

A New Justice System for Families and Children

REPORT OF THE FAMILY JUSTICE REFORM WORKING GROUP
TO THE JUSTICE REVIEW TASK FORCE

APPENDICES

April 2005



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***Appendix A:
Summary of Family Justice
Reports & Studies***

Family Justice Reports

*a Summary of Selected Reports
on Family Justice Topics
from BC & Federal/Provincial
Sources since 1992*

Prepared for the
Family Justice Reform Working Group
September, 2003

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<p>“Breaking Up Is Hard To Do: Rethinking the Family Justice System in British Columbia”, Report of the Family Justice Review Working Group, November, 1992</p>	
<p>Background</p>	<ul style="list-style-type: none"> • A client-based review of BC government family justice services prepared by an inter-ministry working committee with representation from the Ministries of the AG, Social Services and Women’s Equality • Methodology: open-ended workshops in 13 communities with 266 people (clients, government service providers, community service providers, family law lawyers) in BC; Aboriginal communities in Kamloops and Prince George; ethnocultural services providers and the Indo- and Chinese-Canadian communities in Vancouver; children from divorced families, people who are physically or mentally challenged
<p>Guiding Principles of the Family Justice System</p>	<ul style="list-style-type: none"> • Understandable, accessible, affordable, equitable and timely • Recognizes the special needs and interests of children • Promotes a range of ADR compatible with different needs, financial abilities and legal requirements • Assists resolution of family problems in a way that respects their best interests and responsibilities of affected people • Works with communities, non-government organizations and other ministries to serve the changing needs of families • Provides a coordinated response to the needs identified by family members • Involves individuals who have skills to deal sensitively and effectively with people undergoing family breakdown • Provides facilities to ensure privacy and security, accommodate people with disabilities and provide child care • Includes effective mechanisms for the enforcement of all court orders respecting family matters
<p>Issues identified</p>	<ul style="list-style-type: none"> • Consensus of major needs raised in workshops: <ul style="list-style-type: none"> o A coherent, non-adversarial, out-of court system to deal with family issues o Resolution of custody and access issues in the best interests of the children o Adequate and regular financial support for children o Enhance understanding in the system of the dynamics of family violence and its impact on family breakdown (input on family violence/sexual abuse was not specifically sought but was raised in every workshop) o Change societal attitudes about divorce, child support and power imbalances in relationships o Review government policies & practices affecting families adversely: education, day care, job training, housing • Needs identified in the ethnocultural workshops <ul style="list-style-type: none"> o Greater understanding of cultural and language barriers – issues of leaving abusive relationships, family obligation, sense of shame, financial dependence, lack of support network o Identification of the connection between maintenance and custody – how one parent can use access to maintain control over the other parent; o Understanding of ability of a parent to avoid paying support by concealing assets or selling to relatives

APPENDIX A: SUMMARY OF FAMILY JUSTICE REPORTS & STUDIES

	<ul style="list-style-type: none"> o Culturally appropriate information and education about family justice issues, especially for newcomers, immigrants, support workers and interpreters • Needs identified in the Aboriginal community workshops <ul style="list-style-type: none"> o Culturally appropriate, out-of-court approach to family law issues: clients avoid dealing with the court system for fear of what it might do to them and their children o Greater cultural sensitivity in the family justice system o Culturally appropriate information and education about family justice issues • Needs raised by children <ul style="list-style-type: none"> o Recognition of children’s feelings o Help for parents to sort out their problems without fighting
<p>Services Needed</p>	<ul style="list-style-type: none"> • Clients’ view of what services they would like, based on needs <ul style="list-style-type: none"> o Promoting healthy relationships – compulsory school programs that promote healthy, functional families; continuing grants to non-profit community agencies and other organizations to provide promotion and prevention programs; public education and awareness programs to help people understand parental responsibilities and marriage breakdown, gender biases and family violence o Relationship counseling – continuing grants to non-profit community agencies and other organizations to provide relationship counseling and information on family support services; improved information about available services and supports and relationship counseling and information on family support services o ADR – “front door” services for separating families outside the family court system; support services to meet emotional needs of parents and children; mechanism that promotes fair, adequate and informed resolution of family matters; effective information services; increased non-adversarial conflict resolution by trained mediators outside the courts system o Adjudication – less formal, less confrontational process, recognizing clients’ emotional needs; only one level of court; adequate, effective enforcement; emotional support for children o Ongoing support – ADR for resolution of ongoing family issues; counseling services to enable family members to cope emotionally
<p>Recommendations</p>	
<p>Recommendations that could be implemented outside the current adjudication process</p>	<ul style="list-style-type: none"> • Community Family Relations Centres (CFRC) to create a front door to the family justice system and to: <ul style="list-style-type: none"> o employ staff skilled in ADR o provide education programs, information and referrals o help people who want to change agreements and orders o test the concept and use of parenting plans o work with community organizations and fill gaps in services not provided by community agencies o work in conjunction with Community Advisory Boards o have a liaison with FMEP • Family Relations Branch to be created within the BC government, to coordinate family issues within government; centralize and standardize services such as information and education materials, computer systems, and staff training; provide certain core staff in the CFRC, and to link:

	<ul style="list-style-type: none"> o Demonstration Community Family Relations Centres o Family maintenance enforcement program o Reciprocal enforcement of maintenance orders office o Family search services o Family Policy and Research o Family Legal Services to Government o Child Advocate’s Office o Family Court Counsellors • ADR: Promotion and support by the BC government, including provision of voluntary ADR for separating or divorcing spouses and development of qualifications and standards of service for mediators • Child support guidelines • Maintenance enforcement: improve FMEP’s communications with people in the program; act on recommendations in the Semmens and Adams report (“An Evaluation of BC’s Family Maintenance Enforcement Program”) • Family Court Counsellors: detach from Probation Officer function and move to the proposed Family Relations Branch; focus on counseling and ADR and ensure appropriate skills
<p>Recommendations relating to the current court system and ADR processes</p>	<ul style="list-style-type: none"> • ADR: Proposed Family Relations Branch develop ADR to be tested at an existing court location with CFRCs • UFC: Establish one court to deal with all family matters • Information on the family justice system in plain language, in a variety of languages and gender neutral • Maintenance enforcement: FMEP to monitor Ontario’s automatic payroll deduction model; research the pros and cons of moving from an opt-in to an opt-out maintenance enforcement program; and examine possibility of legislating certain measures, including • Definition of interest on unpaid maintenance, to allow for collection without further court appearances <ul style="list-style-type: none"> o Charging debtors for cost of enforcement actions o Fines for non-compliance o Mechanisms to allow for deduction at source, if creditor (debtor?) chooses; for direct deposit of maintenance to creditor’s account; and for garnishment of joint bank accounts where one account holder is a debtor in arrears o Requiring financial disclosure by debtors’ spouses to determine whether assets have been transferred o Allowing Director to determine the amount to be applied to arrears under a continuing garnishment order o Authorizing registration of maintenance orders against personal property o Requiring posting of security by self-employed debtors in arrears who have no attachable resources o Allowing children over 19 to sue parents for unpaid maintenance if the parent waives the right to arrears • Legal Aid: Legal Services Society consider a sliding scale fee; closely monitor the quality of services by legal aid lawyers; increase the number of lawyers available for legal aid • Child Advocates: A Child Advocate’s Division, capable of the new workload, be established within the Family Relations Branch to prepare custody and access reports at their discretion and develop standards for these reports; skilled and competent advocates to represent children in all family matters

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	<ul style="list-style-type: none"> • Supervised access programs: AG explore feasibility • Family violence: Federal and provincial governments consider legislation to include as a factor in custody and access • Language: All relevant family legislation be changed to remove confrontational words • Training: Provincial government to support current efforts by the judiciary and bar to train judges and lawyers in issues relating to the appropriate resolution of family issues
<p>Recommendations for education and information</p>	<ul style="list-style-type: none"> • School curriculum to include life-skills training • Non-profit agencies to receive grants to provide education programs • Teacher training to support the Learning for Living curriculum • Public awareness campaigns on child support obligations, family violence, power imbalances in relationships, gender bias
<p>Recommendations relating to socio-economic effects of family breakdown</p>	<ul style="list-style-type: none"> • Proposed Family Relations Branch bring to the attention of government agencies: <ul style="list-style-type: none"> o Lack of second-stage transition houses o Lack of affordable housing and rental accommodation o Income tax implications of child support o Impact of child support on income assistance o Need for job training (particularly for women) following separation

<p>“Family Justice Reform: Decisions, Implementation, Action”, BC Attorney General, Family Justice Committee, T. Harrison, September 7, 1993</p>	
<p>Background</p>	<ul style="list-style-type: none"> • Since 1976, recommendations have been consistent in what government should do to improve family law services • Family Justice Reform Committee with representation from Ministries of AG, Social Services and Women’s Equality, was established to review and assess recommendations from all previous reports on reform of family justice in BC, prepare a report with recommendations and conduct a pilot project to test some of the major recommendations
<p>Definitions</p>	<ul style="list-style-type: none"> • “Family justice services” is a set of programs and services provided directly by, or under the auspices of, the provincial government to those who are considering the termination of their marriage or common-law relationship and seek outside assistance in reaching a decision and dealing with outstanding issues • Family justice services flow from the federal <i>Divorce Act</i> and provincial legislation including the <i>Family Relations Act</i>, <i>Family Maintenance Enforcement Act</i> and the <i>Family and Child Services Act</i>
<p>General Problems identified</p>	<ul style="list-style-type: none"> • Services are fragmented, poorly coordinated and sometimes overlapping, often spread out geographically and frequently not available when most urgently needed • Gaps, especially in alternatives to litigation; lack of suitable educational programs to help identify options including reconciliation; lack of supervised access; inadequacy of existing family (child) advocate service and overburdened service providers unable to provide timely professional assistance • Backlogged courts • Province-wide variations in quality of services • System is expensive, cold, impersonal, complex, and not responsive to emotional side of issues • Litigation is often protracted and focused on legal matters, not the best interests of children • Systematic gender bias in legislation, policy, procedures and outcomes • Lack of cultural insensitivity and flexibility
<p>Recommendations</p>	
<ul style="list-style-type: none"> • This is a consolidation of recommendations (called “decisions”) of various reports which if implemented, would substantially improve family justice programs and services province-wide • Primary decisions are in order of priority and build on each other to establish a comprehensive family service delivery network • Secondary decisions address areas where there is currently another process underway for reaching conclusive recommendations for action 	
<p>Primary decisions</p>	<ul style="list-style-type: none"> • Community-based Family Relations Centres <ul style="list-style-type: none"> o Establish where possible, offices offering family-related services (now offered to some extent by government) (information; referrals; mediation/ conciliation services; support and short-term counselling; educational programs or materials on the impact of separation and divorce on family members)

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	<ul style="list-style-type: none"> o Share space with, or locate adjacent to related government programs (e.g. FMEP, Legal Aid) o Create links to services such as Child Advocacy services, Family Search services, Income Assistance o Establish a community advisory panel for each centre • Mediation services <ul style="list-style-type: none"> o Enhance accessibility of mediation and conciliation services provided by Family Court Counsellors o Make these services generally available in cases involving custody and guardianship, access, maintenance, and minor property division • Education: Design and implement programs widely available to parents as early as possible in the separating process • Family advocates: Enhance the AG's Legal Services Branch programs • Supervised access: Provide at every Family Relations Centre • Family services: Enhance existing services with increased staffing and funding, and an emphasis on mediation • Family Justice Service Workers <ul style="list-style-type: none"> o Separate the functions of Family Court Counsellors from Probation Officers o Eliminate duplication in services provided by FCCs and Family Maintenance Workers o Establish Family Justice Service Worker with high level of training and 4 basic functions: family justice advisor, family justice counsellor, family mediator and child custody evaluator • Organization of government services <ul style="list-style-type: none"> o Assemble government services to separating and divorcing families to improve coordination, reduce fragmentation, eliminate duplication and encourage consistency o Link to related services such as spousal assault programs, transition homes & victim assistance • Enforcement of orders: Increase effort to enforce court orders (maintenance, access and civil restraining orders)
<p>Secondary decisions</p>	<ul style="list-style-type: none"> • Child Support Guidelines: Continue active participation • Division of property and pensions <ul style="list-style-type: none"> o Continue research and consultation in division of property o Implement BC Law Reform Commission report re Division of Pensions on Marriage Breakdown • UFC: Create one court; join existing working group with representatives from federal & provincial governments • Legal services: Ensure availability to qualified families of independent legal advice and information, mediation services and representation • ADR: Authorize research and planning to move towards implementation of alternative forms of adjudication based on formal, informal and community-based tribunals combined with arbitration

“A proposal for Case Management in Family Court & For the Integration of Family Justice Initiatives and the Family Court Process” , Prepared by Associate Chief Judge E. Dennis Schmidt, from “Report of the Chief Judge: Delay and Backlog in the Provincial Court of British Columbia, Part III Family Justice Reform Report,” April 1998

<p>Background</p>	<ul style="list-style-type: none"> • BC’s Provincial Court and Supreme Court have concurrent jurisdiction in child custody, access and maintenance and spousal maintenance. This allows access to courts outside large centres, serves people who cannot afford the Supreme Court process, and provides a summary process for resolving family disputes • Provincial Court has exclusive jurisdiction in enforcement of maintenance orders made in Provincial Court and other areas. Division of matrimonial property, adoption and the granting of a degree of divorce are the only areas of family law where it does not have jurisdiction. • The access contemplated by the <i>Family Relations Act</i> is not always available because of the expanding workload of family cases in the Provincial Court. Time set aside for family cases in Provincial Court is inadequate province-wide (20% increase in 1997) • Many studies have called for a coherent family justice approach • Reports often result in pilots which are not followed through afterwards • <i>Breaking Up Is Hard To Do (1995)</i> called for an integrated approach using non-adversarial techniques to stream appropriate cases away of the courts before they enter the court process
<p>Proposal</p>	<ul style="list-style-type: none"> • Increase non-adversarial settlement outside court system and stream litigants to ADR • Make court system and outside agencies supporting the court system, more responsive to litigants’ needs • Offer broader range of appropriate options to litigants, such as parent education and mediation • Reduce number of court appearances required by litigants • Divert appropriate cases out of courtroom, to be handled by Family Case Conference in informal, non-threatening atmosphere, by a judge experienced in mediation • Set trials only in cases that require resolution by trial, or where other methods have not achieved settlement • Make more efficient use of judicial time spent on Family Relations Act cases • Example of proposal: Burnaby since 1997 • Process: cases referred from court to Family Justice Centre; parties interviewed by Family Justice Counsellor; parent education and mediation available; in the few cases that return to the court system, judge conducts a Family Case Conference using mediation and traditional pre-trial preparation techniques • Results: of the 34 cases returned to court, 6 had to be set for trial after the family case conference, and significant saving in court time means that trials can now be heard within 2 months

<p>The (then) current situation, and recent initiatives</p>	<ul style="list-style-type: none"> • Family Court Counsellors (FCC) <ul style="list-style-type: none"> o Provincial Court has relied heavily on the use of FCCs (s. 3 FRA) until they were largely withdrawn in 1997 o Previously, if there was no consent on an issue, or if a judge was concerned with a proposed consent, parties were referred to an FCC immediately and would then return to court to enter a consent order o Since reorganization, a Family Court Counsellor is often not available and cases that could be settled with professional guidance must be set for trial o Once set for trial, these cases become litigious and time consuming • Reports on Custody and Access <ul style="list-style-type: none"> o Number of custody and access reports prepared by FCCs (s. 15, FRA), were severely curtailed o These reports gave judges an objective view of suitability of parents to provide custody or access o Many cases set for trial became consent orders on the basis of these reports; in others, the time at trial was reduced because fewer witnesses were needed on the issue of parenting ability o Now, because judges cannot obtain s.15 reports, the number of cases set for trial is increasing o More trial time is allocated to family matters at the expense of the already inadequate time for criminal matters • Parent Education Programs, Child Support Guidelines, Mediation by Family Justice Counsellors, Mediation Roster <ul style="list-style-type: none"> o Recent AG initiatives have allowed court reform in family cases if incorporated into the court process o Parent Education Programs and mediation are available in many communities throughout the province o Child Support Guidelines for provincial orders and the necessary support services are in place
<p>Family Court reform proposal by the AG and the Judiciary</p>	<ul style="list-style-type: none"> • In 1997 the AG and Provincial Court Judiciary identified a shared objective: providing thoughtful and appropriate resolution of each family separation, to safeguard the best interests of children and disadvantaged persons • Ministry’s initiatives in mediation, Family Justice Centres, child support guidelines and parent education should be available and accessible to parents engaged in litigation • Incorporate case management principles in court process and use s. 15 referrals only where a trial is necessary after other dispute resolution techniques have failed • Resources may not be currently available province wide, so rules should be developed to enable the model to be used as resources are made available, starting in as many high volume areas as can be accommodated as soon as possible • Parents with disputes in custody, access or maintenance should be initially referred to a Family Justice Counsellor (FJC, new term for FCC) to assess the case and refer parties to an appropriate resolution vehicle • Options for FJCs: mediate issues; refer parties to a Child Support Guidelines Clerk; to a Parent Education Program (Parenting After Separation); to private mediation using the roster recently developed by the Dispute Resolution Office; or to a Provincial Court Judge

	<ul style="list-style-type: none"> • When referred to a judge, the judge’s options are: make the consent order agreed by parties (through FJC interviews or mediation, Parent Education, Child Support Guidelines Clerk, private mediation or after discussions between counsel); hear chambers applications for interim or ex parte orders; refer matter to a family case conference conducted by a judge; refer to a limited issue hearing; refer to a trial with the option of ordering a s.15 report • Use plain language, accessible forms and information booklets, mediation alternatives and management of the case by early judicially-led case conferences • Early intervention by Family Justice Counsellor who can stream parties to ADR
<p>Recommendations</p>	<ul style="list-style-type: none"> • Applications for child custody, access and maintenance in Provincial Court be reviewed by a FJC before a hearing is set before a judge • FJC practice triage by referring parties to Parent Education, Child Support Clerks, mediation or Chambers Judge • Judges be able to refer parties to Parent Education, Child Support Clerks, Family Justice Counsellors or mediation • Judges conduct Family Case Conferences prior to setting disputed cases for trial • Case management of any matter set for trial • Family Court Rules be amended to reflect these changes • No recommendation for a UFC at this time; unification of courts is not initially required so much as unification of each court with other service providers in the community • Scope is in integrating Provincial Court with other service providers • Start discussions of problems created by concurrent jurisdiction of Provincial and Supreme Court as soon as possible • Final step in this proposal is unification of the courts, to provide acceptable access for separating families throughout the province

<p>“Backgrounder to Child Family Justice Strategy”, Department of Justice, December 2002</p>	
<p>Objectives</p>	<ul style="list-style-type: none"> • Help parents focus on children’s needs after separation and divorce by minimizing the potentially negative impact of separation and divorce on children; aid parents in reaching parenting arrangements that are in the child’s best interests; ensure that the legal process is less adversarial by an increased use of ADR • Objectives are composed of three pillars: family justice services, legislative reform and expansion of UFC
<p>Services for Families</p>	<ul style="list-style-type: none"> • Parents need tools to help minimize conflict, cooperate and work out child-focused parenting arrangements (e.g. parent education courses, mediation) • \$63 million in new Federal funding over 5 years to province and territories for family justice services
<p>Legislative reforms</p>	<ul style="list-style-type: none"> • Divorce Act will be amended to include a list of specific criteria for parents, legal professionals and judges to use in considering what is in the best interests of children, which is paramount concern in family law • “Custody” and “access” will be eliminated in the Divorce Act; new model is based on parental responsibilities, removing the win/lose and ownership connotations associated with custody and access; this change will reduce conflict between parents and help them focus on the important obligation to ensure care for their children • Amendments to the Family Orders Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act to improve enforcement of support obligations
<p>Unified Family</p>	<ul style="list-style-type: none"> • Need for a timely, efficient and simpler court process • \$16.1 million Federal funding/year for 62 new judges (46 will be promoted from Provincial Court) to expand UFCs (This is not new funding: the province’s family justice funding would be reduced by an amount equal to the UFC funding with no net gain for implementing UFC) • Provinces and territories will reinvest money they save on provincial judicial salaries in family justice services • UFCs will provide easy access to an array of family justice services; specialized, expert judges; and a user-friendly environment with simplified procedures

