



# VICTORIA INTEGRATED COURT REPORT, 2013

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## I. INTRODUCTION

The Victoria Integrated Court (VIC) held its first sitting on March 16, 2010. The genesis of the Court has been detailed in the first report which was issued at the conclusion of the first year of operation<sup>1</sup>. The goals of the Court were stated to be:

1. Increased public safety by decreasing recidivism for substantive offences and reducing harmful antisocial behaviour in the community;
2. More effective sentencing through integrated case planning and intensive community supervision;
3. Support for the community teams; and
4. Decreased inappropriate use of emergency services<sup>2</sup>.

Those goals remain the goals of the Court.

As the Court started as an initiative of the community, it has always been viewed as appropriate that the Court report to the community on an annual basis. This is the third report of VIC. It is the intention of this report to provide information to the community on the current functioning of VIC. It is with the information contained in these reports that the community can evaluate for itself the use of resources being expended to attain the goals of VIC.

This year's report will review the year's activities and then set out the challenges and goals of the year ahead. It also includes the stories of two of VIC's clients from the past year. Their stories illustrate the work of VIC.

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<sup>1</sup> Victoria Integrated Court: Integration of Health, Social and Justice Services in our Community. The entire report is available at <http://www.provincialcourt.bc.ca/downloads/pdf/Victoria%20Integrated%20Court%20Report.pdf>. Referred to hereafter as 'the first year's report.'

<sup>2</sup> Page 14 of the first year's report.

## II. THE YEAR'S ACTIVITIES

This section of the report will review who the offenders are that were dealt with through VIC in the past year. It will then review the work of the working group<sup>3</sup> including the community work service sub-committee and then conclude with a review of the changing personnel who work with VIC.

### *a. Offenders in VIC*

Last year's report<sup>4</sup> noted that there were increasing numbers of offenders who were being brought and admitted to the Court. That trend has continued. From its inception to the end of the fiscal year in March 2013, there have been two hundred individuals who have appeared in VIC.

For the fiscal year March 16, 2012 to March 15, 2013, ninety nine individuals appeared before the Court. When VIC was started it was estimated that the working capacity of the Court (given it operates one half day per week) was 50-75 cases. It was anticipated that the intensive nature of the work done with each offender would translate into that number as a natural limit. That natural limit is confirmed to some extent by the fact that in one four week period the Court sat longer than its allotted morning each week. On some mornings there are more than 50 files on the Court list illustrating that what was once thought to be the capacity of the Court can appear on one day's list. In summary and given the number who appeared in the past year, the Court is operating at approximately 130 to 200% of what has been considered its capacity.

At the same time the obvious point must be made about the increased number of individuals being brought to the Court. That process of continuing to bring offenders to VIC is recognition that the processes of the Court are responsive and appropriate to

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<sup>3</sup> For a description of this committee and its work please see pages 19 and 20 of the first year's report.

<sup>4</sup> Victoria Integrated Court In Its Second Year: Continuity and Progress. Report is available on the Provincial Court of British Columbia website. Referred to hereafter as 'the second year's report.'

these offenders. This point bears emphasis as another successful year of VIC has made it clear that integrated case planning is a key factor in attaining VIC's goals. While it had been anticipated in 2010 that the offenders would be those with addiction and mental health issues there have been, in fact, offenders with a much broader range of issues and challenges. The second year's report also noted that a much broader range of offenders were being brought into VIC. That broad range of offender continued in 2013 as is reflected in the teams who support those offenders:

- 25 supported by the VICOT team
- 14 supported by the DACT team
- 17 supported by the PACT team
- 12 supported by the 7 Oaks ACT team
- 9 supported by CLBC (either CRT or Carmichael Enterprises, Nanaimo)
- 5 supported by Forensic Psychiatric Services
- 4 supported by the Brain Injury Program
- 1 supported by Veterans Affairs (3 have issues related to being a veteran)

\*Note a few individuals receive support from more than one "team".

Additionally, it should be noted that 7 individuals are identified as having suffered traumatic brain injuries and 5 are identified as suffering from post traumatic stress disorder, 4 of whom are war veterans.

