



# Minutes

## Benchers

Date: Friday, July 12, 2013

Present:	Art Vertlieb, QC, President	Bill Maclagan
	Jan Lindsay, QC 1 <sup>st</sup> Vice-President	Ben Meisner
	Ken Walker, QC 2 <sup>nd</sup> Vice-President	Nancy Merrill
	Haydn Acheson	Maria Morellato, QC
	Rita Andreone, QC	David Mossop, QC
	Satwinder Bains	Lee Ongman
	Kathryn Berge, QC	Vincent Orchard, QC
	David Crossin, QC	Greg Petrisor
	Lynal Doerksen	David Renwick, QC
	Thomas Fellhauer	Claude Richmond
	Leon Getz, QC	Phil Riddell
	Miriam Kresivo, QC	Richard Stewart, QC
	Stacy Kuiack	Tony Wilson
	Peter Lloyd, FCA	Barry Zacharias

Excused: Thelma O'Grady  
Catherine Sas, QC  
Herman Van Ommen, QC

Staff Present:	Tim McGee	Michael Lucas
	Deborah Armour	Bill McIntosh
	Su Forbes, QC	Jeanette McPhee
	Ben Hadaway	Doug Munro
	Andrea Hilland	Alan Treleaven
	Jeffrey Hoskins, QC	Adam Whitcombe

Guests:

- Hon. Suzanne Anton, QC, Attorney General and Minister of Justice
- Dom Bautista, Executive Director, Law Courts Center
- Mark Benton, QC, Executive Director, Legal Services Society
- Johanne Blenkin, Chief Executive Officer, Courthouse Libraries BC
- Kari Boyle, Executive Director, Mediate BC Society
- Maureen Cameron, Senior Director, CBABC
- Kim Carter, BC Ombudsperson
- Jay Chalke, QC, Assistant Deputy Minister, Justice Services
- Anne Chopra, Equity Ombudsperson
- Ron Friesen, Continuing Legal Education Society of BC
- Jeremy Hainsworth, Reporter, Lawyers Weekly
- Gavin Hume, QC, the Law Society's Representative on the Council of the Federation of Law Societies of Canada
- Marc Kazimirski, President, Trial Lawyers Association of BC
- Bruce LeRose, QC, Past President, Law Society of BC
- Jamie Maclaren, Executive Director, Access Pro Bono
- Hon. Donna Martinson, Retired Justice of the Supreme Court of BC
- Caroline Nevin, Executive Director, Canadian Bar Association, BC Branch
- Wayne Robertson, QC, Executive Director, Law Foundation of BC
- Sean Rowell, Young Lawyer Rep, CBABC
- Dr. Jeremy Schmidt, UBC Faculty of Law
- Kerry Simmons, President, Canadian Bar Association of BC
- Rose Singh, BC Paralegals Association
- Hon. Lynn Smith, QC, Retired Justice of the Supreme Court of BC
- Carla Terzariol, Executive Director, Trial Lawyers Association of BC
- Jeremy Webber, Dean, Faculty of Law, University of Victoria

### **Remarks by the Attorney General of BC**

Mr. Vertlieb welcomed the Honourable Suzanne Anton, QC, Attorney General and Minister of Justice, and invited her to address the Benchers. Ms. Anton expressed appreciation for the Law Society's support throughout the development and implementation of the *Family Law Act*.

Ms. Anton also thanked Mr. McGee for his assistance with the inaugural Justice Summit earlier this year, and noted that another Justice Summit is being planned for the fall. Ms. Anton confirmed her intention to attend future Benchers meetings from time to time, her schedule permitting.

## 1. CONSENT AGENDA

### a. Minutes

The minutes of the meeting held on June 15, 2013 were approved as circulated.

The *in camera* minutes of the meeting held on June 15, 2013 were approved as circulated.

### b. Resolutions

The following resolutions were passed unanimously and by consent.

- Proposed Amendments to Rules 3-13 and 4-4.2: continuing a ceased member under investigation, citation or a practice review

*BE IT RESOLVED to amend the Law Society Rules as follows:*

#### 1. *By rescinding Rule 3-13(7) and substituting the following:*

- (7) The Practice Standards Committee may, by resolution, direct that a lawyer who is subject to a practice review and would otherwise cease to be a member of the Society for failure to pay the annual fee or a special assessment continue as a member not in good standing and not permitted to practise law.

#### 2. *By rescinding Rule 4-4.2(1), (2), (4) and (5) and substituting the following:*

- (1) In this Rule, “lawyer under investigation” means a lawyer who is the subject of
  - (a) an investigation under Part 3, Division 1, *[Complaints]* or
  - (b) a decision of the Discipline Committee under Rule 4-4(1)(a.2) or
  - (b) *[Action on complaints]*.
- (2) A lawyer under investigation may not resign from membership in the Society without the consent of the Executive Director.
- (4) The Executive Director may direct that a lawyer under investigation who would otherwise have ceased to be a member of the Society for failure to pay the annual fee or a special assessment continue as a member not in good standing and not permitted to engage in the practice of law.
- (5) The Discipline Committee may, by resolution, direct that a respondent who would otherwise have ceased to be a member of the Society for failure to pay the

annual fee or a special assessment continue as a member not in good standing and not permitted to engage in the practice of law.

- Proposed Amendments to Rule 2-4.1: Application fee for practicing certificate

*BE IT RESOLVED to amend the Law Society Rules as follows:*

- Proposed Amendments to Rule 2-27

*BE IT RESOLVED to approve, in principle, the amendment of Rule 2-27(4) to reflect the decision that the Benchers made in October 2011 to adopt the recommendations contained in the final report of the Federation of Law Societies of Canada's Common Law Degree Implementation Committee, and to refer the matter to the Act and Rules Committee to prepare a draft rule consistent with this resolution, and consistent with the contents of the memorandum at Tab 1.5 of the meeting materials.*

- Selection of the Law Society's Representatives to the 2013 Queen's Counsel Appointments Advisory Committee

*BE IT RESOLVED to appoint President Art Vertlieb, QC and First Vice-President Jan Lindsay, QC as the Law Society's representatives on the 2013 QC Appointments Advisory Committee.*

## **REGULAR AGENDA – for Discussion and Decision**

### **2. Interim Report of the Legal Service Provider Task Force**

Bruce LeRose, QC reported as Chair of the Legal Service Provider Task Force. Mr. LeRose commented on the diverse composition of the task force, noting that only two current Benchers are included. Mr. LeRose also noted that while no decisions are being made today in relation to the task force's interim report (at Tab 2 of the meeting materials), he hoped it makes a contribution to answering the closing question of 2013 Benchers' Retreat: what more can the Law Society do, as the regulator of BC's legal profession, to make the delivery of legal services more inclusive in this province?

Mr. LeRose reviewed highlights of the report and answered a number of Benchers' questions. He noted that Law Foundation of BC Executive Director Wayne Robertson, QC will begin attending task force meetings in September, as the task force examines the delivery of legal and legally related services by non-lawyers, including family, community and poverty advocates.



Ms. Berge commented on the report's mention (at paragraph 41) of the submission to the Attorney General of Ontario in 2012 of the Law Society of Upper Canada's five-year review of its new regulatory paradigm (licensing and regulation of paralegals. She requested that LSUC's review be circulated to the Benchers in advance of their receipt of the Legal Service Provider Task Force's final report; Mr. Vertlieb confirmed that will be done.

Mr. LeRose acknowledged Law Society staff for their valuable support and contributions to the work of the task force, particularly Staff Lawyer Doug Munro, Manager of Policy & Legal Services Michael Lucas, Chief Information and Planning Officer Adam Whitcombe, and Chief Executive Officer Tim McGee.

### **3. Law Society Funding of Pro Bono: Report from Access to Legal Services Advisory Committee**

Mr. Maclagan addressed the Benchers as Chair of the Access to Legal Services Advisory Committee. He outlined the focus and scope of the review of the Law Society's contributions to pro bono legal services conducted by that committee in 2012 and 2013. Mr. Maclagan reported that in early 2013 the Benchers directed the Access to Legal Services Advisory Committee to develop a position on the appropriateness of the current level of the Law Society's pro bono funding, and to return with recommendations for the Benchers' consideration. He noted that the Committee has met six times thus far in 2013, including meetings with Wayne Robertson, QC and Jamie Maclaren, Executive Directors of the Law Foundation of BC and Access Pro Bono, respectively. Mr. Maclagan also noted that the Committee has reviewed approaches taken by other law societies to supporting pro bono legal services; and has reviewed past decisions of various committees, task forces, and the Benchers with respect to pro bono, and analyzed them in the current framework of pro bono legal services in British Columbia.

Mr. Maclagan outlined the historical background to the Law Society's current approach to funding pro bono (1 % of the annual general fee is directed to the Law Foundation to be distributed to pro bono organizations, and an annual rental subsidy of is provided to Access Pro Bono in relation to that organization's lease of space in the Law Society Building). He pointed out that the Law Society's total contribution to pro bono funding in 2012 (\$169,840 to the Law Foundation plus \$47,200 to Access Pro Bono in rental subsidy), totaled \$217,040), and that the Law Society of Alberta's current annual contribution to pro bono funding is \$365,000.

Mr. Maclagan referred the Benchers to a set of principles (appended to the Committee's report, at page 92 of the meeting materials), developed by the Committee and offered as guidance for determining the appropriate purpose, manner and scale of the Law Society's financial and in-kind support of pro bono:

1. Providing financial and in-kind support for non-profit organizations that facilitate lawyers delivering pro bono legal services to people of limited financial means is consistent with the Law Society's public interest mandate as articulated in s. 3 of the *Legal Profession Act*, and with the spending authority of the Benchers under s. 4(5).
2. The Law Society is a public interest regulatory body. It is not a funding agency. The Law Society cannot provide sufficient levels of funding or in-kind support to meet the needs of existing or future organizations that facilitate the delivery of pro bono, nor is it appropriate to require that lawyers, as a condition of the privilege to practice law, meet those funding needs.
3. In establishing a quantum of funding, the Benchers should recognize that it is neither the responsibility of the Law Society to meet all the funding needs of pro bono organizations, nor feasible to do so. In order to ensure that the funding is neither trivial nor excessive, the following factors are relevant to a determination of the proper quantum of funding:
  - a. The amount of funding should be reasonable, taking into account the level of financial support provided by lawyers through fees as well as the amount of pro bono legal services lawyers provide. The object is to provide a meaningful amount of funding to encourage and support pro bono, which is reasonable in the circumstances;
  - b. The funding model should allow for the potential that the amount of funding may increase over time with the object of meeting or exceeding inflation as determined by (Statistics Canada, the Bank of Canada, etc.).
  - c. The Finance Committee should review the level of funding as part of its budget process to see that these objects are being achieved.
4. The amount of funding should only be subject to review or change at the direction of the Benchers.
5. The amount of funding will be sent to the Law Foundation to distribute in accordance with the terms and conditions of the funding agreement entered into between the Law Society and the Law Foundation dated February 7, 2007 (as amended from time to time).
6. If the Law Foundation is concerned about the appropriateness of the level of funding based on evidence it collects while distributing funding to pro bono organizations, the Law Foundation may present that evidence to the Benchers for consideration. All other requests for organizations to receive a portion of the funding provided by the Law Society must be made to the Law Foundation.

7. If the Benchers reconsider the level of funding provided by the Law Society, consideration must be given to these principles. If the reconsideration includes specific funding needs of organizations, as identified by the Law Foundation in principle #6, consideration must also be given to the fiscal accountability and historic business practices of those organizations in order to be satisfied that any increase in funds will be managed in accordance with best financial practices.

Mr. Maclagan confirmed the Committee's conclusion that the Law Society and the lawyers of British Columbia should show leadership in supporting the provision of pro bono legal services, and that the appropriate level of funding should be in the range provided by the Law Society of Alberta. He referred to six recommendations, set out in the Committee's report (at page 77 of the meeting materials) for the Benchers' consideration, and quoted the final two paragraphs of the Committee's report (paragraphs 67 and 68, at page 91 of the meeting materials):

67. The committee believes our recommendations show leadership. We are cognizant of the argument that if Law Society funding of pro bono increases the government may use this as a basis to reduce funding to legal aid and other access initiatives. We reject this argument as a reason not to increase funding. On the contrary, by increasing funding for pro bono and access to justice by lawyers our voice on all issues of public interest is strengthened. We as a law society must use that voice loudly and effectively to increase public understanding of access issues and ultimately government funding. This, whether it arises from the narrow words of the *Legal Profession Act*, or from the simple rights and privileges we have as lawyers, is our duty.
68. The Committee also does not wish to be seen as undervaluing the individual pro bono activities of lawyers. These activities, not our funding, are the backbone of all pro bono activities and are priceless. They are the true measure of our profession and give us our strongest voice.

Mr. Maclagan moved (seconded by Mr. Mossop) that the report and recommendations of the Access to Legal Services Advisory Committee be adopted.

In the ensuing discussion the following issues were raised by various Benchers:

- Appreciation for the Committee's recommendation of a fixed financial contribution to replace the 1% assessment
- Appreciation for key points made by the Committee in its Pro Bono Principle No. 3:

- In establishing a quantum of funding, the Benchers should recognize that it is neither the responsibility of the Law Society to meet all the funding needs of pro bono organizations, nor feasible to do so.
- In order to ensure that the funding is neither trivial nor excessive, the following factors are relevant to a determination of the proper quantum of funding:
  - a. The amount of funding should be reasonable, taking into account the level of financial support provided by lawyers through practice fees as well as the amount of pro bono legal services lawyers provide. The object is to provide a meaningful amount of funding to encourage and support pro bono, which is reasonable in the circumstances;
  - b. The funding model should allow for the potential that the amount of funding may increase over time with the object of meeting or exceeding inflation as determined by Statistics Canada, the Bank of Canada, etc.
  - c. The Finance Committee should review the level of funding as part of its fee setting process to see that these objects are being achieved.
- Proposed Law Society pro bono funding increase represents about \$17 per BC lawyer annually

The motion was carried unanimously.

Mr. Mossop expressed appreciation to Mr. MacLagan for his leadership as Committee Chair. Mr. Vertlieb thanked the Committee on behalf of the Benchers. Mr. MacLagan thanked the Committee members for their dedication and hard work. He also acknowledged the invaluable assistance provided by Staff Lawyer Doug Munro in guiding the Committee's research and drafting its report, and the support provided by Chief Financial Officer and Director of Trust Regulation Jeanette McPhee.

## **SCHOLARSHIP PRESENTATIONS**

Mr. Vertlieb presented cheques for \$12,000 to Kathryn Thomson and to Robert Clifford, the recipients of the 2013 Law Society Scholarship and the inaugural Law Society Aboriginal Scholarship, respectively.

## GUEST PRESENTATIONS

### 4. Enhancing Diversity in the Judiciary

The Honourable Lynn Smith, QC and the Honourable Donna Martinson, QC, retired Justices of the BC Supreme Court, delivered presentations to the Benchers. Ms. Smith's presentation, titled *Diversity on the Bench*, addressed why it matters that there be more diversity on the Bench and provided six supporting reasons:

- a. It's only fair.
- b. It sometimes matters who's in the room when decisions are made. Told a story from the early days of the Charter.
- c. Enhanced diversity would enhance the credibility of the institution.
- d. More diversity could lead to more accurate and appropriate outcomes.
- e. Gender balance could lead to a shift in the unstated default or norm applied in decision-making.
- f. The judiciary as an institution is required to be impartial and to promote equality.

Ms. Martinson addressed the need for greater diversity in the judicial appointment process, noting that between 2009 and 2012, 29 men and 9 women were appointed to the BC Supreme Court. Ms. Martinson noted that it is encouraging that four of the very recent five appointments went to women. She also noted that even with them, the result is that of the 38 most recent appointments, 29 were men and only nine were women.

