirements. Generally, the cases scheduled in docket courts are limited to less serious domestic violence offences. Cases can only be scheduled in the docket courts for trials or continuation dates unless ordered otherwise by the court. Only one Crown witness is required for each case for the initial trial date, unless otherwise set by the court.²¹

Drug Treatment Court of Vancouver

The Drug Treatment Court of Vancouver (DTCV) opened in December 2001, and was created in response to the well-documented need to address the deaths and other associated major health issues (such as HIV/AIDS), which were rampant in the Downtown Eastside of Vancouver, due to the illegal drug trade. The DTCV deals only with offenders who commit crime because of an addiction and choose to opt into the drug court's treatment program and plead guilty.

The overarching objective of the court is to enhance public safety and protect the public by reducing or eliminating future criminal offending and contact with the criminal justice system. The goals of the DTCV are to:

- Have a participant achieve and maintain abstinence from illegal drugs;
- Improve a participant's physical, emotional and mental health and well-being; and
- Improve a participant's housing, life skills, employment and education.

Participants are under strict bail conditions, which include reporting to court on a regular basis, random urine testing to ensure compliance, as well as taking part in a minimum 14-month intensive day treatment program through the Drug Court Treatment and Resource Centre (DCTRC) located outside of the Downtown Eastside of Vancouver. This four-phase treatment program is offered Monday through Friday by an integrated team of probation officers, addiction counsellors, physicians, health care workers, and an employment assistance worker. The DCTRC staff offer a broad range of services which

²¹ Information provided by Ministry of Justice branch staff in each of these court locations.

address the participants' complex needs, including addictions treatment, health care, psychiatric care, housing, financial assistance, life skills training, education and leisure activities.

After participating in the program for a minimum of 14 months and completing all four phases, a participant is eligible to graduate and receive a non-custodial sentence or the charge will be stayed if the participant has:

- Abstained from consuming all intoxicants for the three months immediately preceding graduation;
- Not been charged with a new offence in the six months immediately preceding graduation;
- Been engaged in secure employment, training, or volunteering; and
- Secured stable housing approved by the DTCV judge.

First Nations Courts

First Nations Courts have been developed in consultation with local First Nations, community members, police, Community Corrections, Crown counsel, defence lawyers, and other support service groups like the Native Courtworker and Counselling Association of British Columbia. The overarching goal of First Nations Courts is to take a holistic, culturally appropriate approach to First Nations offenders and find solutions to the problems underlying their criminal behaviour other than incarceration. The focus of these courts is holistic, recognizing the unique circumstances of First Nations offenders within the framework of existing laws. First Nations Courts provide support and healing to assist in offender rehabilitation and seek to acknowledge and repair the harm done to victims and the community. Local First Nations communities are encouraged to contribute to the proceedings. Elders, for example, often attend court sessions to represent the community.

The First Nations Courts make decisions on bail hearings, sentencing hearings and child protection matters. To be eligible to have a case heard in First Nations Court, a person must:

- Self-identify as an Aboriginal person;
- Acknowledge the wrongdoing and plead guilty to a criminal offence; and
- Have available to the person the sentencing option of either a probation order (generally referred to as a healing plan) or a conditional sentence order.

First Nations Courts currently operate in four B.C. communities:

- New Westminster, since November, 2006;
- North Vancouver (includes Whistler, Squamish and the North Shore), since February, 2012;
- Kamloops, since March, 2013; and
- Duncan, since May, 2013.

Victoria Integrated Court (VIC)

In 2007, the Victoria Mayor's Task Force on Homelessness and Mental Illness released a report entitled *Breaking the Cycle of Mental Illness, Addictions, and Homelessness*. The Task Force found that chronically homeless people in Victoria were consuming an inordinate proportion of available social services and were often heavy users of emergency and acute healthcare services. These same people were also found to have frequent contact with the police and involvement in the justice system. As part of the response, the VIC was established in March, 2010 to offer a holistic approach to dealing with chronic offenders in Victoria.

