

SUMMARY OF RECOMMENDATIONS

Plain Language

RECOMMENDATION 1

The Attorney General should establish a Plain Language Committee to develop a strategy for implementation of plain language in the justice system.

This would be a senior level, policy-making body that could provide leadership to the Bar, the Judiciary and to the Government at large. It should be assisted by a working subcommittee.

Access to Legal Information

RECOMMENDATION 2

A toll-free network to allow province-wide access to legal information and referrals should be established. The Canadian Bar Association, British Columbia Branch, or the Legal Services Society are suggested as possible operators of the system.

Education

RECOMMENDATION 3

The committee commends the Ministry of Education for its work in developing legal education in all grades. Further initiatives should be taken as needed to ensure that teachers have the information, textbooks and other resources they require to enable them to educate children about our legal institutions and justice system.

RECOMMENDATION 4

The Ministry of the Attorney General should make the provision of information to teachers, students and the public generally, a priority.

RECOMMENDATION 5

Government and other agencies should continue and enhance their financial and other support of the volunteer sector. More citizens could be involved in local activities which will increase their understanding of the justice system.

Alcohol and Drug Abuse

RECOMMENDATION 6

A system for collecting information on the role that drugs and alcohol play in criminal, civil and family cases should be designed and implemented.

The data collection system should be professionally designed and should be integrated with other information gathering systems proposed elsewhere in this report.

RECOMMENDATION 7

Programs similar to the Alberta Impaired Drivers Course and IMPACT should be designed and implemented in British Columbia for those convicted of driving while impaired by drugs or alcohol. They should be reviewed regularly and revised as necessary.

RECOMMENDATION 8

With the impaired drivers' programs as a pilot project, similar strategies for other court-referred users should be developed.

The Supreme and County Courts

RECOMMENDATION 9

The committee recommends appointment of eight Supreme Court Judges who will be resident in locations throughout B.C., as follows:

Kamloops:	One
Kelowna:	One
Kootenays:	One
Prince George:	Two
Prince Rupert:	One
Vancouver Island:	Two

RECOMMENDATION 10

The monetary jurisdiction of the County Court should be extended from \$50,000 to \$100,000.

In actions where the title to land is in question, it should be increased from \$100,000 to \$200,000, a more realistic figure, given the current value of real estate in this Province.

RECOMMENDATION 11

All motor vehicle accident cases should be initiated in the County Court; a Supreme Court judge should have authority to transfer a case to the Supreme Court if the amount involved is clearly more than \$100,000 or if the issues are ones that ought to be tried in the Supreme Court.

RECOMMENDATION 12

The *County Court Act* should be amended to remove any impediments to the exercise of their jurisdiction by the judges of the Court, throughout the Province.

RECOMMENDATION 13

Section 11 of the *Supreme Court Act* should be amended to broaden the jurisdiction of County Court judges sitting as Local Judges of the Supreme Court.

RECOMMENDATION 14

All of the procedural changes recommended in this report should be put in place by January 1, 1990.

Three years after implementation of these changes, that is by January 1, 1993, the Attorney General should name a committee drawn from the same segments of society as this committee. The committee should be asked to assess the impact of these changes on the judicial system. If it is determined that the overall efficiency of the courts would be improved by merger, then merger should be implemented.

RECOMMENDATION 15

The Attorney General should consult with the Chief Justice of the Supreme Court to determine whether an Associate Chief justice position would be beneficial, and if so, should create such a position.

RECOMMENDATION 16

The name of the Supreme Court of British Columbia should be changed to a name that is not confusing to the public.

Family Law

RECOMMENDATION 17

The Supreme Court of British Columbia should have exclusive jurisdiction over all family law matters under the *Family Relations Act* and under the *Divorce Act*.

Provincial Court Judges should be appointed Masters of the Supreme Court of British Columbia and in that capacity should continue to hear the types of cases that they now hear.