<p>“Unified Family Court: Background and Discussion Paper #1”, BC Justice Review Task Force, October 7, 2002</p>	
<p>Definition</p>	<ul style="list-style-type: none"> Unified Family Court (UFC): a single level of court for all family law matters, with simplified court procedures and specialized judges and a wide range of non-judicial family justice services; client-centred focus
<p>Background</p>	<ul style="list-style-type: none"> First UFCs in Canada in the 1970s Province-wide UFCs in Manitoba, New Brunswick and PEI; partial UFCs in Saskatchewan, Ontario, Nova Scotia and Newfoundland; no UFCs in BC, Alberta and Quebec Alberta has been working on a UFC proposal 1998 – Special Joint Parliamentary Committee on custody and access recommended that the federal government continue work with provinces to establish UFCs across Canada UFC project ran in Surrey, Richmond and Delta from 1974-1977 – not a true UFC but an administratively integrated court with both Provincial and Supreme Court judges available through a common registry Continuing support for UFC in other provinces, some with UFCs for more than 20 years, suggest these concerns can be successfully addressed
<p>Reasons to consider UFC</p>	<ul style="list-style-type: none"> Divided and overlapping jurisdiction of two levels of court results in practical and procedural problems, such as: <ul style="list-style-type: none"> Provincial Court may not be able to resolve all issues because only Supreme Court can deal with division of property and divorce, resulting in a multiplicity of proceedings Multiplicity of proceedings where there is concurrent jurisdictiono Delay in applications to Provincial Court to enforce a Supreme Court support order if the payer asks to vary the order at the enforcement hearing
<p>Advantages of UFC</p>	<ul style="list-style-type: none"> Administrative efficiency; better use of court time; and better service for people who approach the court Better integration and co-ordination of family justice services and the court process
<p>Funding issues</p>	<ul style="list-style-type: none"> 1998 – federal government provided funding for UFCs in 4 provinces by appointing new superior court judges for UFCs, most from the Provincial Court judiciary; money saved on Provincial Court judges’ salaries was used to provide family justice service, allowing Newfoundland, Ontario and Saskatchewan to expand their existing UFCs and Nova Scotia to establish its first UFCs Under agreement with the federal government, Nova Scotia used the salaries and benefits of two retired Family Court judges and of all judges elevated from the Family Court to the UFC for family justice services; Nova Scotia also provided additional space and renovations to existing space to support the services; the federal government paid for the UFC judges and continued funding for services through the Child Support Guidelines initiative- August 2002 – federal government states its commitment to expansion of UFCs; federal officials suggest that provinces wishing to establish or expand UFC should now make proposals

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	<ul style="list-style-type: none"> • Alberta UFC Task Force report highlights the importance of adequate funding to successfully implement and operate a UFC; recommends UFC only if the provincial government is prepared to commit financial and administrative resources and federal government is prepared to commit the judicial resources needed for an effective UFC • Since 1996, the federal government has provided provinces and territories with funding for family justice projects, initially as part of the Child Support Guidelines initiative; this funding ends March 31, 2003 and the federal government has not indicated whether it will continue funding after that; this is a potential source of federal funding for family justice services • Availability of funding will be critical; key question is whether money saved on Provincial Court judges' salaries and benefits and any other federal funding will cover the cost of establishing and operating an effective UFC in BC
UFC sites	<ul style="list-style-type: none"> • 7 potential UFC sites, centrally located and with relatively high court sitting hours on family matters: Surrey (includes New Westminster); Robson Square (includes Vancouver Law Courts and Burnaby); Victoria; Abbotsford; Kelowna (includes Penticton); Kamloops; Prince George
Potential savings on judges' salaries	<ul style="list-style-type: none"> • Assuming that a UFC judge sits 675 hours per year, 29.3 UFC judges would be required for the 7 locations • Federal government will likely appoint 75% of the needed judges from the Provincial Court, with the remaining 25% being new appointments; the province would save about \$2 million on salaries and benefits, to invest in new services
Potential improvements to family justice	<ul style="list-style-type: none"> • Current Family Justice Centres provide a community-based entry into the family justice system • With assistance of federal funding, the Ministry has enhanced administrative assistance for obtaining and varying child support orders, early dispute settlement opportunities for parents approaching the Provincial Court, support enforcement mechanisms and comprehensive and integrated delivery of family justice services through community based Family Justice Centres • Savings on judges' salaries and benefits would be used to improve the array of family justice services • Services provided in UFC in some or all of the other provinces: intake services; help with court process; mediation; information brochures legal services; supervised access and exchange; assessment and home studies
Accessibility issues – geographic	<ul style="list-style-type: none"> • Concern that UFCs in BC will limit access to justice because there will be fewer court locations • Making UFC available to everyone within a reasonable time and distance is a challenge in a huge province such as BC • Technology can increase access to UFC: fax filing; e-services; video conferencing; linking of a primary site or court of record to a secondary site which may be a non-court site; provision on the internet of court forms and information about the justice system and services • Circuit courts can increase access; fax filing, e-services and video conferencing can be used with circuit courts • Manitoba has had province-wide UFCs since 1989, but because of the need for people in remote locations to have easy court access, family law cases can be heard in either Provincial Court or UFC

	<ul style="list-style-type: none"> • Could a UFC be established province-wide in BC all at once? Ontario built its UFC in phases while working toward a goal of having UFC serve the whole province
Accessibility issues – procedure	<ul style="list-style-type: none"> • Need to simplify and reduce the formality of court practices and procedures • Ontario has developed special UFC rules – simplified procedures and forms in plain language: for example, there is only one type of originating document – an application; telephone and video conference motions as of right; examinations for discovery or cross-examinations on affidavits only by consent or court order (except in child protection cases)
Accessibility issues – cost	<ul style="list-style-type: none"> • No fees for Provincial Court family proceedings or family justice services except a nominal fee for supervised access • An appropriate schedule of fees is needed, to keep decrease financial barriers • Examples: Nova Scotia has fees for starting proceedings and a sliding scale for some family justice services, fees can be waived in certain circumstances; Manitoba does not charge fees for family justice services
Court structure	<ul style="list-style-type: none"> • Judges must be superior court judges for a UFC to have comprehensive jurisdiction over family law • Should UFC be a separate court dealing only with family law or a division of the BCSC? • All UFCs in Canada are divisions of a superior court (however, Ontario’s UFC started as a separate court)
Specialized judges	<ul style="list-style-type: none"> • Alberta UFC Task Force report recommends judges be specifically appointed to UFC, as is done in Manitoba, New Brunswick and Nova Scotia. In Newfoundland, PEI and Saskatchewan, judges are appointed to the superior court, then assigned to the family division; in Ontario, superior court judges are appointed to its UFC; in all these provinces, there is some limited flexibility to assign UFC judges temporarily to another division and to assign judges from other divisions temporarily to the UFC when workload requires it • Specialized judges offer greater knowledge of, and interest in, family law and familiarity with practical implications of their orders and specific practices and procedures; sensitivity to social and emotional issues; more consistency and predictability of results; and better use of court time • Concerns: “burn-out” and whether enough judges would interested in specializing in family law
Specialized judicial officers	<ul style="list-style-type: none"> • Masters and registrars already deal with many family law issues in BCSC; their role in UFC needs to be explored • Potential for developing administrative processes to replace judicial processes where appropriate
Jurisdiction of UFC	<ul style="list-style-type: none"> • UFCs in other provinces have broad jurisdiction over family law matters, including child protection • Nova Scotia is now the only province to include young offender matters in its UFC • Alberta UFC Task Force recommends against including young offender matters initially, with a review of that decision within 2 years of establishing the UFC
Legislative amendments	<ul style="list-style-type: none"> • To establish a UFC in BC, certain provincial and federal statutes (e.g. federal <i>Judges Act</i> and the provincial <i>Supreme Court Act</i>) must be amended

APPENDIX A: SUMMARY OF FAMILY JUSTICE REPORTS & STUDIES

<p>Developing and implementing UFC: scope of the project</p>	<ul style="list-style-type: none"> • To create a UFC at 3 sites in Nova Scotia, 2 city family courts merged and the Supreme and family court functions in two major regions merged; 2 full-time Justice Department staff members served as team leaders, with 2 others working on programming and other committee tasks • Nova Scotia established an Implementation Committee that included judges, lawyers and court staff; 160 members of 25 sub-committees worked on the project for one year, including re-writing court rules and procedures, overseeing changes in building structure, training, public education
<p>Initial steps</p>	<ul style="list-style-type: none"> • After a decision is made to pursue the implementation of a BC UFC, a number of steps should be taken immediately: <ul style="list-style-type: none"> o Assign responsibility and establish a project team: a small project team, including several branches of Ministry of AG and representatives from the judiciary and the bar should do the initial development work o Negotiate with the federal government: discussions should start as soon as possible to take full advantage of any available funding; the province should be prepared to provide the federal government with information about its plan, including number and location of UFC sites, estimated number of judges needed, options for appointing judges, proposed family justice services and estimated cost of those services o Prepare and submit a formal proposal to the federal government including the province's vision of UFC and its implementation plan
<p>Steps following federal approval</p>	<ul style="list-style-type: none"> • Some of the major issues involve project planning, research and evaluation; legislation; rules and procedures; family justice services; training and education; technology; staffing; facilities; communications; transition process

<p>“Response of the Supreme Court of BC” to the Unified Family Court Justice Review Task Force Background Report”, November 22, 2002</p>	
<p>Benefits of a UFC</p>	<ul style="list-style-type: none"> • Avoid delay, extra expense, confusion and frustration • Judges have experience in, knowledge of and an interest in family law • Potential for an effective, cost efficient, simple and just process for family law litigants
<p>Prerequisites for a UFC</p>	<ul style="list-style-type: none"> • Sufficient judges and staff to ensure that cases can be heard in a just, timely, simple and cost efficient manner • Sufficient court attached support resources, including legal aid, duty counsel, legal information officers, family court counsellors, child support guideline assistance and interpreters • Province wide coverage • Before endorsing a UFC, the BCSC would like a detailed analysis of the funding required and assurance that it will be available in the short and long term; the court is hopeful that a commitment to an effective UFC can now be made
<p>Need for further</p>	<ul style="list-style-type: none"> • Need to review jurisdiction of court, whether child protection and young offender issues will be included and whether the court would have the resources required to take jurisdiction in these matters

<p>“Response of the Provincial Court of BC” to the Unified Family Court Justice Review Task Force Background Report</p>	
<p>Conclusions</p>	<ul style="list-style-type: none"> • Public interest favours the amalgamation of all family cases into one court; in a general sense, amalgamation will create efficiencies and avoid the undesirable duplication of proceedings • Current proposal lacks sufficient detail of government’s commitment to provide the needed resources in the long term • The Court supports the idea of one court to deal with all family law problems in a timely, cost-efficient manner with: Simplified rules, procedures and forms Modest fees based on ability to pay Complementary family justice support services Assignment of judges who are interested and well educated in, as well as committed to family law Accessibility to all British Columbians
<p>Prerequisites for a UFC</p>	<ul style="list-style-type: none"> • Provincial Court is prepared to endorse the idea of a UFC, provided government commits to providing adequate, permanent funding to support it and ensure that it maintains or enhances levels of access to justice
<p>Concerns re the Justice Review Task Force Background Report</p>	<ul style="list-style-type: none"> • Limitation of UFC to 7 sites is unacceptable; services of family law courts should be available to all British Columbians within reasonable time and distance; an estimated 45 judges required for province-wide UFC. Simplified forms, rules and procedures are essential, and are not the case in other UFCs in Canada. Support services are lacking, especially in smaller centres through BC affected by cutbacks • Concerns about cost-effectiveness of having UFC judges traveling to locations where Provincial Court now deals with all matters; one judge potentially could do all the work if that judge had s.96 powers

<p>“Unified Family Court, Background and Discussion Paper #2: Status Update”, BC Justice Review Task Force, August 2003</p>	
<p>Comments from the CBA</p>	<ul style="list-style-type: none"> • Agreement on potential benefits of UFC: single jurisdiction decreases multiplicity of proceedings and increases efficiency and convenience; specialized judges dedicated to family law; increased reliance on out-of-court family services; simplified procedures • Implementation of a UFC however raises many issues
<p>Implementation</p>	<ul style="list-style-type: none"> • Consultations showed preference for province wide implementation because of concerns for equal access to courts, disparity of services between UFC and non-UFC registries and potential complexity of different rules during transition · Supreme Court stated that province wide coverage would be necessary for an effective UFC • Provincial Court stated that UFC should be available to all British Columbians within a reasonable time and distance • Federal funding now and in the past (other provinces) has contemplated initial funding only for partial implementation • Appears there is insufficient funding available to allow BC province-wide implementation
<p>Court Structure discussed in consultations</p>	
<p>How the Court would look</p>	<ul style="list-style-type: none"> • Provincial and Supreme Court users should be at least as well served in new system as present system • Current strengths of each court should be retained (e.g. Family Case Conference in Provincial Court and Judicial Case Conference in Supreme Court) • Two options discussed: <ul style="list-style-type: none"> o Some areas serviced by UFC on circuit model o Implement UFC on a regionalized model and retain existing split jurisdiction in regions not served by UFC
<p>Specialized bench</p>	<ul style="list-style-type: none"> • Lawyers are receptive to a specialized bench with expertise and intensive exposure to family law • However, may result in longer hearings since degree of scrutiny may be higher and Provincial Court judges might be disappointed by the reduction in variety of their work by the removal of family jurisdiction
<p>Family Services</p>	<ul style="list-style-type: none"> • Cost of judicial salaries would shift permanently to federal government, with the province usually allowed to retain funds previously devoted to provincial court judges if they are applied permanently to services in the UFC • New and additional service for litigants supported by the Bar • Options discussed: mediation, s. 15 custody and access reports, family advocate services, duty counsel and other legal assistance, supervised access, stand-down family justice counsellor services, “triage” services to provide information and direction to unrepresented litigants • Concern re availability of adequate legal services generally • Concern that additional services to UFC could create a disparity between level of urban and rural services

APPENDIX A: SUMMARY OF FAMILY JUSTICE REPORTS & STUDIES

	<ul style="list-style-type: none"> • Concern that costs for implementing UFC would significantly reduce the amount of money available for services; but savings from appointment of existing Provincial Court judges to UFC must, by federal funding rules, be applied only to UFC services; one-time implementation costs and ongoing administration costs must be carried by the province • Questions about scope of services and possibility that \$2 million of services would not have a large impact
Rules and complexity	<ul style="list-style-type: none"> • Concern re how to retain procedural alternatives needed in complex cases while promoting simplicity in procedures • Concern that simplifying court system might encourage more unrepresented litigants which may create greater delays and reduce efficiencies; however, others observed that majority of litigants in Provincial Court are self represented and these litigants are increasing in both courts and efforts should be made to make procedures more user friendly
Costs and fees	<ul style="list-style-type: none"> • Concern that court fees for all UFC cases would decrease access for low income litigants now using Provincial Court • Caution that removing filing fees in Supreme Court would promote frivolous claims
Other provinces	<ul style="list-style-type: none"> • UFC has had varying success in other provinces • Concerns: court backlogs, staff shortages, increased use of judges in more administrative capacities and lack of uniform application of UFC rules • Positive aspects: improved case management system, more adaptable court, collegiality of bench and bar, better integration of helping professions into the court process • Many judges and lawyers positive about move to UFC. Delays and increased pressure on system flow largely from transfer of child protection jurisdiction to UFC and changes in child protection legislation; shows a need for more judges and not a problem with the UFC concept
Technology	<ul style="list-style-type: none"> • Support for video conferencing and other technological devices-should be tested immediately in event of a UFC • Internet has potential to enhance delivery of information to litigants
Time Frames	<ul style="list-style-type: none"> • Some concern on short time allowed by terms of federal funding proposal, to develop plans for a UFC
Funding and the Federal Government	
Federal announcement	<ul style="list-style-type: none"> • December 10, 2002, Federal Justice Minister announced Child-Centered Family Justice Strategy • Commitment to fund provinces and territories for family justice services and for expansion of UFC • \$16.1 million a year for 62 new judges, 46 of whom will be promoted from provincial court • Expansion of UFC is to commence 2005-2006 • February 2003, Department of Justice issued a formal request to province and territories for UFC proposal. Negotiations between interested provinces and federal government on number of federal appointments to each province will probably take place over the next year • BC does not know how many of the 62 federal appointments it would be able to secure for a UFC; virtually no prospect that BC would secure enough appointments for a province-wide UFC

<p>Funding realities</p>	<ul style="list-style-type: none"> • Less federal funding than appeared • February announcement indicated two funding pots available to the province: “family justice services fund” which is \$2 million a year to BC over this and the next 4 years – this is a successor to a fund BC has received from Ottawa for the last 7 years, which has been used to support a wide range of innovative family court services such as the Rule 5 Registry Project under the Provincial Court Rules • Federal UFC funding formula would reduce province’s family justice funding by an amount equal to the UFC funding with no net gain for implementing UFC • Factors against proceeding with UFC in BC at this time: <ul style="list-style-type: none"> o effectively no federal financial support to do so o courts are expressing a preference for province-wide implementation, and even if federal funding were available there would not be enough to accomplish universal implementation in one step; and o preferable to have more time to study the UFC option so that we could better understand what UFC might look like in BC and whether the UFC format is the best option for BC.
<p>Next Steps</p>	<ul style="list-style-type: none"> • Merit in many aspects of UFC which is clearly the national direction in family law • Task Force wishes to better understand questions and issues raised in consultations, thus, the creation of the “Family Justice Reform Working Group”

<p>“Mandatory Parenting after Separation Pilot: Final Evaluation Report”, BC Attorney General, Policy, Planning and Legislation Branch Corporate Planning Division, October 2000</p>	
<p>Background</p>	<ul style="list-style-type: none"> • MPAS is a pilot project by Family Justice Services, Corrections Branch and Dispute Resolution Office; project evaluation is by Corporate Planning Division with representatives from Corrections and Dispute Resolution Office • MPAS pilot started June 1998 in Burnaby and New Westminster (Provincial Court only), requiring parties with disputes about custody, access, guardianship and support to attend an MPAS workshop before setting a first court date • MPAS project was expanded to other courts in November 1999 and further in September 2000 • Project goal: to encourage parties to use means other than court to settle family justice disputes
<p>Evaluation Objective</p>	<ul style="list-style-type: none"> • Expected outcome: less use of courts and more use of alternatives to court by parties at pilot sites • Evaluation objective: to assess the impact of MPAS on litigation patterns in the pilot jurisdiction
<p>Methodology</p>	<ul style="list-style-type: none"> • No quantitative baseline data to conduct pre- post-comparison, so a comparison location was chosen with similar litigation patterns prior to the pilot and family case files were reviewed at both pilot and comparison sites • Family files from pilot sites (Burnaby: 232 cases and New Westminster: 132 cases) were compared with North Vancouver (100 cases) where pilot did not operate • 9-15 months from date the file was opened to the researcher’s review • 5 pilot site court staff were interviewed re perceptions of change in litigation patterns in pilot location • Follow-up interviews with 22 self-selected MPAS participants in March 1999, 6 months after they attended course, about plans or attempts to resolve their disputes by any means, including court and alternatives to court
<p>Limitations of the evaluation</p>	<ul style="list-style-type: none"> • All factors influencing case flow and outcome of pilot were not documented due to resource limitations; some of these issues were explored through court staff interviews • One important change during the pilot was implementation of new Provincial Court (Family) Rules December 1, 1998; cases that applied new rules were examined separately from those applying old rules • Relatively small number of files reviewed • Files opened in latter part of project did not have much time to evolve • Interviews are not representative but explanatory
<p>Evaluation findings</p>	
<p>File review</p>	<ul style="list-style-type: none"> • MPAS may have reduced the number of cases going to trial and reduced appearances in those that did go to trial • Cases under old rules – MPAS seems to have reduced number of first appearances in particular (96% comparison area versus 66 % pilot area on first appearances) and somewhat reduced subsequent appearances

	<ul style="list-style-type: none"> • Cases under new rules – greater reduction in appearances, especially 2nd and subsequent appearances (23% comparison area versus 4% pilot area on more than 3 court appearances); fewer first appearances at all 3 sites (in North Vancouver, 77% under new rules versus 96% in North Van under old rules)
<p>Observations by Court Staff</p>	<ul style="list-style-type: none"> • Observations support findings of file review • Initial reduction in number of cases going to first appearance • Reduction in number of applications per file • Under new rules, reduction in number of cases going to trial but processing of cases delayed and more complicated than under old rules • Minimal avoidance of mandate to attend MPAS (few clients stated that they would take their case to a non-pilot location; court staff thought clients either did not file an application or saw a Family Justice Counselor to come to a consent; no clients mentioned to staff an intention to go to BCSC to avoid MPAS)
<p>Follow-up interviews with MPAS participants</p>	<ul style="list-style-type: none"> • 2/3 participants used or planned to use alternatives to court (ADR) • 1/2 participants used or planned to use a combination of courts and ADR; 1/3 participants used ADR exclusively • Much less than 1/3 used courts exclusively • Reasons for using ADR: to maintain focus on children; increase awareness of how the process of separation was affecting their children; cost • Participants satisfied with ADR when they felt services from Family Justice Counsellor were very effective and/or when they achieved closure on all issues in dispute • Participants dissatisfied with ADR when they did not resolve issues, met with resistance, lack of cooperation, abusive behaviour from other party, or felt Family Justice Counsellor was ineffective • Participants went or planned to go to court for appropriate reasons: previously tried mediation or services of Family Justice Counsellor; other party was abusive, unresponsive, difficult to deal with, substance dependent or violent, they were the respondent; case involved a no-contact or restraining order • Participants satisfied with court when achieved sense of closure; dissatisfied when they had perceptions of incompetence or bias with justice system, disliked the outcome, or issues were unresolved • Overall, positive changes because of MPAS: reduced and improved flow of cases in family court pilot locations and awareness in participating clients of full range of ADR options and how the separation process and dispute resolution choices affect children