The VIC goals are:

- a. Increase public safety by decreasing recidivism for substantive offences and reducing harmful antisocial behaviour in the community;
- b. More effective sentencing through integrated case planning and intensive community supervision;
- c. Provide support for the community teams; and
- d. Decrease the inappropriate use of emergency services.

The integrated approach of the VIC strives to bring together people and agencies at the community level in an effort to comprehensively address the complex problems that often contribute to or motivate criminal behaviour. The VIC takes a problem solving approach and integrates justice, health and social services to manage offenders who have a history of substance abuse and/or mental disorder and unstable housing, and whose criminal activity has a significant impact on the community. The VIC deals with about 100 offenders per year believed to be responsible for a disproportionate amount of social disorder and nuisance behaviour in the city, and for high use of emergency services.

The VIC does not conduct trials. Those who plead not guilty are tried in the regular court system. If the individual is found guilty, he or she can return to the VIC for supervision, a community-based sentence, or for any new charges that may occur. To be eligible for the VIC, an accused person must meet the following criteria:

- Demonstrate a willingness to address - with community support, including intensive supervision - the underlying causes of their criminal activity;
- Have a history of substance addiction and/or mental disorder and unstable housing; and
- Be accepted as a client of an Assertive Community Treatment (ACT) team, or supported by another community service for an alternative plan of supervision in the community.

Members of Island Health's ACT teams and Community Living B.C.'s Community Response Teams, including community outreach workers, social workers, probation officers and police, meet regularly with the dedicated Crown counsel and defence counsel to discuss cases and plan support and supervision in the community. The VIC uses pre-court planning meetings to discuss the risks and needs of individuals and to develop recommendations regarding sentencing and structured plans for each

individual offender. Plans developed during the pre-court meetings are then presented in court, often in the form of a joint submission, and they typically inform the disposition.

In proceedings before the judge, the court relies heavily on oral reports about the offender's progress in the community. Community teams, such as ACT, assist the VIC by being able to monitor clients in the community so that clients can serve a community-based sentence instead of incarceration. The court often hears from the team members who are actively working with the accused. Team members may provide the court with detailed and current information about the participant's willingness to engage with the team, changes since the last appearance, concerns regarding the individual's health, or progress towards completion of community work service. The court also hears any recommendations from the team. The judge also invites the offender to speak and seeks to engage the offender by explaining the court's ultimate decision and expectations.