***Danny (not his real name) is a 35 year old First Nations person who was referred to in the first year's report. His many longstanding mental health issues continue as a barrier to his living in the community without conflict. In particular, his FASD makes it difficult for him to learn and control his behaviour. His substance abuse continues to impede efforts to treat him. A particular problem is the amount of time he must be drug and alcohol free before he can be admitted to a treatment facility. He does not control his substance abuse long enough to be admitted. In the last year he has had 26 appearances in VIC with 7 of them being sentencing hearings and 7 being reviews of sentencing orders imposed. As was stated in 2010, Danny 'needs a highly structured treatment centre and living arrangements.' Without such an arrangement, it is clear that Danny will continue to have regular appearances in VIC.***

This broad range of offender translates into more time dedicated to respond to the needs of those offenders. Amongst many others, the work of Crown Counsel and defence counsel is stretched in order to deal with the various issues raised by these offenders.

The additional work being conducted by all participants in the Court can be seen by a review of the nature of the appearances over the past year:

- there were a total of 215 reviews of sentence or terms of judicial interim release for a total of 39 individuals;
- 12 individuals had more than 5 reviews each (i.e. were subject to intensive supervision by the Court);
- 117 sentences were imposed in VIC;
- 24 individuals were sentenced on more than one occasion in the fiscal year and of those 15 were sentenced more than twice;
- 36 were sentenced once in VIC and did not return on new charges and 1 completed a restorative justice program and Crown entered a Stay of Proceedings;
- 40 judicial interim release hearings were conducted;
- 19 applications were heard to vary the terms of a probation order, CSO or Bail including two applications to end the term of probation early, by consent and one application by an offender to make the terms of her probation stricter;
- 10 individuals attended residential treatment as part of the terms of a court order.

Given the amount of time being devoted to reviews, a further reference to them is in order<sup>5</sup>. The offenders in VIC require intensive monitoring by the teams associated with them. To support that monitoring, the Court holds reviews to hear from counsel, the associated teams and the offender as to the problems and progress they are making on their Court order. A review may be scheduled at the request of Crown, defence, community teams or probation for the purpose of the Court being informed as to the offender. This unique feature of VIC is seen as a mechanism for ensuring compliance and achieving the goals of the Court. The experience of VIC is that reviews are indeed effective as a means of encouraging compliance with Court orders: they are time

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<sup>5</sup> For the background as to the use of reviews in VIC see the first report at pages14-15.

necessarily and well spent. It is their utility in combination with the intensive needs of the offenders in VIC that lead to such a high number of reviews. Nevertheless, they constitute a significant dedication of time and resources. The topic of reviews will resurface when the challenges for the year ahead are referred to.

It is also important to note the other end of the spectrum: offenders who do not appear regularly in VIC. For 36 offenders, fully one third of the offenders from last year, there was only one sentencing appearance in VIC. Given the entrenched behaviour which offenders in VIC have exhibited and the admission criteria for VIC<sup>6</sup> it is extremely significant that the individually crafted Court order and its intensive monitoring has resulted in that individual not being before the Court again in the same year.

Additionally, 10 referrals for residential treatment occurred in the past year. At first blush, it may appear that a 10% referral rate for residential treatment is a low rate when so many offenders have substance abuse issues. Such an inference would be misleading. First, as a general rule, referrals are not even made for residential treatment unless the person has indicated a willingness to participate in the particular program. To refer a person for treatment who does not want to attend can be a waste of a valuable resource. Second, the offenders in VIC are those who have for years resisted treatment of any sort preferring to continue their street oriented lifestyle. In these circumstances, a 10% referral rate for treatment is not a low rate but quite the contrary. Indeed it may be a fairer comment to say that a 10% referral rate is a significant improvement of what might otherwise have occurred with these individuals had they not had the processes of VIC. It goes without saying that a successful referral rate is of significant benefit to the community as well as the individual.

*b. Working group activity*

The Working Group met five times during the course of the year. The Working Group consists of representatives of all the major stakeholders who participate in VIC. As has

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<sup>6</sup> See page 14 of the first year's report.

been mentioned previously<sup>7</sup>, the Forensic Psychiatric Services Commission does not participate in the Working Group although issues respecting forensic patients often arise. The meetings are scheduled on an 'as needed' basis to deal with issues that arise in the operation of the court. For example, in one meeting discussion was held as to the circumstances in which a new breach charge was laid as opposed to a review before the presiding judge. The Working Group continues to ensure that the processes of VIC are effective and appropriate on an ongoing basis.