Ms. Martinson reviewed the role of the Federal Judicial Advisory Committees.

Ms. Smith and Ms. Martinson made three suggestions to the Benchers regarding the Law Society's approach to judicial appointments

1. Ensure that the Law Society keep the need for diversity in mind when appointing its representative to the Federal Judicial Advisory Committee for BC
2. Monitor progress on the issue of diversity in judicial appointments
3. Advocate for enhanced awareness and progress on the issue of judicial diversity in the Law Society's dealings with the federal and provincial governments

Mr. Vertlieb requested the Equity and Diversity Advisory Committee to reflect on the three suggestions, and then report to the Executive Committee with recommendations to be taken to the Benchers for consideration later in 2013.

PowerPoint slides used jointly by Ms. Smith and Ms. Martinson are attached as Appendix 1. Ms. Smith's speaking notes are attached as Appendix 1(a), and Ms. Martinson's speaking notes are attached as Appendix 1(b).

## **5. Office of the BC Ombudsperson Update**

BC Ombudsperson Kim Carter addressed the Benchers. Ms. Carter's PowerPoint presentation, titled *Focussed on Fairness*, and the brochure of the Office of the BC Ombudsperson are appended to these minutes as Appendices 2(a) and 2(b). Ms. Carter noted that her office's primary focus is the fairness and reasonableness of governmental and regulatory processes and not advocacy for changing individual decisions.

Ms. Carter identified the Law Society's accessibility to complainants as one of its strengths. As two areas to be considered for future focus, she suggested: clarity of information and consistency of results by panels; and transparency of information below the hearing level.

Mr. McGee pointed out that the Professional Regulation group's Key Performance Measures include the degree to which the BC Ombudsperson finds the Law Society's regulatory processes to be fair.

## **REPORTS**

### **6. 2012 – 2014 Strategic Plan Implementation Update**

Mr. McGee noted that the Law Society's current [Strategic Plan](#) comprises three goals, nine strategies and 16 initiatives. He reported that midway through the plan's second year, one initiative has been completed (implementation of the *BC Code of Professional Conduct*), 11 initiatives are underway and four are pending.

### **7. Mid-year reports from the 2013 Advisory Committees (Agenda Item 3 is the Access to Legal Services Advisory Committee's report)**

The Chairs of the Law Society's Advisory Committees updated the Benchers on the work of their respective committees thus far in 2013 (Ms. Morellato for Equity and Diversity, Ms. Merrill for Lawyer Education, and Mr. Richmond for Rule of Law and Independence of Lawyers (Mr. MacLagan having already reported for Access to Legal Services under item 3 on the agenda).

## **8. President's Report**

Mr. Vertlieb briefed the Benchers on various Law Society matters to which he has attended since the last meeting, including:

### **a. 2013 Benchers General Election**

- i. Seven current Benchers will become Life Benchers on January 1, 2014 and accordingly, at least seven new Benchers will be elected in the November 15 general election (in the counties of Vancouver, Victoria and Westminster).
- ii. Noted the importance of Benchers diversity and encouraged all Benchers to do what they can to stimulate interest in Benchers service among lawyers generally under-represented at the Benchers table
- iii. Outlined plans for information sessions on the roles and responsibilities of Benchers, to be conducted at the Vancouver, Victoria and Westminister County AGM venues following the close of official business

### **b. Appointed Benchers**

- iv. All six incumbent appointed Benchers will complete their current two-year terms at the end of the year, and have confirmed their readiness to serve another term, if re-appointed by the provincial government

### **c. Reduced Fee Feasibility Working Group**

- v. Ms. Lindsay updated the Benchers as Chair of the working group charged with examining the feasibility of creating and administering a reduced-fee class of Law Society membership for lawyers working for non-profit organizations
- vi. The Reduced Fee Feasibility Working Group's report and recommendations are to be presented to the Benchers at their September meeting

## **9. CEO's Report**

Mr. McGee provided highlights of his monthly written report to the Benchers (appended to these minutes as Appendix 3) including the following matters:

- Introduction

- Top Five Operational Priorities for 2013
  1. Review and Renewal of Management Structure
  2. Lawyer Advice and Support Project
  3. Support for Legal Service Provider Task Force
  4. Regulation of Law Firms – Policy and Operational Assessment
  5. Implementation of Governance Review Task Force Report
- 2012 – 2014 Strategic Plan Update
- 2013 Finance Update
- 2014 Budgets and Fees
- Trinity Western University Application to Federation of Law Societies of Canada for Law Degree Approval
- 2013 Inaugural Justice Summit

## **10. Report on Outstanding Hearing & Review Reports**

The Benchers received and reviewed a report on outstanding hearing and review reports.

## **11. FOR INFORMATION ONLY**

- **CBABC REAL Initiative: Funding Request for 2014**

Mr. Vertlieb invited CBABC President Kerry Simmons to address the Benchers as an ‘information-only’ session, noting that this matter will come back to the Benchers table for decision in the fall.

Ms. Simmons briefed the Benchers on the background and history of the CBABC Rural Education and Access to Lawyers (REAL) Initiative (her PowerPoint presentation is appended to these minutes as Appendix 4). She noted that Phase 2 of the REAL Initiative will conclude at the end of the current year, and that CBABC is now seeking funding for Phase 3, the objectives and goals of which are outlined at page 157 of the meeting materials:



### Specific Objectives

The specific objectives of *Phase III* will be to address the immediate and longer term requirements for legal services in high need communities in British Columbia through the placement of students that will continue to articles and eventually practice. Through the proposed approach it is hoped that the **articling return rate can be raised** from 50% to over 85%.

*Phase III* of the REAL initiative has the following concrete, purposeful and effective goals:

**Enhance access to legal services in communities by:**

- Addressing the shortage of lawyers
- Addressing the aging population of the profession
- Providing lower-cost alternatives
- Supporting greater retention rate

**Provide effective education to the legal profession by:**

- Supporting and encouraging principals
- Securing strong mentors while still active/available
- Increasing the number of available articling positions
- Providing a broad range of experience to law students, currently not available in other settings

CBABC's proposal for funding Phase 3 is summarized in the Executive Committee's memorandum (at page 142 of the meeting materials); and the Executive Committee's update and comments are at page 143:

Since the Proposal was submitted, the Law Foundation has advised that it will contribute a grant of up to \$50,000, on the condition that the CBABC and the Law Society each contribute a matching grant of up to \$50,000 ...

The Executive Committee considered the Proposal at its June 27 meeting and determined that more information is needed on a number of issues before a recommendation can be put to the Benchers. Those issues include:

- a. Has the current REAL Initiative's effectiveness been assessed over its five-year term (2009-2013)?
- b. Were exit interviews or surveys conducted with students and law firms where REAL placements of summer students:
  1. did not lead to articles post-articles employment?
  2. led to articles but not post-call employment?

- c. Have structural barriers or other impediments to articling positions and permanent employment in targeted communities been identified and considered?
- d. Were other approaches considered for addressing such barriers or impediments?  
Such as:
  - 1. interest-free loans or forgiveness of student loans for young lawyers considering moving to rural communities; and
  - 2. incentives for mid-career lawyers considering moving to rural communities.
- e. Clarifying the Proposal's \$150,000 budget:
  - 1. explain the proportion of Project Manager cost (\$60,000) to Student Placement cost (\$80,000), and strategic purpose for each;
  - 2. explain the proposed "Committee" cost (\$2,000); and
  - 3. confirm the Law Foundation's comfort with the apparent ratio of proposed administrative costs to student placement costs (46/100 for \$150,000 budget and 26/100 for \$75,000 budget).

Sean Rowell, a partner with the Smithers law firm of Perry and Company, provided the Benchers with a testimonial on his firm's positive experience with the REAL Initiative.

Ms. Simmons encouraged the Benchers to email her with any questions or concerns they might have about the REAL Initiative and CBABC's proposal for the Initiative's 2014 funding.

The Benchers discussed other matters *in camera*.

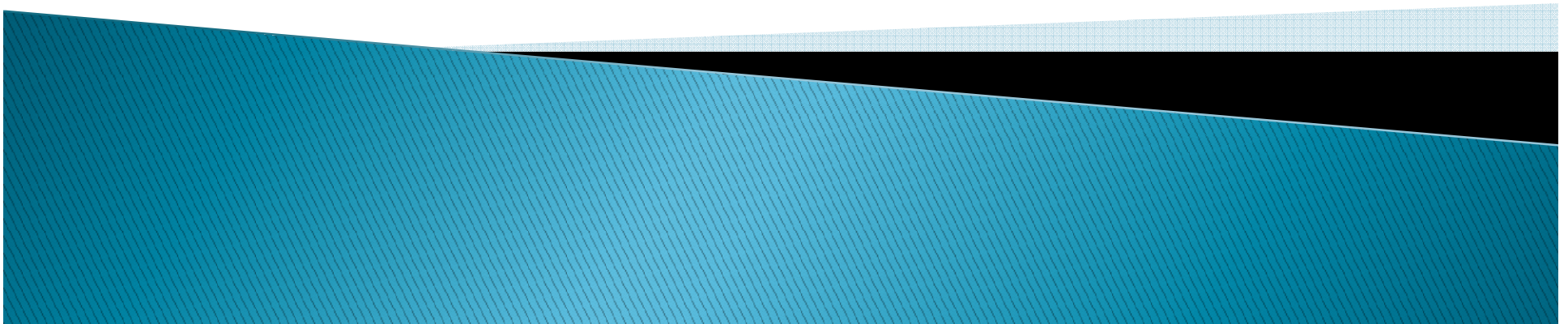
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# **Diversity on the Bench**

## **Meeting of the Benchers of The Law Society of British Columbia**

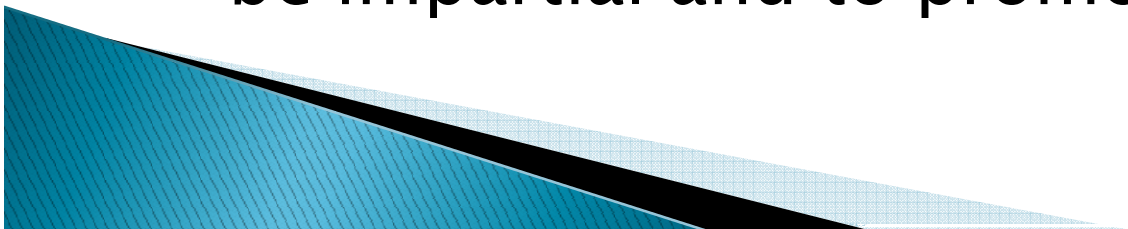
**The Honourable Donna Martinson, Q.C.  
The Honourable Lynn Smith, Q.C.**

**July 12 , 2013**



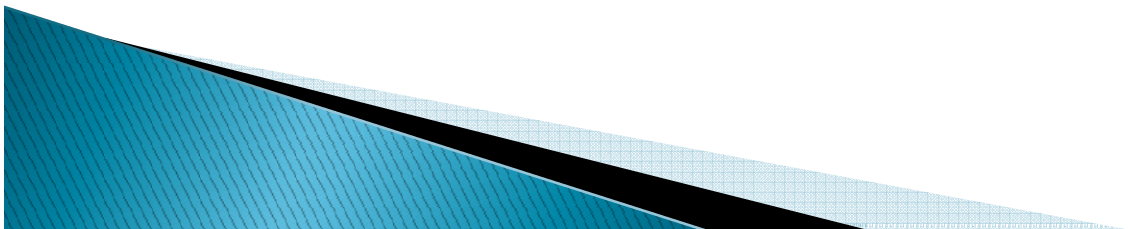
# Why Diversity Matters

- (1) It's only fair.
- (2) It sometimes matters who is in the room.
- (3) Enhanced diversity would enhance the credibility of the institution.
- (4) More diversity could lead to more accurate and appropriate outcomes.
- (5) Gender balance could lead to a shift in the “default”.
- (6) The judiciary as an institution is required to be impartial and to promote equality.



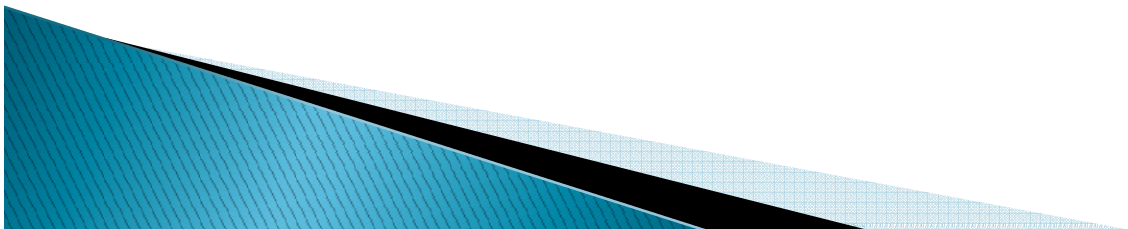
# Ethical Principle 5: Equality

- ▶ Statement: Judges should conduct themselves and proceedings before them so as to assure equality according to law.
- ▶ Principles:
  - Judges should carry out their duties with appropriate consideration for all persons (for example, parties, witnesses, court personnel and judicial colleagues) without discrimination.
  - Judges should strive to be aware of and understand differences arising from, for example, gender, race, religious conviction, culture, ethnic background, sexual orientation or disability.



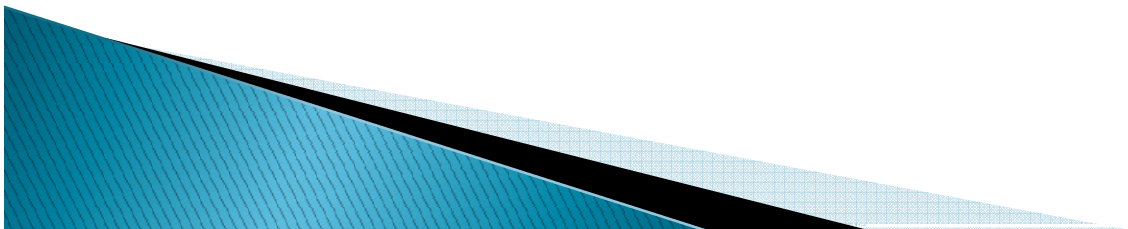
# Ethical Principle 6: Impartiality

- ▶ Statement: Judges must be and should appear to be impartial with respect to their decisions and decision making.
- ▶ Principles:
  - The appearance of impartiality is to be assessed from the perspective of a reasonable, fair minded and informed person.
  - While acting decisively, maintaining firm control of the process and ensuring expedition, judges should treat everyone before the court with appropriate courtesy.