RECOMMENDATION 18

The Chief Justice of the Supreme Court of British Columbia should be asked to consider use of an informal family law division similar to that operating in the Vancouver Registry in other major centres where appropriate and where the volume of work may warrant it.

RECOMMENDATION 19

There should be no permanent specialization of Supreme Court Judges in the area of family law.

RECOMMENDATION 20

Masters should hear procedural pre-trial applications in Supreme Court family law matters and Masters should conduct case management conferences and settlement conferences where appropriate.

RECOMMENDATION 21

The Supreme Court Rules should incorporate a set of procedural rules for application in Designated Registries of the Supreme Court of British Columbia. They should be standard across the Province, and in plain language.

RECOMMENDATION 22

Trial dates should be assigned in Designated Registries of the Supreme Court by the Registry without the need for appearance by the parties.

RECOMMENDATION 23

Rules should provide that if a person who is properly served with notice fails to attend at court, an order could be made in that person's absence which would have the same effect as any default order.

RECOMMENDATION 24

There should be programs in place to provide legal counsel to participants in family law proceedings who qualify financially.

RECOMMENDATION 25

The *Family and Child Service Act* should be amended to require notice to parents under s.11, that is, of the report to court.

RECOMMENDATION 26

The *Family and Child Service Act* should be amended to require the Superintendent to make full disclosure of the file to the parents. The only exception should be to give the Superintendent the right to preserve the identity of informants.

RECOMMENDATION 27

The *Family and Child Service Act* should be amended to allow for variation of Orders under s.11 and s.13.

RECOMMENDATION 28

A Judge must be made available for the report to Court, as required by s. 11 of the *Family and Child Service Act*, even if it is administratively difficult to do so. These orders should not be signed by Justices of the Peace unless made with the consent of the parents.

RECOMMENDATION 29

The Supreme Court of British Columbia should have exclusive jurisdiction under the *Family and Child Service Act*.

RECOMMENDATION 30

Every Provincial Court Registry (Family Division) should be, for the purposes of the *Family and Child Service Act*, a Designated Registry of the Supreme Court of British Columbia.

RECOMMENDATION 31

Provincial Court Judges should be appointed Masters of the Supreme Court of British Columbia for the purpose of hearings under the *Family and Child Service Act*.

RECOMMENDATION 32

Appeals from a Master on an interim order should be by rehearing (*de novo*) by a Judge of the Supreme Court of British Columbia.

RECOMMENDATION 33

Appeals from a final order of a Master should be heard by the British Columbia Court of Appeal

RECOMMENDATION 34

Government funding, both Federal and Provincial, should be made available for the appointment of ad hoc Family Advocates in cases where a Judge decides it is appropriate. The cost of the Family Advocate should be paid by either or both parties to the extent that they can afford to pay.

RECOMMENDATION 35

Section 60 of the *Family Relations Act* and Rule 60B(28) of the Divorce Rules, should be amended to stipulate that a demand for financial information must be complied with within 21 days of delivery.

A party should be required to produce copies of:

- a) current financial statements,
- b) a statement of assets and liabilities, and
- c) complete recent corporate tax returns,

for any closely-held corporation in which he or she has a controlling legal or beneficial interest. This includes a corporation in which the party owns more than 50% of the issued shares.

The same obligation to produce would be imposed on the corporation itself.

RECOMMENDATION 36

The form of Statement of Property should be expanded to provide for the identification and value of assets as at date of acquisition, separation date, and the date of swearing of the Affidavit.

There should be a clear requirement that all legal and beneficial interests must be disclosed.

RECOMMENDATION 37

Section 15 of the *Family Relations Act* should be amended to require the investigative report to be served on the parties to the proceeding 30 days before the filing of the Certificate of Readiness.

RECOMMENDATION 38

The Attorney General of British Columbia, after consultation with the Family Law Section of the British Columbia Branch of the Canadian Bar Association and the Law Reform Commission of British Columbia, should revise the *Family Relations Act* provisions which deal with family property.

The revision should make a clear statement of the principles on which family property is to be shared by spouses or former spouses.