The community work service sub-committee was very busy in the past year meeting six times. Their meetings served to coordinate and direct their activities. First, the sub-committee was able to have the Justice Mural installed at 533 Chatham Street in downtown Victoria.<sup>8</sup> The unveiling ceremony was attended by court participants including the judiciary, city councilors, community team members, donors and others who had painted portions of the mural. The mural stands as a reminder of the importance of justice to the community.

Second is the realization of a community garden which has been long in the planning.<sup>9</sup> It was felt at the beginning of the community garden project that having offenders perform community service in a garden would have a positive impact for them and for the community. Work in the garden was seen as an opportunity to create positive work habits, self esteem and provide tangible signs of accomplishment.

May 9, 2013 was the grand opening of the garden. Then the work really began. Clients were offered the opportunity to have a portion of the land dedicated to their own personal use and to participate in the overall development and production of the garden. A full year of gardening proceeded with a variety of vegetables and flowers being grown. The activity generated interest from the local media who attended for the creation of a television news story aired on September 17<sup>th</sup>. The year was considered a

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<sup>7</sup> See page 18 of the second year's report.

<sup>8</sup> For more on this project see the second year's report at pages 19-20.

<sup>9</sup> The description of the start of this project is in the second year's report at pages 20-22. The work of all those who were acknowledged last year is acknowledged again this year for their continuing support.

success. In the year ahead steps are going to be taken to improve the operation of the garden so that the opportunity for positive impacts can be increased. At the same time there remain challenges: it was felt by the sub-committee that the number of persons participating must increase for the garden to sustain itself.

*c. Changing participants*

It has been recognized from the outset of VIC that dedicated personnel were essential to the continuity of the Court process. While it has been a challenge for Crown Counsel and the Court to provide continuity of persons appearing in the Court, nevertheless, to a large extent, this goal has been achieved in the past year. It is very much to the credit of the office of Crown Counsel that this is the case. It is also worthy of note that defence counsel, despite so much of their work being donated work, have remained consistent and dedicated to the processes of VIC.

However, the broad spectrum of offenders means that additional participants to the process are necessary. Fortunately, Community Living British Columbia has indicated their continued dedication to VIC as the number of clients they serve has increased in VIC. On the other hand there are a significant number of clients who need the support of Forensic Services or the native court worker and are not receiving that support in VIC. Therefore, the treatment plans and Court orders are crafted without the input of these very important participants.

Inevitably, some individuals who have been crucial to the commencement, growth and success of VIC have ended their participation. Sharon Bristow, a tireless community corrections officer, has retired. Rick Saunderson, a highly dedicated ACT team worker, has taken on other work. And perhaps most significantly, Deputy Chief John Ducker of the Victoria Police Department whose vision and drive helped create VIC, has retired as well. All three will be missed.

Finally, Doctor Ian Musgrave is leaving the Vancouver Island Health Authority. His determination in having ACT teams placed into the Victoria community was a critical step in the creation of VIC. Without his hard work, VIC may not have developed along

the successful lines that it has. The Victoria community owes him a considerable debt. It is unfortunate that his goal of a forensic ACT team in Victoria will not be realized during his time here.

### **III. THE YEAR AHEAD**

In the prior two reports, the challenges and gaps in service have been highlighted. Unfortunately some of those gaps still remain. There is still a great deal of work for the year ahead. Some of that work is referred to below.

#### *a. Evaluation of the Court*

The report for the first year of operation of VIC had attached to it an Exploratory Process Report prepared by R.A. Malatest and Associates Limited. That 56 page report contained key information on the functioning and success of VIC. Yet it was felt that efforts should be made in order to go further on the issue of evaluation.

