



PROVINCIAL COURT OF BRITISH COLUMBIA

Provincial Court of British Columbia

Judiciary

**Preliminary Assessment
of Proposed Courthouse Closures
in Provincial Court**

February 18, 2002

THE HONOURABLE CAROL BAIRD ELLAN
CHIEF JUDGE



THE PROVINCIAL COURT
OF BRITISH COLUMBIA

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February 18, 2002

The Honourable Geoff Plant
Attorney General
Room 232 Parliament Building
Victoria, BC V8V 1X4

Dear Mr. Attorney:

Re: Report on Proposed Courthouse Closures

In response to your announcement on January 17, 2002 outlining the closure of 24 Provincial Court facilities, the Judiciary of the Provincial Court undertook a 30-day study of the potential impact of these measures. The results are summarized in the enclosed Preliminary Assessment.

This report is submitted in the spirit of open communication and concern for the Court and the public it serves that has been historically enjoyed and shared by our respective offices. The Provincial Court Judiciary remains committed to serving the public of the Province within applicable financial, physical and constitutional constraints. The Court is willing to participate in identification of viable and appropriate alternate facilities for areas in which existing courthouses are found to be no longer the most viable alternative.

The Judiciary expects that issues relating to the proposed courthouse closures will be resolved in the spirit of open communication and mutual respect that has been historically enjoyed between the Court and the Office of the Attorney General, in a manner that maintains confidence in the administration of justice, and ensures that the public is provided the optimum level of justice delivery and access as may be achieved within the applicable constitutional framework and the available resources.

We look forward to continuing to work with you in ensuring that the public is provided the optimum level of justice delivery and access as may be achieved within the applicable constitutional framework and the available resources.

Sincerely

Carol Baird Ellan
Chief Judge

Attachment

Executive Summary

On January 17, 2002, The Honourable Geoff Plant, Attorney General and Minister Responsible for Treaty Negotiations, announced a decision to close 24 courthouses in the Province. The Provincial Court Judiciary has performed a preliminary assessment to consider the impact of government's decisions regarding courthouse closures on the administration of the Court and access to justice.

The 24 courthouses slated for closure represent approximately one-third of the 68 staffed Provincial Court registries, and approximately one-quarter of the total number of Provincial Court locations in the province. Only three provide Supreme Court facilities. Collectively these courthouses provide 31 of the total 183 Provincial Court courtrooms in the Province, and accommodate over 10% of the sittings of the Court. Over half of those cases are criminal court sittings, one quarter are family and youth court sittings, about ten percent are civil sittings, and the rest are traffic court sittings. Twelve Judges and two Judicial Justices of the Peace have chambers in courthouses slated for closure.

There are currently a total of 146 Provincial Court Judges who sit in the 99 different Court locations province wide. Based on available data, from 1998 - 2000 there were on average 170,000 new adult, youth, family and small claims cases per year filed in Provincial Court, of which approximately 125,000 were criminal. Provincial Court deals with over 90% of the criminal matters in the Province. Traffic matters, which are generally heard by Judicial Justices of the Peace, make up on the whole about 10% of the work of the Court.

A large proportion of the Provincial Court's work involves matters of an urgent or emergent nature, such as child apprehensions, restraining orders, applications for peace bonds under section 810 of the Criminal Code, bail applications, domestic violence cases, and young offender matters. Such matters require accommodation within a tight or legislatively mandated time frame, so Court and Registry accessibility is of paramount importance.

The Judiciary is a separate branch of government. As such, it has equal responsibility with the Attorney General for the administration of justice in the Court. Pursuant to the *Provincial Court Act*, the Chief Judge has responsibility for judicial administration, the Attorney has responsibility for the provision of facilities and services to the Court, and the Assistant Deputy Minister has responsibility for the administration of facilities, registries, staff, and other services relating to running the Court, subject to the direction of the Attorney General and the Chief Judge. This division of responsibility is based upon constitutional principles. It is not for the benefit of Judges or the Judiciary, but that of the public, to ensure the proper separation of those who make and enforce the laws from those who uphold the rule of law.

While the Judiciary's administrative role in the maintenance or preservation of access to justice is not clearly defined, its responsibility for judicial administration and its status as a separate branch of government entail at least a duty to advise the Executive branch in relation to measures that may affect access and the administration of justice in the Court.

It was in recognition of this duty that the Provincial Court Judiciary undertook a preliminary assessment of the impact of the proposed courthouse closures, summarized in the attached

report. It is expected that the Attorney will take this Report and the views of the Judiciary into consideration in reviewing the proposed courthouse closures, and in working with the Judiciary to establish means of maintaining reasonable access to justice in each of the affected communities.

In relation to circuit courts, non-courthouse facilities were phased out of use many years ago due to concerns about the separation and independence of those charged with the duty to interpret and uphold laws, from those charged with the duty to make and enforce them. Starting in the early 1960s efforts were made to provide independent facilities so that the public would not have to access the Court by entering or passing through police or municipal premises. Former Attorney General, The Honourable Leslie R. Peterson, Q.C., wrote in 1969: "These judges should be removed from any suggestion of involvement with municipalities."

Since 1979, facilities for Provincial Court sittings have been subject to agreed upon standards. Any proposed circuit courts would need to comply with minimum structural, security, accessibility, and constitutional standards. Those standards include the premise that Court sittings are not generally held in municipal halls or police buildings.

The Provincial Court Judiciary remains committed to serving the public of the Province within applicable financial, physical and constitutional constraints. The Court is prepared to explore the feasibility of continued sittings in communities where the existing courthouse is found to be no longer viable, and where a reasonable viable alternative can be identified, assuming available judicial resources.

The Judiciary expects that issues arising from the proposed courthouse closures will be resolved in the spirit of open communication and mutual respect that has been historically enjoyed between the Court and the Office of the Attorney General, in a manner that maintains confidence in the administration of justice, and ensures that the public is provided the optimum level of justice delivery and access as may be achieved within the applicable constitutional framework and the available resources.

February 18, 2002

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A. Introduction

On January 17, 2002, The Honourable Geoff Plant, Attorney General and Minister Responsible for Treaty Negotiations, announced a decision to close 24 courthouses in the Province. In his announcement, the Attorney General stated, "My staff have assessed a variety of options to achieve our fiscal targets, maintain access to justice, and minimize the impact on litigants, the bar and the general public." A letter and related materials provided to the Judiciary on January 17, states as follows:

The Provincial Government has established the goal of a balanced budget by the 2004/05 fiscal year. A major planning process has been underway for a number of months, including an appraisal of all programs and activities funded by the government.

As part of this process, the Ministry of Attorney General has also reviewed current and planned expenditures, including the operation of the 68 staffed court locations, and the 31 part-time or circuit locations. This courthouse review involved considerations respecting increased efficiency, future anticipated expenditures on the physical plant and changes to current court procedures.

The result of the review is the planned closure of 24 staffed court locations with the caseload transferred to larger court locations... The closures are effective June 1, 2002, except Delta which will close on November 1, 2002. Of the 24 locations, 9 are within 50 kilometres of the receiving location and 12 are approximately 100 kilometres away. The closures will result in annual net savings of approximately \$7.0 million to the Court Services Branch's operating and \$5 to \$6 million in capital expenditures during the next 3 years. All circuit courts are planned to continue...

The Judiciary did not participate in the courthouse review referred to, nor in the decision to close courthouses. Following the public announcement of the courthouse closures, the Chief Judge issued a media release, stating as follows:

"Decisions regarding the number and location of Court facilities are government's to make and are inherently political. It would be improper for the judiciary to participate in public debate over political issues. It is properly within the domain of the judiciary, however, to inform both government and the public about conditions within the administration of justice which impair, or create the potential of impairing, the Court's ability to render justice in a timely and accessible manner.

I have expressed to the Premier my concern that the dramatic reduction in the number of staffed Courthouses that has been announced today, from 68 to 44, will significantly impair the administration of justice in this Court, and may undermine its authority by suggesting to the public that justice and access to justice are expendable. While I had been advised of the possibility of these actions, there has been no consultation with this Court as to the impact of these closures on the Court or on the affected communities.

The Provincial Court judiciary will consider within the next 30 days what action, if any, should be taken, in response to these closures. To the extent that courthouse closures do proceed, our Court will remain committed to maintaining access to justice to the extent possible, having regard to the resources provided by government, and will attempt to schedule cases and manage caseloads so as to minimize the impact of Court closures upon British Columbians."

Over the past 30 days, the Provincial Court Judiciary has performed a preliminary assessment, summarized in this Report, to consider the impact of government's decisions regarding courthouse closures on the administration of the Court and access to justice.

These 24 courthouses represent approximately one-third of the 68 staffed Provincial Court registries, and approximately one-quarter of the total number of Provincial Court locations in the province. All 24 courthouses are currently used by the Provincial Court; only three are used with any regularity by the Supreme Court. Collectively these facilities provide 31 of the total 183 Provincial Court courtrooms in the Province, and accommodate over 10% of the Court's workload per year province wide. Over half of those cases are criminal sittings, one quarter to family and youth sittings, about ten percent are civil sittings, and the rest (about 15%) are traffic sittings. Twelve Judges and two Judicial Justices of the Peace have chambers in courthouses slated for closure. More detailed information regarding the impact on the Court's caseloads and other scheduling effects of these closures is included in Appendices B & C.