| Initiative | Location | Governance | Funding | Clientele | Description | Research/Evaluation |
|--|--------------------|---|---|---|--|---|
| <p>Downtown Community Court (DCC)</p> <p>(September, 2008)</p> | Downtown Vancouver | <p>An Executive Board was established to provide strategic project oversight and direction in support of the DCC evaluation until the conclusion of the pilot phase.</p> <p>The Board provides strategic direction and key decision-making for the DCC on matters related to the evaluation, changes to the DCC model, budget, project schedule, procurement and communications</p> <p>The assignment of the judge to hear these cases is under the authority of the Chief Judge.</p> | <p>The DCC required substantial resources, and is funded with a budget allocation.</p> <p>The DCC's 2015 budget is \$2.4 million. Partner agencies' investment in the DCC is estimated at \$2.6 million annually.</p> <p>Ministry capital investment to renovate the Downtown Community Court building was \$6.2 million.</p> | <p>All offenders who commit the following offences within the court's geographic jurisdiction, and who do not elect the right to trial:</p> <ol style="list-style-type: none"> 1) Provincial offences (e.g., driving while prohibited) 2) Criminal Code offences (in the absolute jurisdiction of the Provincial Court, summary conviction offences and hybrid offences where Crown counsel chooses to proceed summarily) 3) Drug possession offences under the Controlled Drugs and Substances Act. <p>Catchment area is West of Clark Drive (including Stanley Park) with Great Northern Way and Coal Harbour serving as the southern and northern boundaries.</p> <p>Offenders must plead</p> | <p>The DCC co-locates and integrates justice, health and social services.</p> <p>A number of unique features are integral to the DCC model. These include: the services of an in-house defence lawyer available to all out-of-custody accused, in addition to a DCC roster of duty counsel; pre-court triage of cases to inform Crown and defence counsel in order to facilitate early case resolution and prepare for court; and inter-agency teams to manage offenders with multifaceted problems in a planned and integrated manner.</p> <p>The DCC provides an integrated service delivery model. Located in the courthouse are: A Provincial Court judge, Crown counsel, defence counsel, Vancouver police officers, sheriffs, court clerks, probation officers, forensic liaison workers, an occupational therapist, a licensed practical nurse, nurses, social workers, employment assistance workers, victim services workers, B.C. Housing support workers and Native Courtworkers. A forensic psychiatrist is also available to offenders in the community court</p> | <p>The evaluation of the DCC in Vancouver focused on three key areas – recidivism, efficiency and community engagement.</p> <p>As part of the evaluation, a research team examined the effectiveness of the DCC in reducing recidivism of the high-need offending group managed by the integrated Case Management Team (CMT). Through the use of a quasi-experimental design, the outcomes for 250 individuals sentenced in the DCC and triaged to the CMT to be managed in the community in an integrated manner were compared to a matched group of 250 offenders from the neighbouring Vancouver Provincial Court (VPC). The study examined the number of offences in the pre-period compared with the number of offences in the post-period. The evaluation found that CMT-managed offenders had a mean reduction of 2.30 offences per person (from 3.7 offences committed in the preceding year) versus 1.35 per person in the comparison group. Overall, individuals managed by the CMT exhibited significantly greater reduction in reoffending compared to the matched comparison group. Reductions in offending were primarily associated with property offences and breach offences. Although the results of the recidivism study appear to be promising, questions regarding what elements of the CMT approach produced improved recidivism results remain to be further explored.</p> |

| Initiative | Location | Governance | Funding | Clientele | Description | Research/Evaluation |
|--|----------|--|---------|-------------------------|--|---|
| | | | | guilty | | http://www2.gov.bc.ca/gov/content/justice/courthouse-services/vancouver-downtown-community-court/evaluating-the-court |
| Domestic Violence Court (January, 2013) | Nanaimo | The assignment of the judge to hear these cases is under the authority of the Chief Judge. There is no designated judge; however judges who sit in the court are aware of the goals and objectives of the initiative. | | Domestic Violence Cases | Therapeutic Component Crown counsel maintains file ownership of the majority of the domestic violence files from charge assessment to file conclusion Representatives from government and community organizations attend to provide assistance to the court and the parties Cases are scheduled one day every two weeks. | No formal research or evaluation has been done on this initiative. |
| Domestic Violence Court (2009) | Duncan | The assignment of the judge to hear these cases is under the authority of the Chief Judge. | | Domestic Violence Cases | Therapeutic Component There is an assigned Judge who sits in this court. Crown counsel maintains file ownership of the majority of the domestic violence files from charge assessment to arraignment. Representatives from government and community organizations attend to provide assistance to the court and the parties Bail hearings and trials are not usually scheduled in this court. Cases are scheduled one day every two weeks. | No formal research or evaluation has been done on this initiative. |
| Domestic Violence Court (Docket Court) | Kelowna | The Chief Judge exercises oversight by Practice Directive and is | | Domestic Violence Cases | Focus on trial backlog by addressing trial certainty. Committed Courtroom on specific days each month. | No formal research or evaluation has been done on this initiative. |