“Recommended Family Law Procedures”, Report of Family Law Committee to the Chief Justice (Supreme Court), Consultation Draft, May 8, 2001	
Background	<ul style="list-style-type: none"> • Family Law Committee included Judges and Masters • Summer 2000, the Committee began review of how the court deals with family law cases • November 2000, the Committee identified attributes of an effective process, problems and solutions • January 2000, Chief Justice approved the Committee’s proposal and asked it to propose an implementation design
Elements of proposed province-wide family law procedure	<ul style="list-style-type: none"> • Early Judicial Case Conference presided over by a Judge or Master. identify issues, encourage settlement, and set a Case Management Plan with steps to be taken and time limits up to and including trial • Case Follow-up Plan in all Vancouver and New West cases; elsewhere if custody is a live issue, if Judge or Master recommends it, or if Chief Justice recommends it on request of a party or of court administrative officer; • Administrative tracking of cases by a Family Law Coordinator to ensure that the Case Management Plan is followed • Adequate resources for conciliation and legal assistance; for information to litigants; and for timely and effective custody and access assessments • Recommended implementation date of January 1, 2002 (unless Supreme Court Rules need to be amended)
Basic principles	<ul style="list-style-type: none"> • Well-being of children must be given high priority • Families are a fundamental part of Canadian society; break-up of relationship can be emotionally and financially difficult whether or not there are children • Family law procedure should take into account these two principles so there is public confidence in judicial process; process should recognize particular interest and needs of First Nations Peoples; process should recognize BC’s multicultural society and dynamics of violence and power imbalances in family relationships • Supreme Court Rules’ objective (to secure just, speedy and inexpensive determination of every proceeding on its merits) supports case management in family law cases, • New Westminster Family Law Project, operating under existing Rules, formalizes these principles and requires that a litigation plan be prepared and approved by the case management judge • The Vancouver Early Intervention Practice Direction (December 2, 1995), under existing <i>Rules</i>, states the purpose of early intervention: to identify legitimate issues, reduce unnecessary interim applications or time required for an application by clarifying issues, reduce actions set for trial, minimize length of trials by early identification of real issues, and reduce delay and costs of litigation

<p>Elements of an effective family law procedure</p>	<ul style="list-style-type: none"> • Early settlement of contested issues through early disclosure, and building settlement opportunities into the process • If agreement is not possible, issues should be resolved by the court through agreement or adjudication within a year, with minimum appearances, using written applications, teleconferences and videoconferencing where possible • Access to ADR, including conciliation/mediation attached to the court • Access to legal advice • Easy access to information about the court process, laws and resources • Continuity of judicial involvement where possible • Enhancement of knowledge and interest of family law judges conducting family law matters • Flexible scheduling for cases where early resolution is not in the best interests of parties or their children • Accessible court process through simple procedures
<p>Areas of concern with existing procedures</p>	
<p>Interim applications</p>	<ul style="list-style-type: none"> • Many are unnecessary as an early final resolution is available • Many are costly • Intended as a temporary solution after a summary hearing but many interim orders end up as the only court order made • Lack of court time, lack of preparation, late affidavits, poor time estimates, & scheduling conflicts cause adjournments • Can be inflammatory and increase conflict • Much information in affidavits is unnecessary and not always carefully drafted, creating inefficiency
<p>Late settlements</p>	<ul style="list-style-type: none"> • Most cases settle, though late – disadvantages include delay, financial and emotional cost
<p>Delay in hearings or trials</p>	<ul style="list-style-type: none"> • Causes for delay include adjournments, inadequate tracking system to monitor case adjournments which would enable proper prioritization, inconsistent prioritizing of family law cases throughout the province
<p>Cases left in limbo</p>	<ul style="list-style-type: none"> • Lack of finality in many cases; interim orders exist for years • Lack of finality cause enforcement problems or difficulties when variation applications are made
<p>Lack of continuity in dealing with files</p>	<ul style="list-style-type: none"> • Several judges or masters deal with a single file, resulting in delay, extra cost, frustration, inconsistent results • Some judges but not all seize themselves of cases; even if judge seized, problems such as rota commitments and judicial travel cause cases to be dealt with in abbreviated hearings at 9:00 and 4:00, or long delays
<p>Lack of resources</p>	<ul style="list-style-type: none"> • Limited information to litigants about the court process, including settlement options and the process of having judge or master decide issues; about the general legal principles court must apply; and about resources available • Virtually no court attached resource in conciliation/mediation services; child support guidelines assistance; legal information officers; duty counsel; legal aid assistance only to those on very limited income; interpreters • S.15 FRA custody and access reports are taking up to 2 years to complete
<p>Unrepresented litigants</p>	<ul style="list-style-type: none"> • Some cannot afford lawyers and are not eligible for legal aid • Some run out of money part way through or at the “variation” stage • Some prefer to represent themselves from the start or are dissatisfied with their lawyer’s performance, costs or both

<p>“Evaluation of the Family Justice Registry (Rule 5) Pilot Project: Final Report”, BC Attorney General Justice Services Branch, Family Justice Services Division, November 2002</p>	
<p>Background</p>	<ul style="list-style-type: none"> • December 1998, Ministry of AG introduced new Provincial (Family) Court Rules, to address accessibility, timeliness and complexity of the family court process; Rule 5 was introduced • Objectives of Rule 5: to reduced number and complexity of <i>FRA</i> trials; promote early settlement through ADR; increase appropriate use of non-adversarial dispute resolution • Details of Rule 5 <ul style="list-style-type: none"> o Parties must meet with Family Justice Counsellor (FJC) for triage before first appearance before a judge o Triage appointment should be within 5 days after contacting triage office and on same day for urgent cases o At first meeting, FJC helps clarify issues and provides information about services and dispute resolution options o At any point, parties can request a referral to court • Family Case Conferences allow judge to mediate any or all issues and decide issues not requiring evidence • 5 pilot sites: Robson Square, Surrey, Nelson, Castlegar and Rossland; 6th site, Kelowna, added May 2001 • 5 comparison sites: Abbotsford, Richmond, North Vancouver, Victoria, Cranbrook; data also collected in Kamloops • Exemptions from Rule 5 <ul style="list-style-type: none"> o Applicant signs rights to child support over to government under BC Employment and Assistance legislation o Applicant seeks a restraining or no contact order under s.37 or 38 of <i>FRA</i> o Cases with urgent or exceptional circumstances
<p>Evaluation</p>	<ul style="list-style-type: none"> • Purpose of report is to assess changes attributable to Rule 5 <ul style="list-style-type: none"> o Identify the extent to which Rule 5 has been effective in terms of diverting <i>FRA</i> cases from court to ADR o For cases that go to court, identify the extent to which the courts operate more efficiently and effectively in terms of court usage, resolution of issues, means of resolution and level of client preparation after Rule 5 triage o Examine incremental changes attributable to Rule 5 in isolation from effects of other rules introduced at the same time o Compare pre- and post-implementation periods and between Rule 5 and non-Rule 5 sites o Performance indicators: number of applications for new orders in eligible cases diverted from the courts; number and type of claims of urgency; use of Family Case Conferences; average rate of court activity per eligible application; changes in proportion of claims of urgency; case settlement patterns; triage client satisfaction

	<ul style="list-style-type: none"> • Qualitative Research <ul style="list-style-type: none"> o 39 in-depth, semi-structured key informant interviews with judiciary, FJCs and court registry staff on FRA-related court process at the 12 sites from May 2001 to August 2002 & client satisfaction survey with 297 triage clients ; brief follow-up interviews with court registry staff during last phase of evaluation, May to August 2002; and researcher observations • Quantitative Research <ul style="list-style-type: none"> o Comparison of court usage, outcomes and number of FRA-related claims of urgency o Extensive review (2817 files & 3361 applications overall) of files with an FRA application at each court registry o Cross-referencing of case files to determine triage outcomes
<p>Site characteristics</p>	<ul style="list-style-type: none"> • Because of uniqueness of court registries, comparative analyses were based on aggregate results for Rule 5 pilot sites in comparison with aggregate results of non-Rule 5 sites • Kelowna site examined independently of other sites because of time differential for program implementation and introduction of second pilot project at the Kelowna Family Justice Centre
<p>Highlights</p>	<ul style="list-style-type: none"> • Successful diversion from court to ADR <ul style="list-style-type: none"> o The new court rules in general, and Rule 5 in particular, have significantly reduced the number of FRA cases coming to court: the rate of diversion at Rule 5 sites was 70% greater than at comparison sites o Family justice staff & service providers indicated high degree of support for diversion of cases from court to ADR o Education about non-court dispute resolution methods is considered a key function of triage • Court Activity/Use <ul style="list-style-type: none"> o The number of court appearances was down by 41% in Rule 5 sites, (comparison sites had only a 17% decrease) o Rule 5 has a demonstrated benefit beyond that imparted by the other new rules, as evidenced by the fact that whereas the 17% reduction at comparison sites is almost wholly due to diversion of cases, almost half of the reduction in court activity at Rule 5 sites is due to narrowing of issues and better preparation of cases. o No significant difference between Rule 5 and non-Rule 5 sites in overall use of Family Case Conference • Claims of Urgency <ul style="list-style-type: none"> o These have risen slightly in Rule 5 sites: possibly they are being used to circumvent Rule 5; or it may be that cases at these registries are more likely to require an urgent appearance • Family Case Conferences <ul style="list-style-type: none"> o Judges report they have more impact with parties at a FCC than through the adversarial process; the forum for discussion mitigates threats to family relationships; parties gain a clearer focus and may reach consent • Case Outcomes <ul style="list-style-type: none"> o Court orders are less likely to be the final outcome of Rule 5 applications • Benefits to Parties <ul style="list-style-type: none"> o Triage clients receive information and help, and may benefit from choosing a non-court approach

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	<ul style="list-style-type: none">o Over 90% of clients agreed or strongly agreed that the Family Justice Centre was useful and they were given useful information by the Family Justice Counsellor they saw
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<p>“Comprehensive Child Support Services Pilot Project: Formative Evaluation Summary”, BC Attorney General, Justice Services Branch, Family Justice Services Division, November 2002</p>	
<p>Background</p>	<ul style="list-style-type: none"> • 1997 <i>Divorce Act</i> amendments introduced Child Support Guidelines • 1998, BC’s <i>Family Relations Act</i> was amended to adopt Guidelines for use under provincial legislation • Guidelines aimed for greater consistency and predictability in child support awards, leading to less litigation • Feb. 2002, AG launched Comprehensive Child Support Service (CCSS) pilot project in Kelowna with federal funding
<p>Pilot Project context</p>	<ul style="list-style-type: none"> • 1998-2000 child support clerk service introduced in several locations to assist parents with information and calculation of child support amounts • Required steps prior to appearance in Provincial Court in Kelowna include Rule 5 triage meeting with FJC and Parenting After Separation program • Family Maintenance Program helps parents in receipt of assistance to obtain or change child support orders
<p>CCSS services</p>	<ul style="list-style-type: none"> • CCSS was developed to complement Rule 5 and other services by providing specialized child support services: <ul style="list-style-type: none"> o Child Support Officer (CSO) helps parents navigate procedures involved in child support orders/agreements; helps with income disclosure, calculation of child support amounts and court documents; helps reach agreement on child support using facilitated negotiation; manages case flow o Family Maintenance Enforcement Program (FMEP) Outreach – Kelowna pilot project provides information about FMEP and manages particulars of child support enforcement file; may be referred to this service by CSO if variation of child support or information on enforcement is needed o Limited Legal Advice – up to 3 hours of lawyers’ time to review options, draft written agreements and prepare legal documents should they go to court; lawyer does not represent CCSS clients and does not appear for or with them in court; limited advice lawyer available one morning/week • CCSS operates at the Kelowna Family Justice Centre • CCSS may refer clients to other services at the Centre (FJC mediation , PAS and /or triage) • CCSS differs from services provided by child support clerks at other Rule 5 locations because it provides access to a broader range of services (including Debtor Assistance Program, FMEP Outreach and Limited Legal Advice); CSO also provides facilitated negotiation and case management not provided by child support clerks
<p>Scope of CCSS project</p>	<ul style="list-style-type: none"> • Parents who wish to establish or change child support arrangements are eligible, including those with Provincial or Supreme Court matters, those enrolled in FMEP or not, and those with reciprocal maintenance enforcement issues • Help for Supreme Court clients was limited at first, but training of the CSO in Supreme Court matters is now complete • CSO has no authority to cancel or change child support arrears – these cases are referred to court; this policy applies to other family justice services (e.g. FJC services and FMEP) throughout BC

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<p>Unique characteristics of CCSS</p>	<ul style="list-style-type: none"> • Goal of CCSS - to help parents resolve disputes and speed up changes to child support orders and written agreements that are consistent with the Child Support Guidelines by providing: <ul style="list-style-type: none"> o an appropriate array of services for people dealing with child support issues o integration of services through co-location of services and case management by the CSO
<p>Evaluation</p>	<ul style="list-style-type: none"> • Evaluation objectives: <ul style="list-style-type: none"> o Determine the degree to which the CCSS helps people resolve child support issues o Determine the effectiveness of the integrated case management model of service delivery used by the CCSS o Identify effective practices and barriers in the implementation of the CCSS pilot • Data sources: <ul style="list-style-type: none"> o 45 case files maintained by the CSO o telephone survey of 32 individuals who had accessed the CCSS and whose cases had closed o interviews with 10 services providers (including the CSO, FMEP Outreach Officer, etc.) • Evaluation period: the first 6 months of the CCSS project implementation, February 1 – July 31, 2002
<p>Case characteristics</p>	<ul style="list-style-type: none"> • At end of evaluation period, 224 people had received brief services and 111 people had completed an intake interview • 44% self-referral; 16% referred by Family Maintenance Program; 13% referred by FMEP; 7% court registry referral; 4% FJCs; 2% Debtor Assistance Program; 2% private lawyers. 60% of cases reviewed were initiated by the parent responsible for paying child support • 73% of clients wanted to change an existing child support order or written agreement; 18% wanted an order or written agreement to change an informal agreement. 75% of CCSS clients indicated that child support was the only issue in their case
<p>Key evaluation findings</p>	<ul style="list-style-type: none"> • On Objective 1: <ul style="list-style-type: none"> o CCSS services helps parents resolve child support issues - almost 60% resolved these issues through CCSS; overall, clients were satisfied with information and services; o Two service gaps were identified: ability to fully assist Supreme Court clients, and lack of authority by CSO or FMEP Outreach Worker to change or cancel child support arrears; o 14 out of 15 clients who acted on CSO referrals were satisfied that they received the services they needed o After contacting CSO, parents were well advised of their options within CCSS o Facilitated negotiation is a valuable tool for resolving child support issues – all survey respondents who participated reached an agreement with the other parent during the session; though not used in many cases, CSO indicated that its use is increasing o CCSS is effective in helping clients assess financial issues and re-calculate child support amounts – clarifies parents’ responsibility; information helps keep cases out of courts; clients are better prepared

	<ul style="list-style-type: none"> • On Objective 2: <ul style="list-style-type: none"> o Case management model is successful in coordinating referrals and services for clients – CSO assesses client requirements, makes referrals to CCSS and other services, makes appointments for clients and follows up; 12 of 15 clients who acted on CSO referrals strongly agreed that CSO helped to coordinate services received o Results indicated that CCSS case management model facilitates timely resolution of child support issues – 94% of clients stated they were able to make an appointment with the CSO within a reasonable time • On Objective 3: <ul style="list-style-type: none"> o Service providers and clients identified a number of effective practices in the CCSS project – “one stop shop”; supportive internal environment; development of partnerships between participating programs; experienced service provided such as the CSO and FMEP Outreach worker; more personalized service; neutrality of service provider; non-confrontational approach o REMO cases face specific barriers in relation to geographic location – REMO cases involve parents living in different jurisdictions so the ability of the CSO to deliver services to both parties is limited because of the physical distance between parties
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<p>“Report on Federal-Provincial-Territorial Consultations: Custody, Access and Child Support in Canada”, Presented to Federal-Provincial-Territorial Family Law Committee, prepared by IER Planning, Research & Management Services, Fall 2001</p>	
<p>Background</p>	<ul style="list-style-type: none"> • Consultations on child custody and access were held in spring and early summer 2001 to gather the opinions of Canadians on best interests of children; roles and responsibilities of parents after separation or divorce; family violence; high conflict relationships; children’s perspectives; meeting access requirements; and child support • 71 written briefs and 2,324 feedback booklets were received from organizations and individuals • 46 workshops involving 750 participants were held in every province and territory, with separate workshops for young people and Aboriginal people • 6 of the workshops, involving 97 participants were held in British Columbia (Vancouver, New Westminster, Abbotsford, Prince George, Kelowna and Victoria) on three issues - rules and responsibilities of parents after separation or divorce, family violence and meeting access responsibilities • Results of the consultations were considered by the Federal-Provincial-Territorial Family Law Committee in preparing the “Final Federal-Provincial-Territorial Report on Custody and Access and Child Support: Putting Children First” and formed part of the background to the report to Parliament by the federal Minister of Justice in 2002.
<p>Best interests of children</p>	<ul style="list-style-type: none"> • Currently, the <i>Divorce Act</i> does not set out best interests factors. [Note: Bill C-22 includes best interests factors.] • To identify factors that define a child’s best interests, respondents first identified children’s needs when their parents separate or divorce: stability and consistency; health and safety; children should not carry any burden; extended family; protection from conflict and court process; cultural and developmental needs; Northern and Aboriginal Communities; parents’ access; support services • Factors that could be included in a best interest of the child section were put into 5 categories: those relating to children; to children’s relationships with others; to the past parenting of the children; to the children’s future; and additional factors • Those in favour of listing factors in legislation said it would help judges and parents make better decisions, ensure concerns pertaining to children are systematically addressed, promote clarity and transparency in decision making and help harmonize federal legislation with that of provinces and territories • Those not in favour of listing factors in legislation said a list would limit judicial discretion, reduce legislation’s flexibility and potential to evolve as it is used, and could increase conflict between parents and make rulings more complex; a “checklist” approach to meeting children’s needs was seen as inappropriate

<p>Roles and responsibilities of parents</p>	<ul style="list-style-type: none"> • Factors identified as enabling good parenting after separation and divorce addressed nature of parents’ relationship, recognition and validation of parenting abilities, access to children and to timely financial support, services and information support systems, legislative support, legal support • Terminology of “custody” and “access” [Note: Bill C-22 contains changes to terminology] <ul style="list-style-type: none"> o Reasons to change: easier for ordinary people to understand, reflects the concept of co-parenting, remove the implication that children are goods, emphasize parents’ responsibility, strong impact on how courts and lawyers approach family law issues in future, avoid the impression of a winner and loser o Reasons not to change: unreasonable parents will continue to be in conflict regardless of terminology; better to address directly a key cause of conflict - child support; would undermine current body of case law, which increasingly takes account of violence and abuse, would not effectively address parent-child relationship problems • Majority of respondents favoured replacing old terminology and introducing the concept of parental responsibility • Themes in consultations on terminology: <ul style="list-style-type: none"> o Women’s organizations had concerns re safety of women and children in situations of family violence and societal recognition of women’s role of primary caregiver; supported options allowing sole custody and giving decision making power to the primary caregiver o Men’s organizations had concerns that men be acknowledged as equally capable parents; supported a presumed 50-50 split of parenting responsibilities; in response to concerns about violence, advanced the belief that many allegations of violence are false and should not unduly influence the choice of new terminology o Some professionals and parents had concerns that current terminology encourages conflict and breakdown of access agreements; change in terminology may bring change in philosophy and practice; supported options that include the term ‘parental responsibility’ but not ‘custody and access’. o Some lawyers opposed changing terminology; they were primarily concerned with preserving the clarity of the existing terminology and the integrity of existing case law • BC consultation (re services): <ul style="list-style-type: none"> o Participants suggested parents need training to recognize children’s needs and develop stronger parenting skills (e.g., pre-marriage courses emphasizing communication skills, co-operation and anger management, as well as courses for separating parents). o Many noted that some services are available but not well advertised; services are fragmented with no particular way to find out what services exist and how to access them; they strongly suggested more education and improved services for parents focusing on children’s needs. They suggested offering awareness programs through work and school and advertising in central locations (e.g., supermarkets and community centres), with advertising, videos and pamphlets to reflect cultural variations and sensitivities
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<p>Family violence</p>	<ul style="list-style-type: none"> • Respondents said that legislation re family violence should include a statement that the best interests of children are the first priority; a clear definition of violence; and an allocation of burden of proof [Note: Bill C-22 includes some changes aimed at addressing these concerns.] • Specific issues to be addressed in any new legislation: mechanisms for investigating allegations of abuse; improvements to the family assessment process; and the role of the courts in incorporating family violence issues into custody and access decision making- Consultation asked for views on five legislative options: <ol style="list-style-type: none"> 1. No change to the current law 2. Include a general statement acknowledging that children who are victims of violence or who witness violence are negatively affected and that family violence poses a serious safety concern for parents and children 3. Make family violence a specific factor that must be considered when looking at children’s best interests and when making parenting decisions 4. Establish a rebuttable presumption of limited contact and a limited decision making role for a parent who has committed violence against a family member 5. Restrict the impact of the “maximum contact” provision by moving the principle from section 16(10) of the Divorce Act into the section that deals with the “best interests of the child” • Respondents seemed to differ on what is in the best interests of children and were polarized between making the children’s safety and or the children’s access to both parents the priority <ul style="list-style-type: none"> o Those emphasizing safety supported a rebuttable presumption of limited contact and decision making input for the violent parent o Those who emphasized access to both parents supported a presumption of “maximum contact” except in situations when there is proof that the parent has been violent towards the children • BC consultation (regarding services): <ul style="list-style-type: none"> o Participants identified a need for considerable education for parents and children, as well as education for professionals in the legal system o Most said judges should be trained to understand the nature and effect of abuse and to take family violence into account but that the role of the courts should be minimized and solutions worked out through other DR mechanisms; others said evaluation tools should be developed, focusing on the potential for recurring violence o There were suggestions that family court judges should be aware of criminal charges and that child advocates should play a significant role in ensuring that children’s best interests are taken into account
<p>High conflict relationships</p>	<ul style="list-style-type: none"> • High degree of conflict between parents is not in the best interests of the children since it draws emotional and financial resources away from them; however, respondents disagreed about how high conflict relationships should be managed • Some respondents said that high conflict was another form of family violence; others said that high conflict was a natural by-product of the divorce process