All closures are scheduled for June 1, 2002, save for Delta, which is scheduled for November 1, 2002. In view of its timing, this preliminary assessment can encompass only a preliminary and cursory analysis, and identify only some of the many issues that may arise. It is expected that the Attorney will take this report and the views of the Judiciary into consideration in reviewing the proposed courthouse closures, and in working with the Judiciary to establish means of maintaining reasonable access to justice in each of the affected communities.

B. Constitutional Considerations

The Judiciary is a separate branch of government. For three hundred years, the British legal system upon which the Canadian system is modeled, and for 135 years the Canadian system, have recognized that it is essential to the democratic state – in terms of the preservation of the freedoms of its citizens, and the accountability of the other branches of government - that the Judiciary be and very clearly be seen to be constitutionally separate from the Executive and Legislative branches of government.

Courts in British Columbia have enjoyed relatively consistent recognition of their independence. The potential impact of inappropriate governmental interference with the courts was explored in 1979 by The Honourable Mr. Justice Peter Seaton through a Commission established by government, following an allegation of interference with the independence of a judge by personnel of the Ministry of the Attorney General. In his report dated October 23, 1979, he said in part:

The Provincial Court is at once the Court most subject to influence by the Attorney General's Ministry and the Court most in need of independence from that Ministry.

Mr. Justice Seaton pointed out that the Chief Judge and others with judicial administrative duties must act as a buffer between the Executive, including the Ministry of the Attorney General, and individual judges, so as to preserve their independence. He expressed concern that administrative staff serving judges were accountable to others.

It is helpful to be reminded that the provisions in the *Provincial Court Act* that assign to the Chief Judge authority over judicial administration followed from Justice Seaton's Report, and its

unqualified acceptance¹ by then Attorney General, The Honourable Alan Williams. The *Provincial Court Act* was amended in 1980 to add what is now s.41(2), which provides:

“Subject to the direction of the Attorney General, and to the direction of the Chief Judge in matters of judicial administration, the chief administrator of court services must direct and supervise facilities, registries and administrative services for the court.”

Accordingly, in B.C., administration of the Provincial Court is assigned jointly to the Chief Judge and the Attorney General. The Court Administrator, who has historically been the person holding the title of Assistant Deputy Minister, Court Services Branch, Ministry of the Attorney General, takes direction from the Attorney General and the Chief Judge in relation to their respective areas of responsibility.

Under the *Constitution Act, 1867* (formerly the *BNA Act*) provincial governments are assigned exclusive jurisdiction in respect of laws relating to “The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.”

In 1981², The Honourable Jules Deschenes commented on the inadequacy of these provisions in providing for the separation of powers and the independence of the Judiciary:

...the independence of the judicial power from the legislative and executive powers constitutes one of the pillars of our political system; on an equal footing with the principle of the primacy of the rule of law, its importance cannot be exaggerated...

Therefore, we must make sure that this independence is firmly rooted in the constitution, on which fundamental legal relationships in our society are based. Unfortunately, this is not the case in Canada.

Recent case law has suggested that the minimum requirements under the *Charter of Rights and Freedoms* for administrative independence of the courts are "control by the judiciary over assignment of judges, sittings of the court, and court lists -- as well as the related matters of allocation of court rooms and direction of the administrative staff engaged in carrying out these functions."³

C. Access to Justice

With the authority to constitute courts in the province comes the duty to ensure that those courts are accessible. This was recognized by the government of the day in 1988 when it struck the Justice Reform Committee, chaired by The Honourable E.N. (Ted) Hughes. The Committee's stated purpose was “to cause the justice system of the Province of British Columbia to be accessible, understandable, relevant and efficient to all those it seeks to serve.”⁴ The Committee identified the following as among its goals: “The basic values underlying our justice system must be preserved and its historical roots respected... There must be access to the justice system, at an affordable cost.”⁵

¹ Hansard May 3, 1980 p. 1199

² Maitres Chez Eux/Masters in Their Own House: A Study on the Independent Judicial Administration of the Courts, Canadian Judicial Council, 1981, p. 12

³ *Reference re PEI Judges* [1997] 3 S.C.R. 3, p. 251

⁴ Terms of Reference, *Access to Justice*, The Report of the Justice Reform Committee, 1988

⁵ *Ibid*, p. 1

Among its many other recommendations, the Justice Reform Committee recommended the appointment of resident Supreme Court Judges in a number of locations, to rectify “restricted access” to the Court outside of the Lower Mainland, and “to restore the Supreme Court to its position as the Supreme Court for the whole Province.” The Committee added, “It must be emphasized that this recommendation is designed to ensure access to the Supreme Court for residents of the whole Province. While efficiency is always an important consideration, here the dominant and more important concern is presence of the Supreme Court throughout the four corners of this Province.”⁶

In view of the nature, volume and pace of its work, which encompasses civil, family and criminal jurisdiction, and ranges from traffic tickets to serious and lengthy criminal trials, the Provincial Court has traditionally served significantly more communities than the Supreme Court. There are currently a total of 146 Provincial Court Judges who sit in the 99 different court locations province wide. Based on available data, from 1998 - 2000, there was a total average of 170,000 new adult, youth, family and small claims cases per year filed in Provincial Court, of which 120,000 were criminal matters (including youth). Provincial Court deals with over 90% of criminal matters in the Province. Traffic matters, which are generally heard by Judicial Justices of the Peace, make up about 10% of the work of the Court.

By comparison, there are currently a total of 99 Supreme Court Judges whom we are advised sit in 12 different court locations province wide, with an average 66,000 new civil, family, probate, adoption and bankruptcy cases per year, and 5,000 criminal cases.

A large proportion of the Provincial Court's work involves matters of an urgent or emergent nature, such as child apprehensions, restraining orders, applications for peace bonds under section 810 of the Criminal Code, bail applications, domestic violence cases, and young offender matters. Such matters require accommodation within a tight or legislatively mandated time frame, so Court and Registry accessibility is of paramount importance.

In the open cabinet meeting on December 5, 2001, the current Attorney General spoke about the importance of access to justice:

There's a range of things that we can ask of the justice system. I like to focus on four particular points. I say that *justice must be accessible*. This speaks to the fact that we live in a diverse province with a diverse population and the need to make sure that all people have access to programs and services that the justice system provides. It's also fair to ask that justice be efficient. That is to say, if people commence litigation or if the Crown lays a charge in a criminal case, we need to make sure that the system functions efficiently so that trials take place within a reasonable time and so that courtrooms operate in a way that makes maximum use of the facility given, which the taxpayers are paying a lot of money for.

I think it's also reasonable to demand of our system of justice that it be fair - that is, that it be fair between plaintiffs and defendants, that it be fair between the Crown which prosecutes cases and defendants who are charged in criminal cases and that it be fair in the larger sense of ensuring that the rules of law we make as legislators are themselves fair so they don't impose unreasonable burdens on citizens.

Lastly, I think we're entitled to ask of our system of justice the same question we're entitled to ask of every other area of responsibility we have as government, and that is that it be affordable.

⁶ Hughes Report, op cit. pp. 34- 35

Justice, to be accessible, I think, has to be affordable to the citizens who use the system. But because we, as a province, spend as much money as we do supplying the framework and the institutions within which people seek justice, I think we're entitled to ensure that those institutions are themselves affordable - given the overall capacity of the taxpayers of British Columbia to fund a justice system, along with everything else.

Given the legislative assignment of control over administration of the Court to the Executive branch in this Province (with the exception of Judicial Administration), the authority to make decisions regarding the provision or closure of Court facilities lies with the Executive branch. This authority remains subordinate to the constitutional mandate to constitute, maintain and organize courts, and entails the responsibility, shared with the Judiciary, to provide and maintain reasonable access to the Court.

While the Judiciary's administrative role in the maintenance or preservation of access to justice is not clearly defined, its responsibility for judicial administration and status as a separate branch of government entail at least a duty to advise the Executive branch in relation to measures that may affect access and the administration of justice in the Court.

D. History of Provincial Court Facilities

The Provincial Court was constituted in its current form by the *Provincial Court Act*, on August 1, 1969. Prior to that, magistrates were given provincial authority under the *Magistrates Act* of 1962, which applied to all those who were previously designated police or stipendiary magistrates.

Trials before magistrates were generally held in whatever facility the municipality saw fit to provide, including municipal chambers, hotels or police stations. Even communities that had proper courthouses reserved their use to superior court proceedings unless persuaded to do otherwise. Non-courthouse facilities were gradually phased out, due to concerns about the separation and independence of those charged with the duty to uphold laws, from those charged with the duty to make and enforce them. Starting in the early 1960s efforts were made to provide independent facilities so that the public would not have to access the Court by entering or passing through police or other premises.