RECOMMENDATION 39

Provincial legislation should provide for automatic severance of pension benefits at source when a deferred sharing order or agreement is in existence.

RECOMMENDATION 40

Section 53 of the *Family Relations Act* should be amended to provide that a restraining order or freezing order will be made, but that it be variable from time to time by order of the Court or the consent of the non-owning spouse, such consent not to be unreasonably withheld.

RECOMMENDATION 41

Part III of the *Family Relations Act* should be amended to compel a spouse to produce for inspection all documents and information which an auditor would require when preparing an audit either of the individual or of a closely held corporation in which he or she has a controlling legal or beneficial interest. This includes a corporation in which the spouse owns more than 50% of the issued shares. The same obligation to produce would be imposed on the corporation itself. The statutory requirement would be subject to any court order to the contrary.

RECOMMENDATION 42

A study should be undertaken to devise a means of compiling statistical information on the actual cost of supporting a child (including day care costs and the tax effect of support awards) and providing that information on a current basis, in a format that judges and lawyers can easily use.

RECOMMENDATION 43

Costs of all Supreme Court enforcement proceedings should be awarded on a scale to compensate a party as closely as possible for his or her actual costs.

RECOMMENDATION 44

There must be a program of education aimed at the Bench, the Bar and the public, which will impress upon people the importance of complying with maintenance orders. This must be reinforced by a commitment from the Bench to take an active role in enforcing its own orders.

RECOMMENDATION 45

Arrears of maintenance should be reduced or cancelled only in the most extraordinary circumstances. Orders should not be varied retroactively.

RECOMMENDATION 46

The provisions of the Family Relations Act requiring an employer to remit maintenance payments directly, on behalf of an employee, should be available to the Supreme Court as well as the Family Court. In both courts these orders should be granted routinely in cases where default has been established.

RECOMMENDATION 47

In all proceedings under the *Family Relations Act* and the *Divorce Act*, there should be provision for the spouse who is dependent on the other for support, to apply to receive from that spouse at an early stage the estimated costs of the litigation.

RECOMMENDATION 48

Mediation should be encouraged as a constructive method of resolving disputes.

RECOMMENDATION 49

Participation by spouses in mediation should be on a voluntary basis.

RECOMMENDATION 50

Steps should be taken immediately towards a formal program of certification of family mediators.

RECOMMENDATION 51

The location and physical surroundings of any Family Court should reflect the importance of that Court's role in the community.

Family Courts should have waiting areas that do not force family members who are at odds with each other to share the same close quarters. Adequate and private interview rooms are essential.

RECOMMENDATION 52

Where the workload warrants it, the Administrative Judge of the Provincial Court should consider extending sitting hours to include evening and Saturday hours.

Additionally, consideration should be given to extending the hours of availability of Family Court Counsellors.

RECOMMENDATION 53

The *Family Relations Act* should be amended to provide for the filing of Separation Agreements in Supreme Court, by consent, for enforcement or variation.

Criminal Law and Procedure

RECOMMENDATION 54

Regional Crown Counsel should have budgets that will allow appropriate levels of staffing and equipment for Crown Counsel offices throughout the province.

RECOMMENDATION 55

Crown Counsel should be hired initially on contracts of from one to five years with merit the sole criteria for continued employment.

RECOMMENDATION 56

A career path should be established within the Crown Counsel office so anyone who has served in the office for five years and met the appropriate standards would be offered either a five year contract or a permanent Public Service position.

RECOMMENDATION 57

Support for the Criminal Appeals and Special Prosecutions Offices and the Commercial Crime Division should be continued and enhanced where required.

RECOMMENDATION 58

A system of ad hoc Crown Counsel should be maintained, with prosecution work at all levels contracted out to the private bar. However, there should be continuity in the handling of individual cases. Ad hoc counsel should not be put in a position where they do not have adequate time to prepare for court.

RECOMMENDATION 59

The Crown Counsel Interchange Program should be encouraged and enhanced.

