



BRITISH  
COLUMBIA

Ministry of Attorney General  
Justice Services Branch  
Family Justice Services Division

**Judges' Satisfaction with  
Custody and Access Reports  
A Survey of BC Supreme and  
Provincial Court Judges**

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# ***TABLE OF CONTENTS***

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**Chapter One: Introduction ..... 1**

**Chapter Two: Methodology and Approach ..... 2**

**Chapter Three: Interview Results ..... 6**

**Appendix A: Interview Guide**

**Appendix B: Results for Question 7**

# ***CHAPTER ONE***

## ***INTRODUCTION***

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Family Justice Services Division delivers a variety of services to promote the resolution of disputes between separating parents, including the provision of information, mediation services and preparation of custody and access reports. Custody and access reports are prepared pursuant to s.15 of the *Family Relations Act* when ordered by the court.

To prepare these reports Family Justice Counsellors visit the home(s) of the children to interview parents; they may interview the children if appropriate. They also conduct interviews other people with direct knowledge of the family. The Family Justice Counsellor then develops recommendations regarding the custody and access arrangements for the family and compiles a report for the court. In some instances the Family Justice Counsellor is able to mediate outstanding issues between parties and obtain a settlement without further recourse to the court.

The preparation of custody and access reports is resource intensive, and for this reason, the number of reports that are prepared is limited. Priority is given to cases where one or both clients are unrepresented (or represented by legal aid) and: the safety of the children is in question, or violence is or has been a factor in the relationship, or repeated and extended denial of access is alleged, or another jurisdiction has requested the report. About 250 reports are ordered and prepared each year.

As resources available to complete these reports are limited, the Ministry wishes to ensure that the reports provided to the courts are as useful as possible. For that reason, the Ministry contracted with Catherine Tait Consulting to undertake a survey of judges to determine their level of satisfaction with custody and reports and the methods used to produce them. Because the limited availability of reports is known to be a concern, this research was not designed to assess opinions regarding the allocation of resources to this program. This report outlines the survey methodology and results.

The next chapter outlines the methodology of the survey: how samples of judges were selected and the development of an interview guide. Chapter Three presents the results of the survey.

## ***CHAPTER TWO***

### ***METHODOLOGY AND APPROACH***

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The research methodology and approach taken to this study were developed in consultation with Family Justice Services Division. It was agreed that telephone interviews with approximately 30 judges would be conducted to obtain their views regarding custody and access reports. This chapter outlines the approach used to select judges for an initial sample, the characteristics of the group of judges who were actually interviewed, and the process used to develop an interview guide.

#### **1. Sample of Judges**

The sample of judges to be interviewed was drawn from a “population” consisting of all those judges and masters<sup>1</sup> who had ordered reports that were completed during 2003 and the first 6 months of 2004. This timeframe was selected to ensure that the judges interviewed had relatively recent experience with custody and access reports and to allow enough time for reports that had been ordered to have been completed. During that period a total of 230 reports were completed; these reports had been ordered by 130 different judges. These judges represent the population for the study.

##### Sample by Frequency of Use

Of the 130 judges who had ordered reports, some were relatively frequent users of the reports. These have been defined as judges who ordered four or more reports. There were 11 such judges, and they ordered 59 reports in total (8% of judges; 26% of reports). Because these judges made repeated orders for reports we can expect that these judges have some fair degree of satisfaction with the reports they received. They could also be expected to have the greatest degree of familiarity with the reports and the process to obtain them.

A second group of judges has been defined as moderate users: they ordered two to three reports each. There were 39 such judges, and they ordered a total of 87 reports (29% of judges; 38% of reports).

The remaining 84 judges ordered one report each (63% of judges; 37% of reports). These have been defined as infrequent users.

The intent of the research was to interview a total of 30 judges. In order to obtain 30 completed interviews, an initial sample of 39 judges was selected: all 11 of the frequent users, and 14 each of the moderate and infrequent users. This approach deliberately over sampled the frequent and moderate users. This was done to ensure that some of the

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<sup>1</sup> For ease of presentation, the term “judges” is used throughout the report to refer to both judges and masters.

judges sampled have familiarity with more than one report, possibly written by different report writers. The following table summarizes the overall reports ordered, the initial sample drawn and the sampling rate.

**Table 2.1**

Summary	All Reports Ordered		Initial Sample		Sample rate	
	Judges	Reports	Judges	Reports	Judges	Reports
Frequent users (4 or more)	11	59	11	59	100%	100%
Moderate users (2 or 3)	39	87	14	31	36%	36%
Infrequent users (1 only)	<u>84</u>	<u>84</u>	<u>14</u>	<u>14</u>	<u>17%</u>	<u>17%</u>
Total	134	230	39	104	29%	45%
Frequent users (4 or more)	8%	26%	28%	57%		
Moderate users (2 or 3)	29%	38%	36%	30%		
Infrequent users (1 only)	<u>63%</u>	<u>37%</u>	<u>36%</u>	<u>13%</u>		
Total	100%	100%	100%	100%		

Sample by Region and Level of Court

During 2003 and the first six months of 2004 reports were completed for judges in 35 different communities<sup>2</sup>. Judges included in the sample had ordered reports in 24 different communities. The initial sample contained nine Supreme Court judges, three Supreme Court masters and 27 Provincial Court judges.