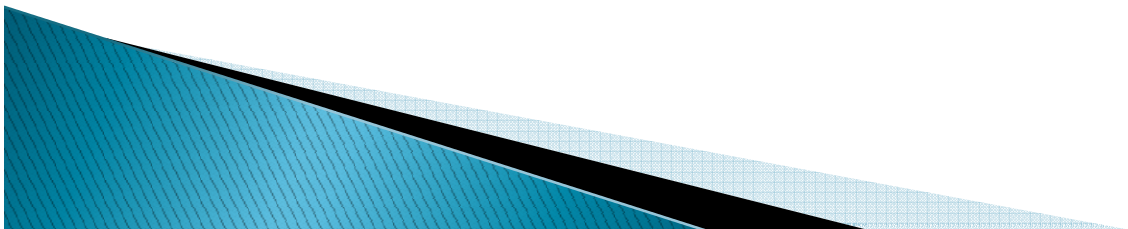
# Directions from the two ethical principles:

- ▶ Maintain impartiality and the appearance of impartiality
- ▶ Conduct proceedings so as to assure equality under the law, and remain informed about changing attitudes and values
- ▶ Failing to assure equality may give rise to concerns about a want of impartiality



# The *Charter* value of equality

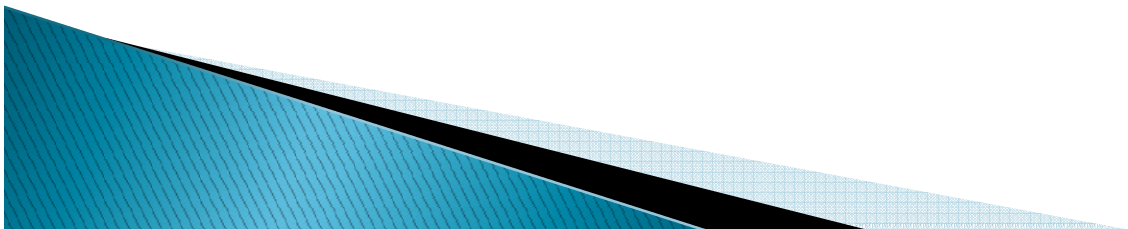
- ▶ Judges are required to understand and implement the Charter value of equality
  - Requires understanding of and consideration for all persons
  - May require positive steps where necessary to assure substantive equality for differently-situated persons





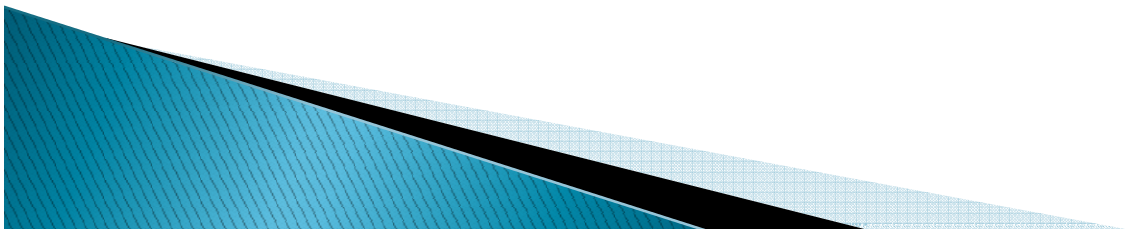
# Judicial Appointment Topics

1. Who is being appointed?
2. How are judicial appointments being made?
  - a. What is a meritorious appointment?
  - b. What is the process used to assess whether a candidate is meritorious?
3. Who are the available applicants?



# British Columbia Supreme Court Appointments

- ▶ From Jan 1, 2009 to June 2013
- ▶ Total appointments – 38
- ▶ Number of men – 29
- ▶ Number of women – 9



# British Columbia Supreme Court Appointments

2009

◦ 12 (1 woman)

2010

◦ 9 (4 women)

2011

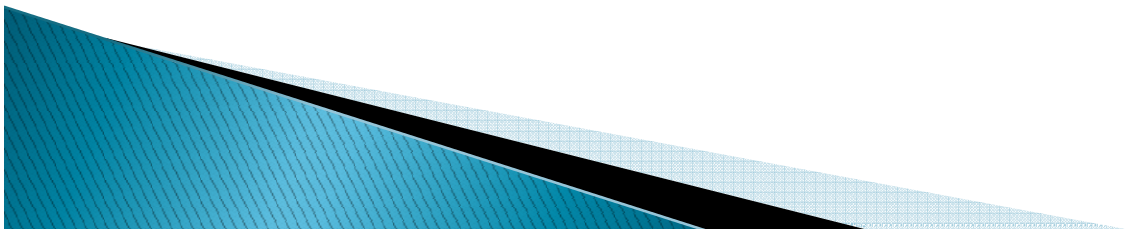
◦ 6 (0 women)

2012

◦ 6 (0 women)

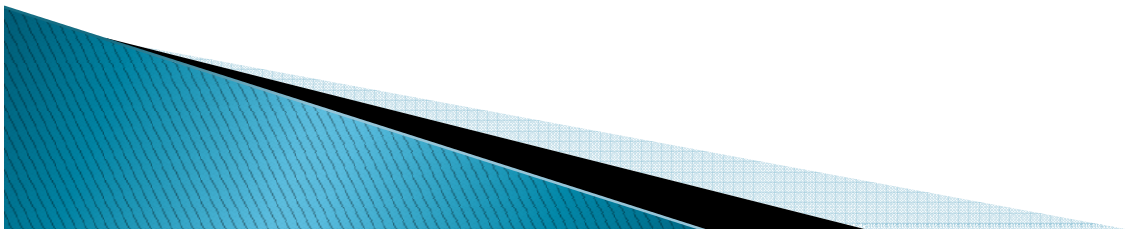
2013

◦ 5 (4 women)



Chief Justice McLachlin  
June 2012

**“We should remind ourselves of what psychologists have documented — human beings see merit in those who exhibit the same qualities that they possess.”**

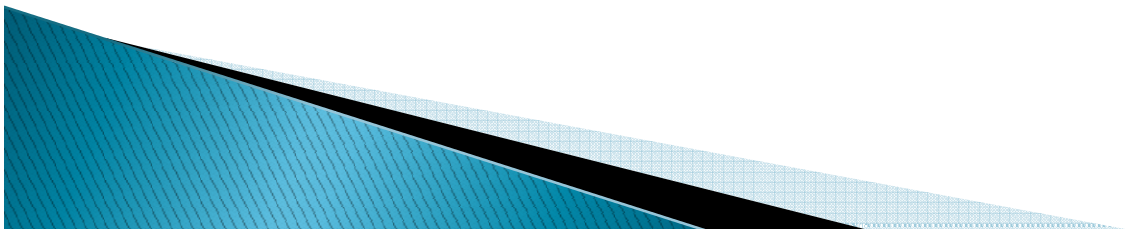


Chief Justice McLachlin  
June 2012

“Senior lawyers and judges are no exception.

When they look for merit, they tend to automatically look for someone like themselves. That is their instinctive response.

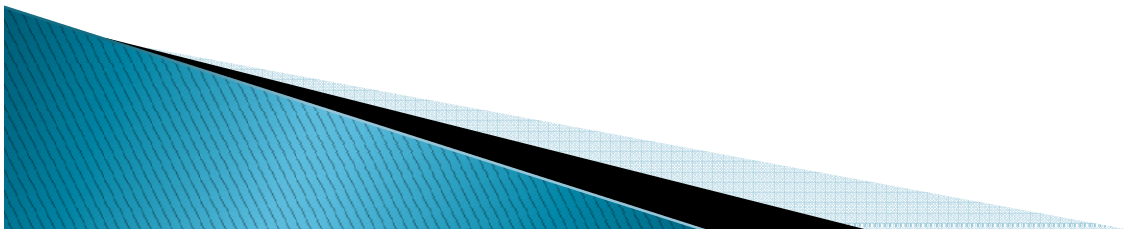
The result is in the appointment of individuals with a traditional practice and profile – male, Q.C., an all-round decent chap.”



## Chief Justice McLachlin June 2012

“Those who have excelled in non-mainstream legal work, often women and members of minority groups, tend to be excluded from appointment.”

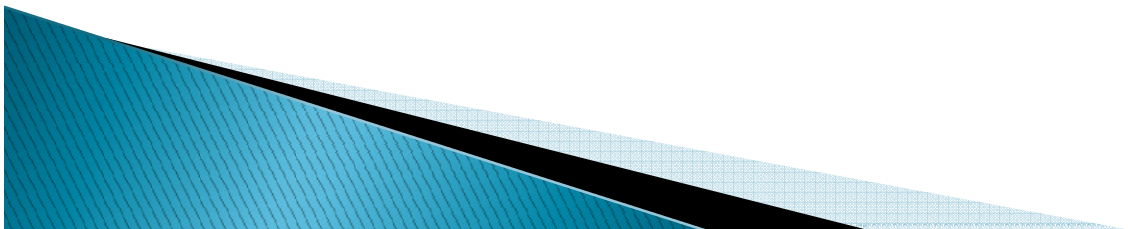
“...a variety of career paths can prepare one for a judicial career, and that a different perspective may be a factor in establishing merit.”



## Federal Judicial Affairs Advisory Committee Guidelines

“The Minister selects persons to serve on each committee who reflect factors appropriate to the jurisdiction, including:

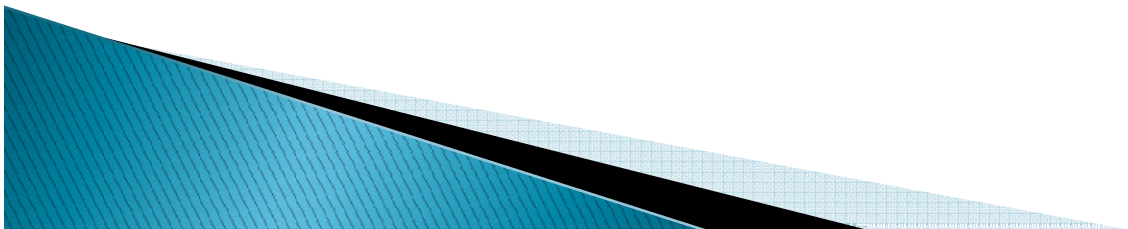
- geography,
- gender,
- language and
- multiculturalism.”



## 2009 B.C. Law Society Study

“...the pipeline is leaking lawyers — women lawyers in particular.”

“...Some research suggests that at present rates women will not reach parity with men in law firm partnerships until at least 2088.”

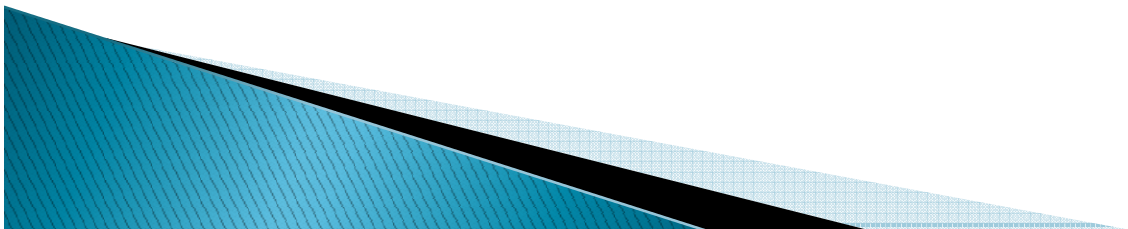




# Supreme Court of Canada Access to Justice Family Law Report – April 2013

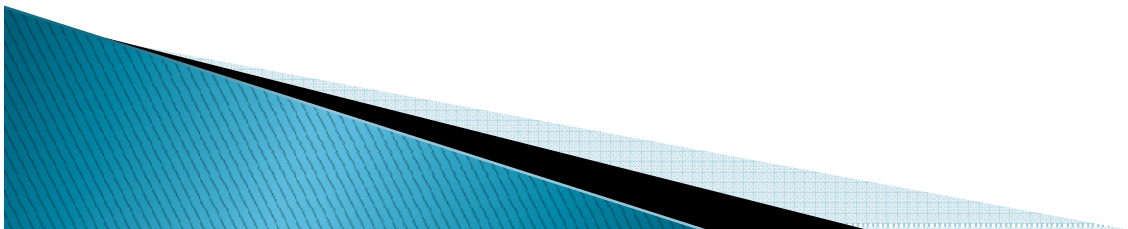
“While the field of family justice has many dedicated and energetic champions, it is nonetheless the “poor cousin” in the justice system.”

“It is...regarded as an undesirable area of practice by some lawyers and law students.”



# Steps the Law Society Could Consider Taking

1. The Federal Judicial Advisory Committee
2. Monitoring Progress
3. Advocacy



## **DIVERSITY ON THE BENCH SPEAKING NOTES**

### **BENCHERS MEETING**

July 12, 2013<sup>1</sup>

The Honourable Lynn Smith, Q.C.

Thank you for the invitation to meet with you about diversity in the judiciary. Donna Martinson and I will speak for about twenty minutes and we will then have a little time for questions and discussion.

I will address why it matters whether the judiciary becomes more diverse, and in particular why it matters whether women achieve parity on the bench. Donna will look at the specifics of the judicial appointment process and its outcomes in recent years.

For some time now, we and others still on the bench have been concerned about the demographics of the judiciary in British Columbia. Donna wrote an opinion piece, along with Dr. Marjorie Cohen, that appeared in the Vancouver Sun. After I retired, I, too, made it a point to raise the issue when I had an opportunity. We spoke at the CBA Equity and Diversity Committee's Information Session on Gender Balance,

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<sup>1</sup> The Honourable Lynn Smith, Q.C., retired from the Supreme Court of British Columbia September, 2012, now Honorary Professor at the U.B.C. Faculty of Law and Judicial Associate, National Judicial Institute.

Diversity and Judicial Appointments on May 1 -- a hugely well-attended event. In preparation for meeting with you today, we asked Maria Morellato to fill us in on current Law Society initiatives, and she very kindly did so. The Report of the Task Force on Retention of Women in Law, and the Business Case for Retaining and Advancing Women Lawyers in Private Practice, the Report of the Equity and Diversity Advisory Committee called "Toward a More Representative Legal Profession", and the work of the Justitia Project, all show serious concern in the Law Society about gender and other forms of diversity in the profession, and highly impressive efforts to devise and implement concrete strategies to increase diversity, including strategies to retain women in the practice of law.

All of this tells me that it is unnecessary to persuade you that diversity in the legal profession is a worthy goal and that, likely, you do not have to be convinced that the composition of the judiciary ideally would more closely mirror the composition of the population as a whole. But the worthiness of those goals has been accepted for quite a long time now; achieving them has taken far, far longer than was expected. It may be surmised that they will not be accomplished without concerted

effort, and in order to inspire that effort, it is useful to remind ourselves about why they matter.

I suggest six main reasons why diversity in the judiciary matters a great deal:

(1) **It's only fair.** Equal access to the opportunity of serving as a judge should be available to all qualified lawyers. Women and men of all cultural backgrounds and ethnicities, religions, sexual orientations, levels of physical ability -- should be able to benefit from all that the legal profession has to offer, including service in the desirable, prestigious and stimulating role of a judge. Work as a judge is challenging, but also stimulating, and it provides a rewarding opportunity to make a positive difference in people's lives.

(2) **It makes a difference who is in the room when decisions are made.** To illustrate that, let me tell a story from the early days of the *Charter*. The section 15 *Charter* equality rights came into effect on April 17, 1985, and *Andrews v. Law Society of B.C.* was the first equality rights case to be heard in the Supreme Court of Canada, in 1988. There were competing schools of thought about how the equality rights should be interpreted; one school contending that s. 15 should be interpreted narrowly, in the same manner as the "equality before the law" provision

in the *Canadian Bill of Rights*. I was involved in LEAF, which had been given leave to intervene in the SCC in *Andrews*. As you probably all recall, the issue was the citizenship requirement for entry to the legal profession and the plaintiff was Mark Andrews, then and now a highly-regarded male lawyer in B.C. LEAF intervened because it wanted to achieve a broad and generous interpretation of the equality rights, which would make them meaningful for women and other equality-seeking groups. When LEAF received a copy of the facts filed by the parties, we were startled to see that the Law Society of B.C. was taking close to the most conservative position possible about the way the equality rights should be interpreted -- perhaps understandably, in a sense, because it wanted to uphold its citizenship requirement -- but its argument, if accepted, would have been devastating for the future usefulness of the equality provision. It would in effect have strangled the equality rights at birth. Women, certainly at that time, tended to be very conscious of the need for a robust equality guarantee, and to identify as equality-seekers. Someone in the room when the Law Society litigation strategy was developed who might have seen himself or herself in the position of an equality-seeker could have questioned the long-term wisdom of the Law Society's approach in its submissions, and whether those submissions

reflected the interests of all of the Law Society's members. The judiciary makes decisions about the development of the laws that affect everyone, and it makes a difference who is in the room when those decisions are made.

