Executive Summary

Alberta Justice and the Provincial Court determined that further efforts should be made to address systemic issues that affect the administration of justice. These initiatives might impact collectively or singularly upon the operation of the Provincial Court, the General Prosecutions Branch, defence counsel, and the self-represented accused.

Alberta Justice and the Provincial Court recognize and accept the following overarching principle must apply to, and be respected in, any proposed initiatives:

To recognize and protect judicial independence and the management of its judicial resources, the Provincial Court has jurisdiction over, and responsibility for, the scheduling and disposition of matters within the Provincial Court to:

- Ensure that the solicitor client relationship between a person accused of a crime and their counsel is assiduously fostered and supported.
- Recognize the public is entitled to proper and competent representation from the Crown by encouraging early and consistent contact between the Crown and defence counsel or the accused, victims, witnesses and police by the assignment of one Crown prosecutor who is responsible for a case from start to finish.
- Ensure a level playing field by treating the Crown and the accused equally with respect to any changes concerning how matters are scheduled and disposed in the Provincial Court.
- Achieve consistent approaches to case management processes in the Calgary and Edmonton Provincial Court.

The Issues

In 2007/08, the percentage of Albertans who have "some" or "a lot of" confidence in the Province's justice system dropped to 67%, down from 79% in 2003/04¹. Although this may be attributable to a lack of knowledge about the system, these lower confidence levels are likely also influenced by the increasing demand on the Alberta Provincial Court, Criminal Justice Division, and Court Services Division resources. The Provincial Court continues to hear a growing number of increasingly complex cases each year. This places greater demands on judges and judicial clerks and has begun to reflect negatively on court lead times. On the prosecution side, increases in case loads in general and serious and violent crime cases in particular have stretched the resources of Crown offices in the General Prosecutions Branch. Further, many senior Crown prosecutors have left the service resulting in a high proportion of junior level Crown prosecutors in the Edmonton and Calgary offices. Whatever the difficulties may be, the public expect that the criminal justice system should consistently provide for fair and timely disposition of cases.

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¹ The 2007-08 Public Opinion Survey

Alberta Justice and the Provincial Court also decided that further efforts should be made to address the issue of public confidence. To that end, the File Ownership and Court Case Management Project was undertaken. Its broad objectives are to make more efficient use of limited Provincial Court, Criminal Justice, and Court Services resources in Edmonton and Calgary by more fully utilizing court time and more effectively managing cases in the Edmonton and Calgary General Prosecution Crown Offices. In order to be successful, these objectives must streamline criminal justice processes, reduce the length of time required to conclude cases, reduce the number of appearances per case, and reduce the backlog of cases.

Crown File Ownership

In order to fulfill these stated objectives, the General Prosecution Offices in Edmonton and Calgary must be reorganized so that a concept of vertical Crown file ownership is implemented. The adoption of a rigorous system of Crown file ownership is considered essential in order to promote proper case management and the efficient use of Crown prosecutors' time by greatly reducing the number of Crown prosecutors who must invest time and effort in reviewing a file. Further, if responsibility for a file can be vested in one prosecutor, that Crown prosecutor can be held accountable for its progress from the beginning of the court process to the end.

Certain changes must also be made regarding the deployment of Crown office support staff before any model of vertical Crown file ownership is widely adopted. Support staff should become case/prosecutor focused rather than task driven. Additionally, an electronic file management IT system, such as PRISM², must be in place so that files and instructions to files can be tracked instantly. This system should be able to interface or exchange data with JOIN/JIMS.

Court Case Management

Provincial court judges and Crown prosecutors should only appear in court to address meaningful events (e.g., contested bail hearings, contested motions, trials, preliminary hearings and sentencing hearings). Other court appearances of an administrative nature (e.g. uncontested remands or adjournments) should be delegated to paralegals appearing before justices of the peace who have appropriate jurisdiction.

The importance of acting swiftly and decisively at the front-end of the system to conclude files or, at the very least, to narrow outstanding issues must be a paramount consideration when designing new systems in both Crown offices and the courts. Early case resolution procedures must be supported.

In terms of the Provincial Court and Court Services, the present system for booking trials should be revised to support the concept of vertical Crown file ownership in the Crown offices and fully utilize finite court time.