The public interest in elevating the standards of the Court and its facilities was articulated in 1961 by then Attorney General, The Honourable Robert Bonner, Q.C., at a Magistrates Conference:

... we will place the whole position of the Magistrates Bench in a higher regard among the ranks of the general public whose confidence in this Bench as in other Benches must be maintained if the general system of law enforcement and the administration of justice is to have widespread support⁷

His successor, the Honourable Leslie R. Peterson, Q.C. wrote in the *Advocate* in 1969 (Vol. 27 p.25):

These judges should be removed from any suggestion of involvement with municipalities...

⁷ Magistrate – Judge – The Story of the Provincial Court of British Columbia, Queens Printer, Alfred Watts, Q.C., 1986.

It followed that Courts should be physically removed from facilities provided by municipal governments, and that the provision of courthouses should be a responsibility of the Province. The *Provincial Court Act* passed in 1975 accordingly provided (in what is now s. 41(1) of the current Provincial Court Act) that the Attorney General was to be responsible for the provision, operation and maintenance of Court facilities. Accordingly, courthouses were erected throughout the province.

In 1979, in consultation with the Provincial Court Judiciary, government developed a document entitled ***Guidelines for the Planning and Design of Law Court Facilities in B.C.*** Draft guidelines were produced in 1979 and finalized in 1981 and have been amended over the years. This document has the specifications for everything related to the construction of a courthouse. There is a standing committee, on which the Provincial Court Judiciary is represented, as are other occupants of court facilities, which meets when necessary to discuss additions and deletions to the content of the document. The facility standards for Supreme and Provincial courts are essentially the same.

In the mid to late 1990s the number of courthouses reached its peak, with a total of 101. Not all those facilities were built by the Provincial government, though all were funded by them, and all staff provided in them were provincial employees, subject to section 41 of the *Provincial Court Act*, which required them to take direction from the Judiciary in matters of judicial administration.

In addition to constitutional reasons for courthouses, their presence in a community may serve a valuable purpose in maintaining order. One lawyer in a community faced with a courthouse closure comments, "The presence of a courthouse in a town is symbolic as well as utilitarian I think. That is, the buildings exist so that cases can be heard and determined, but the buildings also stand as symbols that justice is present in the community. The existence of the rule of law is the essence of civil society... These particular buildings have an importance which extends beyond their use as places where hearings are held two or three times a month. They serve as a reminder to the community of the solemnity and importance of judicial proceedings as a means of maintaining the essential fabric of the community."

A judge from the same community comments that "rural courthouses are open to serve the public – to answer all inquiries, and there are many inquiries daily at each courthouse. In these small remote communities, the courthouses are viewed as a safe place where one can go to seek information and get assistance. ...people ask about human rights issues, family issues, government issues... No records reflect this public service that is so essential in our small communities. This is access to justice. People feel safe in going to a courthouse."

E. Alternatives

Government has suggested that circuit courts may be put in place to service communities that lose their courthouse. While sittings of the Court are a matter entirely within the authority of the Chief Judge, the Judiciary is prepared to explore the feasibility of continued sittings in communities where the existing courthouse is found to be no longer viable, and where a reasonable viable alternative can be identified, assuming available judicial resources.

It must be recognized that facilities for Provincial Court sittings are subject to agreed upon existing standards. Any proposed circuit courts would need to comply with minimum structural, security, accessibility, and constitutional standards. Those standards include the premise that, for the reasons set out above in part D, Court sittings are not generally held in municipal halls or police buildings.

The Judiciary remains open and available for consultation on minimum standards, and on the availability of viable alternatives to existing facilities. Any departure from existing standards would need to be the subject of such consultation, and would need to be agreed upon before alternatives could properly be canvassed with municipalities or other alternate providers.

There may be other logistical problems with maintaining circuit courts in specific locations, having regard to the availability of judicial resources, particularly in view of the fact that closures of existing facilities would result in some Judges being relocated.

F. District Impact: General Remarks

Following the courthouse closure announcements on January 17, 2002, the Administrative Judge in each district was asked to provide a district impact summary. Those district summaries are contained in Appendix C. The summaries must be viewed as preliminary observations, and it is very clear that in some cases a much more in-depth analysis would be required in order to provide a meaningful indication of the Court's ability to withstand the proposed closures.

In addition to information regarding caseloads, distances, transportation and capacities, each district was asked to provide preliminary observations regarding effects on the communities involved. These observations are not intended to advance or reflect the views of any particular group, as there has been no opportunity to consult with local users of the court or members of the public in an organized fashion. They reflect only the observations of the local Judiciary as to potential effects, and suggest a need for further community consultation.

There are a number of general concerns respecting impact and access common to all districts. One issue arises in respect of how to determine receiving locations. Where cases from a closing courthouse will go is dependent upon a number of factors, including the relevant legislation and laws regarding venue. As a general proposition, cases must be heard in the next closest court location to where they arise. The Judiciary is not aware whether there has been any analysis of the demographics of litigants within the closing jurisdictions, but it is clear from the distances involved in some cases that the proposed receiving location may not receive all or indeed, any of the cases from the closing locations.

The Judiciary has already suggested that revisions to the receiving locations would have to be made in certain districts, for instance, where it is clear proximity and the laws of venue dictate another location. Further analysis of historical caseloads in each district would be desirable in order to determine the number of cases from each closing location that is likely to be initiated in other locations. The effect on access of the relevant closure could then be assessed more accurately. Consideration could also be given to which alternate location is most accessible and best able to hear trials, and whether changes in venue from the location in which the files originate to a better or bigger facility would be appropriate.

One of the criteria used by the government in deciding on closures was proximity of the closing courthouse to another facility. Another was population. However, it would be important to know the distances from which members of the public habitually travel to attend the closing location, and the population of the service area. It is not clear whether these factors have been considered, in light of some of the distances mentioned in the district summaries, and when comparisons of the affected population bases are made.

Another common concern is that many litigants do not have transportation. Setting aside obvious concerns regarding accessibility, issues of public transportation between communities in which closures are contemplated and those proposed as receiving locations are relevant to decisions as to where caseloads will go, particularly where adjacent courthouses are approximately equidistant. This is another issue that would have to be more fully studied in order to ascertain its effect on both access and appropriate receiving locations.

In respect of criminal matters, it is problematic to require that accused persons travel significantly greater distances in order to attend court, though there is a discretion on the part of the Justice or Judge to excuse attendance. In the absence of a geographical analysis of criminal case volumes, it is very difficult to assess these types of concerns. Again, some meaningful consideration must be given to them before final decisions are made as to receiving locations. It may be that in view of the increased distances contemplated in most jurisdictions that the attendance requirements in the *Criminal Caseload Management* process will need to be revisited. It is far from clear at this time what potential effect attenuation of that component of the process will have on the problems it was designed to address.

Another issue relates to the closure of courts to which accused persons have already been remanded to attend. Former Chief Justice of Canada, Antonio Lamer, considered a similar issue in the *PEI*⁸ case. While some of the matters set after June 1 have trial confirmation dates (set in accordance with the *Criminal Caseload Management Rules*) before June 1, a significant number do not. For those that do not, it is not clear by what mechanism the Court could direct the defendants to attend before June 1, in order to reschedule their matters to a new location. The nature of the affected post-June 1 criminal cases in each district is shown in the respective district summaries.

⁸ Reference re *PEI Judges*, *supra*, note 3, para 270.

Appendix A - Preliminary Assessment Process and Contributors

Following the January 17, 2002 announcements, Chief Judge Carol Baird Ellan struck and chaired an ad hoc committee, the members of which are listed below, to coordinate an immediate assessment of the impact of the announcements on access and the administration of the Court, and an appropriate response on the part of the Judiciary.

The following members of the Judiciary participated on the ad hoc committee:

The Honourable Judge C.L. Bagnall	The Honourable Judge B. Neal
The Honourable Associate Chief Judge E.M. Burdett	The Honourable Judge W. Rodgers
The Honourable Judge R. Higinbotham	The Honourable Associate Chief Judge A.J. Spence
The Honourable Judge A. Krantz	The Honourable Associate Chief Judge H.C. Stansfield
The Honourable Judge J. Lenaghan	The Honourable Administrative Judge J. Threlfall
The Honourable Judge S. MacGregor	Michael E. Smith, Director of Judicial Administration

Each Administrative Judge was asked to provide a district impact report (see Appendix C), which comprises their and their staff's immediate assessments of capacity, transportation, and community issues. The Judiciary has also received input from some interest groups or users of the Court, but there was no opportunity in this preliminary process to invite meaningful submissions. It is hoped that interested parties will provide comments directly to government, and that there will be an opportunity for full consultation with all members of the public.