**(3) Enhancing diversity would enhance the credibility of the profession and the judiciary.** Public trust in the judiciary is likely to be enhanced if members of the public can see themselves reflected in it. I think that the credibility of the judiciary as an institution and, indeed, respect for the rule of law would be further enhanced if people could see the law being interpreted and applied by persons who share their personal characteristics such as gender, religious beliefs, culture, or sexual orientation. [The point applies more widely of course; the demographic composition of the current federal Advisory Committee, which is 100% male and not particularly diverse in other respects, might not tend to enhance confidence in the appointment process.]

**(4) Diversity is likely to lead to more accurate and appropriate outcomes.** Without being essentialist, that is, without assuming falsely, for example, that women are all the same and that women are essentially more nurturing or empathetic or intellectually honest than men, I do think that we are all shaped by our life experiences. It follows

that women lawyers and judges will tend to understand certain issues differently than do men: obvious examples being socially constructed areas such as vulnerability to sexual assault, or responsibility for childcare, or biologically mandated areas, such as pregnancy and childbirth. A more direct understanding of the lives of women can lead to improvements in the ways the laws are understood and applied. The same point can be made with respect to other kinds of diversity: widening the pool of life experiences of judges will increase the chances that the experiences of litigants will be accurately understood, and lower the chances of mistaken assumptions leading to sub-optimal results.

(5) **The presence of women can lead to a shift in the default, or the norm.** Feminists, beginning with Simone de Beauvoir, have observed that the masculine is taken as the default for the human -- the ways in which women differ from men are seen as departures from that norm. A good example of this is the traditional workplace where the “worker” never needs to deal with pregnancy, childbirth or childrearing. The default to the male has existed, as well, in the development of our understanding of rights. The slogan “Women’s rights are human rights” builds on this -- on this premise, even rights that only women need, for example to be free from state control of their reproduction -- or that



mostly women need, for example, to live in a state where sexual assault and abuse are prevented and prosecuted, -- are human rights, just as much as freedom of expression or freedom of association. They are human rights, even where they affect only women, indeed even where they affect only marginalized populations of women such as survival sex workers.

Again, the analogy holds with other kinds of diversity. Gender balance, and increased diversity, could lead to long-term and fundamental shifts in societal default assumptions.

(6) That brings me to the sixth reason why diversity matters:

### **judicial ethics.**

Some time ago now, the Canadian Judicial Council published “Ethical Principles for Judges”. Ethical Principles 5 and 6 are particularly relevant to the topic this morning.

### **Ethical Principle 5: Equality**

- ▶ **Statement: Judges should conduct themselves and proceedings before them so as to assure equality according to law.**
- ▶ Principles:

- Judges should carry out their duties with appropriate consideration for all persons (for example, parties, witnesses, court personnel and judicial colleagues) without discrimination.
- Judges should strive to be aware of and understand differences arising from, for example, gender, race, religious conviction, culture, ethnic background, sexual orientation or disability.

### **Ethical Principle 6: Impartiality**

- ▶ **Statement:** Judges must be and should appear to be impartial with respect to their decisions and decision making.
- ▶ **Principles:**
  - The appearance of impartiality is to be assessed from the perspective of a reasonable, fair minded and informed person.
  - While acting decisively, maintaining firm control of the process and ensuring expedition, judges should treat everyone before the court with appropriate courtesy.

The Canadian Judicial Council document strongly endorses the proposition that judges have an ethical obligation to understand and promote the *Charter* value of equality. In other words, judges are required to understand and have consideration for all persons, and to implement the principle that equality may require positive steps where necessary to assure substantive equality.

It also strongly endorses the concept that judges must be impartial in the sense that they must understand the community in which they live, and avoid the mistake of confusing their own singular experience with the universal experience of humankind. That duty rests on every individual judge, whatever the judge's gender or cultural background. I think that there is a corresponding duty on the judiciary as an institution, and that the judiciary would be better able to carry out that duty if its composition more accurately reflected the composition of the community as a whole.

Those are six reasons why I think diversity in the judiciary should be a priority.

Donna Martinson will review how the appointment process is actually working at the federal level, and will advise you of our suggestions about steps that the Law Society could consider taking.

## **DIVERSITY ON THE BENCH**

**Meeting of the Benchers of the Law Society of British Columbia**

**July 12, 2013<sup>1</sup>**

**The Honourable Donna J. Martinson, Q.C.<sup>2</sup>**

### **Speaking Notes**

#### **INTRODUCTION**

The question of a diverse judiciary is an important aspect of the access to justice issue you have been discussing this morning. The people in this room, and many others, have worked hard to help achieve diversity within the profession and to ensure that we have an effective judicial appointments process.

Yet, there is a significant disconnect between what we know is needed to achieve diversity and what is really happening. In looking at why this is so, I will consider three questions:

1. Who is being appointed?
2. How are judicial appointments being made?
  - a. What is a meritorious appointment?
  - b. What is the process used to assess whether a candidate is meritorious?
3. Who are the available applicants?

Lynn Smith and I will then make some respectful suggestions about what the Law Society might do. I am sure you will also have your own ideas.

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<sup>1</sup> Presentation made with the Honourable C. Lynn Smith, Q.C.

<sup>2</sup> Donna Martinson is a retired Justice of the British Columbia Supreme Court who is now a Visiting Scholar, Faculty of Law (Allard Hall), University of British Columbia, and an Adjunct Professor, School of Criminology, Simon Fraser University.

## **1. WHO IS BEING APPOINTED**

My focus is on the BC Supreme Court Bench. I will begin by looking at the appointment of women.<sup>3</sup> It is encouraging that 4 of the last 5 appointments went to women. But, even with them, the result is that of the 38 most recent appointments, 29 were men and only 9 were women:

### **British Columbia Supreme Court Appointments from Jan 1, 2009 to June 2013**

Total appointments - 38

Number of men – 29

Number of women - 9

If we look at the numbers by year we see this:

#### **2009**

Total 12 (1 woman)

#### **2010**

Total 9 (4 women)

#### **2011**

Total 6 (0 women)

#### **2012**

Total 6 (0 women)

#### **2013**

Total 5 (4 women)

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<sup>3</sup> Office of the Commissioner for Federal Judicial Affairs: [www.fja-cmf.gc.ca](http://www.fja-cmf.gc.ca); Federal Ministry of Justice: [www.justice.gc.ca](http://www.justice.gc.ca); Annual Reports of the British Columbia Supreme Court: [www.courts.gov.bc.ca](http://www.courts.gov.bc.ca)

It is particularly noteworthy that in 2011 and 2012, there were no women appointed.

In addition, the people who have been recently appointed are primarily from traditional areas of practice and almost all are non visible minority and non aboriginal lawyers. Looking at the Court as a whole, the present members are, similarly, almost all non visible minority and non aboriginal people. This is consistent with trends across the country.

## **2. HOW ARE THEY BEING APPOINTED – THE PROCESS**

### **a. Merit**

The standard response given to concerns raised about the lack of diversity in judicial appointments is that appointments are made, and must be made based on merit. That of course is true. The real question is, “what does merit means?”

Chief Justice McLachlin, when addressing an international judicial audience last year,<sup>4</sup> emphasized the importance of both diversity on the bench, and an inclusive approach to what we mean when we refer to a meritorious appointment. In her view, a diverse bench brings different and valuable perspectives to the decision-making process, which enriches the judging process and may lead to better decisions. On the topic of merit, she said:<sup>5</sup>

We should remind ourselves of what psychologists have documented —human beings see merit in those who exhibit the same qualities that they possess....Senior lawyers and judges are no exception. When they look for merit, they tend to automatically look for someone like themselves. That is

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<sup>4</sup> Judging: the Challenges of Diversity, Remarks of the Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada, to the Judicial Studies Committee Inaugural Annual Lecture, June 7, 2012, Edinburgh, Scotland, <http://www.scotland-judiciary.org.uk/Upload/Documents/JSCInauguralLectureJune2012.pdf>

<sup>5</sup> See note 4, at p. 23.

their instinctive response. The result is in the appointment of individuals with a traditional practice and profile – male, Q.C., an all-round decent chap.

(The Law Society's recent report on diversity in the profession<sup>6</sup> referred to this concept as “in-group bias”.)

Chief Justice McLachlin makes the important point that people who have excelled in non-mainstream legal work, often women and members of minority groups, tend to be excluded from appointment. She concludes that: “...a variety of career paths can prepare one for a judicial career, and that a different perspective may be a factor in establishing merit.”<sup>7</sup>

She said much the same thing in a keynote address when speaking to a joint meeting of the BC Provincial Court and Supreme Court judges in Vancouver in November 2012.<sup>8</sup>

**b. How do We Assess Merit.**

As you know, Judicial Advisory Committees in each province play a very important role in the selection of judges. With respect to Committee membership,<sup>9</sup> the Law Society, the Ministry of Justice for B.C., the Canadian Bar Association, and, for reasons I have never been able to understand, the “law enforcement community”, are invited to submit a list of names from which an appointment can be made. The selection is made by the Minister of Justice with the assistance of the Commissioner for Federal Judicial Affairs.

The Committee is meant to reflect the diversity of the province. When appointing Committee members, the Minister of Justice “attempts to reflect factors

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<sup>6</sup> See note 11.

<sup>7</sup> See note 4, at p. 23.

<sup>8</sup> Trial Judges and the Challenges of Diversity, Remarks of the Right Honourable Beverley McLachlin, P.C. Chief Justice of Canada, Supreme Court and Provincial Court of British Columbia Education Seminar, November 16, 2012, Vancouver, British Columbia.

<sup>9</sup> Office of the Commissioner for Federal Judicial Affairs, Canada: <http://fja-cmf.gc.ca/appointments-nominations/committees-comites/guidelines-lignes-eng.html#CommitteeMembership>



appropriate to each jurisdiction including geography, language, multiculturalism, and gender.”<sup>10</sup> Yet, all the members of the British Columbia Judicial Advisory Committee are men. Only one is a visible minority lawyer, and most are from traditional areas of practice.

### **3. WHO ARE THE APPLICANTS?**

The question of who we have as judges is of course part of a broader discussion about the nature of our profession. The legal profession and law schools are often referred to as the “pipelines” to judicial appointments. It goes without saying that we need a diverse pipeline to create a diverse judiciary.

The Law Society has identified problems in the profession with diversity generally<sup>11</sup> and with respect to women in particular.<sup>12</sup> In response to the suggestion sometimes heard that women will naturally catch up over time as more women progress through the pipeline, the July 2009 Law Society Study concluded that catching up could take at least 75 years:<sup>13</sup>

... in reality the pipeline is leaking lawyers — women lawyers in particular. Some research suggests that at present rates women will not reach parity with men in law firm partnerships until at least 2088.

As Chief Justice McLachlin emphasized, a diverse profession includes not only diversity of background and experience, but also diversity in areas of practice. And yet, some areas of practice appear to be valued within the profession more than others.

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<sup>10</sup> See note 9.

<sup>11</sup> Towards a More Representative Legal Profession: Better practices, better workplaces, better results, A Report prepared on behalf of the Equity and Diversity Advisory Committee, The Law Society of British Columbia, June 2012.

<sup>12</sup> For example, The Business Case for Retaining and Advancing Women Lawyers in Private Practice, a report by the Retention of Women in Law Task Force, the Law Society of British Columbia, July 2009, followed by the important Justicia Project, launched in November 2012.

<sup>13</sup> See note 12, at p. 4.

The Supreme Court of Canada's National Access to Justice Initiative Family Law Committee, chaired by our own Jerry McHale, Q.C., released its report in April of this year. The report had something to say about family law in this respect:<sup>14</sup>

“While the field of family justice has many dedicated and energetic champions, it is nonetheless the “poor cousin” in the justice system.”

“It is...regarded as an undesirable area of practice by some lawyers and law students.”

While the report was specifically dealing with family law, it could just as easily be referring to other non-traditional areas of the law of the sort referred to by Chief Justice McLachlin.

#### **4. STEPS THE LAW SOCIETY COULD CONSIDER TAKING**

I will conclude with three suggestions we have for your consideration.<sup>15</sup>

##### **a. The Federal Judicial Advisory Committee**

The Law Society could take steps to make sure that its appointments to the Committee are made keeping the need for a diverse committee in mind.

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<sup>14</sup> Meaningful Change for Family Justice: Beyond Wise Words, Final Report of the Family Justice Working Group of the Action Committee on Access to Justice in Civil and Family Matters, April 2013.  
<http://www.cfcj-fcjc.org/sites/default/files/docs/Report%20of%20the%20Family%20Law%20WG%20Meaningful%20Change%20April%202013.pdf>,  
at p. 13.

<sup>15</sup> For a more comprehensive look at issues relating to diversity on the Bench, including suggestions for change, see: *Improving Representation in the Judiciary: A Diversity Strategy*, Diversity Institute, Ryerson University, June 27, 2012:  
<http://www.ryerson.ca/content/dam/diversity/resources/Powerpoint%20-%20Improving%20Representation%20in%20the%20Judiciary%20-%20June%2027.pdf>

**b. Monitoring Progress**

**The Law Society is well placed to:**

- **monitor the issue of diversity in judicial appointments itself, and also in collaboration with other organizations, such as the Canadian Bar Association; and**
- **ensure that the recommendations of the Society's own committees are implemented.**

**c. Advocacy**

**At a political level the Law Society may be in a position to urge the two levels of government to make diversity in the judiciary a priority.**

# FOCUSSED ON FAIRNESS:

1

## The Office of the Ombudsperson and The Law Society of British Columbia

A Presentation to  
the Benchers of the Law Society of British Columbia



*Kim Carter*  
*Ombudsperson, Province of British Columbia*

July 12, 2013

# CONTENTS

- Role of Office
- History of Office
- Work of Office
- Law Society Statistics
- Law Society Cases
- Case Summaries
- Preventative Ombudsmanship

# Role of Office

3

- The Ombudsman's two primary roles are to investigate complaints and to generally oversee the administrative actions of government authorities with a view of upholding the democratic principles of openness, transparency and accountability. The Ombudsman and his or her Office provide expertise in applying the principles of administrative and procedural fairness to reviews of decisions, recommendations made, acts done or omitted, or procedures used by public authorities in administering their duties.

[Report of Special Committee to Appoint an Ombudsman, 2006]

# History of Office

4

- Scandinavian concept (1809)
- 1979 established in British Columbia
- 1995 extended jurisdiction including:
  - “27. Governing bodies of professional and occupational associations that are established or continued by an Act.”