RECOMMENDATION 60

The authority to decide what charges will be laid must remain with the Attorney General or his agent - Crown Counsel.

RECOMMENDATION 61

A Chief Constable or officer in charge of a police detachment who is dissatisfied with a Crown Counsel decision not to lay a charge, should have the right to have that decision reviewed by Regional Crown Counsel and ultimately the Deputy Attorney General.

RECOMMENDATION 62

The Preliminary Inquiry should be retained and efforts made to enhance its efficiency and usefulness.

RECOMMENDATION 63

The pre-trial disclosure model described should be instituted on an experimental basis at the Provincial Courthouse at 222 Main Street, Vancouver.

RECOMMENDATION 64

Government should make available the funding and staff necessary to make the model work.

RECOMMENDATION 65

A committee of Provincial Court Judges, Crown Counsel and members of the defence bar should be established to coordinate, implement and oversee the experiment for a two-year period.

RECOMMENDATION 66

This committee should hold a series of meetings to explain the proposal to the criminal bar and to encourage full participation and cooperation.

RECOMMENDATION 67

If successful, the model should be implemented in stages, province-wide.

RECOMMENDATION 68

The Legal Services Society must recognize the value of these pre-trial procedures by creating an appropriate Legal Aid tariff item.

RECOMMENDATION 69

The Ministry of the Attorney General should continue its policy of providing to the defence its theory or alternate theories with respect to the commission of the crime, as well as complete disclosure of the evidence which the Crown intends to call at trial.

RECOMMENDATION 70

A committee of judges of the Supreme and County Courts, Crown Counsel, and members of the defence bar should be established to create a set of rules for pre-trial motions in the superior courts.

RECOMMENDATION 71

A committee of judges of the Provincial Court, Crown Counsel, and members of the defence bar should be established to create a set of rules for pre-trial motions in the Provincial Courts.

RECOMMENDATION 72

Counsel should be encouraged to make pre-trial motions before the date set for trial, and as early as possible.

RECOMMENDATION 73

The Legal Aid tariff should be amended to compensate counsel for bringing motions prior to the trial date.

RECOMMENDATION 74

Section 482 of the *Criminal Code* should be expanded to include Provincial Court Judges for the purposes of judge alone trials.

RECOMMENDATION 75

Section 464 of the *Criminal Code* should be amended to allow an accused to choose trial by a Provincial Court Judge without a jury after having a Preliminary Inquiry.

RECOMMENDATION 76

The accused should still have the option of choosing a judge alone trial in a higher court.

RECOMMENDATION 77

Crown Counsel should be allowed the time to meet the reasonable needs and concerns of witnesses.

RECOMMENDATION 78

Enhanced witness management and notification programs should be put in place and maintained.

RECOMMENDATION 79

The Ministry of the Attorney General should produce a videotape which can be used by Crown Counsel to familiarize witnesses with the criminal justice system and the trial process.

RECOMMENDATION 80

The provision of victim and witness services at police detachments, community agencies, probation and Crown Counsel offices should be continued.

RECOMMENDATION 81 -

The *Criminal Injuries Compensation Act* should be reviewed and consideration given to increasing the compensation available and broadening the coverage of the Act.

RECOMMENDATION 82

A strong message must be sent to the public that wife assault is as serious an offence against society as is assault of a stranger.

RECOMMENDATION 83

The diversion program now in place in British Columbia should be maintained and encouraged.

RECOMMENDATION 84

The Ministry of the Attorney General should ensure that the diversion policy is uniformly applied by Crown Counsel throughout the province.

RECOMMENDATION 85

The Ministry of the Attorney General and the Ministry of the Solicitor General should ensure that facilities for diversion are available province-wide.

RECOMMENDATION 86

The Ministry of the Attorney General should institute procedures, either by amendment to the *Jury Act* or by directive to the Sheriffs, that will ensure that jury panels reflect the ethnic diversity of the various communities in this province, and that the same people are not called upon repeatedly.