Final sample: Characteristics of Those Interviewed

A total of 30 interviews were conducted<sup>3</sup>. At least three attempts were made to reach each judge. Of those who did not participate in the interview process, contact was not established with four<sup>4</sup> and five declined to participate. Overall the sample of those interviewed represents 22% of judges who ordered reports completed during the period; the reports ordered by the interviewed judges represent 37% of the reports completed.

The final sample of judges interviewed consisted of nine frequent users, thirteen moderate users, and eight infrequent users, as defined by the number of reports ordered. As was intended, the sample of those interviewed over represents frequent users and under represents infrequent users. The following table compares those interviewed to the overall population of judges and reports ordered during the timeframe selected for the study.

<sup>2</sup> In addition, two reports for communities out of province were ordered.

<sup>3</sup> Interviews were conducted between February 7 and March 10 2005.

<sup>4</sup> Two were on extended vacation.

**Table 2.2**

Summary	All Reports Ordered		Final Sample of Those Interviewed		Final Sample rate	
	Judges	Reports	Judges	Reports	Judges	Reports
Frequent users (4 or more)	11	59	9	51	82%	86%
Moderate users (2 or 3)	39	87	13	26	33%	30%
Infrequent users	<u>84</u>	<u>84</u>	<u>8</u>	<u>8</u>	<u>9%</u>	<u>9%</u>
Total	134	230	30	85	22%	37%
Frequent users (4 or more)	8%	26%	30%	60%		
Moderate users (2 or 3)	29%	38%	43%	31%		
Infrequent users	<u>63%</u>	<u>37%</u>	<u>27%</u>	<u>9%</u>		
Total	100%	100%	100%	100%		

Some of those interviewed commented that while they had ordered reports they may have not received and read them. This is due to the fact that the hearings in a court case may not all be conducted by the same judge. Thus one judge may order a report, but the report is received and read by another. Therefore despite the fact that they had ordered one or two reports, a few judges (three) had not recently read any reports; they felt able to answer only some of the questions on the interview guide. Furthermore, although for research purposes judges were defined as “frequent”, “moderate” and “infrequent” users of reports, most judges characterized their use as “infrequent” or even “rare”.

The judges interviewed had ordered reports in 17 different communities. By region, the judges interviewed sit in:

**Table 2.3**

Region	Judges Interviewed	
	Supreme Court	Provincial Court
Lower Mainland & Fraser Valley	5	10
Vancouver Island	2	7
Interior and North	<u>2</u>	<u>4</u>
Total	9	21

Note: Judges may sit in a number of different locations throughout a year. This table indicates the region of their home court.

## **B. Interview Guide**

An interview guide was developed by the consultant with the assistance of Family Justice Services Division. The guide consists of 17 questions and took approximately 30 minutes to administer. Most of the questions were open ended, but one question asked participants to rate their satisfaction (with aspects of custody and access reports) using a 5 point scale, where 1 represented “not at all satisfied” and 5 represented “very satisfied”. The final interview guide is included as Appendix A.

## ***CHAPTER THREE***

### ***INTERVIEW RESULTS***

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This Chapter presents the results of the interviews conducted with 30 judges regarding custody and access reports. In general, those interviewed indicated a high degree of satisfaction with the reports they had read and the approach used to prepare them. Almost without exception, however, those interviewed expressed concern with the difficulty in obtaining a report in a timely fashion.

Results are presented for the total sample of those interviewed. While 30 interviews were conducted not every judge answered every question. Therefore, most questions had a total number of respondents of about 25 to 27 judges. In the discussion below results given as percentages are based on the number of judges responding on that particular item.

Because of the relatively small number of judges involved the results have not been analysed for statistical significance. While there was some variation among the answers given, for the most part there was considerable consistency in the views expressed.

Where marked differences emerged between judges of different regions results broken out by region is provided in a footnote. The answers given to question 7 (a closed ended satisfaction question) revealed that judges who had ordered reports frequently tended to be somewhat more satisfied than judges who had ordered a moderate or low number of reports. However, the differences were not large; see Appendix B for a chart of responses to this question. Caution should be used in assessing the importance of the differences between sub groups. The overall number of judges interviewed was small, and the number interviewed in any particular sub group is even smaller. At best, any observed differences should be taken as indicators of potential differences rather than as evidence of confirmed differences.

The results of the interviews are presented below grouped to answer the following general questions:

1. Why do judges order reports?
2. Are judges satisfied with the sources of information used by Family Justice Counsellors to prepare reports?
3. How satisfied are judges with the content of the reports?
4. How satisfied are they with the quality, style and organisation of the reports?
5. How do judges make use of the reports they receive?
6. How do reports prepared by Family Justice Counsellors compare to those prepared by private assessors?
7. Do judges agree with the criteria for establishing which requests should be given priority?, and



8. What recommendations do judges make for improved quality?

**1. Why do judges order custody and access reports?**

Question 4 of the interview guide asked judges to comment on why he or she would request that a custody and access report be prepared. (See the chart on the following page for a graphic illustration of results). The most frequent response was that reports would be ordered to obtain information in a case where there was an intractable, highly conflictual dispute where the parties (or counsel) were presenting contradictory evidence. Confronted with a circumstance such as this, judges ordered reports to obtain an independent view of the parties' circumstances and / or their ability to parent. Approximately 73% of judges indicated this as a reason for ordering reports. Other circumstances and reasons to order a report cited by the judges included:

To obtain the views of the child without the need to bring the child to court or chambers to be interviewed by the judge (20%). Several expressed discomfort with interviewing children themselves;

Because lawyers or parties request that a report be prepared (20%). Some indicated that this might be the only circumstance in which they would order a report;

Where the parties are unrepresented and the evidence presented to the court is not informative, relevant or clear (17%);

To increase the chance that parties will settle without the need for further court appearances (17%). Several judges commented that reports provide parents with objective information that persuades them to settle out of court;

To obtain the views of collaterals (13%);

To allow an in depth investigation of circumstances beyond what could be obtain through the court process -- to have the Family Justice Counsellor act as "the eyes and ears" of the court (13%);

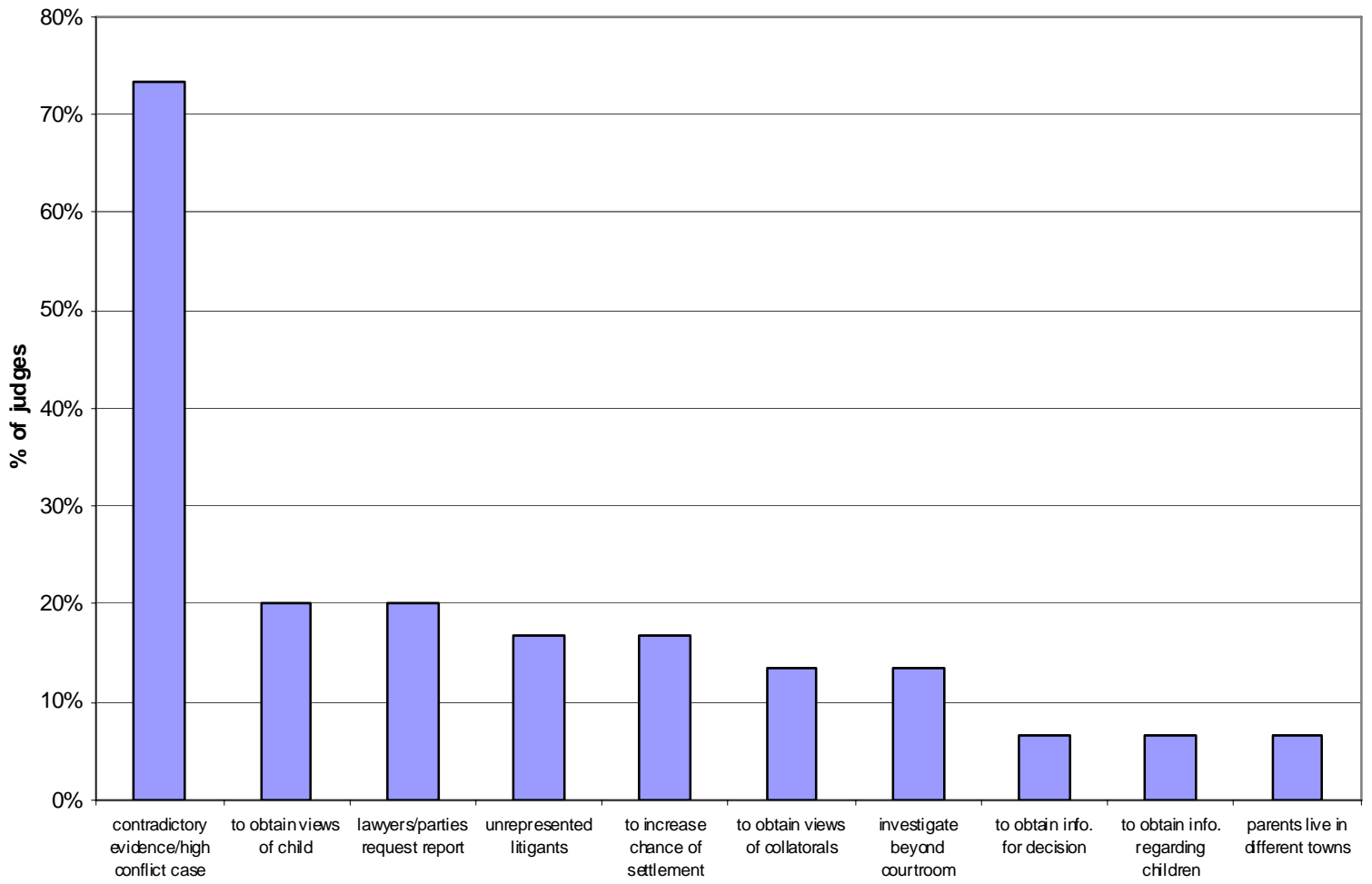
To provide information needed for decision (7%);

To provide information about the child(ren) (7%); and,

Where the parties reside in different towns, to obtain information from people who would otherwise have to travel to appear as witnesses (7%).

Judges value the neutrality of Family Justice Counsellors as well as their ability to investigate in a way that the court and judge cannot do: by visiting the home, observing parents and children together in a natural setting and interviewing collaterals.