# Work of Office

5

- ▣ Education
- ▣ Information
- ▣ Referrals
- ▣ Early resolutions
- ▣ Investigation of Individual Complaints
- ▣ Systemic Investigations
- ▣ Public Reports
- ▣ Preventative Ombudsmanship



# Law Society Statistics 2012/2013

6

	2007	2008	2009	2010	2011	2012
<b>Requests for info/enquiries</b>	<b>52</b>	<b>45</b>	<b>57</b>	<b>81</b>	<b>93</b>	<b>73</b>
<b>Declined to investigate</b>	<b>11</b>	<b>8</b>	<b>19</b>	<b>12</b>	<b>15</b>	<b>13</b>
<b>Investigated</b>	<b>13</b> (2 settled; 4 not substantiated; 1 withdrawn; 1 referred; 6 no further inv req'd)	<b>7</b> (3 settled; 3 not substantiated; 1 no further inv req'd)	<b>4</b> (2 settled; 1 not substantiated; 1 no further inv req'd)	<b>8</b> (1 settled; 3 not substantiated; 4 no further inv req'd)	<b>14</b> (3 settled; 5 not substantiated; 5 no further inv req'd;)	<b>5</b> (1 settled; 2 not substantiated; 1 no further investigation req'd)

# Law Society Cases

7

- ▣ Issues
- ▣ Does well
- ▣ Areas for further focus

# Case Summaries

8

- ▣ A long but fair process
- ▣ Reasons promote understanding (x2)
- ▣ Only relevant material
- ▣ Open to reconsideration

# Preventative Ombudsmanship

9

- Preventative Ombudsmanship involves the sharing, through a variety of mechanisms, the experience and expertise of the Office of the Ombudsperson with authorities. This is done to assist them in incorporating administrative fairness principles and processes in their policy development; process administration; decision making; and service delivery. The goal of preventative ombudsmanship is avoiding problems and reducing complaints. [RAFT Program]

# Questions & more information

**CONTACT US:**

**1-800-567-3247**

**[www.bcombudsperson.ca](http://www.bcombudsperson.ca)**

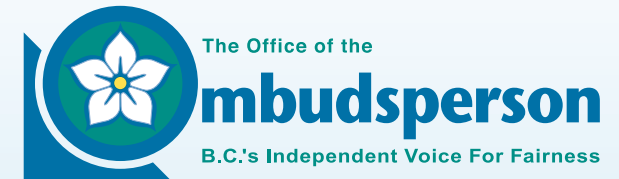
**947 Fort Street Victoria**

PO BOX 9039 STN PROV GOVT VICTORIA BC V8W 9A5

**SUBSCRIBE TO E-NEWS:**

at **[www.bcombudsperson.ca](http://www.bcombudsperson.ca)**

to receive systemic reports, updates on recommendations and periodic news from the Office of the Ombudsperson



## WHAT HAVE OMBUDSPERSON INVESTIGATIONS ACHIEVED?

- medical coverage extended to a woman waiting for a work visa and ministry makes changes to help others in similar situations
- creation of a residents' Bill of Rights in residential care facilities
- delay ended and work completed on a public road providing access to a trail system
- practice of processing applications for adopting children revised by ministry
- a subsidized annual bus pass for a senior and an improved application process
- a combined refund of \$114,000 to 580 people affected by a billing error
- a second chance for a student when a college changes its appeal policy
- an apology and a refund from a city to a resident as a result of flaws in an adjudication process

A complaint from one person can lead to changes that benefit others.

*"Your office provides people like me with a voice that is otherwise frustrated by bureaucracy."*

## HOW TO REACH THE OFFICE OF THE OMBUDSPERSON

### HOW TO MAKE A COMPLAINT

**Toll Free:** 1.800.567.3247

**In Victoria:** 250.387.5855

**Fax:** 250.387.0198

**On-line:** [www.bcombudsperson.ca](http://www.bcombudsperson.ca)

**By Mail:**

PO Box 9039 STN PROV GOVT, Victoria, BC V8W 9A5 Canada

**In Person:**

Second Floor, 947 Fort Street, Victoria, BC Canada

Subscribe to E-News at [www.bcombudsperson.ca](http://www.bcombudsperson.ca) to be notified when the Ombudsperson releases a report, a newsletter, provides an update on the status of recommendations and releases other news from the Office of the Ombudsperson.

**Works in the interests  
of all British Columbians**

**Acts independently  
and impartially**

**Provides free and  
confidential services**

**Assists in finding  
fair resolutions**



## WHAT DOES THE OFFICE OF THE OMBUDSPERSON DO?

The Office receives inquiries and complaints about the programs, services and practices of public agencies. While not an advocate, the Office of the Ombudsperson can conduct impartial and confidential investigations to determine if a public agency is treating the people it serves fairly and reasonably. The Ombudsperson is an officer of the provincial legislature and is independent of government and political parties.

### WE:

- respond to inquiries from the public
- provide information, advice and assistance on issues of administrative fairness
- conduct thorough, impartial and independent investigations of complaints
- look for fair resolutions and make recommendations to improve administrative practices
- independently initiate investigations of apparent administrative unfairness
- provide reports to the Legislative Assembly and the people of British Columbia about the work of the office and remedying unfair administrative practices
- generally oversee the administrative actions of public agencies to enhance transparency and accountability

The inquiries and complaints we receive are analyzed and contribute to our decisions on where we can most usefully conduct a systemic investigation.

*"Knowing a wrong has been righted gives me a terrific boost."*

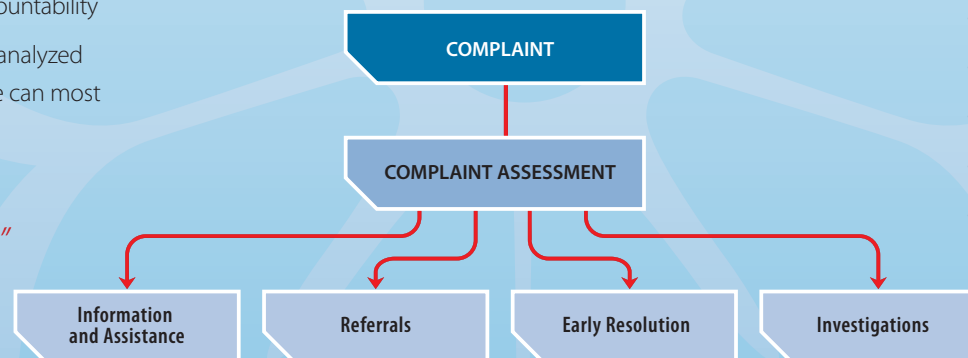
## WHO CAN WE INVESTIGATE?

- provincial ministries
- provincial boards and commissions (i.e. WorkSafe BC)
- provincial Crown corporations (i.e. BC Hydro)
- municipalities, regional districts, Islands Trust
- schools, school boards, colleges, universities
- hospitals and health authorities
- various pension boards of trustees
- professional associations (i.e. the Law Society, College of Physicians and Surgeons)

## WHO CAN'T WE INVESTIGATE?

- federal government departments or agencies
- private corporations
- courts
- police

## WHAT HAPPENS WHEN I COMPLAIN?



## WHEN SHOULD I COMPLAIN?

You should first try to resolve your complaint directly with the public agency before coming to the Office of the Ombudsperson. If you are not able to reach a resolution and you feel that you have been treated unfairly by the public agency, the Office of the Ombudsperson may be able to help.

## WHEN YOU ARE DEALING WITH A PUBLIC AGENCY, TRY TO:

- get the names of the people you are dealing with
- keep track of their responses, including relevant dates
- keep copies of all relevant papers, letters and other communication
- ask how and why an action was taken or a decision was made
- find out if there is a review or appeal process and pursue that process where possible (this office may be unable to investigate a complaint where a right of appeal exists)

## POSSIBLE OUTCOMES:

- new hearing or re-assessment
- access to a benefit
- an apology
- reimbursement of expenses
- improved policy or procedure
- better explanation of decision

*"Thank you for all your hard work and for such a positive outcome."*



## **CEO's Report to Benchers**

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July 12, 2013

Prepared for: Benchers

Prepared by: Timothy E. McGee



## Introduction

This is my mid-year report to the Benchers which provides updates on our Top Five Operational Priorities for 2013, progress made under the 2012 – 2014 Strategic Plan to-date and information on other items of interest including our 2014 budget and fees planning process.

## Top Five Operational Priorities for 2013

I have set out below a brief status report on the Top Five Operational Priorities for 2013. As described in my report to the Benchers in January, each year management outlines certain priorities for the coming year. I always emphasize that these priorities do not derogate from or substitute for our day-to-day responsibility to perform all of our core regulatory functions to a high standard. However, in each year there are items that require extra attention and focus to ensure success. So far in 2013 we are making good progress on these items.

### 1. Review and Renewal of Management Structure

The new leadership and governance structure for management which I reviewed with the Benchers in May has now been shared with all staff and is being phased in. The first phase is the creation of a new Leadership Council that will be comprised of my direct reports plus three Law Society managers selected at large, who will serve on the Council for a one year term. I am very pleased to report that for the three slots available for the initial Leadership Council we have ten strong candidates. In accordance with the established governance protocol for the Council I will be making the three appointments shortly based upon establishing a good mix of skills, together with varied departmental representation.

### 2. Lawyer Advice and Support Project

The Lawyer Advice and Support cross-departmental project team has been working diligently to complete a comprehensive report and recommendations on the following matters:

- what lawyer advice and support the Law Society should provide, including topic areas and priorities,
- who at the Law Society internally, as well as possibly externally, should provide the particular types of advice and support,

- the resource implications and needs, including staff, IT and financial, and
- the delivery methods by which the lawyer advice and support should be provided.

The project team is taking a Law Society-wide approach, and continues to be on track to deliver its recommendations and proposals by early fall. The report will be presented initially to the Executive Committee and then to the Benchers for review and direction.

### **3. Support for Legal Service Provider Task Force**

The Legal Service Provider Task Force under the Chair of Bruce LeRose, QC has met six times from December 2012 to June 2013 and has engaged in a preliminary analysis of most of its mandated tasks. The Task Force also met on July 8 to refine the questions it intends to ask lawyers, notaries and paralegals during a consultation process that will take place later in the summer and into early fall. The Task Force then hopes to have a second stage consultation with the government and the courts to further refine its analysis. Feedback from the consultations will inform the Task Force's final report to the Benchers, scheduled for December 2013. Support for the work of the Task Force including the preparation of its interim report has been provided by Adam Whitcombe, Chief Information and Planning Officer, Michael Lucas, Manager, Policy & Legal Services and Doug Munro, Staff Lawyer, Policy & Legal Services.

The Task Force's interim report is being presented to the Benchers as a separate agenda item at the meeting.

### **4. Regulation of Law Firms – Policy and Operational Assessment**

At its meeting on June 27, the Executive Committee reviewed a memorandum that I presented setting out a preliminary assessment of the rationale for regulating law firms and an initial assessment of the possible operational impacts of doing so. The Committee was supportive of further development of the analysis and has requested staff to prepare a more detailed briefing, which will include greater detail of the experiences in other jurisdictions and further analysis of resource requirements, among other things. The follow up report will be presented to the Executive Committee in the fall with a report to the Benchers by year-end, including a recommendation as to next steps regarding the desirability of a Bencher task force or working group.

## **5. Implementation of Governance Review Task Force Report**

The Governance Review Task Force has met five times in 2013 and presented its mid-year report and recommendations to the Benchers at the June meeting in Tofino. The main implementation focus for the balance of the year will be the preparation of a Governance Manual incorporating the recommendations adopted by the Benchers and additional administrative items. The goal is to have a draft of the manual prepared for review by the Committee in the fall with a presentation to the Benchers by year end. Support of the work of the Committee including the preparation of the mid-year report and the pending preparation of the Governance Manual has been led by Adam Whitcombe, Chief Information and Planning Officer, with assistance from Bill McIntosh, Manager, Executive Support.

## **2012 – 2014 Strategic Plan Update**

Attached to this report as Appendix A is a copy of the Law Society's 2012 – 2014 Strategic Plan, which has been annotated in each section to update you on the progress of specific initiatives. I believe we are making good progress against most of the initiatives established for 2013. There are a few initiatives that are slated for next year which will need to be re-evaluated by the Benchers during the annual Strategic Plan review in the fall to ensure they are still priorities for the organization. An example of this is a proposed study of the economics of the legal profession. This was originally proposed as a way to assist the Benchers in better understanding the issue of the affordability of legal services within the broader topic of enhancing access to legal services. While the goal remains valid, the means to achieve that end has so far proven elusive.

## **2013 Finance Update**

The May 2013 year-to-date financial report is included in the Benchers package in the "For Information Only" section. Jan Lindsay, QC, Chair of the Finance Committee, and Jeanette McPhee, Chief Financial Officer, together with members of Management Board will be available to answer any questions you might have regarding the report. As you will see we are on budget year-to-date and tracking to our forecast for year end.

## **2014 Budgets and Fees**

The Finance Committee met in June to review the 2014 fees and related budgets for the Lawyer's Assistance Program (LAP), the Advocate, and the Trust Administration Fee. In addition, management met several times in June to perform a full review of the Law Society's departmental operational budgets, which will be finalized over the next few weeks.

The Finance Committee will meet again in September to review the Law Society 2014 General Practice Fee and LIF Assessment, and the related operational budgets, with a view to making a recommendation to the Benchers on September 27 regarding 2014 member fees.

## **Trinity Western University Application to Federation of Law Societies of Canada for Law Degree Approval**

As reported previously, the Federation of Law Societies of Canada Common Law Degree Approval Committee is completing its review of the Trinity Western University law degree application. In addition, a Special Advisory Committee of the Federation, chaired by John Hunter, QC, is completing its work on the following question:

*What additional considerations, if any, should be taken into account in determining whether future graduates of TWU's proposed school of law should be eligible to enroll in the admission program of any of Canada's law societies, given the requirement that all students and faculty of TWU must agree to abide by TWU's Community Covenant Agreement as a condition of admission and employment, respectively?*

We expect that the Federation will complete its work and provide its report and recommendations to Canada's law societies by the fall. A briefing binder on this topic is being provided to the Benchers under separate cover and will be discussed in greater detail during the in-camera portion of the meeting.

## **2013 Inaugural Justice Summit**

Attached to this report as Appendix B is the government's report on the 2013 Inaugural Justice Summit, which I participated in as moderator in March 2013. The report summarizes the Summit proceedings, including the nine primary themes discussed: criminal justice and public health; access to justice issues; evidence-based justice; protection of vulnerable populations; accountability and transparency; economics of community safety; establishing shared values; system efficiencies and system governance under the *Justice Reform and Transparency Act*. Those themes will form the basis of future Summits, which are anticipated to be held twice a year.

The second Justice Summit is tentatively scheduled for early November 2013. I will provide further updates as planning progresses.

# The Law Society *of British Columbia*



## **2012 – 2014 Strategic Plan**

**Status Update as at June 2013**

**For:           The Benchers**  
**Date:         June 30, 2013**

**Purpose of Report:   Discussion**  
**Prepared on behalf of the Executive Committee**

## INTRODUCTION

Section 3 of the *Legal Profession Act* states that the mandate of the Law Society is to uphold and protect the public interest in the administration of justice by:

- (i) preserving and protecting the rights and freedoms of all persons;
- (ii) ensuring the independence, integrity and honour of its members; and
- (iii) establishing standards for the education, professional responsibility and competence of its members and applicants for membership.

To carry out its mandate effectively, the Law Society must keep in mind the interests and concerns of all parties that engage the justice system. This includes the public generally, users of the legal systems (both individual and corporate), courts, governments, and lawyers.

The Benchers have created a process to plan for and prioritize strategic policy development to properly meet the mandate of the Society and to optimize staff resources.

Through this process, the Benchers identified three principal goals and related strategies that the Law Society should pursue over the next three years. In identifying these goals, strategies and initiatives, the Benchers have been mindful not only of what the role of the Law Society is in relation to its mandate, but also of what may be achievable within that mandate.

The goals, strategies and initiatives set out in this strategic plan are in addition to the overall operations of the Law Society's core regulatory programs, such as discipline, credentials, and practice standards. These programs are fundamental to fulfilling the Law Society's mandate and will always be priorities for the Law Society.

The plan will be reviewed on an annual basis during its three year term to ensure that the strategies and initiatives remain appropriate and to address any additional strategies or initiatives that may be necessary in light of changing circumstances.

## **Law Society Goals**

1. The Law Society will be a more innovative and effective professional regulatory body.
2. The public will have better access to legal services.
3. The public will have greater confidence in the administration of justice and the rule of law.

## **GOAL 1: The Law Society will be a more innovative and effective professional regulatory body.**

The Law Society recognizes that it is important to encourage innovation in all of its practices and processes in order to continue to be an effective professional regulatory body. The following strategies and initiatives will ensure that the Law Society continues to improve in delivering on its regulatory responsibilities.

### **Strategy 1 – 1**

Regulate the provision of legal services effectively and in the public interest.

#### ***Initiative 1-1(a)***

Consider ways to improve regulatory tools and examine whether the Law Society should regulate law firms.