In addition to the above committee members, the following persons contributed to the district impact summaries:

The Honourable Administrative Judge S. Antifaev	The Honourable Administrative Judge T. Dohm
The Honourable Judge D. Carlgren	The Honourable Administrative Judge V. Hogan
The Honourable Administrative Judge D. Moss	The Honourable Administrative Judge W. MacDonald
The Honourable Administrative Judge D. Smyth	The Honourable Administrative Judge W. Smith
The Honourable Administrative Judge E. de Walle	The Honourable Judge D. Sperry
The Honourable Administrative Judge E. Iverson	The Honourable Judge D. Waurynchuk
The Honourable Administrative Judge E. Woodward	Denise E. Paluck, Legal Officer to the Chief Judge
The Honourable Administrative Judge R. Fabbro	Grant Marchand, Administrative Judicial Case Manager

Closing Locations	# of Prov. Courtrooms	Average Court Sitting Days/Yr	# of Cases Set After June ½			Proposed Receiving Locations	# of Prov. Courtrooms	Average “Open Courtroom” Days/Yr	Amalgamated Capacity of “closed” and “receiving” locations
			Cr	Fm	SC				
KOOTENAYS									
Castlegar	1	72	0	0	0	Nelson	2	230	+158 open days
Grandforks (2)	1 (Shared)	60	0	0	0	Rossland	1	130	+70 open days (just Grand Forks) -2 open days (Combining Castlegar & Grand Forks)
Creston	1 (Shared)	60	0	0	0	Cranbrook	2	290	+122 open days
Fernie	1 (Shared)	30	0	0	0	Cranbrook			
Invermere	1	42	0	0	0	Cranbrook			
Kimberley	1	36	0	0	0	Cranbrook			
OKANAGAN									
Oliver (3)	1	48	23	1	22	Penticton	2	235	+163 open days
Princeton	1	24	0	0	0	Penticton			
Revelstoke (4)	1 (Shared)	54	1	0	0	Salmon Arm	1 (Shared)	60	-30 open days (Combining Revelstoke & Chase)
NORTH ISLAND									
Parksville	1	84	0	0	0	Nanaimo	3 + 2 (Annex)	270 400	+186 open days (+ 400 more in Annex)
PRINCE GEORGE									
Chetwynd	1	36	2	1	0	Dawson Creek	1	100	+64 open days
Vanderhoof	1	96	2	0	0	Prince George	5	590	+494 open days
NORTHWEST									
Houston (5)	1	36	0	0	0	Smithers	1	70	+34 open days
Kitimat	1	72	0	0	0	Terrace	2	230	+158 open days
CARIBOO									
100 Mile House	1	96	1	1	0	Williams Lake	2	264	+168 open days
SOUTH FRASER									
Hope (6)	1	108	61	3	0	Chilliwack (old) Chilliwack (new)	3 3	85 130 (gain an IA Room and Mediation Room)	-23 open days +22 open days
Delta (7)	3	328	100	1	2	Richmond (New)	7	-----	-----
KAMLOOPS									
Chase	1	36	0	0	0	Salmon Arm	1 (Shared)	120	See Okanagan Above
Lillooet (8)	1	44	0	0	0	Kamloops	8	1,200	+1,022 open days
Lytton	1	29	0	0	0	Kamloops			
Merritt	1 (Shared)	105	12	0	0	Kamloops			
COAST									
Squamish	1	147	80	1	4	North Vancouver	4	330	+183 open days
NORTH FRASER									
Burnaby	5	866	199	5	5	See Attached	See Attached	See Attached	See Attached
Maple Ridge	2	374	59	7	0	Port Coquitlam	12	990	+616 open days
TOTALS	31	2,883	540	20	33				

Notes:

- (1) – Capacity of proposed receiving locations does not take into consideration any Supreme Court sittings.
- (2) – Possibility of borrowing Supreme Courtroom for additional days otherwise there will be a loss of flexibility for scheduling backlog reduction initiatives, additional sittings and lengthy trials.
- (3) – Combining Oliver and Princeton
- (4) – The Salmon Arm facility will not be able to handle both Revelstoke and Chase. In fact, they will not be able to handle Revelstoke alone without a substantial reduction in Supreme Court sittings.
- (5) – There will be a loss of flexibility for scheduling backlog reduction initiatives, additional sittings and lengthy trials. These figures do not include Supreme Court sittings.
- (6) – In a deficit until new facility. Will need to take over 3rd courtroom as strictly Provincial. There will be a loss of flexibility for scheduling backlog reduction initiatives, additional sittings and lengthy trials.
- (7) – November amalgamation.
- (8) – Combining Lillooet, Lytton and Merritt

Appendix C

District Impact Summaries

1. Cariboo

a. Communities Affected

The courthouse in 100 Mile House is scheduled to be closed and the work transferred to Williams Lake. According to BC Stats (<http://www.bcstats.gov.bc.ca>), the population in 100 Mile House is 2,000.

b. Distances and Transportation

100 Mile House is approximately 100 kilometres from Williams Lake.

c. Case Volumes and Courthouse Capacities

Case volumes and sitting hours for recent years are shown in the following chart:

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	387	85	93	102	251
Sitting Hours ²	172	20	116	45	19

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

100 Mile House Court sat 120 days in 2000.

Williams Lake Court sat 120 days in 2000.

One courtroom will be lost. However, it should be recognized that on occasion, 2 provincial court judges are present in 100 Mile House, one sitting in court and one presiding over small claims settlement conferences and/or FRA/CFCSA case conferences. It would be more correct to say that 2 court facilities will be lost, in that a courtroom and a conference room will be lost.

As to the capacity of Williams Lake to absorb the 100 Mile House files, there will be some significant infrastructure and staffing problems. Williams Lake has 3 courtrooms, 1 conference room, and 3 chambers. All except one of the courtrooms are located on the 4th floor of the courthouse building. When 2 Provincial Court Judges are in Williams Lake, they use the 4th floor provincial courtroom and the Supreme Court courtroom. The Supreme Court occupies 1 of the courtrooms and 1 of the chambers about two weeks of every month. The amount of time varies. For example, in April, the Supreme Court will be sitting in Williams Lake for 3 weeks.

With the loss of a courtroom and a conference room after June 1st, 2002, a Supreme Court Judge and all 4 Provincial Court Judges may be in Williams Lake trying to sit in court or conduct settlement conferences or case conferences. The centralization of courts in Williams Lake actually reduces the ability of the Administrative Judge to ensure that there are enough Judges on circuit to avoid this scenario. There are currently not enough sheriffs or court registry staff to deal with 3 courts, let alone 3 or 4 courts or conferences, and there are not enough courtrooms, conference rooms or chambers available. If Traffic court is also scheduled when a Supreme Court assize is scheduled, the problem is compounded. An additional chambers and an additional conference room will need to be constructed.

The actual amount of space currently available does not mean that each of the spaces is suitable or appropriate for its designated purpose. A judge must access the main floor courtroom, for example, by way of a public elevator from the 4th floor to the main floor, through the foyer shared with many other government offices, down a congested hallway past the public access to the courtroom and then into the sheriffs offices, having to walk directly past the only prisoner's cell (which is an open cage and from which the judges are subjected to various indignities from those in custody) and thence into a approximate 7' by 7' storeroom adjoining the courtroom. The courtroom itself has no prisoner's box, and is so small and crowded that it poses security problems for the officers of the court and for the public. The courtroom needs improvements to the P.A. and communication systems to function even at a basic level. It is used for traffic court and only for Provincial Court matters when there is no alternative and there are two Provincial Courts operating when the Supreme Court is here.

The closure of 100 Mile House will have an additional impact on the judicial district as a whole as it had been contemplated to reduce the number of court sitting days in Quesnel, and add them to Williams Lake.

Provincial court has been held in Quesnel approximately 17 to 19 days per month for some time but the statistics indicate that reducing that by about 5 days per month would bring Quesnel more into line with the rest of the district while reducing the backlog in Williams Lake. Having the Quesnel Judge in Williams Lake did not pose too much of a scheduling problem vis-a-vis courtrooms, so long as another Judge was in 100 Mile House or on circuit. No matter how inventive the scheduling becomes, Williams Lake presently does not have the capacity to have 4 Provincial Court Judges and a Supreme Court judge all operating at the same time.

d. Currently Scheduled Sitings

Only one day is presently set after June 1, 2002. This may create an artificial impression that there was, or is, no pressure to set matters down for a hearing. Rather, independent of the recently announced closures, the rota subsequent to May 2002 was being withheld until some certainty could be achieved in respect of the judicial district as a whole. The trial and hearing backlog currently requires 18 criminal days, 7 small claims days, and 14 days for family. 8 settlement conferences need to be scheduled.

e. Observations Regarding Potential Community Impact

The population serviced by the 100 Mile courthouse is much larger than that shown as the city's population. The catchment area extends south to Clinton, for example. Those who do have

their own transport will be required to travel about 5 hours to and from court in Williams Lake if they are the other side of Clinton. There is no public transport except the Greyhound bus which operates on a schedule that will most often require witnesses, etc. without private transportation to travel the day before their court date, stay in Williams Lake for their court appearances, and travel back the third day. This is clearly onerous, expensive and intrusive. The RCMP detachments in 100 Mile House and in Clinton are both bracing for a significant impact on their resources following the closure. Members of the public who wish to access the courts on family and small claims matters will be actively discouraged from doing so by the closure of the courthouse in 100 Mile House and the attendant difficulty in dealing with a distant Registry, and the cost in both time and money in going to Williams Lake.

