

# Cambridge Strategies *Inc.*

**A SINGLE TRIAL COURT  
AS A FOCUS FOR REFORM AND A  
CATALYST FOR CHANGE**

Prepared by Cambridge Strategies Inc.  
For Alberta Justice  
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## **1.0 Change and the Impact on the Alberta Justice System**

A series of public consultations and recent polling research have shown that many Albertans have a worrisome level of confidence in certain aspects of the system of justice in this province. The findings indicate an attitude amongst Albertans that while the justice system is good, certain steps need to be taken to make it better.

In the February 2002 Survey of Albertans, done for Alberta Justice and the Solicitor General, only 17% of Albertans indicated they had “a lot of confidence” in the courts and the legal system, 18% had “very little confidence” and only 60% indicated “some confidence.” Those responses would indicate that the public is not sufficiently satisfied with the state of the justice system in our province. This level of public confidence has some disturbing implications for our entire democratic system of governance. Any trends towards the attrition of public trust in the administration of justice cannot be allowed to stand.

Indeed, the above statistics affirm the earlier findings of an All-party MLA Consultation Committee from 1998 and the report of the Justice Summit in 1999. Those consultations concluded that fundamental changes are needed to make Alberta’s justice system more accessible, more comprehensible and more effective.

To this end, the Alberta Department of Justice is proposing some changes to the Alberta system of justice that are intended to, amongst other things:

- Improve access to the justice system by removing barriers and introducing other effectiveness measures;
- Provide citizens with more choices and alternatives to resolve disputes, and facilitate acceptable settlements using more timely and cost effective approaches.
- Establish more specialized courts to better respond to increasing complexities in our changing society;
- Enable optimum use of judicial skills, expertise and other resources;
- Create a single administrative structure for all trial courts to simplify processes and facilitate technology benefits;
- Enhance the public’s understanding and confidence in the administration of justice.

These and other changes all arise from the findings and recommendations of the All-party MLA Public Consultation Committee and the Justice Summit. The past reform processes and projects, those on-going and new proposed changes to the Alberta justice system are being driven by the public interest, and are advocated by the elected representatives of the people of Alberta.

Justice systems have generally been characterized by some as too slow to adapt to the rapidly evolving needs of contemporary society; although many valuable incremental system reforms have been implemented in Alberta in recent years, the pressures of rapid technological, social and economic change present new challenges. We are all

personally experiencing the effects of these dramatic changes, and our institutions are also under increasing pressures to respond to the range and rate of change as well. To meet the challenges of society in the 21<sup>st</sup> century, Alberta's justice system must move toward more effective management and meet the public's demands and expectations head on. Fundamental reforms, alternatives, enhancements and adaptations to our traditional system's concepts and approaches are necessary. Consider the implications of some of the following examples of change that impact our justice system and its capacity to do its job:

- Organized crime is evolving and expanding and finding its way into all forms of crime, including many new manifestations in drug trafficking, fraud, cyber crime, and personal identity theft.
- Victims have asked for a more meaningful role in all stages of the justice system processes.
- Alberta's Aboriginal population is expected to grow by 52% over the next 25 years. The significant over-representation of Aboriginal people within the justice system continues to be an issue.
- Although the rate of youth crime has decreased over the last decade, the rate of youth violent crime has increased over that same period.
- Family violence and mental health, addictions and drug related crime are endemic issues that are seen to require new and innovative solutions.
- Greater numbers of litigants before the courts are self-represented and are placing greater demands on the resources of the justice system and we are seeing more complexity involved in certain types of cases.
- Litigation is very expensive and the cost associated with even *successful* litigation is, in many cases, disproportionate to the size of the claim.