### Reasons that Judges Order Reports



## **Are judges satisfied with the sources of information used by Family Justice Counsellors?**

Three items in the interview provide information related to this question:

Question 11: whether Family Justice Counsellors should read affidavits and other court file material before they begin their work;

Question 10: whether the focussed approach to interviews (limited to direct family members and professionals with knowledge of the family) is satisfactory; and

Question 7a (5 point “satisfaction” scale): appropriate people are interviewed by family justice counsellors.

In general, judges are satisfied with the information sources used by Family Justice Counsellors.

### Use of court file material

Judges were of somewhat mixed views on whether family justice counsellors should or should not read affidavits and court file material before they begin their work (see the chart on the next page for a graphic illustration of these responses):

43% thought the Family Justice Counsellor definitely should read the material beforehand – typically these judges feel that the Family Justice Counsellor should obtain as much information as they could before they begin an investigation. This would help them to understand the issues facing the family.

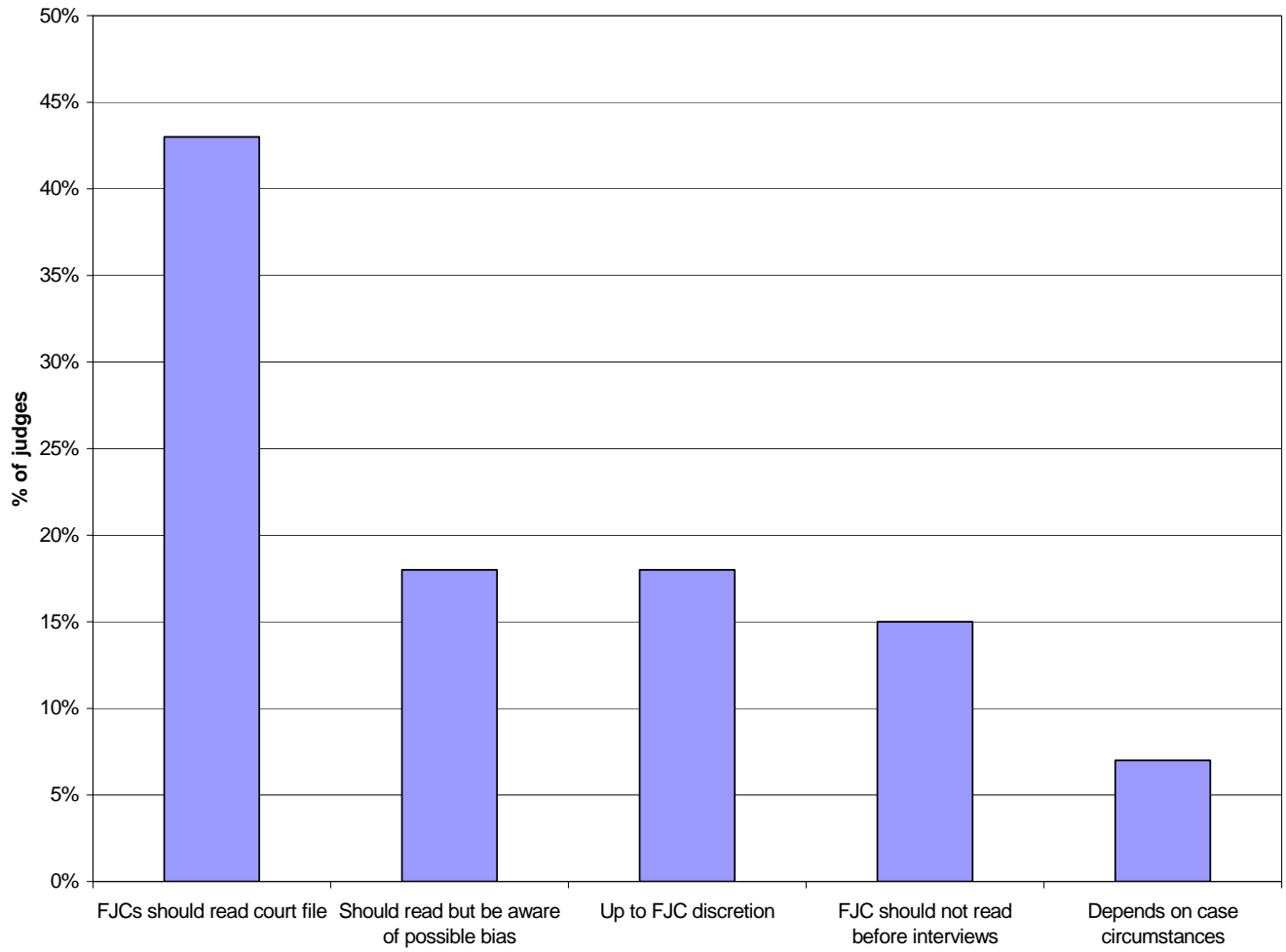
18% thought that the Family Justice Counsellor should read the court materials but only if they were trained not to take everything presented as evidence “as gospel”; these judges expressed a concern that an Family Justice Counsellor might be biased by the material if they did not review it with caution.

18% were content to leave this question up to the discretion and preference of the Family Justice Counsellor themselves.

15% would prefer that the Family Justice Counsellor not read material in the court file at all or at least not before the interview process. This preference stemmed from a concern that the Family Justice Counsellor may be unduly influenced by the material, and/or that this material was meant to be considered by the judge, not a Family Justice Counsellor.

7% felt it depended on the circumstances to the case.