	<ul style="list-style-type: none"> • Consultation asked for views on five legislative options: <ol style="list-style-type: none"> 1. Include no specific provision; changes to address high conflict cases could have a negative effect on the majority of parents who co-operate; focus should be on changes to support parents who can reach cooperative solutions 2. Law should permit judges concerned about ongoing, high conflict parenting disputes to detail in a court order parenting arrangements to provide a regular routine and autonomy for each parent’s time with children 3. Law should say that when judges are concerned about ongoing high conflict parenting disputes, they should be able to specify in the court order a dispute resolution mechanism that the parents are to use 4. Law should discourage arrangements requiring cooperation and joint decision making in cases of ongoing high conflict parenting disputes; law could declare these arrangements not in children’s best interests 5. Law should include a combination of the above approaches • Respondents who supported addressing high conflict relationships through legislative changes generally supported a combination of options 2 and 3 or of options 2 and 4 • A combination of options 2 and 3 would involve detailed court orders for parenting arrangements coupled with mandatory DR through a designated judge (or other binding decision maker); supporters felt that this would reduce the likelihood of further litigation and conflict between the parents • A combination of options 2 and 4 would discourage the use of mechanisms that require cooperation and joint decision making but would still result in a detailed agreement; supporters of this option felt that forcing parents in high conflict situations into DR programs was unsafe and unlikely to be productive
<p>Children’s perspectives</p>	<ul style="list-style-type: none"> • Factors identified that should affect the level of children’s involvement in decision making about custody and access: children’s age and culture, support and information available, children’s relationship with each parent, emotional well-being and special needs and relationship between the parents • Some of the criteria to govern inclusion of children’s perspectives: children are not forced to participate; children are protected from repercussions; hearings are private and recorded; children are directly informed of resulting decisions; professionals are informed, trained and have a code of conduct governing their behaviour
<p>Meeting access responsibilities</p>	<ul style="list-style-type: none"> • 2 main issues: denial of access and non-exercise of access, both equally detrimental to children’s well-being • Tools such as parenting plans, parent education and counseling were proposed as ways of encouraging parents to meet their access responsibilities • Respondents recognized the difficulty of legislating solutions to the non-exercise of access; forcing an uninterested parent to have contact with children would not be in the children’s best interests and might even be dangerous • Respondents suggested that to address the problem of denial of access, legislation could include reference to enforcement orders, alternatives to court-based solutions and provision of supervised access centres

	<ul style="list-style-type: none"> • Respondents said services were crucial to help ensure that parents meet their access responsibilities. In addition to services already offered, they suggested ways to improve services and provide new services through initial screening processes, mediation, mandatory review of parenting arrangements, supervised access centres and resource centres, enforcement officers (more efficient method of enforcement) and child advocate workers (to work with children, parents and the legal system) • BC consultation: Some participants said there should be more structured opportunities for supervised access; others noted that non-custodial parents need support (e.g., parenting courses) to help them understand their changing roles, relationships and responsibilities. Many supported parenting plans, particularly plans that do not involve going to court; some suggested “special masters” who can deal with family issues but practice outside of court as an alternative for access disputes
<p>Child support</p>	<ul style="list-style-type: none"> • Child support in shared custody situations <ul style="list-style-type: none"> o Differing opinions on how shared custody should be determined (In a shared custody arrangement, the court has broad discretion to order a support amount different from the Guidelines; the current “40% Rule” requires, for a shared custody arrangement, that each parent have custody or access for at least 40% of the year.) o Respondents pointed out that this links access and support, which may encourage access for the wrong reasons such as to reduce support payments; however, it is a reasonably easy test to apply o The possible alternative of using cost as the determining factor, respondents felt could address access situations where access costs are very high, even though time spent with the children is much lower than 40%. But respondents recognized that legislation would have to address the question of which costs were legitimate o In general, respondents supported transparent guidelines or a formula-based approach, on the basis that the existing guidelines have reduced conflict and litigation over child support amounts • Impact of access costs on child support amounts <ul style="list-style-type: none"> o Respondents felt that unusually high and unusually low access costs should be addressed in guidelines and legislation but recognized that as unusually low costs are generally a result of non-exercise of access, it would be difficult to compensate custodial parents without forcing access, which is not in the children’s best interests o Re the undue hardship rule: some said it was too difficult to prove and the concept is not clearly defined; others felt that undue hardship should not automatically decrease child support amounts as high access costs may not reduce the custodial parent’s expenses • Child support for children at or over the age of majority <ul style="list-style-type: none"> o Some favoured paying some or all child support directly to child at age of majority; would reassure paying parents that the money is being spent on the child o Others not in favour of direct payment, pointing out that custodial parents still have expenses related to maintaining a home for the child, regardless of the child’s age

	<ul style="list-style-type: none"> o Some support for increased transparency in spending of child support payments by custodial parents after the child has reached the age of majority o Some suggested that receiving parents and older children should have to show an ongoing need for child support beyond the age of majority; others saw this requirement as intrusive o Under some provincial and territorial legislation, the biological parent has the primary obligation to pay support while the spouse standing in the place of a parent does not; some suggested that the guidelines remove the primary obligation of the biological parent as biology does not always correlate with the role played in a child’s life
<p>Aboriginal perspectives</p> <p>Services</p>	<ul style="list-style-type: none"> • Traditional Aboriginal view of children and their best interests is fundamentally different from that of other Canadians • Issues raised on custody and access: legislation must take into account Aboriginal culture and traditions; services must be linguistically and culturally appropriate and must be available in remote areas; alternative solutions must be considered that take into account the reality of life in remote, often cash-poor communities • Some services necessary in all family situations: parenting courses, child peer reference opportunities and help in developing agreements (e.g., mediation, family counseling and other DR) • Other supplementary services are needed for families with a high degree of conflict or physical violence: behavioral counseling and courses (e.g., anger and addiction management), violence-related counseling, court-based mechanisms for developing agreements, appropriate enforcement mechanisms and supervised access and exchange facilities • Existing and new services should be well publicized; timely; focus on early intervention; provide follow up after a given period of time; accessible and free or low-fee

<p>“Final Federal-Provincial-Territorial Report on Custody and Access and Child Support: Putting Children First”, Federal-Provincial-Territorial Family Law Committee, November 2002</p>	
<p>Background</p>	<ul style="list-style-type: none"> • Report reviews research, surveys, previous studies and experiences of other jurisdiction; builds on public consultation and research; contains suggestions regarding custody and access legislation and family law services and processes related to individual, professional, judicial and government action • Report is the result of the Custody and Access Project of the Federal-Provincial-Territorial Family Law Committee initiated at the request of Deputy Ministers Responsible for Justice with participation of federal, provincial and territorial governments; the committee was also asked to review the child support guidelines • Extensive research and consultations with family law professionals, parents, advocacy groups and interested Canadians informed the report (e.g., “Report on Federal-Provincial-Territorial Consultations: Custody, Access and Child Support in Canada” (2001)) • The project recognized the importance of the federal, provincial and territorial governments working collaboratively, because of their shared jurisdiction over family law issues, and the need to address both legislation and services for effective family law reform
<p>Recommended principles</p>	<ul style="list-style-type: none"> • Ensure that the needs and well-being of children come first • Recognize that no single way of parenting after separation and divorce will be ideal for all children • Support measures that protect children from violence, conflict, abuse and economic hardship • Recognize that children and youth benefit from the opportunity to develop and maintain meaningful relationships with both parents, and with grandparents and other extended-family members when it is safe and positive to do so • Recognize the contributions of culture and religion in children’s lives • Promote non-adversarial dispute-resolution mechanisms and retain court hearings as mechanisms of last resort • Provide legislative clarity to legal responsibilities of caring for children • Recognize the overlapping jurisdictions in custody and access matters in Canada and make efforts to provide coordinated and complementary legislation and services
<p>Recommended objectives</p>	<ul style="list-style-type: none"> • Focus parents, professionals and services to better serve children’s needs and interests • Reduce the negative impact of conflict on children and promote healthy models of dispute resolution • Support positive parental, extended family and cultural interactions with the child • Provide clearer, more predictable and understandable responses to family justice issues

Custody and Access Reform	
Legislation	<ul style="list-style-type: none"> • Consistency of legislative approach: <i>Divorce Act</i> and at least 13 provincial and territorial statutes all provide that the fundamental principle is the best interests of the child and all use the term custody but not all use it in the same way; substantive provisions and terminology vary • Recommendation: ensure that children are treated similarly and provided similar protection in Canada by providing relative consistency in laws affecting custody, access and child support • Defining “best interests”: Only some statutes list specific factors of best interests; <i>Divorce Act</i> does not • Recommendations: custody legislation should contain explanatory non-exhaustive list of criteria for parents, judges and others involved in decision-making process; any list of best interests criteria should ensure that the child’s best interests remain the foremost consideration in custody and access decision making • Terminology: Current terminology of custody and access has been criticized for promoting conflict and focusing on parents’ rights rather than on the child; others argue that the current terminology is neutral, flexible and well understood • Legislative options included in the public consultation paper: <ul style="list-style-type: none"> o Keep current terminology • Clarify current terminology and define custody broadly (non-exhaustive list of areas that make up custody in clear and understandable language) • Clarify the current terminology, define custody narrowly and introduce “parental responsibility” (custody would be redefined to mean residence only and would be one just part of parental responsibility) • Replace the current terminology and introduce the new term and concept of parental responsibility • Replace the current terminology and introduce the new term and concept of shared parenting • Recommendations: <ul style="list-style-type: none"> o legislation should not establish any presumptive model of parenting after separation, nor contain any language that suggests a presumptive model of parenting; the fundamental and primary principle of determining parenting arrangements must continue to be the best interests of the child o if legislative terminology is changed or clarified, any amendments should be child-centred, focus on parents’ responsibilities to understand and meet their children’s needs, and promote the positive and safe involvement of both parents o Committee believes that options 2, 3 or 4 could meet these needs • Family Violence: <i>Divorce Act</i> should explicitly address family violence issues; the current emphasis on maximizing contact must be appropriately balanced against the need to protect children from family violence • Recommendations: <ul style="list-style-type: none"> o there should be no legislative presumptions about the degree of contact a child has with parents o best interests factors should include any history of family violence and the potential for family violence, as well as facilitating contact with both parents when it is safe and positive to do so

	<ul style="list-style-type: none"> o governments should work to strengthen supports to families exposed to family violence including crisis counseling programs and counseling programs for children exposed to family violence • High-Conflict Relationships: Best approach to high-conflict cases is to find better ways to identify them, intervene earlier, and provide services to help parents focus on their children’s needs and improve their communication and conflict resolution skills • Recommendation: high-conflict areas should be addressed through a mixture of services and procedural supports to minimize the negative impact of conflict on children and families • Addressing Children’s Perspectives: Desirability of giving the child a voice in the decision-making process must be balanced against the need to shield the child from parental conflict and prevent the child from becoming embroiled in it • Recommendation: each jurisdiction review its legislation, procedures and services to ensure that parents and courts have access to information on the child’s perspectives; the information is obtained from the child and communicated to the parents and court where necessary in a way that is appropriate to the child’s best interests, age and maturity and in a way that does not make the child feel responsible for the custody decision • Meeting Custody and Access Responsibilities - Recommendations: <ul style="list-style-type: none"> o recognizing the breadth and complexity of the issues involved in child custody and access enforcement and parental child abduction cases, further detailed work should be undertaken o the Divorce Act and provincial/territorial legislation should give jurisdiction over custody and access to the court where the child habitually lives, with certain consent and safely-based exceptions and taking into consideration applicable child custody enforcement legislation and The Hague Convention on child abduction
<p>Service options and responses</p>	<ul style="list-style-type: none"> • Public and professional information and education: Give families and professionals information on legal issues, child development, dispute resolution options, methods of communication and resources; Teach parents skills and techniques to improve co-parenting abilities to help families cope with emotional trauma and make informed choices • Recommendations: <ul style="list-style-type: none"> o information on existing and new laws and services should be disseminated through a variety of communication modes, accessible to all families with children (governments have been active recently in providing parent information services and programs, e.g. toll-free phone lines booklets, pamphlets, websites) o governments should support parent education that is broadly accessible and meets linguistic, cultural, geographic and general parenting, legal and process information needs o professionals working with families during and after separation and divorce should be supported to engage in continuing education and training in child custody and support law, family violence issues, dynamics of family separation and divorce and the effects on children

	<ul style="list-style-type: none"> o the Inventory of Government-Based Services That Support the Making and Enforcement of Custody and Access Decisions (inventory of custody and access services currently provided by provinces and territories) should be maintained and updated periodically • Dispute Resolution - Recommendations: <ul style="list-style-type: none"> o governments and professionals should work together to support development of a broad spectrum of dispute resolution services to parents to help identify and narrow disputed issues o mediation should not be made mandatory since the basic premise of mediation is a voluntary, consensus-based decision making o jurisdictions should encourage development of collaborative family law practice o given the range of dispute resolution mechanisms that have been developed, current requirements in legislation may be too narrow; family law legislation should require lawyers to advise clients of the full range of DR o courts should make appropriate use of judicial and non-judicial settlement approaches to avoid the hardening of positions and to promote early settlement and narrowing of issues in dispute o case management system should provide for expedited access to judicial decision making where it is in the best interests of the child to have the matter dealt with on an urgent basis o orders should be worded clearly and consistently to ensure that the parties understand their obligations and the orders can be enforced o procedures should allow for expeditious variation, by consent, of custody, access and child support orders without a court hearing • Enforcement - Recommendation: <ul style="list-style-type: none"> o further research should be undertaken to identify the most effective ways to address the problems of access denial and failure to exercise access, and to develop and assess new remedial approaches • Legal Aid - Recommendation: <ul style="list-style-type: none"> o governments should continue to work at improving components of the legal system that are critical to families’ access to the legal system to resolve family breakdown issues, such as family legal aid • UFC -Recommendation: <ul style="list-style-type: none"> o the federal government should work with jurisdictions to establish UFCs where there is a request; people serving in a specialized family court should have expertise in family law issues
<p>Recommendations for Research and further work</p>	<ul style="list-style-type: none"> • There should be a continued national emphasis on research and evaluation to monitor trends and the impact of reforms in law and services • Provinces and territories should review their legislation on establishment and recognition of parental status and entitlement to custody and access on the birth of a child, with a view to identifying any issues that require a legislative or service response and making recommendations in the future • Dialogue and research should continue in order to address diversity and aboriginal issues with respect to family law

Child Support	
Shared Custody	<ul style="list-style-type: none"> • Recommendations: <ul style="list-style-type: none"> o The 40% rule should not be changed, as no demonstrably better alternative has been found despite criticism that it links child contact and support (when a parent has access or physical custody of a child for 40% or more of the year, the court has broad discretion to order a support amount different from the Guidelines); but the Guidelines should be more specific as to how to determine that the 40% test has been met o To improve certainty and predictability and maintain flexibility, current factors for determining support in shared custody situations should be replaced by a presumptive formula: i.e., the difference between the table values for each parent, unless that amount would be inappropriate based on, for example, how parents share the child’s expenses
Extraordinary expenses	<ul style="list-style-type: none"> • Recommendation: <ul style="list-style-type: none"> o The term “extraordinary” in section 7, should be defined in the Guidelines to increase predictability and certainty
Support past the age of majority	<ul style="list-style-type: none"> • Recommendations: <ul style="list-style-type: none"> o No change should be made to the provisions re eligibility for support of a child at the age of majority o To ensure transparency and accountability, Guidelines should require recipients of support for children over the age of majority to disclose information re the child’s ongoing eligibility of support
Undue hardship	<ul style="list-style-type: none"> • Recommendation: <ul style="list-style-type: none"> o No changes should be made to deal specifically with high access costs (currently, judges may order a different amount based on undue hardship); these situations should be dealt with on a case-by-case basis and any accommodation appropriate to a particular case should be addressed as part of a custody and access order
Obligations of one	<ul style="list-style-type: none"> • Recommendation: <ul style="list-style-type: none"> o No changes should be made to the Guidelines provisions re the obligations of those who stand in the place of a parent (currently, such a person may have child support obligations similar to a natural parent)
Updating tables	<ul style="list-style-type: none"> • Recommendation: <ul style="list-style-type: none"> o Child support tables should be updated every five years or more often if there are changes to federal, provincial or territorial taxes that would have a major impact on the table amounts

Appendix B: Screening for Abuse Guidelines

Family Mediation **Practicum Project**

Screening for Abuse Guidelines

The B.C. Ministry of Attorney General’s *Violence Against Women in Relationships Policy* guides how the justice system will respond to violence in relationships. The policy defines violence against women in relationships as:

“physical or sexual assault or the threat of physical or sexual assault of women by men with whom they have, or have had ongoing or intimate relationships, whether or not they are legally married or living together at the time of the assault or threat. Other behavior, such as intimidation, mental or emotional abuse, sexual abuse, neglect, deprivation and financial exploitation, must be recognized as part of the continuum of violence against young and elderly women alike.”

The policy is intended to not only address violence against women in heterosexual relationships, but also applies to situations when a victim is male or both partners are of the same gender. Because custody and access issues can exacerbate an already volatile situation, and research indicates that separation can result in an escalation in violence in order to regain control, mediators need to be especially vigilant of cues that may be indicative of abuse in all steps of the mediation.

Mediators must screen for abuse and power imbalances in every case to ensure the safety of family members. The presence of abuse in the relationship violates basic assumptions about the appropriateness of the use of mediation. If one partner is negotiating under duress or intimidation, there can be no fair and equitable settlement. Where violence exists, it requires special approaches and safeguards and referral to other resources for the family. In cases, where the abuser has been arrested or charged with assault or has a no contact order, it is clear that mediation would not be appropriate. In other situations, it is less clear. The mediator needs to ask whether abuse exists in the relationship, what form it takes and how serious it is. The prevailing concern must be for the safety for all parties, including the children. If the mediation is inappropriate, make referrals to other services.

It is important for mediators to be aware that people who experience relationship abuse often do not recognize that they have been living in an abusive situation. They may blame themselves or deny or minimize the abuse. It is important that survivors of abuse not be subject to further victimization during mediation. According to Dr. Linda Neilson’s 2001 study¹, survivors of abuse are particularly vulnerable during the separation process and may agree to settlements without considering the consequences just to get the marriage over with. Further, a survivor may participate in mediation out of fear of losing the children. Some abusers use mediation to continue the abuse.

Part of screening for abuse is that mediators must also take steps to ensure their own safety.

STEP 1: Intake Screening

This step should be completed by the intake worker for the CoRe Program. Nevertheless, the mediator may have occasion to use some of these questions again during their separate interviews and in ongoing screening.

APPENDIX B: SCREENING FOR ABUSE GUIDELINES

The first contact with the clients must involve an initial screening for abuse. This is usually done by phone. Be aware that telephone screening has limitations because of the inability to observe body language. Also, you would not know who else might be privy to the conversation.