## **2.0 The Vision: A Comprehensive, Integrated and Effective Justice System:**

In order to make the administration of justice in this province more accessible, flexible, and effective, and to better address citizen's concerns (such as those listed in the previous section), the Government of Alberta is examining The Single Trial Court Initiative. The changes and reforms included in this Initiative amount to what might be called a 'cultural change' for the Alberta system of justice. Some of the key elements of this new vision for the justice system include:

- A series of specialised courts that would respond to the changing realities that are placing new levels of demand on our justice system. These specialized courts will also make optimum use of the experience, skills and talents of current and future Justices and Judges.
- The creation of a single administrative framework, whereby the Government of Alberta can ensure citizens have faster, simpler, more effective and more integrated access to the court system and various related programs and services.
- Greater and more effective use of mediation, arbitration, collaborative law and other alternative dispute settlement mechanisms that are designed to assure timelier, more cost-effective and more personally satisfying outcomes for parties.

- Superior and more satisfying outcomes for parties in a dispute and for society in general, by dealing with the fundamental problems the justice system is called upon to resolve, in a more meaningful, integrated and comprehensive manner.

### **3.0 Justice System Issues and the Findings of Past Public Consultations**

The motivation for continuing reforms is based on a series of public consultations around the Alberta justice system, which took place in the late 1990's. In January 1998 an extensive province-wide public consultation process was undertaken on the justice system. The All-Party MLA Public Consultation Committee was formed "to gather input from Albertans with respect to the justice system." This all-party committee held public meetings province-wide, receiving presentations, submissions and other input from individual Albertans, organizations, professionals, stakeholders and interest groups who were concerned with, and involved in, the many issues relating to their justice system.

In January 1999 the second phase of public consultation on Alberta justice issues began, with the convening of the Alberta Summit on Justice. The Justice Summit participants were comprised of both key justice system stakeholders and a group of randomly selected Albertans. The then Minister outlined the scope of the Justice Summit at the time of its announcements when he said:

"We must understand how the public perceives the system to be working and empower the public to assist us in changing the system to address the concerns regularly expressed."

The results of these previous, in-depth public consultation processes were as far reaching as they were fascinating. Major findings from the All-Party Consultation were varied and covered a wide range of issues surrounding the justice system. A notable overarching observation from the All-Party MLA Public Consultation Committee report stated:

"It is important to note that throughout the consultation process the committee heard many positive comments about the justice system.... Often these positive comments about the system were interspersed with comments containing concerns. *For the committee, this means that while we were very fortunate to have the good justice system we do, there is always room for improvement.*"  
(Emphasis added)

It is in the continuation of this spirit and intent that the next level of system-based reforms is being explored by the Alberta Department of Justice.

### **4.0 Public Consultation Findings and Recommendations:**

The major themes that emerged from the All-Party MLA Public Consultation Committee centered on public confidence in the justice system, victims' issues, restorative justice, First Nations and Metis justice, crime prevention, youth and the justice system, access to

justice and family law. The consultation resulted in a total of 33 specific recommendations covering all the major theme areas of the mandate of the committee.

Similarly, the Justice Summit findings, contained in its final report released on April 22, 1999, resulted from a careful consideration of some 519 separate recommendations for change. These recommendations all dealt with perceptions of needed improvements in the Alberta justice system, and because some recommendations were common to many of the discussion topics, they were combined into 25 core recommendations. These recommendations ranged from calls for more information on the system, and for instituting programs on awareness and public education around the workings of the justice system to better education and training for those involved in various aspects of the system, especially in key areas like cultural sensitivity and diversity awareness. Victim's rights and youth crime issues were a major concern and there was a sense that the system was more complex than it need be. There were issues around accessibility to justice in terms of timeliness, affordability and the additional costs incurred due to delays for various reasons. There was also an expressed desire for more alternatives to the traditional court procedures to be designed and made available to better serve citizen's needs for effective conflict resolution.

#### **DISCUSSION QUESTIONS:**

WHEN YOU CONSIDER THE ISSUES DISCUSSED SO FAR, THE RECOMMENDATIONS AND FINDINGS FROM PAST PUBLIC CONSULTATIONS ON JUSTICE ISSUES, WHAT IDEAS, THOUGHTS, CONCERNS, WORDS OR PHRASES STAND OUT FOR YOU AS YOU CONSIDER THE CURRENT SYSTEM?