### Judges' Views: Should FJC Read Court File?



A few judges commented that they would like the reports to state whether or not the Family Justice Counsellor has read the court file material or not.

#### Those interviewed by Family Justice Counsellors

Most judges (79%) were satisfied with the focussed approach to interviewing that restricts sources to immediate family members and professionals with knowledge of the family. Many expressed the view that collaterals suggested by the parents were likely to be biased in favour of one of the parents and therefore should not be interviewed. However, a number (11%) felt that by using the focussed approach the Family Justice Counsellor could miss an important source of information such as neighbour who had regular contact with the children, or a friend who would reveal important information if questioned carefully. An equal number felt that the question of whom to interview should be left to the discretion of the Family Justice Counsellor.

On the five point scale question, judges expressed a high degree of satisfaction with the appropriateness of people interviewed by the Family Justice Counsellors. This item received an average score of 4.19 out of 5.

## **2. How satisfied are judges with the content of the reports?**

Several interview items addressed this question:

Five point “satisfaction” scale questions:

7b: reports address the issues requested by the court;

7c: reports provide the information needed for a decision;

7d: reports provide information that the court does not get from parties or counsel;

7f: analysis of facts is provided to support recommendations;

7g: recommendations are consistent with cited evidence and analysis;

Question 13: whether reports contain sufficient detail regarding the children and their relationship with the parents; and

Question 12: whether judges would prefer to see comments on every interview conducted in the body of the report.

The results for the five point scale question are presented in Table 3.1, and further comments follow.

**Table 3.1**

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<b>Judge Satisfaction with Content of Reports</b>	<b>Average Score</b> (1 = Not at all satisfied; 5 = Very satisfied)
7b. Reports address the issues requested by the court	4.18
7c. Provides the information needed for decision	3.97
7d. Provides information that the court does not get from parties or counsel	4.14
7f. Analysis of facts is provided to support recommendations	3.70
7g. Recommendations are consistent with cited evidence and analysis	3.90

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Judges expressed a great deal of satisfaction with the content of the reports they have read:

Item 7b (“report addresses issues requested by the court”) received an average score of 4.18 out of 5<sup>5</sup>;

Item 7c (“provides the information needed for a decision”) received an average score of 3.97 out of 5. A number of judges commented that the reports provide some but not all of the information they use to reach decisions; they also rely on evidence presented to them by parties and counsel. Their scores reflect the fact that the report gave part of the information they used for decision;

Item 7d (“provides information that the court does not get from parties or counsel”) received an average score of 4.14 out of 5. For many judges this is a primary reason for ordering a report;

Item 7f (“analysis of facts is provided to support recommendations”) received an average score of 3.70 out of 5. While still positive, this item received the lowest satisfaction score of any of the 5 point scale questions<sup>6</sup>;

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<sup>5</sup> Judges from the Interior and North were most satisfied, with an average score of 4.38 (6 judges answering). Those from Vancouver Island were the least, (average score of 3.88, 9 judges answering).

<sup>6</sup> Judges from Vancouver Island were the most satisfied (average score of 3.88; 9 judges answering) while those from the interior and north were the least (average score of 3.30, 6 judges answering). Judges from the Lower Mainland and the Fraser Valley reported an average score of 3.75 (14 judges answering).

Item 7g (“recommendations are consistent with cited evidence and analysis”) received an average score of 3.90 out of 5.

Eighty percent of judges agreed that the reports contain sufficient information regarding the children and their relationship with the parents. The remainder indicated that they would like more information, or more interviews, to be conducted with children.

Judges were of mixed views regarding the practice of not reporting on every interview conducted. Many (65%) felt that this is acceptable – they trust the Family Justice Counsellor to report all those interviews that had yielded important information. Furthermore, they pointed out that counsel and parties have the ability to call the Family Justice Counsellor as a witness if they feel that relevant information was left out a report.

Others (31%) wished that the Family Justice Counsellor would simply indicate briefly in the body of the report why the results of an interview were not presented, for example, that the person interviewed lacked knowledge of the children or provided information already obtained from another source. Only one judge felt that the Family Justice Counsellor should report on every interview conducted.

### **3. How satisfied are the judges with the quality, style and organisation of the reports?**

The following items addressed questions of quality, style and report organisation:

Question 6: whether the following the best interests of the child factors set out in s. 24 of the *Family Relations Act* is a useful report structure for judges;

Five point “satisfaction” scale questions:

- 7e objectivity of the report writers;
- 7h: clarity of the recommendations;
- 7l: writing style;
- 7j: level of detail;
- 7k: length of the reports; and

Question 8: the degree to which the quality of reports is consistent or varies from report to report.

Most judges (84%) agreed that the use of the best interests of the child factors as a way to structure reports is good. Several commented that this is helpful because it they must consider these factors in making a decision. One judge also pointed out that the structure is useful to help parents attend to the best interests of the child when they consider the report results.

Several items on the five point scale “satisfaction” question addressed the question of quality and style. The results are presented in Table 3.2. All individual responses were neutral (score = 3) or better. Most indicated a good to high level of satisfaction with the quality and style of reports. On one item (item 7e “objectivity of the report writers”) most judges reported satisfaction, but a few felt that they had seen an occasional instance where an Family Justice Counsellor had been biased in favour of one party<sup>7</sup>.