The aboriginal communities will be disproportionately affected since it is aboriginal persons who are disproportionately represented in the criminal courts, especially Provincial Court.

2. Coast Region

a. Communities Affected

The Squamish courthouse is scheduled to close on June 1, 2002. Other courthouses in the Coast region are located at North Vancouver, Sechelt, Powell River with an unstaffed courthouse located in Pemberton. Other communities in the District include Whistler and a large area of unorganized territories.

According to estimates from BC Stats, North and West Vancouver have an approximate population of 170,000, Squamish 15,600, Powell River 13,900, Whistler 10,000, Sechelt 8,600 and Pemberton 1,800.

b. Distances and Transportation

The Squamish courthouse is approximately 70 kilometres from North Vancouver and 90 kilometres from Pemberton. Whistler is 120 kilometres from North Vancouver. At the far end of the judicial district is an unstaffed court location in Pemberton which is approximately 150 kilometres from North Vancouver. If matters require the services of a judge or registry staff they would need to attend at North Vancouver.

There are 7 buses a day from Whistler/Squamish to Vancouver. To travel to North Vancouver, it appears that accused, litigants, witnesses, and others attending court without private transportation would have to take the 5:30 a.m. bus from Whistler, which stops in Squamish at 6:20 and then proceeds to Vancouver. Those people would then have to get off the bus at Taylor Way in West Vancouver, and transfer to a North Shore bus, take that bus to the Seabus, and catch a connecting bus to the Courthouse in North Vancouver.

Total one way trip for Whistler resident: 2 ½ hours. Cost: \$20.00 one way
Total one way trip for Squamish resident: 1-½ hours. Cost: \$10.00 one way.

The next bus leaving Whistler is at 8:45, it leaves Squamish at 9:45, which would be too late for a 9:00 a.m. or 9:30 a.m. appearance, let alone earlier interviews in the case of witnesses.

To drive from Whistler to North Vancouver takes about an hour and 45 minutes, and from Squamish, about 45 – 50 minutes, depending on the weather, frequent road closures, traffic volumes, etc.

c. Case Volumes and Courthouse Capacities

Squamish case volumes and sitting hours for recent years are shown in the following chart:

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	689	99	90	138	1,201
Sitting Hours ²	466	53	89	59	76

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

Squamish sat 157 judge days in 2001 and 30 traffic days in 2001.

Of these 157 judge sitting days, the following chart represents the consistent mandatory sittings required to keep pace. The remaining days are dedicated to hearing trials.

	Remand	Arraignment Hearings	Case Conferences	Settlement Conferences	Family Remand	Small Claims Trials
Frequency of sittings	1 a.m. per week	½ day per week	½ day per month	½ day per month	1 day per month	1 day per month

The resident judge sits in Squamish three days a week and one day a week in Pemberton.

d. Currently Scheduled Sittings

Summary of Cases set after June 1, 2002

- 8 day assault (3 accused).
- 4 day robbery (2 accused).
- (2) 1 day dangerous operation of a motor vehicle.
- (2) 2 day sexual assaults.
- 2 day sexual interference.
- (3) 1 day assault causing bodily harm.
- 3 day aggravated assault.
- 1 day assault with a weapon.
- 1 day indecent act.
- (7) 1 day assaults.
- (2) 2 day or more federal drug trials.
- (3) 1 day or less federal drug trials.
- (7) 1 day or less impaired trials.
- 5 day CFCSA scheduled for September.
- The remaining scheduled trials (approximately 50 cases) are made up of short assault, theft, fraud and property offences.

Twelve of these matters have trial confirmation hearings set before June 1.

e. Observations Regarding Potential Community Impact

Squamish has a sizeable aboriginal community which is over represented in the criminal justice system, as well in CFCSA matters. Many, many litigants and accused do not drive. There is an obvious issue of increased policing costs and potential effects on law enforcement.

3. Kamloops

a. Communities affected

The court closures will result in the loss of four courtrooms located in Chase, Lillooet, Lytton and Merritt. The work from these four locations will be transferred to Kamloops. According to BC Stats. Chase has an approximate population of 2,600, Lillooet 3,000, Lytton 317 and Merritt 8,000.

b. Distances and Transportation

Kamloops is 59 kilometres from Chase, 225 kilometres from Lillooet, 165 kilometres from Lytton and 82 kilometres from Merritt.

c. Case Volumes and Courthouse capacities

Case volumes and sitting hours for recent years are shown in the following chart:

Location		Adult Criminal	Youth	Family	Small Claims	Traffic
Chase	New Cases ¹	220	22	10	28	55
	Sitting Hours ²	146	24	6	30	8
Lillooet	New Cases ¹	282	58	42	17	37
	Sitting Hours ²	149	17	28	32	1
Lytton	New Cases ¹	189	15	16	8	75
	Sitting Hours ²	136	3	4	1	8
Merritt	New Cases ¹	573	99	90	60	1,015
	Sitting Hours ²	349	52	58	38	110

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

The number of court days per year in each of the satellite facilities for the years 2000 and 2001 were:

	2000	2001
*Ashcroft:	17 days	20 days
Chase:	33 days	45 days
*Clearwater:	19 days	18 days
Lillooet:	48.5 days	43.5 days
Lytton:	25 days	30 days
Merritt:	88 days	105 days

* These courts were not affected by the recent closures.

The anticipated effects upon the various communities will vary with their distance from Kamloops. Chase, if directed to Kamloops, will be the least affected. Lillooet, Lytton and Merritt are likely to be the most affected. All will suffer similar effects.

d. Currently Scheduled Sitings

For the Kamloops District, 16 court days have been scheduled (Merritt, Lytton, Lillooet and Chase) in the June rota which will need to be moved. This number includes three Chase days. A Kamloops courtroom has been assigned to receive the cases from each satellite location for the month of June. At time of writing, Merritt has cases scheduled on six of their nine days in June (including a five-day promoting hatred trial), but Lytton, Lillooet and Chase have nothing scheduled for June.

Merritt also has a half-day assault with a weapon, two one-day or less impaired trials, and approximately 8 cases short involving assault, theft, and other property offences. Seven of the matters set in Merritt after June 1 do not have a trial confirmation hearing date set before then.

e. Observations Regarding Potential Community Impact

Lillooet and Lytton are each approximately two hours by car from Kamloops. Lillooet has no bus service which runs to Kamloops. Lillooet also has provided court services to communities which can be a further two hours from Lillooet. These include places such as Seton Portage, Goldbridge and Bralorne. Access to an automobile is not universal. Poverty is widespread in these areas. It is very likely that an important percentage of those who are either required to appear in court or who should have access to court in order to enforce their domestic or civil law rights will have considerable difficulty in doing so. The cost of arranging a trip to Kamloops, including transportation, meals and accommodations, in order to attend court, will stretch or exceed the financial resources of many. In some cases parents will not be able to make applications or enforce orders relating to children.

The attendance of the necessary police witnesses is a matter of concern. These communities are not excessively policed. In each case, a few members of the R.C.M.P. keep the peace in a large geographical area. Regular absences of the members to a location one or two hours from the detachment may result in an unacceptably low police presence in the communities on court days. On the other hand, there may exist or develop a tendency in the police to give priority to immediate, routine duties over distant court commitments.

4. Kootenays

a. Communities Affected

Six courthouses in the Kootenays have been scheduled for closure on June 1, 2002. They are Castlegar, Creston, Fernie, Grand Forks, Invermere, and Kimberley. There will be five staffed courthouses in the District located in Cranbrook, Golden, Nakusp, Nelson, and Rossland.

In 2000, the West Kootenay Judges served a public of 95,000 between three of them. The two East Kootenay Judges served 66,000. Creston was served by the West Kootenay. The closure and consequent move has the effect of shifting about 12,000 people. The two East Kootenay Judges will now deal with 78,000 compared to 83,000 in the West.

Fernie has a population of 5500 but the service area may be closer to 17,000 or 18,000. Kimberley has a population of 10,000 and a service area of 15,000. The population in Creston is 4900, but the service area is a population of 12,000 according to the Creston town office.

b. Distances and Transportation

Creston is 112 kilometres from Cranbrook or a round trip of 224 kilometres. Riondel is another 100 kilometres from Creston or 200 kilometres round trip, for a total distance of 448 kilometres to Cranbrook. The road from Riondel is very slippery and dangerous during winter or frosty weather as the road is along the shoreline of Kootenay Lake.

For the other communities along the East Shore of Kootenay Lake, Nelson is much closer, though transportation involves either a ferry or, the longer way, a mountain pass which is the highest in Canada. That same situation exists in the West Kootenay, where Beaverdell and Rock Creek are closer to Kelowna (but the police are closer in Grand Forks than Kelowna). Again there is a treacherous mountain pass for those people to get to Rossland.