FROM WHAT YOU KNOW AND HAVE EXPERIENCED FROM WORKING WITHIN THE JUSTICE SYSTEM, WHAT DO THE CONSULTATION FINDINGS AND RECOMMENDATIONS REMIND YOU OF? ARE THE CONCERNS SIMILAR, DIFFERENT OR SURPRISING TO YOU?

WHAT DO YOU THINK IS HAPPENING IN THE JUSTICE SYSTEM TODAY? WHAT DO THE OUTCOMES OF THE PUBLIC CONSULTATIONS MEAN FOR YOU, YOUR WORK AND THE SYSTEM IN GENERAL?

WHAT DO YOU THINK MUST BE DONE TO RESPOND APPROPRIATELY TO THE CONCERNS AND THE ISSUES THAT HAVE BEEN RAISED?

#### **5.0 Making Progress on the Consultation Recommendations:**

Since these public consultations have taken place a number of reforms and changes have been undertaken in response to the findings and recommendations. The Government of Alberta Response to the Summit on Justice Report was released in May 1999 and an update of the departmental progress on the recommendations was prepared and distributed in July 2002. Reform initiatives have been undertaken as an integrated part of

the Department of Justice Business Plans. Many changes have already been completed in major theme areas. Other activities are in progress and some efforts that have been identified will have to wait for new funding to become available before they can start. Specific strategic responses to the full range of recommendations have been categorized in short, mid and long term contexts for on-going progress monitoring and tracking purposes as well.

The variety of changes and enhancements that have been undertaken range from incorporating new justice system support technology to easier access to information on justice matters and legislative changes calculated to enhance public access to courts. Streamlining and simplification efforts include the merger of the Surrogate Court with the Queen's Bench, and increasing the "small claims" limit jurisdiction of the Provincial Court. Elsewhere, the very successful province-wide Youth Justice Committee program is a direct result of the public consultation findings. This innovation has recently received national recognition from the Institute of Public Administration of Canada and it won the Gold Award for Innovative Management in the public sector. This program involves some 1200 volunteers who assisted over 1600 Alberta youth who are in conflict with the law. The community-based committees provide advice, guidance and insight assisting the justice system in looking at appropriate alternative measures for youth sentencing, including such approaches as community service, education programs and even providing personal apologies to victims in many instances. Domestic violence has also been the subject of new legislation. Court restructuring pilot-projects have been developed in Calgary and Edmonton to better serve the complex needs and issues around family violence. Additionally, new approaches to Maintenance Enforcement have been successfully implemented and legislative changes to consolidate family law matters are in process.

## **6.0 A Single Trial Court Concept as a Focus for Reform and a Catalyst for Change:**

There are many reforms that are becoming well established in and around the Alberta justice system, but more needs to be done to meet the full range of recommendations that came out of the public consultation findings. A key focus in the next phase of reform includes new initiatives which will reduce systemic access barriers and enhance the availability of choices and alternatives to traditional adversarial processes. Other efforts are intended to provide more effective outcomes and choices for citizens in achieving effective and lasting dispute resolutions.

During the past year, Alberta Justice has presented ideas and a vision for an improved, accessible, responsive and effective Alberta justice system. The question has been asked, "...if you were designing a new justice system today, would the current system be the outcome you would create?" The concept of instituting a single trial court for Alberta as both a focus and a catalyst for reforms to justice administration has been considered and the Single Trial Court Initiative has been proposed as a part of new and positive changes to the overall operations and effectiveness of the Alberta justice system. Now, the Alberta Department of Justice wants to focus public attention on the next wave of change

and to continue to resolve some of the outstanding concerns and recommendations made by the All-Party MLA Public Consultation Committee and the Alberta Summit on Justice. Through a series of meetings around Alberta, the department is seeking further advice from key stakeholders and various interest groups who are directly engaged in justice issues, as well as from the Bench and the Bar. Through these efforts the department is looking for input, insight and advice on how we can best address even more of the outstanding justice concerns expressed by Albertans, in order to enhance and improve our justice system.