You might want to introduce the idea that mediation is meant to be safe and that each participant should feel safe to say what needs to be said during the mediation. The interviewer should approach the subject by saying, “*“We have found in working with families that violence is very common. For this reason we ask everyone we see these questions.”*” This normalizes the procedure so that the client does not feel stigmatized or labeled.

Questions should cover the following:

- *Have you ever had concerns for your own safety or the safety of your children during the relationship?*
- *Has your partner ever caused you to feel threatened or fearful?*
- *Do you believe there is an immediate risk of violence in your family, either to you or your children?*

Note that these questions do not use words that might have negative connotations such as “abuse” or “battered”. Using these words may inhibit a victim from answering in the affirmative.

Use questions to illicit information regarding the client’s ability to negotiate their own interests without fear, the client’s emotional readiness, and the cause of the conflict or separation. This will help you determine the appropriateness for mediation. Here are some examples:

- *Could you explain who wants to end the relationship? Why?*
- *Tell me about how decisions are made in your relationship. Does one of you have responsibility for the major decisions about money and child rearing?*
- *How do you and your partner discipline the children? Have your children seen the two of you fighting? Are your children at risk?*
- *Could you explain how you and your partner resolve disagreements, deal with conflict, anger? Do you ever change your behaviour to protect yourself from your partner’s anger?*
- *Are there any weapons in the home?*
- *Are you free to see family or friends or spend free time with others?*
- *Is there a history of violence in your family or your partner’s family?*
- *Could you explain how you and your partner use alcohol or drugs?*
- *Have you or your partner ever threatened to commit suicide?*
- *Have you had any injuries in the past?*

¹ Dr. L Neilson, “Spousal Abuse, Children and the Legal System: Final Report for Canadian Bar Association, Law for the Futures Fund.” March 2002 @ www.unb.ca/arts/CFVR/spousal-abuse.pdf

If there is an immediate risk, the person should be encouraged to call the police. The mediator should refer the person to other resources for support such as a police-based victim services program. Record safety concerns and action you have taken on the file.

In all cases, the family mediator needs to assess or be satisfied that:

- (a) Whether there is now or has ever been abuse in that relationship;
- (b) If there has been any abuse, that a fair and safe mediation is still possible; and
- (c) If there has been any abuse it is in the past and the clients have received counselling for it.

STEP 2: Separate Face to Face Interviews

Whenever they work with families, mediators must not only listen to the words of the client, but must also be able to assess clients for non-verbal cues or body language that may indicate coercion or fear.

Underlying the need to test appropriateness for mediation are safety concerns for the clients and a belief that the mediation process will help, not harm the participants. Mediators must ask themselves if the couple is able to negotiate with each other; are they able and ready to mediate? Start with a series of questions that get at trying to understand how the participants negotiate together. The mediator needs to learn about their power – who has control and is there a balance of power? If there is a power imbalance, could that be managed in mediation? Do the participants have the ability to negotiate for themselves, are they able and ready to mediate, do they both feel safe and would they like to have any support people in mediation with them?

The mediator must be sensitive to the dynamics in the relationship and be a good listener to discern if the parties have the capacity to have empathy for each others' position. This calls for a thorough in-person assessment. At the end of the assessment, the mediator will make the decision as to whether mediation is appropriate and relate this to the clients.

Check to ensure that:

- There is/has been no family abuse, or that the abuse that occurred in the past will not affect mediation negatively;
- Cultural factors are not inhibiting disclosure of abuse (e.g. the person does not speak English fluently enough to understand the questions asked, no interpreter present);
- The physical, psychological health and welfare of participants can be protected; and
- Imbalances in power or in the negotiating abilities of the participants can be managed by the mediator in a way that ensures the full and equitable participation of all participants; and

Refer cases to other services if the mediator is unable to ensure that:

- There is/has been no family abuse, or the abuse that occurred in the past will not affect any participant's ultimate ability to assess his or her own needs information or options;
- Each participant is able to negotiate without fear or apprehension about safety and well-being;
- Each participant is able to withstand settlement pressure;
- If there has been past abuse, the participants have undergone counselling or treatment and abuse is not continuing;
- Both are willing participants and understand they are free to withdraw at any time;

APPENDIX B: SCREENING FOR ABUSE GUIDELINES

- The mediator can put into place all safety measures that may be required for the protection of the mediator, mediation staff and all participants;
- The physical and psychological health and welfare of the clients and their children can be protected; and
- Imbalances in power or in the negotiating abilities of the participants can be managed by the mediator in a way that ensures the full and fair participation of all participants.

No Mediation

These are situations where clearly mediation is not suitable:

- There is ongoing physical violence where the victim or children have been hurt;
- Threats of doing harm to the victim or children are present;
- There are restraining orders or criminal orders prohibiting direct or indirect contact with the victim and/or children;
- There are weapons in the home;
- There has been attempted or threatened suicide;
- There is ongoing harassment by phone or in person;
- There are ongoing allegations of being obsessively jealous; and/or
- There is extreme control over the victim's movements and contact with others.

In all cases, in reaching a decision about whether or not to proceed to mediation, priority should be given to the individual's perception of abuse over any judgment about levels of security or types of abuse. If mediation does not proceed, the interview must end with the mediator with addressing issues of safety. Other alternatives to mediation should be explored and appropriate advice and referrals should be considered.

STEP 3: Ongoing Screening

Mediators have a responsibility to continuously screen during the mediation process. You may have screened a case for abuse and felt that it was appropriate for mediation, only to begin to recognize cues that there is coercion or intimidation happening during the mediation process. Recognize the importance of stopping immediately and meeting with each individual separately (*caucusing*).

Start with the person you feel is most at risk. Try to keep the meetings short and allow equal time with each party. State your concern that you are picking up cues and want to explore them. Ask: *What is going on for you?* If violence is disclosed, you need to make sure person is safe — assess immediate safety, e.g. do the police need to be notified? Work with the victim to develop a safety plan and refer him or her to resources in the community. Help the abused person find a place to go and let them leave the mediation session first.

Then meet with the other person ask the same questions. Let the person know that you will not be resuming the mediation process with the parties attending together and discuss other options. Do not be judgmental.

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***Appendix C:
Inventory of Family Justice
Services In British Columbia***

Inventory of Family Justice Services British Columbia

*Prepared for the
Family Justice Reform Working Group
December 2003*

(Note: This inventory is not current to 2005. Some of the listed programs and projects may have been time-limited or subject to change by name or mandate)

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Ministry of Attorney General, Justice Services Branch, Family Justice Services Division:	
Name of Service	Family Justice Counsellor Dispute Resolution
Description of services provided	Mediation and conciliation services are provided to appropriate families with respect to child custody, access, guardianship and family maintenance. Clients are provided with information and options regarding the rights and responsibilities of parents in these matters. Services are delivered by specially trained and highly qualified family justice counsellors.
Clients served (provincial/supreme; limited income; etc.)	Services are provided primarily to persons of modest means. Requests for service are prioritized based on income and individual circumstance/presenting issue. Services are available to clients with provincial or supreme court matters as well as those who have had no previous contact with either level of court.
Locations	Services are provided through 28 Family Justice Centres located throughout the province: Victoria, Duncan, Nanaimo, Courtenay, Campbell River, Powell River, Sechelt, North Vancouver, Vancouver (Robson Square), Vancouver (Commercial Drive), Richmond, New Westminster, Port Coquitlam, Maple Ridge, Surrey, Langley, Abbotsford, Chilliwack, Kamloops, Williams Lake, Kelowna, Vernon, Penticton, Nelson, Cranbrook, Prince George, Terrace, Fort St. John. Fifteen other locations are served on an itinerant basis.
Number of clients served	In 2002/03, Family Justice Counsellors opened 5200 new dispute resolution cases. As well, Family Justice Counsellors provided 22,000 brief services ² , and provided 9700 brief counsellings ³ .
Indicators of unmet demand, if available	Due to an inability to meet the full demand for service, the Family Justice Services Division has implemented a policy to ensure that persons of modest means are given priority.
Comments (future plans, evaluation results, federally funded etc.)	The Division is currently conducting research on its client demographics, services requested and provided, and dispute resolution outcomes. As well, a research project to measure the medium term (2-4 years) impact of the service is planned. Services are funded provincially.

² Brief services are defined as an intervention with a person, typically by phone, to provide information, or referral to other agencies related to a potential client but where no file is opened. This activity is limited to one or two contacts that on average amount to 15 minutes of service.

³ Brief Counselling is defined as an intervention with a person to provide information or brief counselling to assist the person to deal more effectively with their family issues. This activity does not result in an intake/dispute resolution during that month. The family justice counsellor may meet with the party on one or two occasions that on average amount to 1 hour of service.

Ministry of Attorney General, Justice Services Branch, Family Justice Services Division:	
Name of Service	Parenting After Separation
Description of services provided	This free, three-hour information seminar informs parents about the impact of separation and divorce on children, how parents can best help their children and conflict resolution alternatives for parents. In 10 communities, attendance is mandatory for provincial applicants / respondents and voluntary for other interested parents. Hindi, Punjabi, Cantonese and Mandarin PAS programs are also offered in selected lower mainland locations.
Clients served (provincial/ supreme; limited income; etc.)	There is no financial screening of PAS clients. In 10 communities, attendance is mandatory for provincial applicants/ respondents. In 8 additional communities, attendance is completely voluntary. In Supreme Court, judges have the ability to mandate attendance at PAS as part of a judicial case conference.
Locations	<u>Mandatory & voluntary:</u> Victoria, Nanaimo, Vancouver, New Westminster, Port Coquitlam, Surrey, Abbotsford, Kamloops, Kelowna and Prince George <u>Voluntary only:</u> Courtenay, Campbell River, Powell River, Sechelt, Nelson, Penticton, Terrace and Vernon. <u>Rural locations:</u> In some rural locations, PAS information is available as part of a Rural Package at local libraries
Number of clients served	In 2002/03, 4,630 people participated in 388 PAS sessions
Indicators of unmet demand, if available	The current availability of PAS appears to be meeting the demand in the locations where it is provided. The majority of sessions are run with additional spaces available. Voluntary PAS sessions were previously available in additional locations but were discontinued due to low demand.
Comments (future plans, evaluation results, federally funded etc.)	The October 2000 evaluation of Mandatory PAS indicated that attendance at the MPAS may have resulted in a reduction in the number of cases going to trial in the pilot jurisdictions. It appears that when cases did go to court, they were less likely to go to second, third or subsequent appearances in an MPAS location than cases tracked at a comparison site. This program receives limited funding from the Department of Justice Canada.

Ministry of Attorney General, Justice Services Branch, Family Justice Services Division:	
Name of Service	Family Justice Registry (Rule 5)
Description of services provided	Parties to a provincial court application must attend a session with a Family Justice Counsellor prior to a first appearance before a Provincial Court judge. At the sessions, the Family Justice Counsellors (who are certified family mediators) provide assessment, information, issue clarification, dispute resolution, referral and case management support to applicants and respondents. This program operates in coordination with the Robson Square, Surrey and Kelowna Provincial Court family justice registries.
Clients served (provincial/supreme; limited income; etc.)	This program is directed solely to applicants and respondents who have filed an application in designated family justice registries. Attendance is mandatory prior to a first appearance.
Locations	Vancouver, Surrey, and Kelowna
Number of clients served	In 2002/03, there were 1331 cases where at least one party was triaged through the Family Justice Registry program ⁴
Indicators of unmet demand, if available	This program is only available in 3 Provincial Court registries.
Comments (future plans, evaluation results, federally funded etc.)	This program is funded by the Department of Justice Canada. Rule 5 came into effect at selected locations at the same time that new provincial court (family) rules were introduced province wide (December 1998). The recent evaluation ⁵ of the program found that 29% of cases did not proceed to first appearance in Rule 5 sites compared to 17% in comparison sites. As well, for cases that continue to court after triage, there were significantly fewer appearances per case (41% decrease in appearances per case in Rule 5 sites – about half due to outright diversion and half due to “narrowing and clarification of issues”). Work is underway to more fully integrate this program with the Comprehensive Child Support Services.

⁴ Triage refers to the 45 minute interview with the applicant/respondent as a required first step in FRA cases at designated family justice registries. It is a requirement to meet with a Family Justice Counsellor prior to a first appearance before a judge to help parties to clarify their issues and understand options available for resolving their disputes.

⁵ The full evaluation and evaluation summary can be found at: www.ag.gov.bc.ca/justice-services/publications/index.htm

Ministry of Attorney General, Justice Services Branch, Family Justice Services Division:	
Name of Service	Supervised Access
Description of services provided	Supervised Access services are designed to facilitate safe contact between children and their parents when there has been a lengthy absence of contact or when there has been one or more of the following concerns about a parent: violence, alcohol abuse, drug abuse, lack of mental well being or a lack of knowledge of parenting skills. Services include access supervision and access exchange.
Clients served (provincial/supreme; limited income; etc.)	Service is provided to families free of charge. Families are referred through Family Justice Counsellors. Families may be referred to Family Justice Counsellors from Supreme or Provincial Court, or may be self-referred.
Locations	The service is in the process of being tendered and will be available this fall in Victoria, Nanaimo, Vancouver, New Westminster, Port Coquitlam, Surrey, Richmond, Abbotsford, Kamloops. Supervised access will begin in Kelowna in 2004/05.
Number of clients served	In 2002/03 the service was available in Victoria, Kamloops and the lower Mainland. The program provided service to approximately 160 families.
Indicators of unmet demand, if available	Anecdotal reports indicate that the need for supervised access services exceeds the current capacity. As well, the service is available only in a limited number of communities.
Comments (future plans, evaluation results, federally funded etc.)	The Ministry is in process of standardizing the service and implementing it in additional communities. The Ministry will be implementing performance measurement activities to evaluate the program.

Ministry of Attorney General, Justice Services Branch, Family Justice Services Division:	
Name of Service	Custody and Access Assessments
Description of services provided	A limited number of child custody and access assessments are prepared upon order of the court. Specially trained Family Justice Counsellors conduct investigations and provide reports to assist the court in determining the best interests of the children.
Clients served (provincial/ supreme; limited income; etc.)	Reports are prepared upon order of a Provincial or Supreme Court judge. Priority is given to intractable disputes where safety of the children is in question, violence is or has been a factor in the relationship, repeated or extended denial of access is alleged, or one of the parties resides in another jurisdiction. Priority is given to assessments ordered where one or both parties are not represented by legal counsel or where legal counsel is appointed by the Legal Services Society.
Locations	All BC locations.
Number of clients served	For the period of July 1 2002 to June 30, 2003, 153 Custody and Access Assessments were ordered and 211 cases were administered ⁶ by the Family Justice Services Division.
Indicators of unmet demand, if available	The judiciary report that the need for additional reports exceeds the current capacity within the Ministry. The Ministry has implemented a prioritization policy to assist in dealing with the current capacity issues.
Comments (future plans, evaluation results, federally funded etc.	In 1997 the Ministry decided, based on its ADR strategic initiatives, to allocate 90% of family justice services resources to early opportunity/community-based family dispute resolution and 10% to reports for the court. A new C&A reports management structure was implemented and FJC report writer specialist positions were established. Report quality complaints from parties has significantly declined since that time.

⁶ More cases were administered than ordered for that period as the Division was undertaking to address the backlog of ordered reports. “Administered” refers to cases that had reports completed, cases that were resolved prior to being assigned to a report writer, and cases that were resolved through the dispute resolution services of Family Justice Counsellors and did not require a full report to court.

Ministry of Attorney General, Justice Services Branch, Family Justice Services Division:	
Name of Service	Comprehensive Child Support Service (CCSS)
Description of services provided	These services provide parents with assistance to resolve disputes and speed up changes to child support orders and written agreements consistent with the Child Support Guidelines. The CCSS provides an array of services to people dealing with child support issues: child support calculations, facilitated negotiations, information on enforcement matters, and legal information and summary advice, and referrals to mediation.
Clients served (provincial/supreme; limited income; etc.)	Services are provided to clients who are involved in provincial or supreme court matters as well as those who have had no previous contact with either level of court.
Locations	The service is available in Kelowna, Vancouver and Surrey. The expansion to Vancouver and Surrey occurred in October 2003.
Number of clients served	In 2002-03, 201 files were opened and 448 brief services ⁷ were provided.
Indicators of unmet demand, if available	The service is available in only 3 locations within BC.
Comments (future plans, evaluation results, federally funded etc.)	This program is funded by the Department of Justice Canada. The recent evaluation ⁸ of the program found that close to 60% of clients resolved their child support related issues through the CCSS without a court hearing. Overall, clients were satisfied with the information and assigned a high level of importance to the assessment of financial issues and recalculation of child support amounts. 76% of clients believed the services provide by the Child Support Officer (CSO) helped to speed up making changes to child support amounts. This program is in the process of being functionally integrated into the Family Justice Registry Program.

⁷ Brief services are defined as an intervention with a person, typically by phone, to provide information, or referral to other agencies related to a potential client but where no file is opened. This activity is limited to one or two contacts that on average amount to 15 minutes of service.

⁸ The full evaluation and evaluation summary can be found at www.ag.gov.bc.ca/justice-services/publications/index.htm

Ministry of Attorney General, Justice Services Branch, Family Justice Programs Division:	
Name of Service	Family Maintenance Enforcement Program (FMEP)
Description of services provided	FMEP monitors and enforces maintenance payments for clients with enrolled orders and agreements.
Clients served provincial/ supreme; limited income; etc.)	Anyone with a maintenance order or written agreement enforceable in B.C. is eligible to enroll in FMEP. FMEP is an opt-in program (recipients and payors choose to enroll) with the exception of orders enrolled by the Ministry of Human Resources (MHR). MHR is authorized by law to require maintenance recipients to “assign” their maintenance rights to the government as a condition for receiving BC Employment and Assistance. Assignment generally includes automatic enrollment in the FMEP.
Locations	There are three client offices accessible by telephone and website: Lower Mainland, Northern and Interior and Victoria
Number of clients served	51,394 cases enrolled as of August, 2003
Indicators of unmet demand, if available	N/A.
Comments (future plans, evaluation results, federally funded etc.)	Plans for the next three years include:- payor and recipient surveys- expansion of methods of payment available to payors - website enhancements FMEP receives limited funding assistance from the Department of Justice Canada.

Ministry of Attorney General, Justice Services Branch, Family Justice Programs Division:	
Name of Service	FMEP Outreach
Description of services provided	MEP provides an on-site resource to clients of some Family Justice Centres. The Outreach Officer is available to meet with clients to explain FMEP enrollment, policy and procedures and to work with payors to arrive at voluntary payment arrangements.
Clients served provincial/ supreme; limited income; etc.	Family Justice Centre clients with issues relating to the enforcement of maintenance.
Locations	Kelowna, Lower Mainland
Number of clients served	Approx. 35/month in Kelowna and 40/ month in the Lower Mainland
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	A federally funded project, in Kelowna an FMEP Outreach Officer is part of the Comprehensive Child Support Service (CCSS). The success of the CCSS in Kelowna has led to the introduction of a CCSS project in Vancouver and Surrey, and the Lower Mainland Outreach project will be incorporated into the Vancouver and Surrey CCSS project.

Ministry of Attorney General, Justice Services Branch, Family Justice Programs Division:	
Name of Service	Family Search
Description of	Family Search assists clients to locate address, employment, source of income, and asset information on individuals sought for the purposes of obtaining, changing and enforcing maintenance, custody, access and guardianship orders.
Clients served (provincial/ supreme; limited income; etc.)	Services are accessed through the FMEP, Ministry of Human Resources' Family Maintenance Program, Courts, and similar programs in other jurisdictions.
Locations	The program operates from an office in Vancouver but can be accessed through any of the above services throughout in BC.
Number of clients served	27,000 searches/year
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	This program receives limited funding assistance from the Department of Justice Canada.

Ministry of Attorney General, Justice Services Branch, Family Justice Programs Division:	
Name of Service	Reciprocals Program
Description of services provided	The Reciprocals Program transmits documents for B.C. clients wishing to obtain, change or enforce maintenance orders in reciprocating jurisdictions. The Program also transmits documents from reciprocating jurisdictions to the BC courts and the FMEP for action.
Clients served (provincial/ supreme; limited income; etc.)	Anyone wishing to obtain, change or enforce a maintenance order, where the other party lives in a reciprocating jurisdiction. (The ability to change <i>Divorce Act</i> orders using the reciprocal process is limited to Canada.)
Locations	The program operates from an office in Vancouver but can be accessed through any court in BC.
Number of clients	1800/year
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	This program receives limited funding assistance from the Department of Justice Canada.