There is little public transit in the area. Greyhound goes through only some of the communities, and often on a schedule that would require at least one overnight stay in order to attend Court the following day. It is also expensive. On the East Kootenay side, Kimberley and Cranbrook are closely tied, and obtaining private transportation may not be difficult. But getting a ride from Invermere (140 km) or Fernie (105km) or Creston (110km) is not easy.

Greyhound is the only public transport from Creston to Cranbrook but the bus schedule is such that anyone using Greyhound would have to travel the day before the court appearance. For Fernie as well, the only public transit is Greyhound, but again the bus schedule is such that those required to travel from the Elk Valley to Cranbrook will have to travel the day before.

The Kimberley Courthouse is 32 kilometres from Cranbrook or a round trip of 64 kilometres. Invermere is 140 kilometres from Cranbrook or a round trip of 280 kilometres. Cases currently coming from Edgewater, Radium Hot Springs, and Windermere will also now go to Cranbrook. Court users in Spillamacheen will have to make a round trip of 380 kilometres to access the designated courthouse in Cranbrook, though Golden would be closer.

There is public transportation in the form of the Cranbrook Golden Bus Line, but it may not provide adequate service for travel to and from court in Cranbrook. Invermere, Panorama, Fairmont Hot Springs, Radium Hot Springs and the Columbia Valley area are growing in population rapidly as golf courses and ski hills open in the area. Panorama is a very major development as is Fairmont Hot Springs. Panorama is 20 kilometres from Invermere so the round trip to Cranbrook would be 320 kilometres.

Fernie is 104 kilometres east of Cranbrook; Sparwood is 132 kilometres east of Cranbrook; and Elkford is 175 kilometres from Cranbrook.

c. Case Volumes and Court Capacities

Case volumes and sitting hours for recent years are shown in the following charts:

Castlegar

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	300	71	68	73	163
Sitting Hours ²	143	22	41	40	11

Grand Forks

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	253	48	33	44	109
Sitting Hours ²	158	11	21	34	9

Kimberley

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	111	40	22	28	59
Sitting Hours ²	67	9	38	18	11

Creston

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	236	64	52	64	151
Sitting Hours ²	135	40	65	30	13

Invermere

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	174	37	36	38	141
Sitting Hours ²	118	8	11	28	11

Fernie

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	175	21	70	56	132
Sitting Hours ²	45	8	34	36	10

1 New Cases: Based on 3 year average of 1998 – 2000.
2 Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

d. Currently Scheduled Sitings

i. Creston

There appear to be 42 adult criminal cases in the system at this time for applications or for trial.

ii. Kimberley

Presently there are approximately 22 criminal adult files, 8 family court cases, and 17 small claims cases in the Kimberley court system.

iii. Fernie

There are 40 criminal cases and applications booked in Fernie.

e. Observations Regarding Potential Community Impact

i. Creston

Creston has a unique identity as a community and the presence of the courthouse is an important part of this identity. There is a Court Watch committee in attendance at all Court sittings.

Creston presently has 11 RCMP members, but the detachment is telling town council that 4 more members may be necessary, if court services are moved to Cranbrook. The Town of Creston is opposed to hiring more police officers.

There is one major First Nations reserve, the Lower Kootenay, served by the Creston courthouse.

ii. Kimberley

The Courthouse facility is about 30 years old. The Facility contains one courtroom, a small registry, chambers, holding cells, and interview room. Probation officers have another office as do various health authorities.

Access to Cranbrook will be difficult because there is no public transportation, whatsoever, between Cranbrook and Kimberley.

When court is held in Kimberley three necessary people travel from Cranbrook - the judge, a sheriff and a prosecutor. With the closure, police, witnesses, claimants and defendants will be required to travel to Cranbrook. There is no Court Watch committee in Kimberley.

iii. Invermere

The Invermere courthouse is 25 years old and very functional. One probation officer holds office hours for half the week in the courthouse and the other half of the week in Golden. The building was built to serve only as a courthouse.

There are two major First Nations reserves - Shuswap and Columbia Lake - serviced by the Invermere Courthouse.

There has always been a staffed Provincial Court facility in Invermere. Before the Provincial Court existed, a lay magistrate resided and worked in Invermere, thereby providing access to justice for the residents.

Invermere is a community that doubles or triples its usual population during the summer and fall, with Albertans. It is the "lake district" for Calgarians. They are often in Court because of civil disputes, motor vehicle charges, or criminal charges. Calgary is roughly 300 kilometres from Invermere. So Calgarians will have to travel 880 kilometres round trip for their Court appearances in Cranbrook. They will not be able to have their trials in Golden, which is only 300 kilometres from Calgary

iv. Fernie

As noted above, Fernie is 104 kilometres east of Cranbrook; Sparwood is 132 kilometres east of Cranbrook; and Elkford is 175 kilometres from Cranbrook. In between Cranbrook and Elkford there are many small villages. Under current proposals, a person from any of these communities wishing to file an application or having to appear in Court will have to do so in Cranbrook, a round trip from Elkford of 350 kilometres.

While a person from Elkford or Sparwood will be able to have a trial at the non-staffed courtroom in the District Offices in Sparwood, a person from Elkford seeking custody order or a restraining order, will have to travel to Cranbrook to file an application.

There is one major First Nations reserve - the Tobacco Plains Indian Band - that will be affected by the court closure in Fernie. Many of the people who come to court in Fernie are from across the border in Alberta as there are a great number of people who work at the mines in the Elk Valley but they reside in Blairmore/Crowsnest area.

The Fernie Courthouse is arguably the finest historical courthouse in the Province. It has a new roof, a new furnace, and a new fortified perimeter fence.

A local judge comments, "This is the 4th Courthouse Fernie has had. It was opened on March 10, 1910. It has beautiful stained glass windows, which bear that date and the names of Chief Justice Begbie and Governor Douglas. It is a classic courthouse; a monumental beauty. It is certainly not drafty. Unless it meets some unfortunate fate it will be around long after every person present now in British Columbia has gone to the great beyond."

5. North Fraser

a. Communities Affected

Two courthouses within the North Fraser Administrative District have been slated for closure June 1, 2002: Burnaby and Maple Ridge. According to estimates from BC Stats, Burnaby currently has an approximate population of 193,200 and Maple Ridge has 64,200. The other courthouses in the district are located in New Westminster and Port Coquitlam, with populations of 54,200 and 52,100, respectively.

The North Fraser district encompasses the communities of Burnaby, New Westminster, Coquitlam, Port Coquitlam, Maple Ridge, Pitt Meadows, Port Moody, Anmore, Belcarra and a large area of unorganized territory to the North. The district has an approximate total population of 503,892 that will be serviced by only two courthouses after the closures.

b. Distances and Transportation

The Port Coquitlam courthouse is 19 kilometres from Burnaby, and 18 kilometres from Maple Ridge. Burnaby and Maple Ridge are 13 kilometres and 32 kilometres from New Westminster, respectively. The Burnaby courthouse is 14 kilometres from the Vancouver courthouses, at 222 Main Street, and 800 Hornby St.

Government announced that the receiving location for the Burnaby and Maple Ridge case volumes would be Port Coquitlam.

c. Case Volumes and Courthouse Capacities

i. Burnaby

Burnaby's closure will result in the loss of five courtrooms and one settlement conference room. Last year, there were 847 Judge-days spent there. Six Judges have chambers in the Burnaby Courthouse. Burnaby's closure will result in the loss of five courtrooms and one settlement conference room. Last year, there were 847 Judge-days spent there and 241 Judicial Justice of the Peace days. Six Judges have chambers in the Burnaby Courthouse.

Case volumes and sitting hours for recent years are shown in the following chart:

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	4,909	886	412	727	4,434
Sitting Hours ²	2,509	333	658	393	755

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

ii. Maple Ridge

Last year, there were 391 Judge-days spent there and 88 Judicial Justice of the Peace days. The court closure will mean the loss of two courtrooms and a settlement conference room, or 720 available court days.

Case volumes and sitting hours for recent years are shown in the following chart:

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	1,963	506	322	357	1,573
Sitting Hours ²	1,429	151	367	134	306

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

d. Currently Scheduled Sitzings

As of June 1, in Burnaby there are presently set:

- a) 144 criminal trials (including 26 multi-day cases and 10 cases which have been adjourned on more than one occasion and potentially require a delay hearing);
- b) 2 youth trials;
- c) 5 family and child protection trials;
- d) 17 settlement conferences; and
- e) no traffic tickets or bylaw cases.

These are the Judge-day commitments after June 1:

- [1] 126 days of criminal trials;
- [2] 7 days of Youth/ Family; and
- [3] 4 days of civil settlement conferences.

The total number of Judge-days already committed after June 1 is 137.

The following is a summary of the type of cases set after June 1:

- 5 day Youth sexual assault.
- 4 day criminal negligence causing death.
- 1 day sexual assault.
- 2 day aggravated assault.
- 1 day assault causing bodily harm.
- 1 ½ day assault with weapon.
- 2 day robbery.
- 1 day break and enter.
- 3 separate 1 day assaults.
- 6 day fraud/providing false information broken into (2) 3 day trials (involving multiple-accused including a doctor).