The range of concepts and ideas in this new vision are centred on the Single Trial Court Initiative as a focal point of reform and directed towards the design of a distinctive new vision for the Alberta justice system. That new vision seeks to both draw on the best features of the current two trial court system and to apply public resources to provide justice-related services in more effective ways. A variety of enhanced front-end approaches and alternative processes for parties to choose from would be designed and developed. These initiatives would build on existing trends including mediation, arbitration, alternative dispute resolution and collaborative law approaches to better engage citizens in the personal resolution of their disputes. The reform initiatives would also simplify the administrative processes and rules under which the justice system operates in order to make the system easier for citizens to access, use and understand. As well, the initiatives would make better use of new digital information collection, storage technologies, and communications systems, such as the upcoming Alberta SuperNet. The improvements that result from such technological advances will provide faster, more comprehensive and more coherent results that better serve and meet citizens' needs.

The Alberta vision also provides for new specialized divisions within the single trial court structure to better address the new and increasing complexities of our rapidly changing world. Some work has already been done around specialized courts for domestic violence issues. This work is in the early stages but is already yielding impressive results. The creation of specialized courts is an extension of the idea of a single trial court. Experience and recent court changes show that specialized courts will make better use of the knowledge and experience of the justices, allowing these individuals to, in turn, better serve in critical and increasingly complex areas like criminal, family, youth and commercial law.

#### **DISCUSSION QUESTIONS:**

WHEN YOU THINK ABOUT THE CHANGES TO THE SYSTEM THAT HAVE BEEN MADE AND THOSE THAT ARE ON-GOING, WHAT ATTRACTS YOUR ATTENTION? WHAT STANDS OUT FOR YOU ABOUT RECENT CHANGES AND REFORMS? WHAT STANDS OUT FOR YOU IN THE CHANGES WHICH ARE NOW BEING PROPOSED?

DO YOU FEEL THAT CHANGES ARE NECESSARY? ARE THE CHANGES THAT ARE BEING MADE AND PROPOSED ON THE RIGHT TRACK? ARE THEY SIGNIFICANT AND IMPORTANT ENOUGH? WHAT FEELINGS DO

YOU HAVE ABOUT THE CHANGES IN PROCESS AND THE NEW VISION BEING PROPOSED?

WHY DO YOU THINK JUSTICE SYSTEM CHANGES ARE BEING MADE AND PROPOSED? HOW WILL THE CHANGES ENVISIONED AFFECT YOUR WORK?

HOW DO YOU SEE YOURSELF RESPONDING TO THE KINDS OF CHANGES BEING PROPOSED IN THE SYSTEM? WHAT CAN YOU DO TO HELP IMPROVE THE JUSTICE SYSTEM FOR ALBERTANS?

## **7.0 The Challenge for Change: Making a Good System Better**

The knowledge of, respect for, and support from a citizenry for its justice system is one of the fundamentals of a modern, effective and functioning democracy. Indeed, it is a basic characteristic, and the central purpose of a common law justice system, to foster stability, to provide social cohesion of the state, and to ensure the safety, security and well-being of its citizens. That being said, any system designed by humans to meet the intricate, multifaceted and diverse needs of its complex and dynamic society, can always benefit from improvement. Resistance to change, however, and reticence to adjustments can naturally be expected. Any effectual initiative to reform the Alberta justice system, therefore, has to be done in the spirit of “making a good system better” for the society it is intended to serve. To achieve this end, change must be directed towards specific and clearly articulated goals that are intended to meet a desirable and defined public purpose. Reform efforts must be as inclusive, engaging, integrating and comprehensive as possible in order to be effective and accepted by citizens and those who work within the system itself.

With that in mind, the next series of proposed justice system changes to be considered for possible implementation emerge from the public consultation processes mentioned earlier in this paper (the All-Party MLA Public Consultation Committee and the Justice Summit). The changes are part of the new vision and are directed toward:

- removing barriers to access,
- making choices more available and known to citizens and ,
- providing alternatives to traditional adversarial justice system approaches.

