

November 27, 2006

TASK FORCE PROPOSES FUNDAMENTAL CIVIL JUSTICE SYSTEM REFORM

The Justice Review Task Force was established in British Columbia on the initiative of the Law Society of BC in March, 2002. The committee is unique in that it is a working coalition of prominent forces in the justice system, with a mandate to identify a wide range of reform ideas and initiatives in order to make the justice system more responsive, accessible, and cost effective. The Task Force has appointed several working groups to explore fundamental change to BC's justice system.

The 12-member Civil Justice Reform Working Group was appointed by the Task Force in September 2004, to explore fundamental change of the process used to resolve all types of Supreme Court, non-family, civil justice matters. The mandate did not include the Provincial Court, but the Working Group examined the Provincial Court's processes and suggests in its report that there should be consistency between the goals of the two courts.

The members of the Working Group represented various stakeholders. The members are:

- Chief Justice Donald Brenner, Supreme Court of British Columbia (Co-Chair)
- Allan Seckel, Q.C., Deputy Attorney General (Co-Chair)
- Carol McEown, Legal Services Society
- Madam Justice Laura Gerow, Supreme Court of British Columbia
- Judge Dennis Schmidt, Provincial Court of British Columbia
- Master William McCallum, Rules Revision Committee
- Richard Margetts, Q.C., representing the Law Society of BC
- Jim Vilvang Q.C., representing the Canadian Bar Association, BC Branch
- Helen Pedneault, Assistant Deputy Minister, Court Services Branch
- George Macintosh, Q.C., Member at Large
- Barbara M. Young, Q.C. Member at Large
- Craig Dennis, Member at Large

The Working Group focused on the interests of the users of the legal system, with the aim of finding options that meet as many of those interests as possible. These interests include:

- Accessibility – dispute resolution processes, including the trial, that are affordable, understandable and timely
- Proportionality – procedures that are proportional to the matters at issue
- Fairness – parties have equal and adequate opportunities to assert or defend their rights
- Public confidence – parties are confident that the civil justice system will meet their needs, and consider it to be trustworthy and accountable

- Efficiency – the civil justice system uses public resources wisely and efficiently
- Justice – the truth, to the greatest extent possible, is ascertained and applied to produce a just resolution.

The Working Group has just completed its review and has published its report, entitled, “Effective and Affordable Civil Justice.” The report sets out a vision that provides everyone, regardless of their means, with access to effective and affordable civil justice through two broad strategies:

- Providing integrated information and services to support those who want to resolve their legal problems on their own before entering the court system; and
- Providing a streamlined, accessible Supreme Court system where matters that can be settled are settled quickly and affordably and matters that need a trial get to trial quickly and affordably.

The report provides three key recommendations:

- Introducing a “hub,” where people can go to get the information and services they need to solve legal problems on their own;
- requiring parties to Supreme Court civil non-family actions to personally attend a case planning conference (CPC) before they engage the system beyond initiating and responding to a claim; and
- rewriting the Supreme Court Rules to include:
 - an explicit overriding objective that all proceedings are dealt with justly and pursuant to the principles of proportionality;
 - a new case initiation and defence process which provides a plan for conducting the case and achieving a resolution;
 - limits on both oral and documentary discovery; and
 - restrictions on expert evidence.

Four key principles emerged from the work of the Working Group:

- Preservation of the rule of law;
- proportionality, to ensure that the amount of process will be proportional to the value, complexity and importance of the case;
- flexibility and matching of process to the dispute and needs of the parties; and
- more active judicial involvement in the management and resolution of cases.

During 2006/07, the Deputy Attorney General and Chief Justice Brenner will begin a tour of communities province-wide, soliciting input on the report’s recommendations.

These are only highlights of the recommendations. We invite you to carefully review the entire report, and the available reports of other working groups, at www.bcjusticereview.org.