| Initiative | Location | Governance | Funding | Clientele | Description | Research/Evaluation |
|--|-----------|---|---------|--|---|--|
| (2013) | | overseen by the Regional Administrative Judge. | | | The Administrative Judge generally sits in the docket court. Efforts are made to have continuity in the Crown counsel assigned to the docket court. Cases are scheduled one day per month. | |
| Domestic Violence Court (Docket Court) (2013) | Kamloops | This court was established in 2013 by a practice directive from the Office of the Chief Judge. It was discontinued in April 2015. | | Domestic Violence Cases | Focus on Trial Backlog by addressing trial certainty. Efforts are made to have continuity in the Crown counsel assigned to the docket court. Crown counsel assess whether the case should be dealt with in the court. Cases are scheduled one day per month. | No formal research or evaluation has been done on this initiative. |
| Domestic Violence Court (Docket Court) (2013) | Penticton | The Chief Judge exercises oversight by Practice Directive and is overseen by the Regional Administrative Judge. | | Domestic Violence Cases | Focus on Trial Backlog by addressing trial certainty. Committed Courtroom on specific days each month. Efforts are made to have continuity in the Crown counsel assigned to the docket court. Cases are scheduled one day per month. | No formal research or evaluation has been done on this initiative. |
| Drug Treatment Court (December, 2001) | Vancouver | The assignment of the judge to hear these cases is under the authority of the Chief Judge. | | Non-violent offenders whose offences are motivated by addiction and committed in Vancouver. Offenders must plead guilty and opt into the drug treatment program. Offenders cannot be | Participants must comply with obligations of the court, including participating in court-monitored drug treatment. Sentencing is deferred to allow for completion of treatment. Offender progress is monitored by the court through regular court appearances. Designated court staff include a designated judge, Crown counsel, defence counsel and court clerks. Treatment staff include a Program Director, Case | An evaluation conducted in 2012 examined changes in recidivism of 180 participants in Vancouver's DTC (DTCV) and a matched comparison group that received the traditional sentencing outcomes in the co-located Provincial court. The evaluation found that participants in the DTCV exhibited significantly greater reductions in offending than the comparison group. The DTCV cohort exhibited an average reduction of 0.95 offences per person per year, including a reduction in drug |

| Initiative | Location | Governance | Funding | Clientele | Description | Research/Evaluation |
|---|-----------------|---|-------------------------------|---|--|--|
| | | | | an associate or member of a gang or criminal organization. | Managers, Clinic Manager, Therapists, Physician, Psychologists, Support Workers and Administrative Assistants. Treatment staff are housed in a standalone, dedicated treatment centre located downtown. The court sits every Tuesday and Thursday. | related offences of 0.42 per person per year. The report also found that while the matched comparison group exhibited no significant reduction in drug-related offending, the number of DTCV participants who were sentenced for drug-related charges decreased by over 50% in the two years following their involvement in the program http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/drgtrtmnt-vncvr/index-eng.aspx |
| First Nations Court (November, 2006) | New Westminster | First Nations Court Users group meets regularly. Chaired by Judge Buller. Participants include Elders, Legal Services Society, Judges, Gladue writers, victim services, and social workers. The assignment of the judge to hear these cases is under the authority of the Chief Judge. | Elders receive an honorarium. | People who identify as Aboriginal and plead guilty to a criminal offence. Crown counsel must consent to a case from another court location to be dealt with in the First Nations Court. | Court uses healing plans in sentencing. Anyone in the courtroom may speak during the sentencing. The court has designated staff and there are elders present during court. A sheriff is not present. Sentencing takes place after a Pre-sentencing Report or Gladue report is prepared. Often people from victim services and drug and alcohol counsellors attend to give information on available resources. There are frequent reviews to monitor offender progress. The court sits one day per month usually the 3rd or 4th Thursday of the month. | No formal research or evaluation has been done on this initiative. |
| First Nations Court (March, 2013) | Kamloops | First Nations Court Users Meetings are held regularly. The court also has an Aboriginal Justice Council that | Elders receive an honorarium. | People who identify as Aboriginal and plead guilty to a criminal offence. | The court aims to be more rehabilitative. Its objective is to reduce recidivism by addressing the underlying factors that lead people to commit crime. The court encourages offender | No formal research or evaluation has been done on this initiative. |