RECOMMENDATION 87

The radius of return on warrants for arrest should remain in the discretion of the Crown.

However, reciprocity among provinces is to be encouraged. This subject should be addressed by the provincial Attorneys General at their next meeting.

RECOMMENDATION 88

The Ministry of the Attorney General should give high priority to the enforcement of fines. In particular, civil enforcement procedures available under the *Offence Act* and the *Small Claim Act* should be applied more rigorously.

Consideration should be given to the acceptance of credit cards in payment of fines and to providing incentives in the form of reduction in penalty for prompt payment.

Pre-Trial Case Management

RECOMMENDATION 89

The powers available to a Judge on a Summary Trial (Rule 18A), when the court is unable to grant judgment should be broadened to include all those powers included in the proposed rule 41A.

RECOMMENDATION 90

The powers available to a Judge on a Pre-Trial Conference (Rule 35) should be broadened to include all those powers included in the proposed Rule 41A.

RECOMMENDATION 91

A new rule, Rule 41A, should be adopted which would give a judge, whether on a Rule 18A application or on a Pre-Trial Conference, certain powers which are aimed at the more efficient pre-trial management of cases.

RECOMMENDATION 92

The committee recommends adoption of a 'Flag Rule' which would require parties to file a Certificate of Readiness at a fixed time before trial. For long cases that time would be 90 days before trial; for medium cases, 60 days; and for shorter cases, 30 days.

RECOMMENDATION 93

In cases which are estimated to require more than 15 days of trial time, the parties should be required to file an agreed Case Management Program within 30 days of the close of pleadings. A trial date would not be allocated in any case estimated to last for more than 15 days until a Case Management Program has been filed.

RECOMMENDATION 94

There should be an amendment to the Rules to provide that a judge who has been extensively involved in the pre-trial management of litigation will not take the trial, unless all counsel file in the Registry a common request to that effect.

Selected Topics in Case Management

RECOMMENDATION 95

The granting of adjournments is always at the discretion of the judge. However, because they contribute to cost and delay in litigation, they should be granted only when justice requires.

RECOMMENDATION 96

Notices to Admit Facts should be mandatory in every case.

RECOMMENDATION 97

There should be a new Rule requiring counsel in all cases (except Economical Litigation Program cases) to file a Statement of Agreed facts no later than 30 days before trial. If agreement cannot be reached, each counsel should file a Statement of Agreed Facts as he perceives them to be.

RECOMMENDATION 98

Continuing Legal Education and Professional Legal Training Course should emphasize in their programs the importance to good advocacy of obtaining admissions and agreeing to that which is not in issue.

RECOMMENDATION 99

A Practice Directive should be issued listing the applications that can be made by Desk Order. Consideration should be given to extending the list to include as many other matters as may be appropriate.

RECOMMENDATION 100

A Demand for Discovery of Documents should no longer be required. Every party to an action should be required to file and deliver to each opposing party an Affidavit of Documents within a fixed time.

RECOMMENDATION 101

Discovery Conferences should be used to control abuses and promote the conduct of discovery in the most economical and convenient form possible.

RECOMMENDATION 102

Courses should be developed by Continuing Legal Education and Professional Legal Training Course to demonstrate not only proper use of discovery techniques, but also their improper use; and to foster in the profession the skills and motivation necessary to use discovery procedures and techniques efficiently and economically.

RECOMMENDATION 103

The Rules and *Evidence Act* should be amended to allow a judge, upon application at any stage of a proceeding, to fix the times for exchange of expert opinions.

In every case where there is no order, the time for delivery of expert reports should be 30 days before the date fixed for filing the Certificate of Readiness.

RECOMMENDATION 104

Rule 29 should be amended to allow for interrogatories to be served on an expert whose report has been served by a party adverse in interest.

RECOMMENDATION 105

Continuing Legal Education and the Professional Legal Training Course should include course material both encouraging the appropriate uses of well-designed Interrogatories and discouraging the indiscriminate application of word processed 'standard' questions.