² Prosecutions Information Management and Scheduling system

The scheduling of trials will be more efficient if each day is viewed as blocks³ of time divided into minutes. Although cases may be directed to a specific courtroom in advance of the trial date, the actual courtroom may change on the day of the hearing when it becomes clear which matters are actually proceeding. There is also an identified need to continue specialized courts in areas such as domestic violence and youth with the possibility of adding others as needs are identified. This 'day of' scheduling methodology can be applied concurrently to specialized courts and specialized courtroom needs.

The process for court assignment on the day of trial could take many forms and would have to be determined in the implementation process. For example, a possible form might be:

When a trial file is scheduled, it is scheduled to an assignment court. There may be a number of assignment courts, for example one assignment court for every four trial courtrooms or two assignment courts for every five trial courtrooms etc. Witnesses would be subpoenaed to this courtroom(s) where the cases are initially assessed. Those cases which are ready for trial would be assigned to available and waiting courtrooms. Those cases where a guilty plea is to be entered would be sent to a non-scheduled disposition court for immediate disposition. Finally, adjournment requests would be addressed.

Within this framework it may be necessary to schedule some courtrooms in advance where specific needs have been identified such as, child witnesses, continuations or courtrooms that are able to accommodate special technological requirements. Advance scheduling of judges will also be necessary where motions or applications such as Charter challenges are filed and a judge is assigned to review materials submitted by counsel. It is expected that specific cases will be assigned to a particular courtroom in advance of the date scheduled for the start of the hearing for these and other similar reasons.

Technology Assists

A modern IT system must be introduced that can manage and coordinate judicial, Crown prosecutor, defence counsel, police, and other witness schedules with court availability. Matters may be scheduled electronically into this system at a number of locations including the Case Management Office (CMO) or by remote (PDA or workstation) access by the Crown prosecutor and defence counsel.

Prosecution management requires new technology to assist with monitoring of file assignments and workloads. Crown prosecutors will also require technology to allow recording, updating, and transmission of the status of, or instructions relating to, a particular file.

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³ Issues concerning continuous dockets etc. are to be decided during implementation.

Principles to be Applied

Overarching Principle

Alberta Justice and the Provincial Court recognize and accept the following overarching principle must apply to and be respected in any proposed initiatives:

To recognize and protect judicial independence and the management of its judicial resources, the Provincial Court has jurisdiction over, and responsibility for, the scheduling and disposition of matters within the Provincial Court to:

- Ensure that the solicitor client relationship between a person accused of a crime and their counsel is assiduously fostered and supported.
- Recognize the public is entitled to proper and competent representation from the Crown by encouraging early and consistent contact between the Crown and defence counsel or the accused, victims, witnesses and police by the assignment of one Crown prosecutor who is responsible for a case from start to finish.
- Ensure a level playing field by treating the Crown and the accused equally with respect to any changes concerning how matters are scheduled and disposed in the Provincial Court.
- Achieve consistent approaches to case management processes in the Calgary and Edmonton Provincial Court.

Basic Principles to be Applied in Crown Offices when Designing the New Model

The Project Team derived the following principles from their literature review and consultations:

- 1. Adopt vertical file management procedures to promote ownership and accountability over files by Crown prosecutors.
- 2. Provide a rational distribution of files to Crown prosecutors based on volume and complexity.
- Enable Crown prosecutors to manage the scheduling of their appearances in court to the greatest degree possible in order to support and facilitate Crown file ownership.
- Reduce the number of administrative functions presently performed by Crown prosecutors that can be handled by non-lawyers in both the office and the courtroom.
- 5. Provide sufficient IT capacity to support case management in the Crown Offices and in relation to scheduling in the courts.
- 6. Facilitate the resolution of files at the earliest stage possible in the court process.

Basic Principles to be Applied in Provincial Court and Court Services Division when Designing the New Court Case Management Model

1. Although cases may be directed to a specific courtroom in advance of the trial date, the actual courtroom may change on the day of the hearing when it becomes clear which matters are actually proceeding. This 'day of' method of scheduling ensures that only the number of courtrooms, judges, and clerks that are actually required will be used thereby conserving finite judicial and Court Services resources and enhancing courtroom utilization. The actual number of courtrooms necessary on a daily basis will be determined once sufficient experience with the new system has been gained. The level of resources available in the system will ultimately determine the maximum number of courtrooms which can be used.