**Table 3.2**

<b>Judge Satisfaction with Style and Quality of Reports</b>	<b>Average Score</b> (1 = Not at all satisfied; 5 = Very satisfied)
7e. Objectivity of report writers	4.35
7h. Clarity of the recommendations	4.10
7i. Writing style	3.78 <sup>8</sup>
7j. Level of Detail	3.77
7k. Length of reports	3.85

Most judges (65%) felt that the quality of the reports that they had seen was consistent or fairly consistent across report writers. Nineteen percent answered that they had seen only one or two reports in recent years and could not comment on consistency. Eight percent indicated that while quality varied somewhat it was not significant enough to cause concern. However, 8% did feel that consistency was lacking, and that it was a concern.

<sup>7</sup> This item showed a fair degree of difference between regions. Judges from Vancouver Island gave an average score of 4.5 (9 judges answering) and those from the Lower Mainland and Fraser Valley gave an average of 4.48 (14 judges answering). However, judges from the Interior and North gave an average score of 3.8 (6 judges answering.)

<sup>8</sup> Again, regional differences emerged. Judges in the Lower Mainland and Fraser Valley gave an average score of 3.83 (14 judges answering) and those from Vancouver Island were nearly as satisfied with an average score of 3.81 (9 judges answering). Those from the Interior and North were less satisfied, with an average score of 3.25 (6 judges answering).



#### 4. How do judges make use of the reports they receive?

Three interview questions addressed this issue:

Question 5: features of reports that judges find particularly useful;

Question 9: the weight given by judges to the recommendations and background information contained in a report when they make orders in a case; and

Question 15: the greatest strengths and weaknesses of the reports as a tool for the courts.

Five judges reported that they found “everything” in the reports to be useful or that the reports were generally useful to them. Judges reported a wide variety of report particular features that they found useful. These are presented in Table 3.3.

**Table 3.3**

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<b>Features of Reports Judges find Particularly Useful</b>	<b>% of Judges<sup>9</sup></b>
Views of the child	30%
Observations of children and their interaction with the parents	22%
Views of collatorals	22%
Recommendations	19%
History and background information	19%
Views of the independent report writer	15%
Information on the parents	15%
Assessment of the best interests of the child	11%
Usefulness as a tool to encourage settlement	11%

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<sup>9</sup> Several judges provided more than one response.

Several judges also commented that the report writers have the opportunity to observe the children and parents in a realistic setting, an opportunity that the judge simply does not have.

Sixty percent of judges report that they give considerable or substantial weight to the reports recommendations. While they may not mirror the recommendations exactly in the orders they make, the recommendations are clearly valued by the judges. The remainder said that they rely on both recommendations and the evidence presented in court when making orders.

Judges are inclined to give somewhat less weight to the background information presented because they often have some of this information already or feel that other information presented as evidence is also of importance in making an order. Less weight would be given if the evidence presented in court contradicted information in the report, or the report was challenged successfully by the parties or counsel.

The following were cited as strengths of the reports as tools for the court.

**Table 3.3**

<b>Strengths of Reports as Tools for the Court</b>	<b>% of Judges<sup>10</sup></b>
Reports provide an independent source of evidence and unbiased information	60%
Reports very often result in settlement or consent	28%
Report writers are the “eyes and ears” of the court – they can investigate beyond the courtroom	20%
The report writing process takes place outside of the adversarial arena and reveals things that won’t come out in the adversarial process	20%
Reports give children a voice in the proceedings	16%
The focus of the report is on the children	8%
Reports bring parents’ attention to the bests interests of the children	8%
Reports force parties to face reality	8%
Reports are written sensitively so that parents can live with the results	4%

<sup>10</sup> Several judges provided more than one response.

When asked about the weaknesses of reports as tools for the courts, 73% of the judges who responded cited the delay in obtaining a report. A common sentiment is that the reports can take so long that they become meaningless as the family’s original circumstances have changed significantly. Other weaknesses were cited less frequently:

**Table 3.4**

<b>Weaknesses of Reports as Tools for the Court</b>	<b>% of Judges<sup>11</sup></b>
Delay to obtain a report	73%
Reports can end up as a tool in the litigation if they support one party	7%
Time available to prepare reports does not allow for in depth investigation and interviews	7%
The Family Justice Counsellor can become “captured” by one party resulting in a biased report	4%
Reports should provide more detail regarding how access recommendations can be implemented	4%
Reports are sometimes ordered when not really needed	4%
Family Justice Counsellors lack the expertise to investigate allegations of sexual abuse	4%

## **5. How do privately prepared reports compare to those prepared by Family Justice Counsellors?**

Question 14 asked the judges to comment on the advantages and disadvantages of reports prepared by private assessors compared to those prepared by Family Justice Counsellors. The most frequently cited advantage of a private report was the timely delivery – usually 6 to 8 weeks. This advantage was cited by 69% of judges. A smaller number (23%) cited the ability to have a highly qualified report writer prepare the report as an advantage.

The greatest disadvantage of private reports is the cost to have them prepared (46%) particularly at a time when families are usually experiencing financial stress. Another disadvantage is the possibility that the report writer could be biased in favour of the parent who pays for the work (in cases where the cost is not shared equally between parties)

<sup>11</sup> Several judges provided more than one response.