#### ***Status – June 2013***

*The Legal Profession Act has been amended to permit the regulation of law firms. A review has been prepared for the Executive Committee that outlines the rational and anticipated benefits of law firm regulation. The Committee is being asked to confirm next steps.*

#### ***Initiative 1-1(b)***

Examine the relationship between the Law Society as the regulator of lawyers and the Law Society as the insurer of lawyers.

#### ***Status – June 2013***

*The Rule of Law and Lawyer Independence Advisory Committee has completed its review of this issue and has prepared a report with recommendations, which is being considered by the Benchers in July.*

#### ***Initiative 1–1(c)***

Examine whether the Law Society should regulate just lawyers or whether it should regulate all legal service providers.

#### ***Status – June 2013***

*The Legal Service Provider Task Force has been created to examine this topic, and has been working through its mandate as approved by the Benchers. The*



*Task Force has prepared an interim report, which is being presented to the Benchers in July.*

## **Strategy 1 - 2**

Identify and develop processes to ensure continued good governance.

### ***Initiative 1–2(a)***

Examine issues of governance of the Law Society generally including:

- identifying ways to enhance Bencher diversity;
- developing a model for independent evaluation of Law Society processes;
- creating a mechanism for effective evaluation of Bencher performance and feedback.

### ***Status – June 2013***

*This initiative has been divided into separate tasks:*

- *the Governance Task Force has taken the lead on a review of governance processes generally within the Law Society. Its most recent report, with a series of recommendations, was considered and approved by the Benchers in June;*
- *the issue of Bencher diversity was actively considered at the Bencher governance retreat and will be considered further by the Governance Committee as it works through the recommendations and implementation of the governance review;*
- *work on the development of a model for the independent evaluation of Law Society processes has been undertaken by the Chief Executive Officer in consultation with the President and last year's President, following debate and recommendations on this topic by the Executive Committee in connection with the 2009 – 2011 Strategic Plan. Further work was put in abeyance pending the report of the Governance Review Task Force in December 2012.*

## **Strategy 1–3**

Ensure that programs are available to assist lawyers with regulatory and workplace changes.

### ***Initiative 1-3(a)***

Work with continuing professional development providers to develop programs about the new Code of Conduct.

***Status – June 2013***

*The Law Society and the Continuing Legal Education Society of BC have jointly planned and delivered webinars on the new BC Code of Conduct, which were available to all BC lawyers free of charge. The recorded version of the webinars continues to be accessible free of charge through the Law Society website. The Law Society website also features an Annotated BC Code of Conduct as well as a guide to the BC Code of Conduct that compares key features of the current Handbook to the new Code.*

***Initiative 1-3(b)***

Improve uptake of Lawyer Wellness Programs.

***Status – June 2013***

*Development of this initiative has been undertaken in the Practice Standards Department. A special Working Group of the Practice Standards Committee is chaired by Catherine Sas. A survey is being undertaken. Recommendations will be presented to the Committee later in 2013, with a report from the Committee to the Benchers to follow.*

**Strategy 1– 4**

Ensure that admission processes are appropriate and relevant.

***Initiative 1–4(a)***

Work on national admission standards while considering the rationale and purpose of the overall admission program.

***Status – June 2013***

*The Committee's 2013 – 14 focus is Admission Program reform linked to National Admission Standards.*

*The Committee has linked its work to the Federation of Law Societies of Canada's National Admission Standards Project.*

*The first phase of the project was to draft a profile of the competencies required for entry to the profession and the standard for ensuring that applicants meet the requirement to be fit and of good character. The Benchers approved the National Entry-Level Competency Profile for Lawyers and Quebec Notaries on January 24, 2013*

*Implementation of the standards is the focus of the second phase of the Federation project. At the Federation level, work is now underway on developing options for implementation of the admission competency standards, with the goal of achieving a high level of consistency and quality in national admission standards. Later in 2013 the Lawyer Education Advisory Committee should be in a position to move ahead with its work, including an active review of the Law Society admission program.*

*Ultimately, law societies will be asked to approve how the admission standards will be implemented.*

#### **Initiative 1–4(b)**

Consider qualification standards or requirements necessary for the effective and competent provision of differing types of legal services.

#### **Status – June 2013**

*On December 2, 2011, the Benchers approved the joint recommendation of the LEAC and the Access to Legal Services Advisory Committee that a Task Force be created to address the qualification standards or requirements necessary for the effective and competent provision of differing types of legal services. The Task Force was, amongst other things, to identify priorities for types of legal services that might be offered without the provider qualifying as a lawyer, and that would most benefit the public, identify priorities for types of legal services that might be offered by a lawyer with a restricted license, and that would most benefit the public, examine and analyse potential delivery models, and make recommendations to the Benchers. However, the creation of the Legal Services Provider Task Force overlapped some of the planned work for this Task Force. The work of this proposed Task force more logically follows decisions made by the Legal Service Task Force, and therefore this Task Force has not yet been appointed. Work would not be expected to commence until 2014.*



## **GOAL 2: The public will have better access to legal services.**

The Law Society recognizes that one of the most significant challenges in any civil society is ensuring that the public has adequate access to legal advice and services. The Law Society has identified a number of strategies to respond to this challenge over the next three years and will continue to gather demographic data about lawyers to inform these strategies.

### **Strategy 2–1**

Increase the availability of legal service providers.

#### ***Initiative 2–1(a)***

Consider ways to improve the affordability of legal services:

- continue work on initiatives raised by recommendations by the Delivery of Legal Services Task Force;
- identify and consider new initiatives for improved access to legal services.

#### ***Status – June 2013***

*Implementation of the recommendations of the Delivery of Legal Services Task Force continues. As of January 1, 2013, the family law pilot projects in the Supreme and Provincial Courts have begun to operate, and will run until January 2015 after which they will be evaluated. Changes to the Law Society Rules and to the BC Code of Conduct that permit expanded opportunities for articulated students and paralegals to provide legal services are all in effect. To date, the President and policy staff have engaged in four presentations to paralegals and lawyers to educate about the initiative and to encourage participation.*

*At the July Benchers meeting that Benchers will discuss the report of the Access to Legal Services Advisory Committee, which makes recommendations regarding increased funding to support organized pro bono legal service groups. The recommendations include principles that the Law Society should apply when considering funding requests in the futures. The Advisory Committee will continue throughout 2013 to consider discrete concepts that the Law Society might support in order to improve access to legal services, with a view to reporting to the Benchers in December 2013 with recommendations.*

#### ***Initiative 2–1(b)***

Support the retention of women lawyers by implementing the *Justicia* Project.

***Status – June 2013***

*Work on Phase 1 on implementation of the Justicia project has begun. Managing Partners have met, and Diversity Officers have been appointed by participating firms. Working Groups have been created to examine Maternity Leave Policies, Flexible Work Plans, Demographic Information, and Business Development Programs for women. Work will continue on these topics through the Working Groups through the summer. Meetings are being scheduled for the fall to consider proposals and examine policies, with an expectation that model policies will be presented.*

***Initiative 2–1(c)***

Support the retention of Aboriginal lawyers by developing and implementing the Indigenous Lawyer Mentoring Program.

***Status – June 2013***

*An Aboriginal Mentoring Program has been developed and was presented to the Benchers for information in May 2013. It was formally launched on National Aboriginal Day, June 21 with a call for mentors. It is expected that matching of mentors with mentees will take place in the fall.*

**Strategy 2–2**

Improve access to justice in rural communities.

***Initiative 2–2(a)***

Develop ways to address changing demographics of the legal profession and its effects, particularly in rural communities.

***Status – June 2013***

*This initiative could benefit from information gathered through the REAL program. Work will begin after there has been some opportunity to review and analyse some of that programs results.*

***Initiative 2–2(b)***

Develop ways to improve articling opportunities in rural communities.

***Status – June 2013***

*Work on this initiative is planned to commence in 2014 and will also review and analyse the results from the REAL program.*

### **Strategy 2–3**

Understand the economics of the market for legal services in British Columbia.

#### ***Initiative 2–3(a)***

Work collaboratively with other stakeholders in the legal community to identify questions that need to be answered and engage, with others, in focused research.

#### ***Status – June 2013***

*In the implementation plan for this initiative, the initial work was assigned to staff to determine what work on this subject other stakeholders in the legal community were developing. After discussions with the Law Foundation, which is undertaking an examination relating to economic analysis of certain aspects of the justice system in conjunction with the Legal Services Society, it has been determined that the focus of their research is not focused on the market for legal services.*

*A staff group has therefore met to discuss what sort of research and issues could be examined in order to gather information to create a better understanding of the economics of operating a law practice and the market for legal services. A report will be presented at a later date to determine the feasibility of continuing with this initiative as drafted.*

### **GOAL 3: The public has greater confidence in the administration of justice and the rule of law.**

The rule of law, supported by an effective justice system, is essential to a civil society. This requires public confidence in both the rule of law and the administration of justice. The Law Society recognizes the importance of working with others to educate the public about the rule of law, the role of the Law Society in the justice system and the fundamental importance of the administration of justice.

#### **Strategy 3–1**

Develop broader and more meaningful relationships with stakeholders.

##### ***Initiative 3–1(a)***

Identify, establish and build on relationships with the Ministry of Attorney General and other government ministries, the Courts, and non-governmental stakeholders.

##### ***Status – June 2013***

*Work has been undertaken at the Benchers and staff level and has resulted in meetings with the Minister of Justice and Attorney General and ministry senior staff on a number of occasions. A meeting in Victoria with policy staff in various government ministries together with the Chief Executive Officer and Law Society policy and communication staff took place in 2012. Future meetings are being arranged to keep the lines of communication relevant and open and to continue productive work with the new minister.*

#### **Strategy 3–2**

Educate the public about the importance of the rule of law, the role of the Law Society and the role of lawyers.

##### ***Initiative 3–2(a)***

Identify methods to communicate through media about the role of the Law Society, including its role in protecting the rule of law.

##### ***Status – June 2013***

*To increase awareness of the Law Society and the Rule of Law, a number of initiatives have been completed. A dedicated webpage has been created and is updated regularly. During Law Week in 2012, the Law Society's "Day-in-the-Life" Twitter campaign was run and promoted. The following year, public*



*education was the Law Society's focus during Law Week and the first vice-president and senior staff were made available to the media over a week-long period to speak about the Law Society's role in promoting access to justice and protecting the public. Other proactive media relations efforts to discuss events or Law Society initiatives have also resulted in coverage of the Law Society and the opportunity to profile the work of the organization to hundreds of thousands of British Columbians. Content related to the Law Society have been added to Clicklaw, the primary online source of public information regarding the law in BC. The infrastructure to support the new Speakers' Bureau is complete and the bureau is being promoted on the Law Society website.*

# **INAUGURAL BRITISH COLUMBIA JUSTICE SUMMIT**

ALLARD HALL, FACULTY OF LAW, UNIVERSITY OF BRITISH COLUMBIA

MARCH 15-16, 2013

## **Report of Proceedings**

Prepared for the Honourable Suzanne Anton, Attorney General and Minister of Justice; the Honourable Chief Justice Robert Bauman, Chief Justice of British Columbia; the Honourable Associate Chief Justice Austin Cullen, Supreme Court of British Columbia; and the Honourable Chief Judge Thomas Crabtree, Provincial Court of British Columbia

June 17, 2013



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# CONTENTS

Background to the Summit .....	2
Governance and Planning.....	2
Agenda Development .....	3
Summit Proceedings .....	3
A. Values in the Criminal Justice System.....	3
B. Criminal Justice Priorities .....	5
C. Planning for Future Summits.....	6
Fall 2013 Justice Summit.....	7
Appreciation .....	7
Summit Feedback.....	8
Appendix 1: Summit Agenda .....	9
Appendix 2: Summit Participants.....	12
Appendix 3: Steering Committee and Working Group.....	14
Steering Committee .....	14
Working Group.....	14

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## BACKGROUND TO THE SUMMIT

As part of the British Columbia Justice Reform Initiative, the government asked Geoffrey Cowper, QC, to conduct a review of the criminal justice system. Mr. Cowper's report, *A Criminal Justice System for the 21<sup>st</sup> Century*, submitted in August 2012, recommended that, among other steps, the system should adopt a number of foundational changes to its governance structures. These changes, he suggested, should be designed to enhance cross-system dialogue and understanding, the capacity to plan, and the ability to increase the timeliness of justice services and processes. His specific recommendations included better system coordination and advice to government through a statutory council and advisory boards, the production of an overarching strategic plan, and a regular, inclusive justice summit to consider the most significant issues facing the system's leadership.

In the White Paper on Justice Reform – *Part One: Towards a Modern, Transparent Justice System* – released in October 2012, the government endorsed Mr. Cowper's recommendations regarding governance, and signaled the intention to introduce legislation to support these changes. The White Paper broadened the scope of the original recommendations beyond the boundaries of the criminal justice system to include the components of the justice and public safety sector more broadly. It also stated the government's intention to host a first Justice Summit in March 2013.

The *Justice Reform and Transparency Act* (2013), portions of which were brought into force on April 11, 2013, contains a number of provisions of direct relevance to the Summit. These include the requirement for a Justice Summit to be held at least annually, the establishment of a Justice and Public Safety Council responsible for identifying a strategic vision for the sector, and the requirement that the Council consult broadly in developing an annual Justice and Public Safety Plan.

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## GOVERNANCE AND PLANNING

The government's White Paper Part One commitment to host an inaugural Justice Summit required early decisions around event governance and subject matter, leading to the establishment of a Steering Committee (see Appendix 3) with representation from the executive and judicial branches of government, as well as independent legal and policing organizations. The Steering Committee was supported by an internal Working Group (see Appendix 3).



The Committee met between January and March 2013, its principal tasks being to develop an agenda, a representative list of participants, and agreement on facilitation, location, and other planning issues. To achieve continuity with Mr. Cowper's report, criminal justice was selected by the Committee as the broad-based topic of the first Summit and as an organizing principle to determine participation.

Recognizing the need to create conditions which would allow a high level of interaction and productive dialogue at the first such event, the Committee requested that participation be limited to not more than 40 to 50 attendees. The Committee agreed further that,

consistent with protocol in similar gatherings in other jurisdictions to encourage free expression, no attribution of comments made during the Summit would be noted in the Summit report.

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## AGENDA DEVELOPMENT

The Steering Committee, in developing the agenda, agreed that the first Summit was an opportunity to have three important discussions among participants.

White Paper Part One indicated that system performance measures would be a material discussion for the first Summit. However, the Committee concluded that, in the absence of an inclusive and legitimate consensus on **basic system values** (and following from that, desired outcomes), consideration of performance measures would be premature. The Summit provided an opportunity for participants to begin consideration of the basic values of the criminal justice system as a foundational element of future discussions, including that of system performance. Although the initial agenda was based on a single day, the Committee regarded discussion of system values as sufficiently important and complex to require extended consideration. Therefore, an optional event for participants to do preparatory work about system values was added to the afternoon preceding the day of the full Summit.

The second opportunity provided by the Summit was to canvass and discuss substantive **criminal justice priorities** that might be developed into focused Summit topics in the future.

Finally, the first Summit was seen by the Committee as an opportunity to discuss the ways in which **planning for future Summits** might be carried out. The key questions facing the Committee in planning of the first Summit were those the Committee felt participants themselves might address, such as: What factors would increase the legitimacy and credibility of Summits? How might the process give appropriate attention to the different aspects of the overall justice and public safety sector, including criminal, civil, family and administrative justice and broader questions of public safety? And, how might the best balance be struck between the values of broad and legitimate representation, and effective and productive deliberations?

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## SUMMIT PROCEEDINGS

### A. VALUES IN THE CRIMINAL JUSTICE SYSTEM

Participants were invited to attend an optional facilitated discussion of the basic values of British Columbia's criminal justice system, held on the Friday afternoon prior to the Summit. The outcomes of the optional session would be reported to the Summit the following day. The session was well attended, with more than 90 per cent of invited Summit participants joining the optional event.