Ministry of Attorney General, Justice Services Branch Dispute Resolution Branch, in conjunction with Ministry for Children and Families:	
Name of Service	Child Protection Mediation Program
Description of services provided	Section 22 of the <i>Child, Family and Community Service Act</i> (CFCSA) allows parents and the Director to settle disputes about a plan of care or other issue by mediation or another dispute resolution process. Participation in mediation is voluntary and parties must choose a mediator from the roster of mediators established by CFCSA Regulation
Clients served (provincial/ supreme; limited income; etc.)	Provincial Court. Income is not a factor in terms of being eligible for this service. The cost of mediation is borne by the Province of BC.
Locations	Province wide.
Number of clients served	200 cases in 2002/03 including facilitated planning meetings.
Indicators of unmet demand, if available	While the program is being utilized in some areas of the lower mainland, uptake is low in other parts of the province.
Comments (future plans, evaluation results, federally funded etc.)	In 2001, a mediation model known as the Facilitated Planning Meeting (FPM) was piloted in the Surrey Region. Four Ministry of Children and Family Development offices referred cases to a FPM. An interim evaluation of the project found high satisfaction with the mediation model and high settlement rates. The report also describes the FMP process and can be found at www.ag.gov.bc.ca/dro/publications/reports/surrey-court.pdf Two areas of the Fraser Region: Surrey and Simon Fraser offer FPM services.

Ministry of Attorney General, Justice Services Branch, Dispute Resolution Office	
Name of Service	Family Mediation Practicum Project
Description of services provided	The BC Dispute Resolution Practicum Society, with assistance from the Ministry of Attorney General and law related groups such as the Justice Institute of BC, is planning a family mediation practicum project. The project will allow trained, but inexperienced mediators to practice mediation skills under the supervision of highly qualified and experienced family mediation mentors. Clients will receive mediation services at no cost.
Clients served provincially/ supreme; limited income; etc.)	Cases appropriate for the practicum are those with custody, access, guardianship and child support issues. Cases could be referred from a variety of sources.
Locations	Burnaby/New Westminster
Number of clients served	12 – 15 mediators will attend the project in three classes, and up to 75 families will receive free mediation services.
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	This project is in the final planning stages. A number of key issues are being addressed to ensure a high quality training program is offered in a safe environment for the mediation of family disputes. A first class of mediators is planned for January 2004. Funding for planning the project is provided by the Ministry of Attorney; funding to implement the project is provided by the Law Foundation.

Ministry of Attorney General, Justice Services Branch, Dispute Resolution Office	
Name of Service	BC Mediator Roster Society
Description of services provided	The society maintains a roster of qualified family mediators, who meet training and experience standards and subscribe to a code of conduct. The society is also a resource for information about mediation in BC and other jurisdictions, and it works to promote the use of mediation generally.
Clients served provincial/ supreme; limited income; etc.)	Anyone can access the roster via the society's web. The directory of mediators provides professional and contact information for each mediator.
Locations	Roster member provide services province wide.
Number of clients served	The number of information requests handled by the society's roster administrator, the number of visits to the website, applications for admission, and the number of members has increased in each of the four years 1999 – 2003. Website visits, in particular, have increased significantly from 3,226 in 1999 to 17,833 to date in 2003. Currently there are 21 members on the Family Roster (established June 2002).
Indicators of unmet demand, if available	There are no indicators of unmet demand; however, the roster is best represented in these parts of the province: the Lower Mainland, parts of Vancouver Island, and the Okanagan.
Comments (future plans, evaluation results, federally funded etc.)	The BC Mediator Roster Society is a non-profit society whose board of directors represents government, the judiciary, the bar, the academic community, mediation practitioners and others. Its Roster Committee oversees the admission process; by establishing and adhering to standards for training and experience, the society ensures that the public and the justice system has easy access to qualified to mediators. The society also maintains a Civil Roster (current membership: 172).

Ministry of Attorney General:	
Name of Service	Office for Children and Youth
Description of services provided	Monitors services provided under CFCSA and Adoption Act; conducts investigations at the request of the Attorney General; provides information on services for children and families, provides government with advice on policy and practice; in extraordinary circumstances will advocate on behalf of children and youth to ensure that their views are heard and considered.
Clients served	Children, youth, families, government.
Locations	Public can contact the office by telephone or correspondence.
Number of clients served	N/A
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	Established on September 30, 2002.

Supreme Court of British Columbia	
Name of Service	Litigants' Guide and Case Management Plan Worksheet
Description of services provided	The Guide and Worksheet help lawyers and clients prepare for a Judicial Case Conference. In particular, the worksheet alerts clients to the topics that may be discussed with the Judge or Master and the information that may be requested.
Clients served	Supreme Court litigants: separating and divorcing couples
Locations	Available on the internet and through Supreme Court registries.
Number of clients served	N/A
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	N/A

Supreme Court of British Columbia	
Name of Service	Parenting After Separation Videos
Description of	A selection of Parenting after Separation videos are shown Wednesday and Friday mornings at the New Westminster Courthouse. A Law Courts Education Society representative serves as facilitator. Litigants are invited to view the videos on the morning of the court appearance.
Clients served	Supreme Court litigants with custody or access disputes
Locations	New Westminster
Number of clients served	N/A
Indicators of unmet demand, if available	Available only in one courthouse.
Comments (future plans, evaluation results, federally funded etc.)	N/A

Supreme Court of British Columbia	
Name of Service	Family Law Resource Lists
Description of services provided	<p>Each Supreme Court Registry keeps a Family Law Resource List identifying Family Justice Services available for separating and divorcing people in that particular community. The list is prepared and updated by the Justice Services Branch (MAG) and covers:</p> <ul style="list-style-type: none"> • Family Justice Counsellor, dispute resolution services • Family Justice Counsellor Custody and Access Reports • Parenting after Separation Programs • Family Justice Services Web site & toll free line • BC Mediator Roster Society Web site (Family Chapter) • Family Maintenance Enforcement Program • Legal Services Society
Clients served	Supreme Court litigants: separating and divorcing couples
Locations	Every Supreme Court registry in BC
Number of clients served	N/A
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	N/A

Provincial (Family) Court	
Name of Service	Family Relations Act Case Conference
Description of services provided	<p>The Family Relations Act Case Conference is held, where resources permit, in a conference room. The parties and their lawyers must attend. Usually, each conference is scheduled for at least 1 hour. Rule 7(4) of the Provincial Court (Family) Rules details what happens at a family case conference: The judge at the family case conference may do one or more of the following:</p> <ul style="list-style-type: none"> (a) mediate any of the issues in dispute; (b) decide any issues that do not require evidence; (c) with consent of the parties, refer any issues to mediation with a private mediator; (d) if the regional manager has advised the court in writing that the person or program is readily available to the parties, refer the parties to a family justice counsellor or to a person designated by the Attorney General to provide specialized maintenance assistance; (e) adjourn the case for purposes of mediation under paragraph (c) or a referral under paragraph (d); (f) make an order to which all of the parties consent; (g) direct that any or all applications must be made within a set time; (h) direct the parties to attend a further family case conference, setting a date for that conference; (i) set a date for a trial preparation conference under Rule 8; (j) make any order that may be made at a trial preparation conference under rule 8(4); (k) if the judge does not set a date for a further family case conference or for a trial preparation conference, set a trial date for the matter or set a date for a trial that is restricted to issues defined by the parties; (l) make an interim or final order requested in an application, reply or notice of motion; (m) without hearing witnesses, give a non-binding opinion on the probable outcome of a hearing or trial; (n) make any other order or give any direction that the judge considers appropriate. <p>Some judges combine the functions of a family case conference and trial preparation conference, rather than holding two separate conferences.</p>

Provincial (Family) Court	
Name of Service	Family Relations Act Case Conference, continued
Clients served provincial/ supreme; limited income; etc.)	Provincial Court litigants where child custody, access, or guardianship issues are contested. (Rule 7(1) Provincial Court (Family) Rules)
Locations	All locations that are served by the Provincial Court
Number of clients served	This information is not available. Generally speaking, a family case conference is scheduled, by order of a judge, for all contested issues of custody, access and guardianship that are not quickly resolved.
Indicators of unmet demand, if available	This information has not been compiled. The measurement of this indicator would likely be the length of time between the date of the Judge's order to hold a case conference, and the date of the case conference.
Comments (future plans, evaluation results, federally funded etc.)	There is currently no central data bank which records the number of case conferences and the rate of settlement of issues from case conferences. However, this data is now starting to be collected, presently on Vancouver Island and in future from the entire province. Currently, the available statistics provide us with the number of new cases filed, and the number of court hours devoted to the family division of provincial court.

Provincial (Family) Court	
Name of Service	Family Relations Act Trial Preparation Conference
Description of services provided	<p>The trial preparation conference is held, where resources permit, in a conference room. The parties' lawyers must attend. The litigants aren't required to attend, so long as they have counsel and are readily available and immediately accessible for consultation during the conference. Usually, each conference is scheduled for at least 1 hour. Rule 8(4) of the Provincial Court (Family) Rules details what happens at a trial preparation conference: The judge at the trial preparation conference may do one or more of the following:</p> <ul style="list-style-type: none"> (o) order a party to allow inspection and copying of records, specified in the order, that are or have been in the party's possession or control or, if not in that party's possession or control, are within that party's power, (p) order a party to deliver to the other parties a written summary of the proposed evidence of a witness within a set time; (q) if the judge determines that there are any pending applications relating to the case that have not yet been heard, order that those applications be heard at the trial preparation conference or be brought and heard within a set time; (r) order the parties to file with the registry a statement of agreed facts, within a set time; (s) discuss evidence that will be required and the procedure that will be followed at that trial; (t) order a party to bring to trial a record, specified in the order, that is or has been in the party's possession or control or, if not in the party's possession or control, is within that party's power; (u) grant permission to a party to submit evidence by affidavit at the trial, in accordance with rule 13 (concerning affidavits) and with any directions given by the judge presiding at the trial preparation conference; (v) estimate the time required for a trial' (w) set a trial date for the matter or set a date for a trial that is restricted to issues defined by the parties; (x) make any order or give any direction that the judge considers appropriate. <p>Some judges combine the functions of a family case conference and trial preparation conference, rather than holding two separate conferences.</p>

Provincial (Family) Court	
Name of Service	Family Relations Act Trial Preparation Conference, continued
Clients served (provincial/ supreme; limited income; etc.)	Provincial Court litigants where a judge has determined that a trial is necessary. (Rule 8(1) Provincial Court (Family) Rules)
Locations	All locations that are served by the Provincial Court
Number of clients served	This information is not available.
Indicators of unmet demand, if available	This information has not been compiled. The measurement of this indicator would likely be the length of time between the date of the Judge's order to hold a trial preparation conference, and the date of the conference.
Comments (future plans, evaluation results, federally funded etc.)	There is currently no central data bank which records the number of trial preparation conferences. Many judges combine the functions of case conferences and trial preparation conferences. However, data concerning case conferences is now starting to be collected, presently on Vancouver Island and in future from the entire province. Currently, the available statistics provide us with the number of new cases filed, and the number of court hours devoted to the family division of provincial court.

Provincial (Family) Court	
Name of Service	Mandatory Case Conferences under the Child, Family and Community Service Act (CFCSA)
Description of services provided	<p>The case conference provides a settlement opportunity for disputed child protection matters. The <i>Provincial Court (CFCSA) Rules</i> at Rule 2 directs that:</p> <p>(1) If at the commencement of a protection hearing under section 40 of the Act:</p> <ul style="list-style-type: none"> (a) a consent order is not made, and (b) the judge determines the cases cannot be heard that day <p>the judge must direct the parties and their lawyers to attend a case conference.</p> <p>(2) A judge may at any time direct the parties and their lawyers to attend a case conference:</p> <ul style="list-style-type: none"> (a) if the party requests it, or (b) if the judge considers that it may promote a fair and efficient resolution of the issues. <p>At the case conference the judge may do a number of things, including mediating issues in dispute (other than the issue of whether the child needs protection), make orders and decisions in some circumstances, and carry out case management activities.</p>
Clients served (provincial/ supreme; limited income; etc.)	Provincial Court.
Locations	Province-wide
Number of clients served	As required.

Provincial (Family) Court	
Name of Service	Mandatory Case Conferences under the Child, Family and Community Service Act (CFCSA), continued
Indicators of unmet demand, if available	Consideration should be given to the fact that scheduling and conducting case conferences has an impact on judicial resources and court time.
Comments (future plans, evaluation results, federally funded etc.)	<p>In 1997 Provincial Court Chief Judge Robert W. Metzger, as he then, was offered these comments about the mandatory case conference⁹:</p> <ul style="list-style-type: none"> • while attendance is mandatory, not all cases are appropriate for a case conference; • counsel and social workers are requesting case conference mediation in most cases, i.e., even when attendance is not mandatory; • in the year between June 1996 and October 1997, judges mediated more than 1,000 cases at a case conference event; about two thirds of the cases were resolved; and • the alternative to settling cases is an adversarial style hearing of several days duration.

⁹ Family and Conciliation Courts Review, Vol. 35 No.4, October 1997 418 – 4234. 1977 Sage Publications, Inc.

Legal Services Society:	
Name of Service	Extending Coverage to Qualified Family Cases
Description of services provided	<p>This limited initiative will provide up to 50 additional hours of legal time to about 200 clients. (Clients with approved services referrals. i.e., where coverage is granted for services beyond those permitted by emergency referrals. are not eligible for an extended services referral.)</p> <p>LSS has asked lawyers to submit opinions letter by July 25 on behalf of any client they believe meets the projects criteria. Criteria for extended services are:</p> <p>The client has a current emergency services referral issued on or after May 1, 2002, and</p> <ul style="list-style-type: none"> a) is involved in a high conflict case involving sexual, mental, or physical abuse of themselves or their children; or b) has significant involvement with the Ministry of Children and Family Development; or c) is involved in a case where the opposing party is privately represented, has been unreasonably litigious, and is using the justice system to continue a pattern of abuse; or d) the case involves a significant risk of alienation of the client’s children and permanent destruction of the established relationship between the client and the children (e.g., ongoing denial of access or mobility cases, to prevent the other party from moving with the children);
Clients served (provincial/ supreme; limited income; etc.)	Clients must continue to meet LSS eligibility guidelines
Number of clients served	Approximately 200 clients
Indicators of unmet demand, if available	Under the previous coverage guidelines and the Family Tariff, counsel could seek approval through the Society’s Family Case Management Program (FCMP) for additional hours and services. FCMP allowed the society to assess cases at regular intervals to ensure that cases continued to meet eligibility and coverage guidelines and that the additional hours and services sought were one that a reasonable person would pay a lawyer to provide. One third of all Family Referral met the criteria for additional services and funding.
Comments (future plans, evaluation results, federally funded etc.)	Due to limited funding, this project is set to conclude on March 31/04

Legal Services Society:	
Name of Service	Emergency Referrals for financially eligible clients with legal family problems that meet the coverage criteria
Description of services provided	<p>Family Coverage Criteria: Effective May 22, 2002, LSS restricted legal representation in family law to financially eligible people who:</p> <ul style="list-style-type: none"> • are victims of domestic violence and likely need a physical restraining order, • have a child or children who are at risk and a supervised access order or a restraining order is needed to protect them, • need a change to a current custody or access order to ensure their and/or their child(ren).s safety, or • need a non-removal order to prevent the other parent from permanently moving their child(ren) out of the province (the threat must be real and immanent and involve a permanent change of residence). <p>Coverage is limited to one emergency referral. This includes all the additional relief available under the Family Relations Act or the Divorce Act, such as custody, access, and maintenance orders, and orders restraining the disposition of property, within the limits of the family tariff.</p> <p>Exceptions: Coverage may be approved in extenuating circumstances. These include situations where:</p> <ul style="list-style-type: none"> • court documents refer to sexual, physical, or emotional abuse and the offending parent or partner is back in the community, • a serious condition or disability makes the applicant unable to represent him or herself and the family matter must be resolved to avoid further harm, • a child is kidnapped by the access parent and there is an existing custody order or separation agreement, • the applicant is the respondent in a maintenance enforcement committal proceeding and will be sent to jail as a result of the failure to pay maintenance, • there has been complete denial of access for three months or more, in breach of a court order or separation agreement, and • instances where the applicant is a victim of litigation harassment.

Legal Services Society:																																						
Name of Service	Emergency Referrals for financially eligible clients with legal family problems that meet the coverage criteria (continued)																																					
Description of services provided (continued)	Emergency referrals are limited to the hours billable under the Family Emergency Tariff. The referral provides only enough hours to allow counsel to draft court documents, negotiate a settlement if possible, and conduct interim applications. The hours are generally insufficient for counsel to prepare for and conduct a Supreme Court trial.																																					
Clients served (provincial/ supreme; limited income; etc.)	<p>Income / asset guidelines (Effective April 1, 2000)</p> <table border="1"> <thead> <tr> <th rowspan="2">Household Size</th> <th colspan="2"><u>Net Household Monthly Income</u></th> <th rowspan="2">Assets Personal Property</th> </tr> <tr> <th>Criminal cases Includes appeals</th> <th>All other cases Includes Appeals</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>\$925</td> <td>\$1,002</td> <td>\$2,000</td> </tr> <tr> <td>2</td> <td>1,388</td> <td>1,504</td> <td>4,000</td> </tr> <tr> <td>3</td> <td>1,620</td> <td>1,755</td> <td>4,500</td> </tr> <tr> <td>4</td> <td>1,792</td> <td>1,941</td> <td>5,000</td> </tr> <tr> <td>5</td> <td>1,975</td> <td>2,140</td> <td>5,500</td> </tr> <tr> <td>6</td> <td>2,147</td> <td>2,326</td> <td>6,000</td> </tr> <tr> <td>7 or more</td> <td>2,294</td> <td>2,486</td> <td>6,000</td> </tr> </tbody> </table>				Household Size	<u>Net Household Monthly Income</u>		Assets Personal Property	Criminal cases Includes appeals	All other cases Includes Appeals	1	\$925	\$1,002	\$2,000	2	1,388	1,504	4,000	3	1,620	1,755	4,500	4	1,792	1,941	5,000	5	1,975	2,140	5,500	6	2,147	2,326	6,000	7 or more	2,294	2,486	6,000
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Locations	Intake for the issuance of Family Emergency Services is conducted in the 7 Regional Centres, in 20 communities with LSS Local Agents, and through a 1-800 phone line																																					
Number of clients served	Approximately 4000 financially qualified clients will receive these limited referrals																																					
Indicators of unmet demand, if available	Prior to the budget cuts (and the subsequent changes to the Family coverage policy and Family Tariff), LSS received an average of 25,000 applications and issued 15,526 referrals (2000/01). Two reports released in 2001 indicated that the LSS family coverage policy and financial criteria were too restrictive and not meeting real demand.																																					
Comments (future plans, evaluation results, federally funded etc.)	N/A																																					

Legal Services Society:	
Name of Service	CFCSA Referrals
Description of services provided	<p>LSS provides legal representation to financially eligible clients who have a legal problem that falls under the Child, Family, and Community Service Act (CFCSA) and the LSS</p> <p>CFCSA coverage guidelines. The LSS guidelines cover situations where —</p> <ul style="list-style-type: none"> • the Ministry of Children and Family Development has taken, or threatens to take, their child(ren) away from them, or • legal representation is required to deal with custody and access issues related to a child in the care of the Ministry for Children and Family Development. <p>Legal aid provides coverage to obtain or vary access to children in continuing care of the Ministry for Children and Families.</p>
Clients served (provincial/ supreme; limited income; etc.)	
Locations	Intake for CFCSA referrals is provided at 7 Regional Centres, 20 communities with Local Agents, and via a 1-800 phone line
Number of clients served	2392 referrals issued
Indicators of unmet demand, if available	2720 applications
Comments (future plans, evaluation results, federally funded etc.)	N/A

Legal Services Society:	
Name of Service	Family Duty Counsel Projects
Description of services provided	<p>In fall 2002, LSS began establishing family duty counsel pilot projects in provincial courts across BC. The projects provide two duty counsel on family list days (i.e. first time court appearances for Family Relations Act and Child, Family, and Community Service Act matters, usually held one to two days each week in larger centres and once a month in smaller communities).</p> <p>The pilots includes giving financially eligible family clients access to alternative dispute resolution services;</p> <ul style="list-style-type: none"> • up to 3 hours of legal advice; • duty counsel assistance and consistency of counsel for return visits; • help with preparing consent orders or family agreements and uncontested custody, access or support hearings; and • access to print and on-line family self-help materials through Family Law LINKs. <p>Priority is given to people who have matters in court that day and who meet the LSS income test for advice services.</p> <p>There are some variations in the projects. Surrey has a full-time lawyer acting as lead duty counsel on all court days, as well as a second lawyer from a rotating roster present to avoid conflicts. Appointments to get advice may be made directly through the lawyer. Port Coquitlam is similarly set up with a lead duty counsel present three days per week, and a second lawyer from the roster. Appointments for advice may be made directly with the lead lawyer.</p> <p>Vancouver’s Robson Square duty counsel project operates in collaboration with family justice counsellors with whom counsel are co-housed at the provincial court. Clients are offered “one stop shopping” with the opportunity to access and get assistance with, on-line self help materials through the LSS LINK and Family Law in BC websites; as well as referrals to and between the FJCs and duty counsel lawyers.</p>