If greater courtroom utilization can be achieved, courtrooms which do not appear to be required for the traditional criminal court cases on a regular daily basis can be made available for the expansion of specialized courts or other initiatives. The 'day of' scheduling method can be applied concurrently to specialized courts and specialized courtroom needs. Within this framework it may be necessary to schedule some courtrooms where specialized needs have been identified such as child witnesses, continuations, or courtrooms that are able to accommodate special technological requirements. It is expected that specific cases will be assigned to a particular courtroom in advance of the date scheduled for the start of the hearing for these and other similar reasons. It is understood that when cases are scheduled, Crown prosecutors will not be separated from their files in order that Crown file ownership can be meaningful.

- 2. Provincial court judges should only appear in court to deal with matters when some meaningful activity will occur such as a trial or preliminary hearing, a sentencing, a contested bail hearing, or a contested application of some sort. Other activities which are simply administrative matters occurring within proper guidelines should be dealt with by justices of the peace.
- Determine whether and to what extent, justices of the peace (court official or presiding) may be able to deal with administrative matters currently overseen by provincial court judges. Depending on the results of this determination, legislative changes may be required.
- 4. Modern technology should be acquired, adapted, or developed to support a completely new and fully electronic court booking process. This new system should provide the Provincial Court and Court Services the capacity to coordinate the availability of Crown prosecutors, defence counsel, unrepresented accused and witnesses, including peace officers, in a matter of seconds in one easy process.

Recommendations

Crown File Ownership

- 1. Reorganize the General Prosecution Offices in Edmonton and Calgary as much as possible so that a concept of vertical Crown file ownership is implemented which ensures that control and responsibility over a file is given to one Crown prosecutor from the beginning of the court process to the end.
- 2. Provide a rational distribution of files to Crown prosecutors based on volume and complexity.
- 3. Support early case resolution as an integral part of any new system.
- 4. Change the focus of Crown office support staff to become case/Crown prosecutor focused rather than primarily task driven.
- 5. Reduce the number of administrative functions presently performed by Crown prosecutors that can be handled by non-lawyers in both the Crown office and the courtroom.
- Implement an electronic file management system, such as PRISM, in the Edmonton and Calgary Crown Offices so that files and instructions to files can be instantly tracked. This system should be able to interface or exchange data with JOIN/JIMS.
- 7. Enable Crown prosecutors to manage the scheduling of their appearances in court to the greatest degree possible. This is necessary to support and facilitate Crown file ownership by allowing Crown prosecutors to control the days when their matters can be booked in a manner similar to their defence colleagues. In the event that the parties involved are unable to agree on an issue regarding the scheduling of matters, the issue would be referred to the Court for decision.

Court Case Management

- 8. Schedule hearings by viewing each day as blocks of time divided into minutes. Although cases may be directed to a specific courtroom in advance of the trial date, the actual courtroom may change on the day of the hearing when it becomes clear which matters are actually proceeding.
- 9. Ensure that the *Justice of the Peace Act* and other relevant legislation are adequate to allow for the implementation of new processes in the Provincial Court of Alberta.
- 10. Use justices of the peace, with proper jurisdiction, and paralegals or legal assistants from the Crown office to deal with docket appearances of an administrative nature (e.g. uncontested adjournments and setting dates for hearing within accepted guidelines).

- 11. Give consideration to the expansion of the processes of the Provincial Court Trial Readiness Pilot Project (courtroom 267 in Edmonton) to other docket courts in order to reduce the number of appearances per case.
- 12. Review staffing requirements in Court Services to ensure there is sufficient capacity to support any new scheduling processes required to facilitate an assignment court model and the proposed United Schedule.

Technology Assists

- 13. Provide sufficient IT capacity to support case management in the Crown offices and in relation to scheduling in the courts.
- 14. Provide sufficient IT capacity to Court Services and Criminal Justice to support the proposed United Schedule.