-
- 5 day federal trafficking.
 - 3 day (6 accused/4 counsel) federal trafficking.
 - (13) 2 day or more federal drug trials (most with multi-accused and multi-counsel).
 - (27) 1 day or less federal drug trials (over ½ of which require interpreters).
 - (47) 1 day or less impaired trials (many of which have experts being called).
 - (1) 3 day and (1) 2 day CFCSA both scheduled for June.
 - 5 day CFCSA from mid-January on “hold” and not yet scheduled due to the announcement.
 - 2 day CFCSA on “hold” and not yet scheduled due to the announcement.
 - The remaining scheduled trials (approximately 100 cases) are made up of short assault, theft, fraud, and other property offences.

About one-third of these matters have trial confirmation hearings set before June 1.

In Maple Ridge, after June 1, there are:

- a) 59 criminal cases set (including 14 multi-day cases, 3 cases which have been adjourned on more than one occasion and potentially require a delay hearing and 1 high priority sexual interference case);
- b) 0 YOA cases;
- c) 3 family trials;
- d) no bylaw or traffic cases; and
- e) 10 settlement conferences set.

The number of Judge-days committed after June 1 is 47 in criminal court and 5 family days. The following is a summary of the nature of those cases:

- 1 day sexual intercourse with female under 14 (“clear-time” directed by PCJ).
- 3 day sexual interference.
- 2 day sexual assault.
- 1 day sexual assault
- (2) 1 day assaults causing bodily harm.
- 2 ½ day aggravated assault.
- 3 day 810 fear of sexual offence.
- 1 day robbery
- (2) 1 day assaults.
- (2) 2 day or more federal drug trials
- (4) 1 day or less federal drug trials
- (28) 1 day or less impaired trials.
- 2 day FRA.
- The remaining scheduled trials (approximately 20 cases) are made up of short assault, theft, fraud, and other property offences.

Fifteen of the criminal matters do not have a trial confirmation hearing set before June 1.

e. *Observations Regarding Potential Community Impact*

The cost to the Burnaby City of having police officers go from Burnaby to Port Coquitlam will be substantial. This is a reflection of the amount of time required for a round trip, for giving evidence, delivering prisoners, swearing informations or applying for Judge warrants.

So far as the Criminal Bar is concerned, while it may not inconvenience most lawyers greatly to have their Burnaby cases heard in Port Coquitlam, they would likely be very concerned about their clients' ability and willingness to go the extra miles. In reality, the farther you ask these people to travel (both accused persons and witnesses), the more "drop outs" you will have, as people find it harder to travel.

These observations apply to the Family Division as well. Although these litigants may be motivated to attend, having generally a low income, little reliable transportation, lots of stress, and maybe a toddler or two in tow, they will find it very difficult to make their way to Port Coquitlam.

6. North Island

a. Communities Affected

The court closure will result in the loss of one courtroom located in Parksville and the work will be transferred to Nanaimo. According to BC Stats. Parksville has an approximate population of 10,800.

b. Distances and Transportation

Parksville is approximately 36 kilometres from Nanaimo on well maintained roads.

c. Case Volumes and Courthouse capacities

Case volumes and sitting hours for recent years are shown in the following chart:

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	438	96	118	0	1,048
Sitting Hours ²	190	46	65	0	78

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

d. Currently Scheduled Sitings

There are no trials currently scheduled beyond June 1, 2002.

e. Observations Regarding Potential Community Impact

There is not a significant aboriginal presence in the Parksville area. However, from a police perspective some of their investigations may now be concluded by means other than prosecution, so as to avoid the extra costs associated with sending police out of their community to attend court.

7. Northwest

a. Communities Affected

There are two court locations scheduled to close in the Northwest District, Kitimat and Houston. According to BC Stats, the population of Kitimat is approximately 11,500, Houston 4,200, Terrace 13,900 and Smithers is 6,100.

b. Distances and Transportation

It is 65 kilometres from Terrace to Kitimat. There is no public transportation from Terrace to Kitimat.

c. Caseloads and Courthouse Capacities

i. Kitimat

Historically the Court has scheduled two days of court a week in Kitimat. In 2001 there were 50 court days.

Case volumes and sitting hours for recent years are shown in the following chart:

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	209	92	61	32	9
Sitting Hours ²	76	18	70	9	0

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

ii. Houston

Historically two days of court is scheduled in Houston every month. The Smithers Judge normally sits in Houston. Smithers to Houston is 60 kilometres. In 2001 there were 24 days of court in Houston.

Case volumes and sitting hours for recent years are shown in the following chart:

	Adult Criminal	Youth	Family	Small Claims	Traffic
New Cases ¹	148	29	46	31	35
Sitting Hours ²	88	8	12	7	1

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

d. Currently Scheduled Cases

i. Kitimat

There are currently no cases, criminal, family, or civil, scheduled after June 1, 2002.

ii. Houston

There are currently 6 criminal trials set in Houston after June 1 on 3 court days. Most of these have trial confirmation hearings set before the closure date. There are a further 7 criminal cases waiting for trial dates. The time estimate for these 7 trials is 11 days.

e. Community Impact

i. Kitimat

The impact of the court closure on the community is obviously difficult to assess. Police, witnesses, litigants, accused persons and lawyers will need to travel to Terrace, and will be affected by the absence of public transportation. Many users of our Court are poor and it is difficult to imagine how they will make it to Terrace. The Administrative Judge expressed particular concern about the parents of apprehended children, single mothers seeking custody and maintenance orders, and First Nations individuals coming from Kitimaat Village (outside of Kitimat).

ii. Houston

The comments regarding community impact can be repeated for Houston. In addition there will be an impact on the First Nations communities of Fort Babine and Tachet as well as the community of Granisle. They will need to access the Smithers courthouse by active logging roads. There is Greyhound bus service between Houston and Smithers.

8. Okanagan

a. Communities Affected

Courthouses in Oliver, Princeton, Revelstoke and Chase are scheduled to close. It is proposed that the work from Oliver and Princeton go to Penticton, Revelstoke to Salmon Arm and Chase to Kamloops.

According to estimates from BC Stats Oliver has an approximate population of 4,300, Princeton 2,900, Revelstoke 8,200, and Chase 2,600.

b. Distances and Transportation

i. Revelstoke

Revelstoke to Salmon Arm is 104 kilometres. During the winter it is a hazardous drive. Revelstoke serves a very large area and many people travel significant distances just to get to Revelstoke let alone to Salmon Arm. Lack of proper transportation and dangerous roads in winter means people will have great difficulty in getting to Salmon Arm for court. Trials are now scheduled to accommodate police officers on day shift. They will *likely* not be able to attend at Salmon Arm and still have police in Revelstoke so they may incur significant overtime for court appearances or *not be available for court*.

ii. Chase

This location is moving to Kamloops and within another judicial district.

iii. Oliver/Princeton

Oliver is approximately 40 kilometres from Penticton and Princeton 80 kilometres from Penticton.

c. Case Volumes and Courthouse Capacities

Case volumes and sitting hours for recent years are shown in the following chart:

Location		Adult Criminal	Youth	Family	Small Claims	Traffic
Oliver	New Cases ¹	258	46	34	71	104
	Sitting Hours ²	96	20	27	38	5
Princeton	New Cases ¹	112	9	35	19	236
	Sitting Hours ²	49	5	15	6	6
Revelstoke	New Cases ¹	254	41	33	43	416
	Sitting Hours ²	106	2	73	30	20

¹ New Cases: Based on 3 year average of 1998 – 2000.

2 Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

d. Currently Scheduled Sittings

i. Oliver

There are 23 criminal cases (including 4 serious assault trials and 2 cases which have been adjourned on more than one occasion and potentially require a delay hearing), 22 small claims cases and 1 family case scheduled to commence after June 1, 2002. These cases are described below:

- ½ day enter dwelling to commit an indictable offence.
- 1 day dangerous driving causing bodily harm.
- ½ day assault causing bodily harm.
- ½ day assault with weapon.
- (3) 1 day or less impaired trials.
- ½ day dangerous operation of a motor vehicle.
- (4) 1 day or less federal drug trials.
- The remaining scheduled trials (approximately 33 cases) are made up of short assault, theft, family, small claims, etc.

About half of the criminal matters have trial confirmation hearings set before June 1.

ii. Princeton

There are currently no trials scheduled to commence after June 1, 2002.

iii. Revelstoke

There is currently 1 criminal case scheduled to commence after June 1, 2002, with a trial confirmation hearing before that date.

e. Observations Regarding Potential Community Impact

There is a real problem with the Court facility in Penticton. There are two courtrooms that are used by the Provincial Court and the Supreme Court uses a third. Frequently, the Provincial Court has had to limit the number of courts set in Penticton because the Supreme Court requires more than the one courtroom. When the Supreme Court decides that they need a special sitting or send a Master out that is otherwise not scheduled, the Provincial Court is forced to vacate a courtroom. That has historically been done on short notice.