The Alberta Department of Justice wants to examine if and how such reform initiatives can be merged with a single trial court approach. What needs to be explored is how such reforms respond to the above stated public desires. The resulting new justice system model needs to be both more effective and more efficient if it is to have merit. It must add value and respond to the expressed citizens’ perceptions and concerns about the administration of justice itself.



## **8.0 What Does a Single Trial Court Concept do to Improve the Justice System?**

The idea of a single trial court is not an end in itself but is best seen as an integral part of the ‘means to an end’ of an improved overall justice system for Albertans. The major concerns of the public consultations in the late 90’s surrounded the expressed desires for a simplified, streamlined, more flexible justice system that would produce more consistent outcomes and allow citizens easier access through the reduction of systemic barriers.

Additional associated system features would be the enhanced availability and effectiveness of various forms of alternatives for dispute resolution. Specialized courts would make better use of available system resources and expertise and then focus that knowledge toward more serious and increasingly complex justice matters. They could also make best use of the considerable individual and collective wisdom and expertise of the members of the Alberta Bench.

## **9.0 Barriers to Access**

One of the telling perceptual findings from the previous public consultations was encapsulated in the comments from one participant. This person is reported by the All-Party MLA Committee to have said, in effect, “...we don’t have a justice system, we have a legal system.” The context of the comment was explained in the report as “some people perceive the system to be more concerned about compliance with established bureaucratic rules than the pursuit of justice.” The authors of the report go on to say, “For many, the system is confusing and complicated, making it both frustrating and intimidating.” Such comments underscore the general sense of public cynicism and the view that there are systemic barriers that create a lack of understanding and hinder effective access to the justice system. Such sentiments must be addressed and resolved to ensure an on-going and optimally functioning society.

Access to justice is a fundamental legal right of all Canadian citizens. The Charter of Rights and Freedoms deals specifically with the rights of citizens in criminal matters and the specific rights to access to the justice system. In civil law areas, however, the systemic barriers of access are perceived as more pervasive and perhaps, therefore, more problematic. This tends to undermine public confidence in the entire system as a result. What follows is a small sampling of the variety of recommendations and concerns coming from the findings of the Justice Summit around issues of access:

- Procedures should be simplified and put into plain language whenever possible;
- Access to alternative solutions should be increased;
- Technology should be used in the justice system to increase accessibility and awareness;
- Guidelines should be developed for each aspect of the process and a schedule for that process should be provided;
- Solutions to accessibility should be community based;

- The justice system should take a leadership role in ensuring an integrated system that provides simplified, seamless access to services;
- The justice system must have flexible operations while respecting fundamental principles;
- There needs to be on-going public education, knowledge and awareness; and
- The laws and the courts need to be consolidated so that jurisdictions are simpler.

Effective access to the justice system is diminished by various kinds of barriers to the system itself. They are a result of a variety of diverse elements. Some are cost related and due to things like systemic delay, process and procedural complexities, prohibitively high litigation costs, losses of opportunity and even income losses. Other access issues are due to geography and distances. Some barriers are based on education and even on diversity issues of culture and language; some are procedural and rules-based issues that increase complexity, resulting in delay or additional costs and make prohibitive time demands on citizens seeking effective and efficient access to the justice system. Still other barriers are a function of the citizenry's overall lack of knowledge and understanding of the justice system, even as to its role and purpose in many cases. This is just a sampling of the kinds of access issues found in the comments and recommendations in the public consultations and citizen satisfaction reports. They emphasize the point that access is an accountability issue and, left unattended, they undermine the public's confidence in the justice system.

## **10.0 Alternatives to Complement the Traditional Adversarial Procedures**

Other recommendations for justice system reform, other than those focused on traditional trial structures and court processes, have centred on finding alternatives to resolve disputes and deal with effective outcomes. The traditional adversarial system of justice was seen by some people as good at picking winners and losers but not necessarily helpful at getting the most effective individual results and overall social outcomes that should be part of an effective justice system. This concern is not presented as a necessarily true reflection on the actual workings of the overall justice system but it was a perception expressed by many and therefore, it is one that needs to be addressed in order to maintain the public's confidence in the administration of justice.