At the optional session, participants were divided into small groups. The groups were asked by the facilitator to identify a small number of value statements which might be considered fundamental by some or all participants of the criminal justice system. A plenary discussion followed, in which the small groups provided reports, and participants discussed the range of values that surfaced in this process.

Following the conclusion of the optional session, the facilitator, supported by members of the Working Group, developed a summary of the basic themes that were identified through the optional session. These themes were summarized for further discussion as follows.

- First, some values discussed appeared to be more **fundamental values**, such that they would be predominant, or otherwise limit the application of secondary values. Values in this category included, but are not limited to: respect for the rule of law; fairness; timeliness; and safety of the public.
- A second category included **values that relate to how the system responds to criminal behaviour**. These included, but are not limited to: proportionality; early resolution; promoting and resourcing creative solution; and a willingness to find answers outside the justice system.
- A third category included **values relating to the behaviour of those who work in/are responsible for the justice system**. These included, but are not limited to: evidence-based decision making; shared accountability; resisting measures that limit creativity in the response to criminal behaviour; being respectful and accountable to one another; recognizing independence in role, but dependence upon each other for success; recognizing intra-justice and cross-sectoral impacts in allocating resources; building effective relationships; building respect and trust across the system; and effective collaboration within and across systems.
- The final category was comprised of **values related to building public understanding and confidence in the justice system**. These included, but are not limited to: accountability to the public; identifying measurable outcomes; creative and honest education of the public about criminal behaviour and the effectiveness of the system; demonstrating the cost effectiveness of the system; building public understanding of the value of the system and the need to resource it adequately; ensuring public confidence is based on accurate information; and, recognizing the legitimacy of emotional as well as rational responses to the justice system.

The full Summit convened the following day. At the start of the day, participants were informed that on Friday, March 15, 2013, a bilateral meeting occurred between the Minister of Justice and Attorney General, her two Deputy Ministers, and the Chief Justice of British Columbia, the Associate Chief Justice of the Supreme Court of British Columbia, and the Chief Judge of the Provincial Court of British Columbia to discuss how participation in the work of the Summit would also be protective of the judiciary's independent constitutional role. It was a very productive meeting and work will continue on how the judiciary can remain fully involved, as they want to be, in this multilateral Summit, and how both arms of government can benefit from these Summits and from other bilateral meetings that take place between them.



Summit participants were provided with the summary of the previous day's plenary discussion and returned to small groups. The facilitator asked the groups to consider the summary document and to reflect on the completeness of the values as described and categorized.

In the plenary discussion, small group reports identified additional views on criminal justice system values. New points raised in this discussion include, but were not limited to:

- accountability and transparency of the system;

- the use of creative solutions, such as restorative justice and community courts;
- whether timeliness, public confidence and/or public safety are values or outcomes;
- the danger of erosion of public goodwill on which the system is based;
- the primacy of fundamental justice as a system principle;
- the importance of integration and collaboration;
- the danger of fundamental change based on short-term concerns;
- the need to avoid basing public policy on poorly grounded perceptions;
- whether public confidence is a necessary consequence of fairness;
- the public impact of high visibility measures taken in other justice systems;
- access to legal information, resources and representation;
- the importance of incorporating risk assessment approaches to accused persons and convicted offenders beyond the corrections environment;
- the importance of crime prevention through social development;
- the promotion of positive and creative approaches;
- that independence should be a fundamental value;
- that judicial independence is a fundamental value; and
- whether the public shares the participants' valuation of education about the system.

Upon conclusion of the plenary discussion, there was consensus that the process of value identification was incomplete and should continue. Summit participants supported the suggestion of the facilitator that, prior to the next Summit, additional focused work be undertaken to develop a draft statement of criminal justice system values for consideration at the next Summit. Participants were invited to provide feedback on the draft Report of Proceedings.

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## B. CRIMINAL JUSTICE PRIORITIES

Upon completion of the values discussion, the Summit moved to consideration of priority issues within the criminal justice system. After three individual presentations from different perspectives on key issues within the system, participants were invited by the facilitator to develop, in their small groups, a short list of priority issues which might be usefully addressed at a future Justice Summit, or would inform the development of the annual Justice and Public Safety Plan mandated by the *Justice Reform and Transparency Act*. Participants then returned to plenary.



There were many issues developed in discussion. By theme they included:

1. improved inter-system coordination regarding the intersection of **criminal justice and public health** (i.e., mental illness, harm reduction/substance abuse);
2. **access to justice** issues, including the funding of the legal aid system;
3. **evidence-based justice**, including professional and public education, research and knowledge transfer regarding best practices (i.e., risk assessment/proportionate response, crime prevention), and evaluation and performance measurement;
4. the **protection of vulnerable populations** (i.e., domestic, family or partner violence, other violent crime, and overrepresentation of Aboriginal persons in the criminal justice system);
5. **accountability and transparency** across the system and with other systems (i.e., addressing information and privacy issues, identifying and prioritizing the information participants need to access, and sharing and making available data on how the system is functioning and on measuring performance.);
6. the **economics of community safety**, including the costs of policing;
7. further work on **establishing shared values** and how they might be applied;
8. identification of **system efficiencies** (i.e., those achievable with technology supports, or targeting specific categories of delay, examining each stage of the criminal process, efficiency and cost items associated to disclosure); and
9. **system governance under the *Justice Reform and Transparency Act*** (i.e., relationship of the Summit, Council, Advisory Boards, planning and other work).

Upon conclusion of the plenary discussion, Summit participants supported the facilitator's recommendation that the Steering Committee work within these suggestions in ongoing consultation with respect to future Summit agendas. A small number of those themes would be selected as focus points for future Summits.

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## C. PLANNING FOR FUTURE SUMMITS

Following the final small group discussions, in which participants discussed questions related to ensuring the ongoing legitimacy, credibility and effectiveness of the Summit process, participants noted the following points:

- While over the longer term Summits might occur annually, the current momentum requires at least two Summits per year, with the next ideally being held in fall 2013.
- While the agenda for the first Summit was necessarily broad, future Summits will require a tighter focus and extensive preparatory work involving participants.
- Summit preparation and planning should reflect the need to consider all aspects of the system (i.e., administrative, civil, criminal and family justice as well as matters of public safety).
- Summits need to accomplish two distinct objectives: foster proactive involvement of the justice and public safety community as well as meet the statutory requirements (e.g. consultation on a draft Justice and Public Safety Plan).

The Summit concluded with an invitation from the facilitator to participants to indicate to Summit organizers their willingness to participate in the development of future Summits and to work on two topics requiring further work:

1. values identification and
2. priority setting.

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## FALL 2013 JUSTICE SUMMIT

Summit participants suggested that a second Justice Summit be held in the fall 2013. The full agenda for this event would be determined in consultation with Summit participants and other stakeholders. Participants anticipated that it would include consideration of a draft statement of values upheld by the criminal justice system. Participants also reflected on the participant makeup of future Summits, which could include expanded Aboriginal participation, as well as representation from other government policy areas.

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## APPRECIATION

The Steering Committee would like to express its thanks to the participants at the inaugural Justice Summit, whose commitment and goodwill contributed greatly to the event.

For assistance in the development and realization of this first Summit, special thanks are due to: the British Columbia Court of Appeal, the Supreme Court of British Columbia, the Provincial Court of British Columbia; the Law Society of British Columbia; the British Columbia Association of Chiefs of Police; the Canadian Bar Association (BC Branch); the Legal Services Society; and the Public Prosecution Service of Canada.



The Steering Committee would also like to thank Dean Mary Anne Bobinski, Associate Dean Benjamin Goold, and staff of the University of British Columbia, Faculty of Law, as well as the Law Society of British Columbia and their Chief Executive Officer, Tim McGee, for their generosity and flexibility in creating the best possible setting for the Summit.

Finally, the Steering Committee would like to thank the Summit moderator, Tim McGee; the Summit facilitator, George Thomson; the Honourable Mr. Justice Richard Wagner of the Supreme Court of Canada, Geoffrey Cowper QC, Professor Yvon Dandurand, Deputy Chief Constable Doug LePard of Vancouver Police Department, Kasandra Cronin of LaLiberté Cronin LLP, and Michelle Burchill of UBC Law, as well as the many individual employees of justice and public safety organizations in British Columbia who made direct personal contributions to the success of the Justice Summit.

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## SUMMIT FEEDBACK

Comments on this Report of Proceedings and the Summit process are encouraged and may be emailed to [JusticeReform@gov.bc.ca](mailto:JusticeReform@gov.bc.ca)

Written communication may be sent to:

Ministry of Justice  
Province of British Columbia  
1001 Douglas Street  
Victoria, BC V8W 3V3  
Attention: Justice Summit

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# APPENDIX 1: SUMMIT AGENDA

**INAUGURAL JUSTICE SUMMIT  
AND  
BC JUSTICE LEADERS DINNER  
ALLARD HALL, FACULTY OF LAW, UBC  
FRIDAY, MARCH 15 AND SATURDAY, MARCH 16, 2013**

## **AGENDA**

**Friday, March 15**

**Justice Summit – Forum**

**2:30 – 5:00 Afternoon session: Identifying the Values which Guide the Criminal Justice System**

**BC Justice Leaders Dinner<sup>1</sup>**

**6:00 to 6:45 – Reception**

**7:00 to 9:00 – Dinner**

7:00 to 7:05 Welcome from Mr. Tim McGee, Summit Moderator

7:05 to 7:10 Welcome from Associate Dean Benjamin Goold, on behalf of Dean Mary Anne Bobinski

7:15 to 7:30 Opening remarks from Minister of Justice and Attorney General Shirley Bond

7:30 to 8:30 Dinner

8:30 to 8:50 Keynote Address: Honourable Mr. Justice Richard Wagner, Supreme Court of Canada

8:50 to 9:00 Thank you to keynote speaker: Chief Justice Lance Finch, British Columbia Court of Appeal

9:05 Evening close: Tim McGee, Summit Moderator

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<sup>1</sup> The BC Justice Leaders Dinner was held to coincide with, but did not form part of, the Justice Summit. It was an opportunity to include Summit participants and many other justice system leaders in an overall recognition of commitment, shared responsibility, partnership and opportunity with respect to our system.

**Saturday, March 16**

**Justice Summit — Forum**

**8:30 – 8:45 Welcome and Overview of Summit**

- *Welcome to participants – Tim McGee, Summit Moderator*
- *Format and goals of the Summit –George Thomson, Facilitator*

**8:45 – 9:15 A New Framework for the Criminal Justice System**

The goal of this session is to orient participants with respect to the key provisions of the Justice Reform and Transparency Act, and to outline the opportunities provided in the Act for an inclusive planning process.

- *The Justice Summit: Strengthened Relationships and New Opportunities*
- *The Justice Reform and Transparency Act: Broadening The Justice Dialogue*

**9:15-10:45 Values in the Criminal Justice System**

The goal of this session is to generate, consider, and refine a draft list of values which are essential to the oversight and practice of the criminal justice system. These values need not be of equal weight to all participants, nor need they be commonly held. However, they should be foundational for at least some participants in the criminal justice system.

- *Report back from Friday afternoon session (10 minutes)*
- *Small group sessions (45 minutes)*  
Groups of 10 or fewer discuss draft values and answer following questions:
  - Should the list be amended, reduced or expanded?
  - Do any of these values reinforce one another?
  - Do any of them conflict with one another?

**11:00-11:45 Identifying the Criminal Justice Priority Issues a Summit Should Address**

The goal of this session is to offer, and have Summit participants consider, a diverse, non-exhaustive set of perspectives on sector-level topics or priority issues which might be addressed using the Summit framework in the next year, and/or which may be addressed in the Justice and Public Safety Plan.

**11:45-12:30 Priorities for Criminal Justice, Part One**

The goal of this session is to have participants in small groups identify (on flipcharts) a hierarchy of no more than five topics for future Summit consideration.

**1:45 – 3:15      Priorities for Criminal Justice, Part Two**

The goal of this session is, with a narrowed list of topics in hand, for participants to discuss in more depth what they think needs to be done to address the topics well in future Summits.

- Small group sessions (45 minutes)
- Report back in plenary (45 minutes)

**3:30-4:30      Preparing for Future Summits**

The goal of this session is to consider and identify key elements in ensuring a successful Summit process going forward.

A facilitated plenary discussion of a number of issues relating to future Summits. These may include:

- membership/participation
- ways of ensuring inclusiveness and diversity while keeping Summit events manageable and affordable
- bridging/organization (e.g., a formal Steering Committee, interim working groups)
- Summit format
- reporting and communications

**4:30      Closing**

Remarks by Facilitator

Closing by Tim McGee, Summit Moderator

## APPENDIX 2: SUMMIT PARTICIPANTS

Anhorn	Michael	Executive Director	Canadian Mental Health Organization, B.C.
Bayes	Shawn	Executive Director	Elizabeth Fry Society of Greater Vancouver
Benton, QC	Mark	Executive Director	Legal Services Society
Bond	Honourable Shirley	Minister of Justice and Attorney General	Government of British Columbia
Braker, Q.C.	Hugh	President	Native Courtworkers and Counselling Association of B.C.
Brecknell	Honourable Michael	Associate Chief Judge	Provincial Court of British Columbia
Callens	Craig	Deputy Commissioner	E Division RCMP
Cavanaugh	Lynda	Assistant Deputy Minister	Community Safety and Crime Prevention, Ministry of Justice
Chalke, QC	Jay	Assistant Deputy Minister	Justice Services Branch, Ministry of Justice
Crabtree	Honourable Thomas	Chief Judge	Provincial Court of British Columbia
Cronin	Kasandra	Barrister	LaLiberté Cronin
Cullen	Honourable Austin	Associate Chief Justice	Supreme Court of British Columbia
Dandurand	Yvon	Professor	Senior Associate at the International Centre for Criminal Law Reform and Criminal Justice Policy and Associate Vice-President, Research and Graduate Studies, University of the Fraser Valley
Devlin, QC	Martha	Senior General Counsel	Public Prosecution Service of Canada
DeWitt-Van Oosten, QC	Joyce	Assistant Deputy Attorney General	Criminal Justice Branch, Ministry of Justice
Dinwoodie	Murray	Chief Administrative Officer	City of Surrey
Finch	Honourable Lance	Chief Justice	British Columbia Court of Appeal
Fowler	Richard	Barrister	Fowler and Smith
Fyfe, QC	Richard	Deputy Attorney General	Ministry of Justice
Gill	Honourable Gurmail	Associate Chief Judge	Provincial Court of British Columbia
Gottardi	Eric	Barrister	Canadian Bar Association – BC representative
Graham	Jamie	Chief Constable	Victoria Police Department/President BC Municipal Chiefs of Police
Haugli	Brad	Inspector	Penticton South Okanagan Similkameen Regional Detachment/President BC Association of Chiefs of Police
Jamieson, QC	Gene	Legal Officer	Provincial Court of British Columbia