One of the goals stated at the end of the second year's report was to "research the feasibility of a plan for the measurement of outcomes regarding offenders contact with the criminal justice system, health and social services."<sup>10</sup> That goal is still being pursued and some progress has been made. In making progress there are many hurdles to overcome. The difficulties include crafting an evaluation which is specific to a court as unique as VIC. To take one example: earlier in this report reference was made to the reliance on reviews to monitor the behaviour of offenders. Each review is an appearance in court that constitutes a use of resources. It is not unreasonable to evaluate a process by its use of resources. Accordingly, it is not unusual to look at the effective handling of a 'typical' criminal case in traditional court by looking at the number of appearances in court. However, to do so for VIC is a valueless measurement. In VIC, more appearances do not mean ineffectiveness but, at least arguably, the exact opposite. The traditional methods of evaluating processes are not easily, if at all, transferable to the processes of VIC. Even if better methods are found, there will still be

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<sup>10</sup> See page 20 of the second year's report.

the problem of separating out the impact of the Court from that of all the other important participants in VIC.

In short, the evaluation of VIC is an ongoing project.

***Pam (not her real name) is in her late forties and came into VIC in the summer of 2012. In addition to her charges she was apprehended at that time under the Mental Health Act. She is on anti-depressant medication and anti-psychotic medication however also abuses non-prescription drugs. She has a very limited and dated criminal record but her behaviour is so unusual it is nearly impossible for her to stay in housing. Her repeated behaviour resulted in her being taken into custody many times during the last year. Creating release plans and organizing her release on appropriate orders was made more difficult by the absence of a women's jail facility on Vancouver Island. A psychiatric report says that she needs a prolonged period where she has no access to street drugs however 'such accommodation is unlikely to be available in the community'. She had 17 appearances in VIC during the past***

*b. Persons suffering from mental disorders*

It was noted in the first year's report that there were insufficient hospital placements for persons suffering from mental disorders. The second year report<sup>11</sup> noted that more secure beds were being built but that the number of people requiring those beds exceeds those beds. Since that report those beds have been opened yet the demand continues to exceed the number of beds.

The result is that individuals with mental disorders are in the community and end up appearing in VIC. By definition, VIC must treat the problem as a criminal problem when, in reality, it is not. To the extent that the blunt instruments of the criminal law can be tailored to suit the mentally disordered offender, VIC is further handicapped by the lack of input from Forensic Services at the working group level. Additionally, although it was noted as a gap in service in last year's report<sup>12</sup>, there is still not a Forensic ACT team.

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<sup>11</sup> At page 16.

<sup>12</sup> At page 17.

The benefits of integrated case planning are therefore not achieved for some of the offenders who require it the most.

*c. VIC and other problem solving courts*

The second year's report referred to steps taken by VIC participants to observe and learn from the processes in other problem solving courts.<sup>13</sup> In the past year positive reinforcement (as used in other problem solving courts) has been incorporated into VIC processes. On one occasion an offender who had successfully completed her probation came to court for a review and to recognize her accomplishment. Judges Quantz and Wishart attended as did other persons who had assisted her. On advising her that her probation was at an end she was given a rousing ovation by all those in Court at the time. That ovation, unusual for the solemnity of a courtroom, was witnessed by the other offenders who were there that day to have their case heard. Importantly, at a later sentencing hearing, another offender referred to the important positive impact witnessing that ovation had on his own behaviour.

This is one small example of lessons learned from other problem solving courts. It is a challenge for VIC to continue in the year ahead to find those lessons and to apply them to its own unique processes.

It is of some comfort that the processes of VIC are sought out by others in order to inform their actions in their own communities. During the past year the Lethbridge Regional Police Services attended to VIC in order to observe its processes. Also attending during the year was MLA Leonard Krog to watch the court in operation. The Court has also received attention in the print media in Victoria Times Colonist (May 21) and the Surrey Leader.

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<sup>13</sup> At page 10.

#### **IV. CONCLUSION**

The third year of VIC was another testament to the value of integrated case planning. The year saw increasing numbers of offenders attend its sittings. The increased numbers served to reinforce the value of the processes of the Court. The expansion of community work service into the community garden was another exciting initiative. Of course no matter how appropriate the processes or how innovative the expansion of the work service, none of it would matter without the dedication and hard work of so many individuals in the community. The ongoing success of VIC is directly related to that dedication and hard work.