Changes in our social values have a profound effect on the view and sense of effectiveness of our justice system. The traditional legalistic approach to all forms of civil disputes in an increasingly complex society is seen by many citizens as "good...as far as it goes." What is apparent in the volume of concerns expressed and the tone of discussions on justice system reform, including those from the past public consultations and on-going satisfaction surveys, is that for many of today's citizens, "good is not good enough anymore."

People are becoming less trusting or deferential than they used to be. We are much quicker to challenge or be cynical about traditional institutions. That cynicism also

extends to aspects of our justice system . A reading of the 519 recommendations of the Justice Summit quite clearly attests to the changing trends in public attitude and values shifts. Concerns were raised in many justice related areas including policing, prosecuting, adjudication, sentencing, processes and procedures, efficiency, effectiveness, accountability, responsiveness and even the effectiveness of the decisions and outcomes derived from the justice system.

A number of people were suggesting reforms and changes designed to give more choices and alternatives than the traditional adversarial system model. Public opinion polls and satisfaction surveys consistently show that citizens care deeply about the fundamental public goods and services conventionally provided by government -- services such as health care, education, the environment and the justice system. It is also very clear from the public surveys, polling and other inputs that too many people are dissatisfied with, and even somewhat distrustful of, the institutions that traditionally supply these public goods and services. To suggest therefore, as some do, that the justice system is not “broke” and therefore does not need “fixing” is not only naive and inappropriate, but potentially perilous to our individual rights, our broader social needs, our public safety and even our long term social cohesion. Surely we should not wait until something so fundamental to the peaceful and positive workings of our social order (such as an effective justice system) is “broke”, before we “fix it” and correct some of its shortcomings.

#### **DISCUSSION QUESTIONS:**

DO YOU AGREE THAT THERE ARE PROBLEMS WITH EFFECTIVE ACCESS FOR AVERAGE CITIZENS TO THE JUSTICE SYSTEM? WHAT IN YOUR EXPERIENCE, ARE THE BARRIERS?

DO YOU THINK VARIOUS ALTERNATIVE WAYS FOR PEOPLE TO RESOLVE DISPUTES THEMSELVES ARE GOOD FOR THE JUSTICE SYSTEM? IS GOING TO COURT THE BEST WAY TO DEAL WITH MOST ISSUES AND DISPUTES? DO YOU FEEL PEOPLE NEED TO BE MORE RESPONSIBLE AND PERSONALLY ENGAGED IN ORDER TO FIND RESOLUTIONS AND SETTLE ISSUES?

IS THE KIND OF CHANGE BEING DISCUSSED FOR THE JUSTICE SYSTEM NECESSARY OR NOT? WHAT IS THIS TALK OF SYSTEM REFORM AND CHANGE REALLY ALL ABOUT?

WHERE DO YOU THINK THE CHANGE PROCESS SHOULD GO NEXT? WHAT DECISIONS DO YOU THINK ARE NOW CALLED FOR AND HOW DO YOU THINK ALBERTA JUSTICE SHOULD RESPOND?

## **11.0 The Next Steps:**

As noted earlier, many positive changes have already been made that were, in fact, stimulated by the past public consultation findings. Reform leaders and change agents, are wanting to take the next steps towards continuing improvement to the system. The overarching objective of such initiatives would be to look at restructuring, and simplifying certain elements of the justice system and then to refocus any freed up resources to provide citizens with better access to justice and more choices and alternatives. The kinds of reforms that should be undertaken are those that would address the public's concerns and negative perceptions about the current system. Those concerns are, in part, that the traditional system is too expensive for most people, too slow, too costly, at times intimidating and insensitive, increasingly complex and just plain confusing for some.