Legal Services Society:											
Name of Service	Family Duty Counsel Projects (continued)										
Description of services (continued)	The primary difference between Vancouver, Surrey, Port Coquitlam and other duty counsel locations, is that counsel can take appointments for advice (as opposed to a drop in service) and counsel are present for more days than the initial appearance dates.										
Clients served (provincial/ supreme; limited income; etc.)	<p>Clients served are unrepresented by counsel, predominantly those with matters in Provincial court, and of modest income. To help integrate services where possible, the test used to determine financial eligibility for duty counsel service (set out below) is the test used by the family justice counsellors (FJCs).</p> <p style="text-align: center;"><u>Family Duty Counsel Financial Eligibility Test</u></p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Number of family members*</th> <th style="text-align: center;">Annual/Monthly net income**</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">4 or fewer</td> <td style="text-align: center;">\$28,000/\$2,333.33</td> </tr> <tr> <td style="text-align: center;">5</td> <td style="text-align: center;">\$33,000/\$2,750.00</td> </tr> <tr> <td style="text-align: center;">6</td> <td style="text-align: center;">\$35,000/\$2,916.67</td> </tr> <tr> <td style="text-align: center;">7 or more</td> <td style="text-align: center;">\$38,000/\$3,166.67</td> </tr> </tbody> </table> <p>* “Family members” include a parent or person looking after the children, and the children who live with that person.</p> <p>** “Income” is the person’s net income from all sources, but not including the income of a new spouse.</p> <p>Some clients with Supreme Court matters are served where there are no other resources to assist them and the client finds his/her way to duty counsel; some may be referred by FJCs. Family duty counsel may also assist clients with SC problems where a matter is jurisdictionally intertwined and he/she has particular expertise e.g. family maintenance enforcement proceedings and/or need to vary SC maintenance order. Clients who exceed the financial test may be assisted, but counsel has the discretion to limit assistance, which must be given to the financially eligible clients in preference to ineligible clients.</p>	Number of family members*	Annual/Monthly net income**	4 or fewer	\$28,000/\$2,333.33	5	\$33,000/\$2,750.00	6	\$35,000/\$2,916.67	7 or more	\$38,000/\$3,166.67
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Legal Services Society:	
Name of Service	Family Duty Counsel Projects (continued)
Locations	<p>The ultimate goal is to provide this service in all full service and some circuit provincial courts across the province. The service has been available in Vancouver since November 2002. Since then, pilots have been established in Surrey (January 2003); Prince George (February); Colwood, Nanaimo, Prince Rupert, Smithers, Terrace and Victoria (March); Kamloops and Kelowna (April); and Richmond (August).</p> <p>Locations started in September are: Abbotsford, Burns Lake, Campbell River, Courtenay, Chilliwack, Cranbrook, Dawson Creek, Duncan, Fort St. John, Nelson, New Westminster, North Vancouver, Penticton, Port Coquitlam, Quesnel, Sechelt, Salmon Arm, Vernon, and Williams Lake.</p> <p>Locations starting in October are: New Hazelton, Powell River, Fort St. James, Fernie, Creston, Golden, Fort Nelson, Rossland and Castlegar, Port Alberni and Port Hardy. Grand Forks is anticipated to start in November.</p>
Number of clients served	Approximately 3,204 clients have been served in the 11 project sites which commenced prior to August, 2003; between Nov. 2002 and end September, 2003.
Indicators of unmet demand, if available	The number of clients who seek assistance from provincial court family duty counsel with Supreme Court matters, is an indicator of an unmet demand for assistance with family matters in Supreme Court. Similarly, potential clients dropping by LSS intake and LSS family clinics indicate the unmet need. There is an unmet demand for service for low income family clients in remote and northern locations, as indicated by the perception of counsel who have worked there, and the lack of lawyers generally in those communities.
Comments (future plans, evaluation results, federally funded etc.)	<p>Future plans include expansion of family duty counsel service to include counsel at case conferences in certain pilot locations. Details are to be worked out with interested members of the judiciary. Possible expansion of duty counsel services to more remote communities is being worked upon.</p> <p>The family duty counsel pilot projects are being evaluated. A detailed evaluation of the Robson project is underway, and as are plans to evaluate the service generally by examining a number of other locations.</p>

Legal Services Society:											
Name of Service	Family Advice Lawyer Project										
Description of services provided	<p>LSS and the Ministry of Attorney General’s Family Justice Services Division (FJSD) are collaborating on a family advice lawyer project to provide up to three hours of free legal advice to low income parents experiencing separation or divorce.</p> <p>Legal advice is provided by LSS staff lawyers or private bar lawyers on the society’s family duty counsel pilot roster in that location, at the Family Justice Counsellors’ office. Clients are referred by FJCs and child support officers.</p> <p><i>Any client qualifying for FJC dispute resolution services</i> may be referred for an initial 45 minute appointment with the advice lawyer. Clients who meet the ministry’s FJSD income screening criteria may receive up to three hours of advice lawyer services for issues concerning: custody, access, guardianship, and child support, property (limited), tentative settlement agreements and court procedures.</p> <p>The objectives are to: inform clients about their legal options, ensure settlements achieved with the help of family justice counsellors (FJC) are more durable by providing clients with appropriate and timely legal advice, and reduce the need for litigation.</p>										
Clients served (provincial/ supreme; limited income; etc.)	<p>Clients served may have matters in either Provincial or Supreme Court or may not have commenced any legal proceedings at all. The test used to determine financial eligibility for advice lawyer service (set out below) is the test used by the family justice counsellors (FJCs).</p> <p style="text-align: center;"><u>Family Duty Counsel Financial Eligibility Test</u></p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Number of family members</th> <th style="text-align: left;">Annual/Monthly net income*</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">4 or fewer</td> <td style="text-align: center;">\$28,000/\$2,333.33</td> </tr> <tr> <td style="text-align: center;">5</td> <td style="text-align: center;">\$33,000/\$2,750.00</td> </tr> <tr> <td style="text-align: center;">6</td> <td style="text-align: center;">\$35,000/\$2,916.67</td> </tr> <tr> <td style="text-align: center;">7 or more</td> <td style="text-align: center;">\$38,000/\$3,166.67</td> </tr> </tbody> </table> <p>* “Family members” include a parent or person looking after the children, and the children who live with that person.</p> <p>** “Income” is the person’s net income from all sources, but not including the income of a new spouse.</p>	Number of family members	Annual/Monthly net income*	4 or fewer	\$28,000/\$2,333.33	5	\$33,000/\$2,750.00	6	\$35,000/\$2,916.67	7 or more	\$38,000/\$3,166.67
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Legal Services Society:	
Name of Service	Family Advice Lawyer Project (continued)
Clients served (continued)	Although screened initially by the FJCs, counsel retest to determine whether to schedule additional appointments and to maintain LSS records for future evaluation.
Locations	The service began as a part of the FDC project in Vancouver in November 2002. By spring 2003 it was also available in Kamloops, Kelowna, Prince George, Surrey, Vancouver, and Victoria. It is an expansion of a pilot project in Kelowna during 2001/2002 in which family justice counsellors referred selected clients to two private bar lawyers funded by LSS to provide summary advice services.
Number of clients served	N/A
Indicators of unmet demand, if available	The fact that there are many clients who see FJCs, who do not meet the FJC narrow definition of “qualifying for FJC dispute resolution services” yet are referred by the FJCs to the Family Advice lawyers is a significant indicator of an unmet demand for service. The lawyers provide the service to the persons referred, although they outside the strict interpretation of “qualifying for dispute resolution services”. People involved in Supreme Court matters, who have property issues, or do not otherwise meet the definition (because the matter cannot be mediated, for example, family violence an issue or one party unwilling) need advice and assistance as well.
Comments (future plans, evaluation results, federally funded etc.)	<p>This project is funded in part by the AG’s department, with federal justice monies, in Surrey, Vancouver & Kelowna. This funding applies only to clients who meet the narrow FJC definition of “qualifying for FJC dispute resolution services”. Many other clients are seen by the Family Advice Lawyers, on referral by FJCs and are assisted and funded by LSS at the other locations. The FJCs supply office space for the lawyers to meet the FJC referred clients in every location, and provide administrative support such as reception.</p> <p>Continuation of the projects beyond March 31, 2004 is subject to adequate funding. An evaluation of the project at Robson Square is underway. Evaluation of the project in other locations is subject to funding but has been planned for by ensuring clients sign appropriate releases.</p>

Legal Services Society:											
Name of Service	Supreme Court Advice Lawyer Project										
Description of services provided	An Advice lawyer will be available, for four hours one day per week, to provide unrepresented, low income litigants with: specific legal advice on family matters, limited advice on property matters, assistance and advice on court forms and procedures; referrals to and assistance with other resources, such as the LSS LINK. Advice lawyers will only provide advice. They will not appear in chambers or otherwise act in a traditional duty counsel capacity.										
Clients served (provincial/supreme; limited income; etc.)	<p>Clients served will unrepresented, have family matters in Supreme Court and be of modest income. To help integrate services where possible, the test used to determine financial eligibility for advice lawyer service (set out below) is the test used by the family justice counsellors (FJs).</p> <p style="text-align: center;"><u>Family Duty Counsel Financial Eligibility Test</u></p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;"><u>Number of family members*</u></th> <th style="text-align: center;"><u>Annual/Monthly net income**</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">4 or fewer</td> <td style="text-align: center;">\$28,000/\$2,333.33</td> </tr> <tr> <td style="text-align: center;">5</td> <td style="text-align: center;">\$33,000/\$2,750.00</td> </tr> <tr> <td style="text-align: center;">6</td> <td style="text-align: center;">\$35,000/\$2,916.67</td> </tr> <tr> <td style="text-align: center;">7 or more</td> <td style="text-align: center;">\$38,000/\$3,166.67</td> </tr> </tbody> </table> <p>* “Family members” include a parent or person looking after the children, and the children who live with that person.</p> <p>** “Income” is the person’s net income from all sources, but not including the income of a new spouse.</p> <p>Clients who exceed the financial test may be assisted, but counsel has the discretion to limit assistance, which must be given to the financially eligible clients in preference to ineligible clients.</p>	<u>Number of family members*</u>	<u>Annual/Monthly net income**</u>	4 or fewer	\$28,000/\$2,333.33	5	\$33,000/\$2,750.00	6	\$35,000/\$2,916.67	7 or more	\$38,000/\$3,166.67
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Locations	The project is being piloted in Kamloops, Kelowna, Prince George and Victoria. It is commencing October 6, 2003 in Kamloops and Kelowna, October 20 in Prince George and October 14 in Victoria.										

Legal Services Society:	
Name of Service	Supreme Court Advice Lawyer Project (continued)
Number of clients served	As the project has just commenced or is about to commence in each of the locations, this cannot be determined at this date.
Indicators of unmet demand, if available	Clients attending provincial court family duty counsel services looking for assistance with Supreme Court matters; clients referred by Family Justice Counsellors (because they cannot assist with Supreme Court matters); grassroots organizations providing pro bono services (such as in New West) and societies organizing pro bono clinics such as the Salvation Army & Access Justice are all indicators of the need for assistance. Only LSS is providing assistance dedicated to family matters. Anecdotal observations from counsel and judges as to the numbers of unrepresented litigants in chambers, and a presentation at the July 2003 Family law CLE in Vancouver on the increase in unrepresented litigants reflect the apparent unmet need for assistance for people in Supreme Court.
Comments (future plans, evaluation results, federally funded etc.)	Pilot projects (run til March 31, 2004) will need to be evaluated. Funding needs to be established to continue, expand or vary the service. There is the potential for various forms of duty counsel assistance to unrepresented clients in Supreme Court. Variations may include assistance in the court room for unopposed, consent or urgent ex-parte applications and/or attendance at case conferences. Counsel attending case conferences has assisted in early resolution of cases in provincial court, it may be reasonable to have similar success in Supreme Court.

Legal Services Society:	
Name of Service	Family Mediation Initiative
Description of	<p>Through this initiative, LSS will provide limited funding for a maximum of 250 family cases that are amenable to mediation. LSS hopes this initiative will provide a viable alternative for people with low incomes to obtain final resolutions of their issues, even in high conflict cases. If a lawyer has a family referral that involves issues which he/she believe should be resolved through mediation, then the lawyer can seek a Mediation Services Authorization. Each authorization will allow counsel —</p> <ul style="list-style-type: none"> • up to three hours to assist the client before and during the mediation process; <i>and</i> • to retain a qualified mediator for up to six hours in accordance with the billing cautions in the Disbursements section of the <i>Guide to Legal Aid Tariffs</i> (the mediator’s name is required); <i>and</i> • up to three hours to prepare any agreement or consent order that results from the mediation. <p>A case will be authorized to go to mediation if counsel believes mediation is a viable option <i>and</i> all parties are willing to participate.</p>
Clients served (provincial/ supreme; limited income; etc.)	Mediation may be employed to resolve any of the wide range of family law issues, including custody and access, support, and property division. To qualify for a Mediation Services Authorization, a client must have an open LSS Family Law Referral.
Locations	This project is not restricted to one location; lawyers throughout the province can seek authorization for Mediation Services.
Number of clients served	As funding is limited, LSS will authorize only the first 250 requests.
Indicators of unmet demand, if available	LSS implemented this one-time family mediation initiative in response to requests from the bar that LSS increase support for mediation services
Comments (future plans, evaluation results, federally funded etc.)	For evaluation purposes, lawyers and clients involved in this initiative must complete Evaluation and Results surveys The surveys will help LSS determine whether mediation helped resolve some or all issues, which issues, and how the resolution was formalized, if at all. If the mediation was unsuccessful in resolving the issues, contributing factors will be identified

Public Legal Education and Information	
Name of Service	Major Public Legal Education and Information Providers
Description of services provided	<p>Public legal education and information is provided by many government and non-government agencies and organizations. Major non-government providers in BC include the Legal Services Society, People’s Law School, Law Courts Education Society, Canadian Bar Association BC Branch, and the Law Foundation. Many other organizations are also involved in providing legal information to their client groups.</p> <p>PLEI is provided in a variety of formats including workshops, publications, brochures, videos, tapes accessed via telephone, and websites. The following are examples of key family law PLEI publications and resources available in BC:</p> <p>Law Courts Education Society of BC:</p> <ul style="list-style-type: none"> · Aboriginal Parenting After Separation · Parents are Forever/Parent pour la Vie · Relationship Violence Case Studies <p>People’s Law School</p> <ul style="list-style-type: none"> · BC Child Support · The Childs’ Right to Love: Information for Grandparents, Relatives and Others Close to the Child <p>Canadian Bar Association, BC Branch</p> <ul style="list-style-type: none"> · Family Law – Dial – A- Law Tapes and Scripts · Family Violence – Dial - A – Law Tapes and Scripts <p>(Please see Legal Services Society pages for their PLEI publications).</p>
Clients served	Anyone who chooses to access PLEI.
Locations	N/A
Number of clients served	N/A
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	The BC PLEI Working Group is undertaking a PLEI needs assessment and survey, funded by the Law Foundation, in the coming year.

Public Legal Education and Information	
Name of Service	Ministry of Attorney General Family Justice Enquiry Line and Website
Description of services provided	The enquiry line is a toll free service that provides taped information on a variety of family law issues. Callers may also leave a message requesting that publications be mailed to them. The website, which operates through the Ministry of Attorney General website, offers information and publications. Both the website and enquiry line cover topics such as the basics of family law, options for decision making, who can help, BC's family justice system and other resources available.
Clients served (provincial/supreme; limited income; etc.)	Anyone may access either service.
Locations	The Enquiry line operates on a toll free basis throughout BC: 1-888-216-2211 In Vancouver: (604) 660-2192 The website is address is: http://www.ag.gov.bc.ca/family-justice/
Number of clients served	The enquiry line received an average of 626 calls per month in 2002/03.
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	The development of the website, and the development and on-going cost of the enquiry line, are funded by the Department of Justice Canada.

Public Legal Education and Information	
Name of Service	Legal Services Society Law Line
Description of services provided	Legal information and referral for all callers; summary legal advice to clients who qualify financially. Calls received on a wide range of legal issues, including family, criminal, debtor/creditor, and administrative tribunals. Staff may initially determine a more appropriate or higher level of service is available elsewhere and suggest that service as an alternative. Potential services beyond initial phone interview include reviewing documents, sending correspondence, making phone calls, and drafting pleadings.
Clients served (provincial/supreme; limited income; etc.)	Phone service is province wide; no in person services. Advice services generally limited to three hours per client issue for financially eligible clients.
Locations	Service based at LSS Regional Office in Vancouver.
Number of clients served	Total calls taken approximately 2000 per month; roughly 35% are family law calls.
Indicators of unmet demand, if available	Statistical indicators include “abandoned” calls tracked by phone system. Anecdotal indicators include feedback from callers and staff about what level of service we were able to provide, compared to what full needs of client apparently were.
Comments (future plans, evaluation results, federally funded etc.)	Law Line information and referral services have been operating for several years. Expansion to legal advice began September 15, 2003, on a pilot basis to March 31, 2004. Interim evaluation scheduled for completion by end of February for assessment by LSS Board about continuing the expanded program.

Public Legal Education and Information	
Name of Service	Legal Services Society: Public Legal Information Materials
Description of services provided	The society produces several publications relating to family law issues. Topics include If Your Marriage Breaks Up: Dealing with the Legal issues, Living Common-Law: Your Rights and Responsibilities, For the Sake of Our Children,(video) If your Child is taken by the Ministry, Legal Fact Sheets for Battered Women, Making your case (vide) Parents Rights, Kids Rights, and Sponsorship Breakdown. Speaking of Abuse, and For Your Protection: Peace Bonds and Restraining Orders are co-produced with Victim Services. Many of the publications are available in languages other than English.
Clients served (provincial/ supreme; limited income; etc.)	Publications are available free of charge. The subject areas focus on issues affecting people with low or moderate incomes.
Locations	Publications are widely promoted and distributed through court services, family justice counselors, family service agencies, community organizations, government agents, LSS offices. As well, they are available on the LSS Web site. For detailed information about publications and ordering information, see http://www.lss.bc.ca/legal_info/pubs_main.asp
Number of clients served	Last year, the society distributed 125,500 copies of family law materials.
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	Although the society is encouraging people to use information that is available on the web site, it will continue to provide basic information in print in English and other languages to satisfy the needs of our client groups who prefer or require basic information in print form. New materials to replace Living Common Law And If your Marriage Breaks Up will be developed as multi lingual print and web products.

Public Legal Education and Information	
Name of Service	Legal Services Society: Family Law Web site
Description of services provided	Web site dedicated to assisting people understand and resolve their family law issues (content and process)
Clients served (provincial/ supreme; limited income; etc.)	Content directed to people of modest means. Complex property and or family businesses not covered. Includes self help kits for unrepresented litigants for initial applications, and variations of support orders in Family and Supreme Court, guides for parents and community workers in cases where child protection is an issue, as well as links to the Society's publications in pdf format that relate to Family Law
Locations	www.familylawlss.bc.ca
Number of clients served	The site receives 2300 visits each month.
Indicators of unmet demand, if available	A review of phase one of the site, conducted last spring identified a number of potential changes and additions to the site, including more self help kits, development of interactive forms and more detailed information on how to get free or low cost assistance.
Comments (future plans, evaluation results, federally funded etc.)	See above. The review of phase one was carried out by Kinetix media Communications. The review determined that the site is well used by people who are helping people use the justice system. Personal users expressed satisfaction with the information that was available. Development of the web site is funded by the Law Foundation.

Public Legal Education and Information	
Name of Service	Legal Services Society: Legal Information Network Kiosk (LINK)
Description of services provided	<p>A legal information network kiosk (LINK) is a public access computer people can use to find legal information and self-help resources on the Internet. LINK computers, along with selected LSS print materials, are currently available at 7 LSS Regional Centres, 12 Local Agent offices, and 59 government agent offices. At Regional Centres these services are known as LINKPLUS because they also provide additional resources such as legal information videos.</p> <p>LINK computers feature a front page with buttons (see below) that give quick access to specific areas of law. This page is accessible from any computer at: http://www.lss.bc.ca/lsslink.</p> <p>1. LINK's topical hot buttons</p> <div style="margin-left: 40px;"> <p>General Information</p> <ul style="list-style-type: none"> ● Electronic Law Library ● Legal Services Society <p>Topics</p> <ul style="list-style-type: none"> ● Aboriginal Issues ● Criminal ● Debt, Credit, and Bankruptcy ● Employment ● Family ● Immigration ● Legal Aid ● Pensions ● Tenancy / Renting ● Welfare ● Wills, Estates, Probate ● Workers' Compensation </div> <p>The courthouse LINKs are also referred to as Family Law LINKs because they provide added support for the Family Duty Counsel projects.</p>

Non-governmental Organizations and Agencies	
Name of Service	Non-governmental Organizations and Agencies
Description of services provided	<p>Non-governmental organizations provide a variety of services to families experiencing separation and divorce, ranging from provision of information, referral to other services, support and counselling and advocacy. Examples include:</p> <p>Women’s agencies:</p> <ul style="list-style-type: none"> o Transition Houses in many BC communities o Vancouver Custody and Access Support and Advocacy o Central Okanagan Elizabeth Fry Society o Cranbrook Women’s Resource Society <p>Father’s Groups:</p> <ul style="list-style-type: none"> o Non-custodial Parents Association o Father’s Rights Action Group o Parent and Child Advocacy Coalition <p>Counselling and Support Services:</p> <ul style="list-style-type: none"> o Victoria Single Parent Resource Centre Society o Separation and Divorce Resource Centre (Victoria) o Burnaby Family Life Institute o Divorce Lifeline o Living Through Loss Counselling Society of BC (Vancouver) <p>Multicultural / First Nations Organizations:</p> <ul style="list-style-type: none"> o MOSAIC (Vancouver) o Multicultural Society of Kelowna o Carrier Sekani Family Services o Native Courtworker and Counselling Service of BC o Native Friendship Centres <p>Family Service Agencies:</p> <ul style="list-style-type: none"> o Ark Child Services Society (Burnaby) o Family Education and Support Centre (Maple Ridge) o Comox Valley Services Association
Clients served	Varies by organization
Locations	In most communities
Number of clients served	Not known
Indicators of unmet demand, if available	Unavailable
Comments (future plans, evaluation results, federally funded etc.)	