To accommodate cases from Oliver and Princeton, the Court needs to be certain that we have sufficient courtrooms available. That means co-ordinating with the Supreme Court who may be required when they have special sittings to move their matters into Kelowna.

The catchment area served by the Princeton Court House goes down past Manning Park. For many of the people who use that court, travel to a court facility is going to be up around 200 kilometres. Similarly, the Oliver Court House currently serves the Osoyoos area down to the

border. It is a large catchment area and travel to Penticton will be very inconvenient if not impossible for many.

The court closures will have a detrimental effect on the general public and the lawyers who practise in those centres. It could well mean the forced closure of law offices in those communities with the result that people have a very limited access to legal advice.

The full impact has yet to be ascertained since there are a number of people who historically were on the boundary between the Oliver court area and the Grand Forks court area. With both courts closing court users will have difficult choices based most probably on road conditions.

The most significant concern remains the Salmon Arm courthouse. It is currently full. In January 2002, for example, more than 9 court days were moved to Chase or Vernon. The facility is clearly inadequate. There is no wheelchair access. Prisoners remain chained to iron loops in the wall since there is only one holding cell. The one washroom is shared by prisoners and the public alike. It is not a facility that can accommodate cases from Revelstoke. Any case over 3 days will have to be moved to Vernon, which is also currently full.

9. Prince George

a. Communities Affected

Vanderhoof and Chetwynd courthouses are scheduled to close and the work is expected to go to Prince George and Dawson Creek respectively. According to BC Stats, the approximate population of Vanderhoof is 4,900 and Chetwynd is 2,900. There are probably an equal number of people living in the rural areas and reservations that are serviced by these communities.

b. Distances and Transportation

Vanderhoof is approximately 100 kilometres from Prince George and Chetwynd is 102 kilometres from Dawson Creek. There are a number of people, including the aboriginal community, for whom travelling long distances will create significant financial hardships and may prevent them from attending court. Bus schedules in these areas do not conform to court schedules, and simple appearances could involve people staying overnight. Temperatures in this area can reach -40°C , when travel is neither recommended nor safe.

c. Case Volumes and Courthouse Capacities

Case volumes and sitting hours for recent years are shown in the following chart:

		Adult Criminal	Youth	Family	Small Claims	Traffic
Vanderhoof	New Cases ¹	303	73	112	39	222
	Sitting Hours ²	241	27	128	17	3
Chetwynd	New Cases ¹	310	73	63	44	119
	Sitting Hours ²	109	12	53	12	11

1 New Cases: Based on 3 year average of 1998 – 2000.

2 Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

d. Current Scheduled Sittings

There are currently three cases set in Chetwynd beyond June 1, 2002, one of which is a two-day fraud, and two cases in Vanderhoof scheduled beyond June 1, 2002, one of which is a sexual assault. Three of these five cases have trial confirmation hearings set before June 1.

e. Observations Regarding Potential Community Impact

i. Vanderhoof

Of the two communities, the loss of the Vanderhoof courthouse and registry is the more significant. Court sits in Vanderhoof on average 96 days a year plus traffic days. It averages about 750 Family, Civil and Criminal cases per year. It is also the registry for Fort St. James -- 515 Criminal Cases from June 2000 to July 2001—and for Fraser Lake—74 Criminal Cases for

the same period. It is contemplated that the Fort St. James and Fraser Lake courthouses will remain open, as circuit courts.

There is a potential problem in that the Judicial Case Manager will have to add another 1200-1500 cases (the fluctuating total number of all cases for Vanderhoof, Fort St. James and Fraser Lake) to her case management duties. This may affect her capacity to continue presiding on initial appearances, though this is more efficient than returning them to the Judge.

There is also a potential minor problem in determining where litigants will file Small Claims Notices of Claim. Prince George and Burns Lake are 230 kilometres apart; therefore all the small communities on Highway 16 West which are more than 115 kilometres from Prince George (i.e.: from just west of Vanderhoof) will have to file small claims actions in Burns Lake, although presumably the files can be sent back to Fraser Lake to hear the trials, unless this creates a venue problem.

The final problem is that the traffic courts for Fraser Lake and Fort St. James are presently heard in Vanderhoof, which means that these people will now have to attend Prince George for their traffic matters, a four-hour round trip.

ii. Chetwynd

Chetwynd occupies about 36 judicial days per year plus traffic court. There are 6 days of hearing set in June.

Chetwynd's satellite courts of Tumbler Ridge and Hudson Hope are small, with approximately 50 criminal cases in total between them per year.

f. Concerns

Although administratively the two Courthouses can easily be accommodated, setting aside whatever registry problems there are, the Judges of Prince George/Peace River are all concerned about access to justice.

People, in custody, particularly those arrested in Fort St. James, will have to face longer periods in custody in police cells, because they can not be transported by a sheriff from Vanderhoof, until they can be brought before a judge in Prince George. If they should be released will find themselves on the street, 100 kilometres or more from home. Prisoners in Chetwynd will face the same difficulties awaiting movement to Dawson Creek.

Small Claims, Family and Youth Court Matters will now no longer involve a few minutes of time, but a 200 kilometres plus journey into Prince George. This may have a very destructive effect on the usefulness of family case conferences, particularly in CFCSA matters. CFCSA parents often attend these meetings with counsellors, relatives, band members or officials who can leave their offices for a short conference but will not be able to shut down to spend a day coming and going to Prince George or Dawson Creek. The parents will be much less able to demonstrate to the social workers their support in the community. The RCMP have already expressed their reluctance to travel to Prince George.

10. South Fraser

a. *Communities Affected*

The courthouse in Hope is scheduled to be closed June 1, 2002, and the work transferred to Chilliwack. Delta is closing and the work will likely be split between Surrey and the new Richmond facility. According to BC Stats, the population in Hope is 6,800 and Delta is 101,700.

b. *Distances and Transportation*

The Hope courthouse is approximately 54 kilometres from Chilliwack. The Delta courthouse is 18 kilometres from Surrey and 12 kilometres from Richmond.

c. *Case Volumes and Courthouse Capacities*

Case volumes and sitting hours for recent years are shown in the following chart:

Locations		Adult Criminal	Youth	Family	Small Claims	Traffic
Hope	New Cases ¹	701	156	89	36	1097
	Sitting Hours ²	410	53	75	0	82
Delta	New Cases ¹	1749	234	175	399	3981
	Sitting Hours ²	1117	90	115	172	477

¹ New Cases: Based on 3 year average of 1998 – 2000.

² Sitting Hours: Based on calendar year 2001.

Provided by Court Services Branch.

The effect on the Chilliwack court would be to fill it to 97% capacity. That will create a serious problem in the form of long delays to trial. Chilliwack already has an unacceptable delay of about a year, and that delay will certainly get longer. Delta cases could be accommodated in Richmond if a sufficient new courthouse is built, but the majority of Delta criminal cases arise in North Delta, which is closer to the Surrey courthouse. Serious capacity issues arise in respect of that courthouse, but balance of convenience and venue considerations favour it as a location for Delta criminal matters.

d. *Currently Scheduled Sittings*

i. *Hope*

There are approximately 55 trials set in Hope beyond June 1st including 6 multi-day trials and a serious sexual interference case. About three-quarters of these matters do not have trial confirmation hearings set before June 1. These cases are summarized below:

-
- 2 day sexual interference.
 - 1 day forcible entry.
 - 1 day sexual assault.
 - (2) 1day assaults.
 - (2) 1day assaults with weapons.
 - (2) 1 day uttering threats (both serious).
 - (3) 2 day or more federal drug trials.
 - (6) 1 day or less federal drug trials.
 - (8) 1 day or less impaired trials.
 - The remaining scheduled trials (approximately 37 cases) are made up of short assault, short federal fisheries cases, theft, fraud, etc.

ii. Delta

There are no cases set in Delta beyond December and therefore none would have to be adjourned, if the receiving court has sufficient room.

e. Observations Regarding Potential Community Impact

i. Hope: Closure scheduled for June

The greater effect will be on the citizens and witnesses in Hope and surrounding areas. Police and civilian witnesses and accused will have to travel an additional 30 minutes by car to attend court. I expect the police will be reluctant to travel from locations as far away as Boston Bar for a traffic ticket in Chilliwack. Bus transportation between Hope and Chilliwack is minimal. This will have a very detrimental impact on the large aboriginal community in Hope, many of whom do not own automobiles.

ii. Delta: Closure scheduled for December

As in Hope, the greatest impact of the closure will be on the citizens and police in Delta. The transportation links between Delta, particularly North Delta and Richmond are minimal and inadequate. This is even more critical because of the fact that roughly 80% of the criminal files in Delta originate in North Delta, within 1 mile of the Surrey border (Scott Road).

Another major problem created for the district is the loss of judges' chambers. Three judges were headquartered in Delta, which only required one and a half judges, because there were not enough chambers in Surrey. If Delta closes and some of the work goes to Surrey, there is room for only one of the Delta judges in Surrey and, even then, only if a Surrey judge retires.