## **12.0 A Vision for a more Comprehensive, Integrated and Responsive System:**

The vision that is embodied by single trial court reform would serve to extend and enhance many of the voluntary pre-trial and even post-trial innovations and alternatives that are currently available in pilot projects or at embryonic stages of design and development. This vision further contemplates process, procedural and technological changes which would be put in place to support, simplify and complement the traditional adversarial court system. Preliminary and introductory level programs (such as restorative justice initiatives) that endeavour to help heal a society and reconcile the differences between victims and offenders, and generate healthier societal outcomes, are also part of the reform vision for a modern justice system. Efforts are currently underway to give better victim redress. Consideration might be given to an enhanced Victim's Advocate role as a fitting change. That idea was seen by some citizens as a necessary enhancement, as was an agency to advise victims-of-crime of the recourses and resources available to them in the current system. Can these types of new approaches and possibilities be part of the culture of an enhanced Alberta justice system?

Offender rehabilitation possibilities can be envisaged and could include options such as better access to counselling, rehabilitation courses, and training; these options would need to be available and more integrated into the overall justice system. In other areas, mental health and addiction issues figure prominently in our criminal courts but current policies, programs and practices do not enable the courts to deal with such concerns in the most effectual ways possible. Can we consider courts geared especially to the needs of accused who have mental health problems? Can we create reforms, such as the idea of specialized courts, to better handle criminal, commercial, family/youth, or even drug-related matters? Might we be imaginative and motivated enough to accept, design and implement such changes to address some of these perceived shortcomings in our justice system?

As another area of change, some say sensitivity to the cultural complexity and social diversity elements in our communities need to be better reflected in our justice system. Such inclusion efforts in the overall consciousness and operations of the current system

were seen as a necessary goal. Community conferences, youth justice committees and sentencing circles for aboriginal peoples are but some examples of ideas and innovations that are in the early stages of development but which now seem ready to be given more permanence and prominence within the justice system. Increased use of diversion alternatives were also asked for in the Justice Summit recommendations. In the civil area, Alternative Dispute Resolution, Judicial Dispute Resolution, Collaborative Law, mini-trials, family mediation and Parenting after Separation classes are all aspects of changes towards approaches, practices and processes that are seen as positive. Such alternatives, give real and meaningful choice, personal agency and dominion to citizens so they can be more effective as they engage in and access the justice system. Empowering and enabling citizens to fashion their own settlements within a set of mutually protective rules with expert guidance and advice puts responsibility for resolution of disagreements directly into the hands of the parties and not at the behest of a 3<sup>rd</sup> party. This trend supports the growing social values of choice and individual responsibility. These approaches move the framing of justice matters from being strictly adversarial and judgemental towards one where parties become engaged as individual agents and “resolutionaries” of their own disputes. It also serves to save the parties time, money and other scarce personal resources, and enables the state to use the public’s taxes and other resources more effectively.

These are but some examples of the possible reforms envisaged by the catalyst concept of a single trial court initiative. They all look towards optimizing the effectiveness of the justice system as a means to better serve our society and not merely as serving the ends of the justice system itself. The heart of any successful social reform effort is rationally answering what exactly it is that we are trying to improve. An obvious answer may be to save citizens money in terms of taxpayer dollars. While that is an insufficient reason in itself for such reforms, it is worth noting that any savings from systemic efficiencies would be reinvested into an even more effective overall justice system. More importantly, any justice system reforms must always be directed towards the express foundational ends identified in the prior public consultations. The changes must attain the end goals of better access, better public understanding of the system, more effective outcomes, increased public accountability and the overarching need to promote, preserve and protect the integrity of the Alberta justice system itself. Any systemic changes undertaken in and around the single trial court initiative will be substantial. Consequently, they must be more about both improving and enhancing the effectiveness of the Alberta justice system and not motivated as an exercise in fiscal efficiency.

The new structure being envisioned around the Single Trial Court Initiative is a much more horizontal, comprehensive and integrated approach (using more innovations, techniques and tools) than what is available at present. This new approach must set as one of its goals the achievement of a responsive and effective justice system that better reflects the beliefs and values of its citizens. In order to be justified therefore, the new approach will have to be a clearer, simpler, more “user-friendly” model than today’s system. It is clear that it can and should be more accessible, more flexible, more efficient and more effective in a variety of ways. A central question is whether the various groups who are the key to the effective functioning of the system will see the changes as positive

and will therefore help and support them? Will they embrace the new culture inherent in such systemic changes?