Non-Governmental Organizations and Agencies	
Name of Service	Pro Bono clinics
Description of services provided	Lawyers donate their time to provide legal advice to low income clients without charge, through clinics. Clients contact the clinic and book an appointment, usually a half hour. Lawyers will provide advice and assistance with form completion, but will not represent a clinic client in court. Because the clinics are staffed by lawyers on a rotation basis, clients are not likely to see the same lawyer if they return for further service. Clinics usually operate for a limited numbers per week. There are two organizations that provide most of the pro bono clinic services in BC: the Salvation Army and the Western Canada Society to Access Justice.
Clients served provincial/ supreme; limited income; etc.)	Services are income tested, and aimed at low income people. Low income individuals who are not financially eligible for legal aid, or financially eligible but do not meet the coverage criteria, may be served by pro bono clinics.
Locations	ProBonoNet BC lists clinics that provide family law services in the following areas: Southern Islands: 7 clinics Vancouver, Coast and Mountains: 22 clinics Thompson/Okanagan: 5 clinics BC Rockies / Kootenays: 3 clinics North Eastern BC: 3 clinics
Number of clients served	Not available at this time.
Indicators of unmet demand, if available	Not available at this time.
Comments (future plans, evaluation results, federally funded etc.)	Pro Bono Law of BC was formed in 2002 to promote, coordinate and facilitate the delivery of pro bono legal services in BC. It has established best practices protocols and a website to link lawyers interested in pro bono work with community organizations. It was also instrumental in organizing the Law Societies' insurance coverage for non-practicing lawyers who wish to provide pro bono services. Both the Salvation Army and Access Justice have signed onto Pro Bono Law of BC's Best Practices protocols.

Private Sector:	
Name of Service	Family Mediation Services
Description of services provided	<p>A variety of family mediator services are available to the public and the justice system. This includes:</p> <ul style="list-style-type: none"> • private sector practitioners, such as family law mediators who by completing the Law Society’s requirements are designated family law mediators; • accredited members of Family Mediation Canada, a national organization with an accreditation process; and • members of non-profit organizations, such as the BC Mediator Roster Society.
Clients served (provincial/ supreme; limited income; etc.)	Litigants throughout the province can access these services, generally through websites or by telephone.
Locations	Mediators are available, in varying concentrations, province-wide.
Number of clients served	N/A
Indicators of unmet demand, if available	N/A
Comments (future plans, evaluation results, federally funded etc.)	To date, the demand for mediation services has not outstripped the supply of qualified mediators; however, this could become problematic in the future, especially in the northern interior, northern and south eastern parts of the province.

Private Sector:	
Name of Service	Legal services provide by the private bar
Description of services provided	All legal services referred to under the umbrella of “family law”, including drafting contracts, litigation and mediation. May also overlap into areas of Corporate and Tax law, as well as Wills and Estates.
Clients served provincial/ supreme; limited income; etc.)	Legal services are provided in all levels of Court. Clients are required to pay their lawyers, either on an on-going basis or from the proceeds of sale of family and other assets.
Locations	Throughout B.C.
Number of clients served	Essentially, all lawyers’ clients who are not covered by the Legal Services Society.
Indicators of unmet demand, if available	The number of self-represented litigants appearing at Court, especially in Supreme Court, speaks to the issue of this service: cost. While many of the services provided by the private bar can be extremely cost efficient, contested action and litigation can be expensive.
Comments (future plans, evaluation results, federally funded etc.)	The private bar in the area of family law has seen tremendous growth over the last 20 years. Whether that demand and growth can, will or should continue remains to be seen.

Private Sector:	
Name of Service	Collaborative family law (“CFL”)
Description of services provided	As in general family law, CFL can provide legal services referred to under the umbrella of “family law”, including drafting contracts, and mediation. A key feature is the contract among parties and their lawyers to resolve their dispute without going to court. If either party brings on a contested court application, the counsel must resign the and cannot continue acting in the contested court proceeding. Another unique feature is the inclusion of other professionals. Mental Health professionals can be retained by the parties to help resolve parenting issues, communication, and to work with them on underlying emotional issues. Financial Specialists are available to work with the parties as a neutral, and Child Specialists are available to give a voice to the children. If any valuations are needed, these are done by way of neutral experts, unlike the usual use of experts in family law, who typically work for one client.
Clients served provincial/ supreme; limited income; etc.)	This is essentially a service for clients with the resources to pay for counsel. There is a small pilot Collaborative Practicum being run out of UBC commencing in January to service a low income clientele.
Locations	In most parts of the province. Currently, lawyers have been trained in Vancouver and the lower mainland, Vancouver Island (including Victoria and Nanaimo) the Okanagan, the Kootenays, Prince George and Dawson Creek. Collaborative groups have formed in the Vancouver, the lower mainland, Victoria, Nanaimo, Courtney, Kootenays, and Kelowna.
Number of clients served	At this point, limited; however, the demand for these services has grown remarkably fast.
Indicators of unmet demand, if available	Not available.
Comments future plans, evaluation results, federally funded etc.)	CFL has experienced extremely rapid growth in BC. Of emerging concern is how to fund this resource for a low-income clientele. Because of the support built into the collaborative process, it meets the needs of clients who may not be able to utilize mediation because of too much conflict or because of an inability to negotiate without the support of an advocate.

Ministry of Human Resources:	
Name of Service	Family Maintenance Program
Description of services provided	<p>BC Employment and Assistance recipients are required to assign their maintenance rights to government. Assignment applies to either child or spousal maintenance rights and means that government can obtain a court order and enforce these rights on clients' behalf. Individuals must assign their maintenance rights to be eligible for financial assistance. Through the Family Maintenance Program (FMP), the Ministry assists assigned income assistance recipients to seek maintenance from those legally obligated and financially able to pay support. The Ministry seeks (1) ensure that family breakdown does not impoverish dependent family members or place an excessive burden on public funds, (2) promote the financial independence of clients by ensuring that they have enforceable maintenance orders. The Family Maintenance Program uses the Family Maintenance Enforcement Program (FMEP) to monitor and enforce all maintenance orders belonging to income assistance recipients.</p> <p>Assigning maintenance rights means that recipients no longer have to go after or collect maintenance payments on their own or at their own expense. FMP workers and lawyers are available to help recipients get a legal order or agreement for the maintenance that is due to them. The order or agreement can remain in place even after the recipient leave BC Employment Assistance and can help them in their transition to work.</p> <p>The Ministry Family Maintenance Workers:</p> <ul style="list-style-type: none"> • Refer recipients and their children to community agencies for counseling and support services. • Work on recipient's behalf to get consent order where possible. • Apply to the court to get a legal order if a consent order cannot be reached with the other parent. • Answer questions recipients have about the court and how it works. • Assist recipients in changing an order to meet Child Support Guidelines. • Help recipients if the other parent applies to court to lower or cancel their maintenance payments. • Enroll recipient's maintenance order FMEP

Ministry of Human Resources:	
Name of Service	Family Maintenance Program (continued)
Clients served provincial/ supreme; limited income; etc.)	BC Employment and Assistance clients. FMP is mandated to work with both Provincial & Supreme court actions under the BC Family Relations Act.
Locations	All major communities within BC
Number of clients served	There are presently 23,444 open Family Maintenance files.
Indicators of unmet demand, if available	There are 24,210 single parents in receipt of Employment & Assistance.
Comments (future plans, evaluation results, federally funded etc.)	Future plans for the program are in the process of being evaluated.

***Appendix D:
The Unified Family Court Project
1974-1977***

Unified Family **Court Project: 1974-1977**

*A Summary Prepared for the
Family Justice Reform Working Group*

October 2003

The Unified Family Court Project¹⁰ operated in Surrey, Richmond and Delta from April 1974 to March 1977. The Family and Children’s Law Commission had proposed a pilot project that would integrate the family law work of the Provincial and Supreme Courts under one roof, with the same social services and administrative support available to both. The project was intended to create an identity for the court as the place for people to go to deal with family problems.

Since it did not involve creating a court with comprehensive jurisdiction over family matters, the pilot could be more accurately described as an “integrated” rather than a “unified” family court.

Legislation was passed to allow Provincial Court judges to conduct hearings and submit reports and recommendations to the Supreme Court on all family matters, including division of property—an area in which the Provincial Court has no jurisdiction. The Supreme Court then could accept such reports as evidence and adopt the Provincial Court judge’s recommendations, in whole or in part.

The Commission expected this legislation to promote interaction and co-operation between the two courts and in that way to “unify” them as far as possible under a two-tiered system. It also expected the legislation to provide the basis for a more efficient organization of court administration services, including a unified case filing system.

These were some of the main features of the Unified Family Court Project.

Intake/Family counsellors

The Commission envisioned an intake system that would

- offer immediate help to people facing the full range of court-related family problems;
- limit the number of times they would have to tell their stories to different court personnel; and
- make more accessible the social and legal resources that people need.

The Commission expected that these objectives would best be met if family counsellors provided intake services and if they were located in the courthouse.

Findings:

- Intake services require a well-trained person, situated in the courthouse. That person needs to know the full range of available social and legal services and have interviewing and guidance skills to help people identify needs and use appropriate services. It was advantageous to have family counsellors providing this service.
- Because they were present full-time, in the courthouse family counsellors were better able to help people with procedures and to counsel them both before and after court appearances.
- From the clients’ point of view, the UFC’s role was not merely to provide a legal service, but more broadly to help with family problems. Clients seemed to feel that the UFC was the place to come for information and guidance about problems of separation, divorce, parent-child relationships and serious marital conflict.

¹⁰Source: Amren, Bergen and Flora MacLeod: The British Columbia Unified Family Court Project 1974 to 1977, A Description and Evaluation (1979)

Because counselling services were available in the building, were able to refer people directly to these services and this saved time for everyone. With few exceptions, clients and professionals found it convenient, time saving and economical to have family counsellors located in the family court building.

Sharing facilities was economical. Washrooms, conference room, waiting rooms, staff lunchroom and photocopy services would otherwise have had to be duplicated; other facilities, such as a playroom for use by clients' children, might not have been affordable for the court or counselling service to provide separately.

Sharing facilities saved time. For example, court files were readily available when counsellors needed to refer to them for terms of orders or agreements.

Legal services

The Commission's objectives were to

- ensure equal access to legal representation when needed, regardless of ability to pay;
- help clients assess their legal needs and provide information about availability of private lawyers and legal aid; and
- provide incentives to increase availability of lawyers practising family law.

Although the Commission was interested in improving the quality and availability of legal services to clients, its position was that many clients of both Provincial Court and Supreme Court did not want or need legal representation. Aspects of the project that seemed to help minimize the use of lawyers' services were:

- family counsellor access to the family advocate;
- family counsellor assistance with separation agreements; and
- private divorce services or Supreme Court clerks helping clients prepare their own divorce cases.

The family advocate role was created to ensure that children had legal representation when decisions were made affecting their interests. Since family advocates were the only full-time lawyers attached to the project, the Commission also expected them to give legal information and guidance to court administration and counselling staff; help assess clients' needs for independent legal advice and representation; and inform lawyers of UFC procedures and services

Findings:

- Family advocates proved to be a valuable source of legal information and guidance for family counsellors. Family advocates also came to depend on the counsellors as a source of "social" information about cases involving children and as a primary referral source for cases in which the legal needs of children should be assessed. The mutually supportive relationship between counsellors and advocates seemed directly related to the fact that both had offices at the UFC.
- One of the most valued features of the role was the power to intervene on the family advocate's own initiative at any stage in a proceeding. It was important that they have the ability to become involved early because most decisions affecting children's interests were made outside the courtroom through negotiation and conciliation.

Full-time family advocates were able to operate independently and respond immediately on referral from family counsellors, judges and lawyers. Given the objective of child advocacy, this was better than depending on referrals from the court or on ad hoc appointments in response to special requests.

Judicial services

The Commission's objectives for judicial services were to:

- minimize the negative effects of fragmented jurisdiction by allowing for co-ordination of the work of the Provincial and Supreme Courts;
- provide the same family counsellor services for clients of both courts; and allow judges of both courts the same ability to refer litigants to those services.

To minimize the problems associated with fragmented jurisdiction, legislation was passed to allow Provincial Court judges to conduct hearings and submit reports and recommendations on family matters to the Supreme Court. This was expected to promote interaction between the two courts and encourage two judges to act as one, to the extent possible in a two-tiered system. In fact, the provisions were used very little, perhaps because of:

- lack of opportunity—there were few appropriate cases;
- lack of knowledge and preparation—little effort was made to encourage use of the process;
- lack of acceptance by Provincial Court judges—some made it clear that they didn't appreciate being given a task that previously was a quasi-judicial function done by registrars; and
- availability of registrars who continued to handle referrals as previously.

The result was that the statutory provisions did not bridge the gap between the two courts and judicial services continued to be duplicated.

Neither did other efforts to integrate judicial services, such as providing courtroom and office accommodation in the same building, have the desired effect.

Provincial and Supreme Court judges did not develop a team approach and, with few exceptions, did not seem to cooperate to eliminate “forum shopping” or duplication of administrative and judicial efforts in cases that passed through both courts. However, the two-tiered model probably could have been implemented more efficiently.

Lack of Supreme Court judges in the pilot project locations was a big problem.

Administrative support services

One of the major advantages that the Commission saw of having services under one roof was that they could all be supported by one administrative service. The Commission saw this integration of administrative services as a preparation for judicial unification, and also looked for short term efficiencies through minimizing duplication and delay.

The objectives were to:

- integrate information storage and retrieval systems in both courts;
- provide a single clerical and reception service for judges, court clerks, court administrator, family counsellors and family advocate; and
- develop a versatile staff of court clerks who could work in any Provincial or Supreme Court proceeding in the pilot project

Findings:

Surrey and Richmond successfully integrated information storage and retrieval systems. (There was one major difference in the way the files were kept—Provincial Court incorporated any number of actions involving a particular family, while Supreme Court kept separate files for each action.)

Surrey successfully combined reception and switchboard services, which operated as the first point of contact for anyone visiting the building.

Use of a single clerical service appeared to work quite well for judges, court clerks, court administrator and family advocates but family counsellors found it was not always easy for them to get access to the clerical services they needed. Shared clerical services might have worked better under a different management structure.

Possible reasons UFC was not established in BC after the pilot project:¹¹

1. Changing political climate: close association of the Commission with the NDP may have jeopardized prospects for implementation of its proposals by a Social Credit government. Social Credit was elected on a platform of tighter fiscal control and worsening economic prospects meant that funding for reform was limited and not a government priority.
2. Legal context: the pilot project courts were not actually unified and the unresolved issue of split jurisdiction subsequently led to a direct challenge of the Provincial Court's authority in significant areas of family law.
3. Organisational support: the Commission recommended setting up a family and children's branch in the MAG with authority over family court counsellors. This didn't happen and the counsellors were put in Corrections Branch

This would not preclude implementation over time in stages, as long as province-wide implementation of a single model would occur within a reasonable and foreseeable timeframe.

11. Source: Waterhouse, John and Lorraine

Appendix E: Unified Family Court in Canada

Unified Family Court in Canada

*A Summary Prepared for the
Family Justice Reform Working Group*

October 2003

Unified Family Court in Canada

Province	Saskatchewan	Manitoba	Ontario	Nova Scotia	Prince Edward Island	New Brunswick	Newfoundland and Labrador
Date established	1978	1984	1977	1999	1975	1979	1979
Locations	Saskatoon was the first location. UFC expanded to Regina in 1994. UFC has exclusive jurisdiction in Regina, Saskatoon and Prince Albert and concurrent jurisdiction in the rest of the province. UFC sits on circuit in some areas. Provincial court handles family cases within provincial jurisdiction in northern and rural areas.	Winnipeg was the first location. UFC expanded in 1989 and sits in all judicial hearing centres (Winnipeg, Brandon, Selkirk, Morden, Portage la Prairie, Dauphin, Swan River, Flin Flon, The Pas, Thomson). There are also filing centres in Virden and Minnedosa. UFC has exclusive jurisdiction in Winnipeg, Brandon, Selkirk & the rural municipalities closest to them. Although there is concurrent jurisdiction in the rest of the province, the provincial court doesn't actually handle many family cases, except in the north.	Hamilton was the first location. UFC expanded to 4 more locations in 1995 and expanded again in 1999. UFC is now in 17 locations and also sits regularly in 3 other locations, which makes UFC available to about 40% of the province's population. Ontario has plans to expand UFC to serve the entire province.	UFC is located in Halifax (serving Halifax Regional Municipality) and Sydney and Port Hawkesbury (serving Cape Breton). The court also sits at circuit locations, including Baddeck, Port Hood and Arichat. UFC serves about 75% of the province's population. Nova Scotia has plans to expand UFC to serve the entire province	UFC serves the entire province (sits in Charlottetown, Summerside and Georgetown	Fredericton was the first location. UFC expanded province-wide in 1983. There are 8 UFC locations serving the province.	UFC originally served St. John's and environs. In 1998, it expanded to serve the rest of the Avalon Peninsula and Bonavista Peninsula.

APPENDIX E: UNIFIED FAMILY COURT IN CANADA

Province	Saskatchewan	Manitoba	Ontario	Nova Scotia	Prince Edward Island	New Brunswick	Newfoundland and Labrador
Level of Court	Court of Queen's Bench Family Law Division – judges are appointed to the Court of Queen's Bench	Court of Queen's Bench, Family Division - judges are appointed to the Family Division	Superior Court of Justice Family Court Branch – judges are appointed to the Family Court	Family Division of the Supreme Court – judges are appointed to the Family Division	Supreme Court Trial Division (Family Section) – judges are appointed to the Supreme Court	Court of Queen's Bench, Family Division – judges are appointed to the Family Division	Supreme Court – Unified Family Court – judges are appointed to the Supreme Court
Number of judges	8 judges assigned as Family Law Division judges The Chief Justice may assign a Family Law Division judge to hear cases outside the Family Law Division as long as the judge spends the “substantial majority” of his or her time on Family Law Division cases.	15 Family Division judges (currently 4 supernumerary), including the Associate Chief Justice (Family Division) The Chief Justice may assign a Family Division judge to responsibilities outside Family Division from time to time and may designate other Queen's Bench judges to act as Family Division judges as required.	32 Family Court judges, with other Superior Court judges temporarily assigned on rotation (the Superior Court General Division is expected to provide the same level of resources as were devoted to divorce and property cases prior to the establishment of the unified court.) The Chief Justice may temporarily assign a Family Court judge to hear cases outside the Family Court and may assign other judges of the Superior Court to Family Court from time to time.	11 Family Division judges, including the Associate Chief Justice of the Family Division. A Family Division judge may hear cases outside the Family Division as long as the judge spends the “substantial majority” of his or her time on Family Division cases. Other Supreme Court judges may hear cases in Family Division.	No judges are designated as exclusively responsible for family matters, due to the small number of judges and the potential for conflicts with a small population	8 Family Division judges, plus 1 supernumerary. Some locations have a Queen's Bench judge who splits time between Family Division and Trial Division. The Chief Justice may assign Family Division judges to hear cases in Trial Division from time to time.	2 judges assigned to UFC The Chief Justice must assign one or more Supreme Court judges to the UFC

Province	Saskatchewan	Manitoba	Ontario	Nova Scotia	Prince Edward Island	New Brunswick	Newfoundland and Labrador
Jurisdiction – includes child protection or young offenders?	Includes child protectionDoes not include young offenders	Includes child protectionDoes not include young offenders	Includes child protectionDoes not include young offenders	Includes child protectionIncludes young offenders aged 12-15	Includes child protectionDoes not include young offender	Includes child protectionDoes not include young offender	Includes child protectionDoes not include young offender