| Initiative | Location | Governance | Funding | Clientele | Description | Research/Evaluation |
|---|----------|---|-------------------------------|---|--|--|
| | | <p>meets quarterly. The Council is made up of police, defence, probation, corrections, Band representatives, Social Workers, White Buffalo representatives (treatment and support). The Council selects and trains Elders selected for the court.</p> <p>The assignment of the judge to hear these cases is under the authority of the Chief Judge.</p> | | | <p>involvement in the healing plan. Elders also assist in the development of the healing plans.</p> <p>Focuses on making sure everyone involved in the outcome has a chance to be heard, including: the offender, Aboriginal Community Justice Council members; family or supports; members of the community; the victim; the victim's family and/or supports; and others such as social workers, drug and alcohol counsellors, court workers, social workers, probation officers, and police officers.</p> <p>Court users have created a Community Resource Manual, which lists available treatment programs.</p> <p>The court sits once a month. Usually the first Friday.</p> | |
| <p>First Nations Court (May 2013)</p> | Duncan | <p>An Elders Advisory Panel, comprised of individuals that are trained in the court system and also have knowledge of traditions and cultural practices, has been established</p> <p>The assignment of the judge to hear these cases is under the authority of the Chief Judge.</p> | Elders receive an honorarium. | People who identify as Aboriginal and plead guilty to a criminal offence. | <p>Court uses healing plans in sentencing. The cases dealt with in the court are limited to those that are likely to result in community based sentences. Crown counsel assess whether the case should be dealt with in the court.</p> <p>Sentencing circle process. The court invites anyone to speak to the offender's progress.</p> <p>Participants include: A Native Court Worker, Crown counsel, duty counsel, offender, supports (e.g., family), community service workers, the Judge and a court clerk. Victims and members of the community can also participate.</p> <p>There is no sheriff present.</p> | No formal research or evaluation has been done on this initiative. |

| Initiative | Location | Governance | Funding | Clientele | Description | Research/Evaluation |
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| | | | | | <p>The court has a 12 member Elder panel. Three to four Elders sit at a time and are scheduled in advance. Elders receive a small honorarium for their service. The court has held two training sessions and plan to offer training the future.</p> <p>Catchment area includes the Malahat to Cedar, Salt Spring Island, and Penelakut (formerly Kuper) Island. However, files can be from other locations if there is a connection to the community.</p> <p>The court sits once a month.</p> | |
| <p>First Nations Court (February, 2012)</p> | <p>North Vancouver</p> | <p>Judicial initiative. The assignment of the judge to hear these cases is under the authority of the Chief Judge.</p> | <p>No additional resources required.</p> | <p>People who identify as Aboriginal and plead guilty to a criminal offence.</p> | <p>Goal is to deal with sentencing matters involving First Nations peoples in a more culturally sensitive way.</p> <p>Service providers often attend but not on a regular basis. Native Court worker attends regularly. Elders do not actively participate or attend regularly. A sheriff is present.</p> <p>The court process invites anyone to speak to the offender's healing plan or progress during a review hearing.</p> <p>Catchment area is the North Shore or the Sea to Sky corridor up to and including Whistler, and other cases can be waived in at the discretion of the judge, if there is a connection to the community.</p> <p>The court is scheduled to sit once a month but if the court list isn't finished an additional day may be scheduled when available.</p> | <p>No formal research or evaluation has been done on this initiative.</p> |

| Initiative | Location | Governance | Funding | Clientele | Description | Research/Evaluation |
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| Victoria Integrated Court (March, 2010) | Victoria | <p>The Working Group consists of the presiding Judge and Judicial Justice, Crown counsel and defence counsel, the Native court worker and members of the ACT teams and CLBC's Community Response Team.</p> <p>The assignment of the judge to hear these cases is under the authority of the Chief Judge.</p> | <p>The VIC operates on existing resources.</p> <p>The VIC does not have in-house services and the teams are not located onsite, but instead convene by agreement once per week at the Victoria Courthouse.</p> | <p>The offender must demonstrate a willingness to address the underlying causes of their criminal activity with community support, including intensive supervision; have a history of substance addiction and/or mental disorder and unstable housing; and be a client of an ACT team, or supported by another community service for an alternative plan of supervision in the community.</p> | <p>Consistent time and location for the court hearings and consistent judiciary and Crown counsel. This consistency is meant to allow the judge and Crown counsel to become familiar with offenders and their circumstances as well as the operation and processes of the VIC program.</p> <p>Other key features include calling of the court list by a Judicial Justice, pre-court planning meetings with a multidisciplinary team, court hearings that involve mostly oral reports about the offender's progress in the community and frequent case reviews.</p> <p>The VIC is a result of integrating the services available through existing resources; no new funding was provided. The local business community provided furnishings for a room to be used by the team members and counsel to plan for court sessions.</p> <p>The VIC sits every Tuesday Morning.</p> | <p>Three reports have been completed regarding the VIC's operations and progress, one by the Community Liaison Committee (led by the local judiciary), one from a private consultant (R.A. Malatest and Associates) and one in consultation with the University of Victoria, The Ministry of Justice and the Office of the Chief Judge. Overall, the reports speak positively of the VIC.</p> <p>To date, reports have been qualitative. An outcome evaluation of the VIC has not been completed.</p> |