(23%). At least 15% commented that in contrast Family Justice Counsellors are completely neutral and disinterested writers. One commented that this neutrality increased the likelihood of settlement.

Twenty seven percent of judges find the psychological tests that are often a feature of private reports to be useful while 19% do not. Another 8% felt that the psychological tests were useful only where mental health issues were a concern. One judge suggested that a small pool of funds be made available to have psychological testing undertaken in conjunction with an Family Justice Counsellor report, in the few cases where it is warranted.

Nineteen percent of judges commented that the private reports tend to be more comprehensive than those produced by Family Justice Counsellors. In contrast, one judge (4%) commented that they often don't need anything more than what the Family Justice Counsellor reports provide.

#### **6. Do judges agree with the criteria for establishing which report requests should be given priority?**

Question 16 asked judges for their reaction to the criteria established by Family Justice Services Division to determine the priority that would be given to a report. The criteria for cases assessed as #1 priority are:

“One or both parties are unrepresented, or represented by legal aid, and one or more of the following actors are present:

Safety of the children is in question;

Violence is or has been a factor in the relationship;

Repeated and extended denial of access is alleged, and

Another jurisdiction is required to complete the report.”<sup>12</sup>

All participants were asked if they were familiar with the criteria. If they were not, the interviewer read the criteria to the judge, and then asked for their reaction. (In all but two instances the judges were not familiar with the criteria.) Fifty-six percent were satisfied that the criteria were appropriate, that is, that the correct and important factors for establishing priority were captured by this list.

Some (22%) took exception to assigning a lower priority to cases where the parties are represented by counsel. For some it was a question of equal access: all litigants should have equal opportunity to have a report prepared. Others felt that the presence of counsel should not be taken as an indication that parties can afford to pay for a private report -- the alternative open if an Family Justice Counsellor report would not be available to

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<sup>12</sup> Family Justice Services Manual of Operations, part 6.2.2 Assessment and level of priority, p. 5.2-1.

them. The following were suggested as possible additions for defining “high priority” cases (each suggestion was made by one judge):

A high number of complex issues is present;

Views of the child are required;

A long estranged parent is seeking access; and

The case is urgent.

## **7. What recommendations do judges make for improved quality?**

Despite the fact that the final question of the interview asked specifically about quality, 68% of judges responded with a recommendation to increase the quantity and timeliness of the reports. Very few had any recommendations for quality improvements. The following suggestions were made (by one judge in each case):

Provide a check list of specific issues to be investigated (e.g. drug and alcohol problems, parenting issues) so judges can narrow and direct their requests for reports more specifically;

Find an effective way to communicate the expected delay for reports to judges. Many judges rely on information provided by counsel on this subject;

Find a way to respond to urgent requests for a views of the child report;

Provide more funding for staff training on how to prepare reports; and

Ensure that Family Justice Counsellors who prepare reports are available for appearances on trial dates.

***APPENDIX A***  
***INTERVIEW GUIDE***

## JUDGES INTERVIEW

Date: _____
Judge: _____
Court: _____

1. How long have you been a judge hearing family/divorce cases? \_\_\_\_\_  
\_\_\_\_\_

2. What percentage of the cases you hear are family or divorce cases? \_\_\_\_\_

3. How often have you requested a custody and access report? (What % of cases?)  
\_\_\_\_\_  
\_\_\_\_\_

4. Why would you request that a Custody and Access report be prepared? (**tick only those mentioned**)

- Because lawyers or parties request it
- To remove the dispute from the courtroom
- Provide information on which to base a decision
- Provide a neutral, expert opinion
- Introduce a delay
- Provide an opportunity for parties to settle
- Reduce the need to hear lengthy and contradictory evidence
- To obtain the views of the children
- Other: \_\_\_\_\_

5. Are there features of the custody and access report that you find particularly useful? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Family Justice Counsellors must use the “best interests of the child” factors that are set out in s. 24 of the FRA as a way to structure their observations in a report. Is that report structure useful for the court?

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7. How satisfied are you with the Custody and Access reports you read in terms of:

	<b>Very Satisfied</b>			<b>Not at all Satisfied</b>	
Appropriate people interviewed by FJCs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Addresses the issues requested by the court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provides the information needed for decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provides information the court does not get from parties or counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Objectivity of report writer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Analysis of facts provided to support recommendations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recommendations consistent with cited evidence / analysis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clear recommendations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Writing style	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Level of detail	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Length	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Is the quality you observe in Custody and Access reports across family justice counsellors fairly consistent or does it vary noticeably from report to report?

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9. When making orders, how much weight do you give to:

- (a) The recommendations in Custody and Access reports?

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- (b) To the background information and evidence?

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- (c) What other factors are important?

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I'd like to ask your opinion of some changes that have been implemented since the late 1990's that have been made to the way that custody and access reports are prepared. The next few questions are about those changes.

10. Family Justice Counsellors have moved towards a more focussed approach to report preparation, where they interview direct family members and professionals with knowledge of the family. (They rarely interview friends and relatives suggested by the parents themselves). Are you satisfied with this approach? Do the reports prepared on this basis provide you with enough objective information on which to base a decision? (Or, is something missing?)\_\_\_\_\_

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11. Affidavits and other information in the court file is available to the Family Justice Counsellors assigned to prepare a report. Do you feel that the FJC should, or should not, read evidence presented to the court before they begin their work? Why or why not?\_\_\_\_\_

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12. Family Justice Counsellors may interview several people to prepare a report, and record those interviewed on the facesheet of the report, but may not comment on the content of each interview in the body of the report. What is your view of this approach? (Is that acceptable?)