Jardine	Kevin	Assistant Deputy Minister	Court Services Branch, Ministry of Justice
Jones	Dave	Chief	New Westminster Police Department
Juk, QC	Peter	Director, Appeals and Special Prosecutions, Criminal Law Division	Criminal Justice Branch
Kraemer, QC	Frank	Executive Coordinator	Supreme Court of British Columbia
LePard	Doug	Deputy Chief Constable	Vancouver Police Department
Mason	Heidi	Director, Legal Advice and Representation	Legal Services Society
McBride	Heidi	Law Officer	Supreme Court of British Columbia
McGee	Tim	Chief Executive Officer	Law Society of British Columbia
Merchant	Brent	Assistant Deputy Minister	Corrections Branch, Ministry of Justice
Morrison	Dr. Brenda	Director	Centre for Restorative Justice and Assistant Professor, School of Criminology, Simon Fraser University
Outerbridge	Tim	Law Officer	British Columbia Court of Appeal
Parkin	Ben	Assistant Director	Law Department, City of Vancouver
Pearson	Paul	Barrister	Mulligan, Tam, Pearson
Pecknold	Clayton	Assistant Deputy Minister	Policing and Security Programs Branch, Ministry of Justice
Phillips	Honourable Nancy	Associate Chief Judge	Provincial Court of British Columbia
Porteous	Tracy	Executive Director	Ending Violence Association
Prior	Robert	Chief Federal Prosecutor	Public Prosecution Service of Canada
Robertson, QC	Wayne	Executive Director	Law Foundation
Ruebsaat	Gisela	Legal Analyst	Ending Violence Association
Russell	Clark	Director of System and Service Coordination	Ministry of Children and Family Development
Shackelly	Darryl	Provincial Trainer	Native Courtworker and Counselling Association of B.C.
Simmons	Kerry	President	Canadian Bar Association – B.C.
Thomson	George	Director	National Judicial Institute
Vance	Kenneth	Senior Policy Advisor	Union of British Columbia Municipalities
Veresh	Tim	Executive Director	John Howard Society, Lower Mainland
Walter	Bernd	Chair	BC Review Board and BC Human Rights Tribunal
Wanamaker	Lori	Deputy Minister of Justice and Deputy Solicitor General	Ministry of Justice
Wilkinson	Craig	Executive Director	Provincial Court of British Columbia



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## APPENDIX 3: STEERING COMMITTEE AND WORKING GROUP

### STEERING COMMITTEE

**Members:**

Jay Chalke, QC	Assistant Deputy Minister, Justice Services Branch (Chair)
Associate Chief Justice Austin Cullen	Supreme Court of British Columbia
Associate Chief Judge Gurmail Gill	Provincial Court of British Columbia
Eric Gottardi	Barrister, Peck and Company/Canadian Bar Association BC Branch
Joyce DeWitt-Van Oosten, QC	Assistant Deputy Attorney General, Criminal Justice Branch
Mark Benton, QC	Executive Director, Legal Services Society
Mark Fisher	Chief Constable, Oak Bay Police/BC Association of Chiefs of Police
Robert Prior	Chief Federal Prosecutor, Public Prosecution Service of Canada
Tim McGee	Chief Executive Officer, Law Society of British Columbia (Summit Moderator)

**Facilitator:**

George Thomson	Director, National Judicial Institute
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**Ex-officio:**

Allan Castle	Executive Lead, Justice and Public Safety Secretariat
Nancy Pearson	Manager, Stakeholder Relations, Justice Services Branch
Heidi McBride	Law Officer, Supreme Court of British Columbia
Gene Jamieson, QC	Law Officer, Provincial Court of British Columbia

### WORKING GROUP

**Members:**

Allan Castle	Executive Lead, Justice and Public Safety Secretariat (Chair)
Barbara Greeniaus	Executive Advisor, Justice and Public Safety Secretariat
Darrion Campbell	Executive Director, Corporate Planning
Elenore Clark	Deputy Provincial Director, Community Corrections, Corrections Branch
Gene Jamieson, QC	Law Officer, Provincial Court of British Columbia
Heidi McBride	Law Officer, Supreme Court of British Columbia
James Deitch	Executive Director, Criminal Justice and Legal Access Policy Division, Justice Services Branch
Nancy Pearson	Manager, Stakeholder Relations, Justice Services Branch
Richard de Boer	Director, Policy and Legislation, Criminal Justice Branch
Toby Louie	Executive Director, Corporate Policy and Planning Office

**Special assistance provided by:**

Andrew Mitchell	Stakeholder Relations Officer, Justice Services Branch
Edna Philippides	Executive Assistant, Justice Services Branch
Julie Meier	Executive Assistant, Justice and Public Safety Secretariat
Tiny Vermaning	Administrative Assistant, Justice Services Branch





# Rural Education and Access to Lawyers Initiative (REAL)

July 12, 2013

Presentation to the Law Society of BC

# In a Nutshell

*REAL addresses the current and projected shortage of lawyers practising in small communities and rural areas of BC, in order to protect access to legal services in these areas.*



*The core of the program funds 2L students' summer employment and a Regional Legal Careers Officer.*

# Small Firm Task Force

January 2007

Raised concerns about whether the sole and small firm bar was renewing itself, particularly in less populated parts of the province and whether pressures and challenges make it more difficult to attract lawyers to sole and small firm practice.



# Small Firm Task Force

- 31% of sole practitioners are between the ages of 55 and 65 (compared to 18% of lawyers at firms of >5)
- Average age of sole practitioners is 51



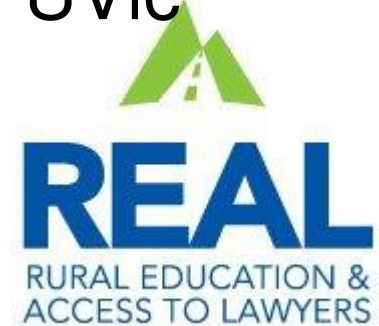
# Small Firm Task Force

- Recommended that the LSBC develop articling program proposals to promote articling throughout the province with a focus on sole and small firm practices



# Impending Crisis In Access to Legal Services in Rural BC

- October 2008 Law Foundation convenes meeting
  - Wayne Robertson, Law Foundation
  - Caroline Nevin, CBABC
  - Alean Treleaven, LSBC
  - Heather Raven, Associate Dean, UVic
  - UBC and UVic Career Officers





# Impending Crisis – Discussion

- High competition from large firms/centers
- Law firms can better recoup articling student cost by billing out time
- Loan forgiveness programs has low to zero success in other jurisdictions (e.g Yukon/NWT), even with government support
- US programs only somewhat successful, primarily focused on public interest lawyer positions



# **An Idea into Action**

## **REAL Phase I: 2009-2011**

- Law Foundation funding of \$795,000 over 3 years funded:
  - 52 positions of summer employment
  - year-round Regional Legal Careers Officer
  - promotional material and events from BC to Saskatchewan
  - legacy guides for law firms and students







**Name:** Lolita Rudovica

**University:** University of B.C.

**Placement:** Vanderhoof

“I have spent 80% of my summer in court. For me, that is fantastic as I love court. I have met and had lunch with pretty much all the Judges that sit in this region and they have personally given me tips and advice. The experience has just been incredible!”



# Locations

Powell River

Qualicum Beach

Nanaimo

Kamloops

Lumby

Nelson

Invermere

Prince George

Salmon Arm

Squamish

Courtenay

Campbell River

Summerland

100 Mile House

Revelstoke

Salmon Arm

Vanderhoof

Fort St John

Williams Lake

Smithers

Quesnel

Winlaw

Golden

Fernie

Vernon

Penticton

Castlegar



# Summer Employment

2009: 11 positions led to 5 articling offers

2010: 21 positions led to 11 articling offers

2011: 20 positions led to 10 articling offers

Total: 26 articling positions created



**Name:** Erin Crocker

**University:** University of  
Alberta

**Placement:** Smithers

I had a great summer in Smithers. It is a remarkable area of BC. The air is fresh and smells like the forest. .. With the ski resort above the town and hiking right outside your backdoor, it is no wonder they call it a “town of all seasons”.





**Name:** Julian Tryczynski

**University:** University of  
British Columbia

**Placement:** Williams Lake

I received a lot of support from my principal  
which greatly enriched my practical legal  
experience. I also had plenty of time to visit  
many of BC's natural gems.



# Phase II: 2012-2013

- Matching funding from CBABC and LSBC reserves of \$300,000 over 2 years funded:
  - 28 positions of summer 2L employment
  - 6 month, part-time Regional Legal Careers Officer (RLCO)





# Evolution: 2012-2013

- Students obtained Temporary Articles
- Focused on smaller communities/large service area and/or higher need
- Law firms accepted less funding
- Non-peak period RLCO services provided by CBABC staff and volunteers
- CBABC increased “in kind” support.



# 2012-2013 Locations

Smithers

Penticton

Fernie

Squamish

Dawson Creek

Invermere

Lumby

100 Mile House

Trail

Campbell River

Prince George

Nelson

Powell River

Nanaimo

Duncan

Castlegar

Summerland

Terrace



# 2012 Success

- 13 REAL students
- 6 offers of articling made and accepted



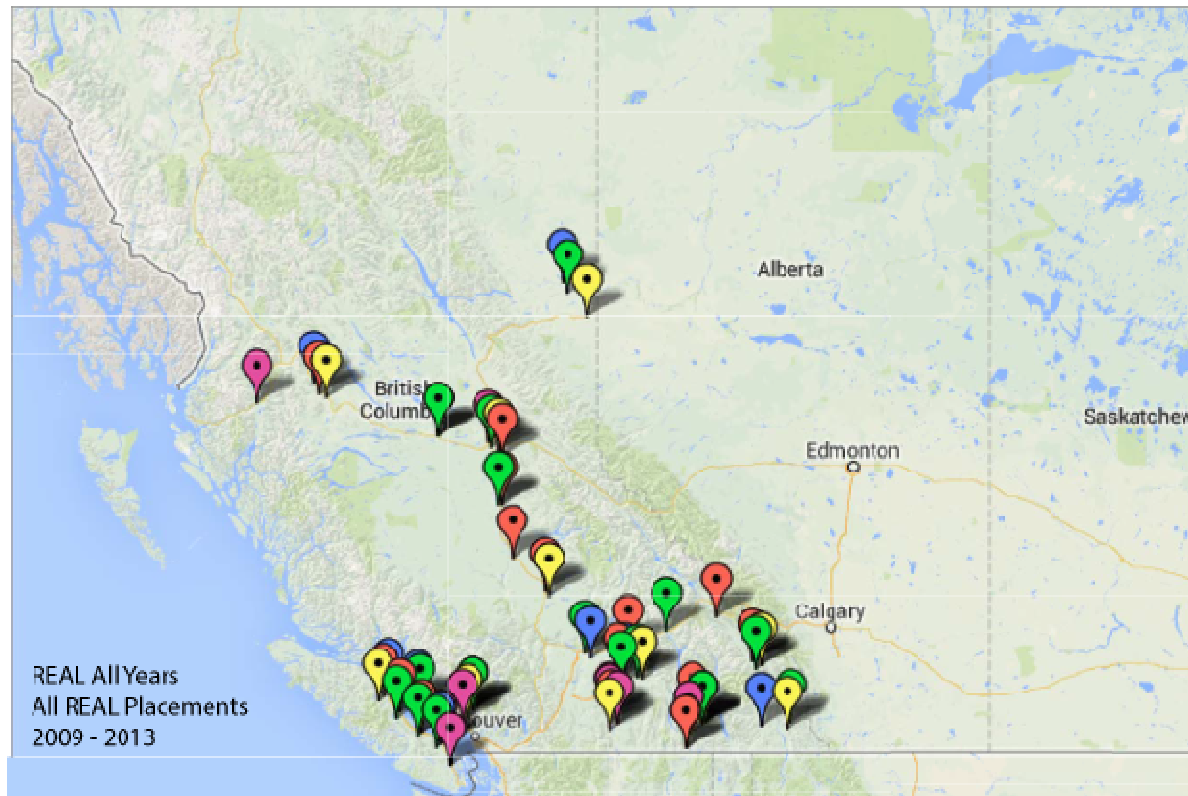
# 2013 Success

*“I just wanted to send a quick note thanking you for sponsoring my involvement in this program. My student and I have come to an agreement to have her article with my office in 2014/2015. I am certain this would not have occurred if not for your sponsorship. This is a wonderful program and a great asset for rural lawyers. Thank you again.”*



# REAL Placements 2009 - 2013

Google



  
**REAL**  
RURAL EDUCATION &  
ACCESS TO LAWYERS

# Numbers: Really Good Ones

- 80 students participated 2009 - 2013
- 65 students 2009 – 2012 eligible for articles
- 35 offers of articles made
- 22 accepted the offer
- 10 students took other rural articles
- 32 articling students resulted



# Additional Benefits

- Changing the conversation in law schools – it isn't all about the big cities
- Stakeholder Engagement
- Profile Raising
- We are doing something to address the concern and not relying on others.



# REAL Advisory Committee

- Tom Fellhauer – Kelowna, LSBC Benchers
- Chris McEwan – Trail
- Kerri-Ann Thomas, Invermere
- Sean Rowell, Smithers
- David Lunny, North Vancouver
- Jennifer Brun, Vancouver
- Kerry Simmons, Victoria, CBABC Executive
- Alan Treleavan, LSBC Director of Education
- Maureen Cameron, CBABC Senior Director
- UVic, UBC, TRU Career Officers





# Concrete, Purposeful and Effective Response

- enhances access to legal services in communities
  - addresses shortage of lawyers
  - addresses aging of the profession
  - provides lower-cost alternatives
  - supports greater retention rate



# Concrete, Purposeful and Effective Response

- effective education of legal profession
  - supports and encourages principals
  - secures strong mentors while still available
  - increases the number of available articling positions
  - provides a broad range of experience to law students not available in other settings



# National Interest

- Consistent media mention
- Seen as the ideal program and envied by all
- 2010 all CBA branches joined to seek funding from Ontario fund for national program
- 2012 CBA National Board established Working Group on Rural Lawyers
  - Exchange of information
  - Promotion of rural practice



# Phase III

- Targeted identification of highest need communities
- Focused on meeting the specific needs of the community
- Focused placement of students and lawyers



# Highest Needs

- Detailed examination of
  - Population
  - Geographic service area
  - Legal Service Society travel counts
  - Court locations
  - Age of lawyers
  - Number of Lawyers



# Project Manager

- Consistent appreciation/need for RLCO
- Move to Project Manager approach
  - Complete highest needs work
  - Targeted placement of students
  - Facilitate connections to students and lawyers
  - Develop community-based funding
  - Support law school promotion of practice in smaller communities



# **Ideal Budget: \$150,000**

- \$80,000 2L placement
- \$60,000 part-time, 12 month Project Manager
- \$8,000 Project Expenses
- \$2,000 Advisory Committee



# **\$80,000 for 2L Placements**

- Phase I: \$9,445 average per student
- Phase II: \$7,800 average per student
- Phase III: \$9,000 - \$10,000
- Focus changes from introducing as a many students as possible to rural practice to place “ideal” students where greatest need





# Project Manager \$60,000

- Essential deliverable of the program
- Firms identify RLCO as key to success
- Expectations higher for Project Manager
- Complete analysis of highest needs
- Increased participant assessment
- Community outreach
- Sustained support



# Administration

- \$8,000, Project Expenses for material printing, modest travel, survey
- \$2,000 for Advisory Committee to offset travel costs
- In Phase I and II CBABC bore administration costs including
  - general overhead
  - bookkeeping and accounting
  - travel expenses for one in-person Advisory sub-committee meeting
  - March 2013 REAL Reception
  - Committee Co-ordinator – scheduling meetings
  - Senior Director
    - co-ordinating non-peak month communication and projects
    - hiring 3 RLCOs and monitoring contract
    - co-ordinating new funding application team
    - co-ordinating creative and IT for website, Facebook and publications
  - Executive Director contributions to funding application team



# Partnership – All In it Together

- Law Foundation has approved funding of \$50,000 conditional on matching from LSBC and CBABC
- CBABC has planned for \$50,000 and seeks approval in September
- Seeking commitment of LSBC



# **What about the Future?**

## **All in it Together**

- Legal profession monitors access to legal services in rural and smaller communities and takes action to meet need
- Support younger professionals now in these communities
- Promote rural and smaller communities to a law students



# Thank You!

- Tom Fellhauer and Alan Treleavan
- Art Vertlieb and Bruce LeRose
- Tim McGee, Jeanette McPhee, Adam Whitcombe, Doug Munro, Bill McIntosh