### **13.0 Technology, Administrative and Process Changes are all Possible.**

There are current justice initiatives underway to improve system access and to provide more choices and alternative approaches to justice issues. The Alberta Law Reform Institute Rules of Court Re-write Project is an example of an extensive and comprehensive reform initiative that is well under way and intended to provide for significant systemic justice reform as well. Many of the consultations undertaken within that project reflect an awareness of the public and professional concerns arising out of the All-Party Public Consultation, the Justice Summit and other on-going public inputs that beg for reform.

The advent of the SuperNet and improvements to Internet technology, connectivity, video compression and bandwidth offer the promise of new techniques and approaches to overcome issues of remoteness, time, distance and other limitations of access and understanding. Opportunities for simpler documents in plain language, e-filing and other justice related processes alternatives through integrated and comprehensive province wide administrative reforms would result in less complexity and enhanced system accessibility. Even some counsel and court related matters like applications, hearings and various court related submissions in the system could be made easier, more timely, and considerably cheaper than traditional processes and procedures, while being just as effective.

Of course, such changes require resources, energy and ingenuity. It is false hope to presume that justice funding will suddenly leap up on the priority scale for tax dollars to compete with demands for health, education, environment and infrastructure needs. It is also not realistic to presume there will be any upcoming tax increases, new fee structures or other revenue sources necessary to achieve any fundamental justice system reforms like those discussed above. The key, therefore, is not to look to significant amounts of “new money” for such reforms but rather to look for ways to realign the current justice system resources in order to release dollars and redirect them to the identified priorities.

The challenge that is presented from the past justice consultations is that the public wants significant changes to the system to enhance citizen satisfaction without adding to the taxpayer burden. A cynical old maxim that perhaps reflects the reality of today’s traditional justice system says that you could get legal services that are good, fast or cheap, but only two out of the three at any one time. The past public processes show that citizens are clearly demanding that they have all these features and that they are all concurrent features of *their* justice system. It is a tall order but one that is worth the effort. The results of a successful effort to reform the justice system can offer nothing short of a better society for all of us.

## DISCUSSION QUESTIONS

AMONG THE NEXT STEPS NECESSARY FOR JUSTICE SYSTEM REFORM (SUCH AS THOSE DISCUSSED IN THE ABOVE SECTION), WHAT STANDS OUT FOR YOU? WHAT SPECIFIC THINGS, IDEAS OR CONCEPTS DID YOU NOTICE?

HOW DO YOU FEEL ABOUT THE CONCEPTS AND IDEAS IN THE ABOVE VISION AND APPROACH? DOES IT ADDRESS ANY OF CONCERNS YOU HAVE ABOUT HOW TO IMPROVE THE JUSTICE SYSTEM? DOES ANY OF THIS MAKE YOU NERVOUS? WHAT IS MOST APPEALING ABOUT THE VISION?

HOW WOULD YOU SUM UP THE TROUBLE SPOTS THAT YOU THINK NEED TO BE DEALT WITH? WHAT CHALLENGES DO YOU SEE AND WHAT ARE THE UNDERLYING ISSUES AND IMPLICATIONS OF THE CHANGES BEING DISCUSSED? WHAT IS NEW HERE AND WHAT ELSE DO WE NEED TO CONSIDER?

IS THE VISION BEING DISCUSSED SOMETHING THAT IS CALLED FOR ? WHAT DO YOU THINK SHOULD BE DONE NEXT? WHAT CAN YOU DO TO HELP REFORM AND IMPROVE THE EFFECTIVENESS AND UNDERSTANDING OF THE JUSTICE SYSTEM?

**Thank you for taking the time to read and consider the concepts and ideas around improving and enhancing Alberta's justice system. The Alberta Department of Justice appreciates your participation in the consultation process and values your input, advice and insights.**

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## A POSSIBLE NEW MODEL FOR AN INTEGRATED JUSTICE SYSTEM FOR ALBERTA