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13. In general, do you find that there is sufficient detail on the children and their relationships with the parents in the reports that you have read?

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14. What are the advantages and disadvantages of using a private assessor compared to a FJC to prepare a report? (probe: cost, timeliness, quality, use of psychological testing by private assessors) \_\_\_\_\_

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15. In your view what are the greatest strengths with the use of Custody and Access reports as a tool for the courts? \_\_\_\_\_

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The greatest weaknesses?

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16. Government resources available to prepare reports are limited. Family Services Justice Division has established criteria for determining which reports should be given priority for preparation. Are you familiar with those criteria? (Review if necessary). In your view, are these the correct criteria for establishing priority? Are there other criteria that should be included, or some used now that should be dropped?

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17. Do you have any recommendations to improve the quality of Custody and Access reports?

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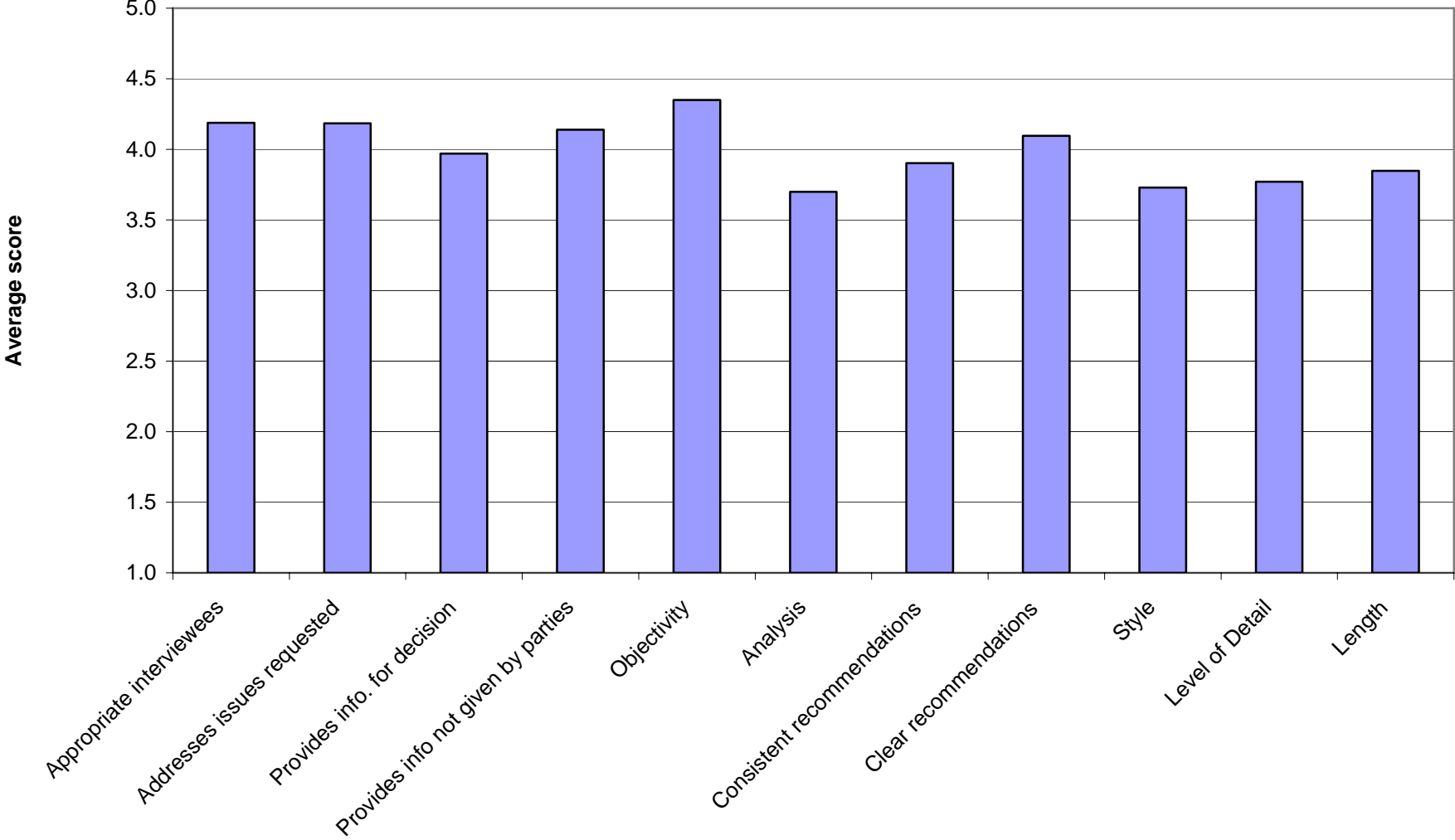
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***APPENDIX B***  
***RESULTS FOR QUESTION 7***  
***(5 POINT SATISFACTION SCALE)***

**Responses to Question 7**  
(1= Not at all satisfied; 5 = Very satisfied)



### Responses to Question 7 by Frequency of Use (1= Not at all satisfied; 5 = Very satisfied)