Appendix B – Summary of External Consultation Feedback

Specialized courts rely on the dedication and expertise of provincial court judges, court staff and numerous other justice, health and social services professionals. In order to ensure these voices were heard in the development of the Specialized Courts Strategy, staff at the Ministry of Justice facilitated two face-to-face consultations in Vancouver and Victoria.

In preparation for the sessions, discussion questions and a background paper were provided to participants in advance of the meeting. The purpose of the paper was to provide an overview of the key issues and considerations shaping the development of the provincial Specialized Courts Strategy.

Who We Heard From

The consultation process generated a wide range of comments and feedback from the representatives of Aboriginal organizations, academics, community partners and other health and social service agencies. Both meetings followed the same agenda, although the Victoria session was more heavily attended by representatives of the public service sector and academia while the Vancouver session was more heavily weighted towards non-profit organizations and the legal community. Input from both meetings is combined into this report. A full list of consultation participants can be found at the end of this summary.

What We Heard

During the two half day consultation meetings, we heard a number of different viewpoints and opinions on specialized courts in B.C. Overall, there emerged a consensus around a number of key themes which continued to be reinforced throughout the discussion, including:

- Specialized Courts can offer benefits over traditional courts because of the holistic, integrated and problem-solving nature of these courts;
- Not enough is currently being done to evaluate and monitor specialized courts and this can lead to unintended consequences such as a focus on the offender at the expense of victims;
- It is difficult to evaluate specialized courts, due to a number of limitations including limited agreement on how success is defined and the availability of data;
- The importance of community participation and consultation cannot be overstated;
- Specialized courts cannot be effective without community resources and services;
- The importance of setting shared objectives at the outset after defining the problem to be addressed by the initiative was reinforced;
- Local leadership and engagement is important;
- Information sharing protocols are essential;
- There is a lack of coordination between justice system partners; and
- There is a need to better establish shared objectives/goals for specialized courts early during the development phase and to adjust these periodically as necessary.

Summary Report

A summary report was provided to participants, along with an invitation to provide any additional written input.

Participant List

Abbotsford Community Services
Battered Women's Support Services
Canadian Bar Association – British Columbia Branch
Forensic Psychiatric Services Commission
Legal Services Society
Ministry of Aboriginal Relations and Reconciliation
Ministry of Children and Family Development
Ministry of Health
Ministry of Social Development and Social Innovation
MOSAIC, Men in Change – Relationship Violence Prevention Program
Native Court Worker and Counselling Association of B.C.
Public Prosecution Service of Canada
RCMP - Surrey Detachment
Secwepemc Community Justice Program
Simon Fraser University – School of Criminology
Simon Fraser University – School of Health Sciences
Tk'emlúps te Secwépemc
Trial Lawyers Association of B.C.
University of the Fraser Valley
International Centre for Criminal Law Reform and Criminal Justice Policy
University of Victoria, Faculty of Law
Vancouver Coastal Health Authority
Vancouver Police Department
Victoria Police Department
Watari Counselling and Support Services Society
Women Against Violence Against Women
YWCA Vancouver