RECOMMENDATION 106

In order to further enhance the effectiveness of Interrogatories, a rule should be adopted which imposes a continuing obligation to answer Interrogatories.

RECOMMENDATION 107

More and better use should be made of Settlement Conferences and Mini-Trials, in appropriate cases.

RECOMMENDATION 108

Procedures should be established that will allow both the Settlement Conference and the Mini-Trial to achieve their full potential as settlement devices.

RECOMMENDATION 109

Greater use should be made of Special Referees, where appropriate.

RECOMMENDATION 110

Continuing Legal Education and the Professional Legal Training Course can play an important part by ensuring that all relevant courses fully explain the role and potential benefits of a reference to a Special Referee.

Economical Litigation Program

RECOMMENDATION 111

A new procedure should be established in County Court, for cases involving \$20,000 or less, to be known as the Economical Litigation Program. With simplified procedures it would accommodate unrepresented litigants and would also make it possible for lawyers to take these cases at a fee that is in proportion to the amount at stake.

The essential features of this program would be: easy-to-use forms; a pre-trial conference before a Master or Registrar; no examinations for discovery; a shorter, less formal trial and an early trial date.

Masters and Registrars

RECOMMENDATION 112

Much greater use should be made of the position of Master in the Province. Obvious locations for their use would be Kamloops, Kelowna, New Westminster, Prince George, Vancouver and Victoria.

RECOMMENDATION 113

Masters should be appointed by the Lieutenant Governor in Council on the recommendation of the Attorney General, with the consent of the Chief Justice of the Supreme Court.

Masters of the Supreme Court should have qualifications equal to those of a Provincial Court Judge and should be employed on the same terms and at the same rate of pay.

Appeals

RECOMMENDATION 114

A new *Appeals Procedure Act* should define two distinct appeal processes: a new trial or a review on a question of law.

Each statute that provides for an appeal to a court should either clearly define the appeal procedure or refer to the *Appeals Procedure Act* and designate which of the two procedures applies.

Lawyers' Fees

RECOMMENDATION 115

In the interests of fulfilling its duty to protect the public interest in the administration of justice, the Law Society must be vigilant to exercise its disciplinary powers in instances where unreasonable fees have been charged.

RECOMMENDATION 116

The *Legal Profession Act* should be amended to make it clear that the principles in *Yule v. City of Saskatoon* do apply to a review by the Registrar of a contract for fees.

RECOMMENDATION 117

The Benchers of the Law Society should reconsider the recommendation of the 1982 report of their committee on contingency fees and use their power under s. 78 of the *Legal Profession Act* to make a rule establishing a sliding scale of maximum contingency fees.

RECOMMENDATION 118

To benefit clients generally, Continuing Legal Education and Professional Legal Training Course should offer programs that will teach lawyers how to budget a lawsuit.

RECOMMENDATION 119

The Law Society should consider ways of communicating information to the public about the ways that lawyers charge for legal services.

Costs

RECOMMENDATION 120

The Basic Tariff under Appendix B and the Tariff of Costs Between Solicitor and Client under Appendix C should be replaced with a single tariff.

RECOMMENDATION 121

The Basic Tariff in Schedule B should be tripled. It will then reflect approximately 50% of actual costs to the client.

RECOMMENDATION 122

The minimum and maximum amounts in the Basic Tariff should be replaced with a set amount for each item.

RECOMMENDATION 123

The Schedule of Maximums should be eliminated.

RECOMMENDATION 124

On all pre-trial applications, there should be an order as to costs at the end of the hearing.

RECOMMENDATION 125

The word 'taxation' and its various forms should be replaced wherever they appear in the Supreme Court Rules and in the statutes, with plain language that will make sense to lawyers and non-lawyers alike.

RECOMMENDATION 126

When a party has put another party to further expense to enforce or collect a judgment, the Registrar should award full reimbursement of all those extra costs which were incurred reasonably and properly.

Court Filing Fees

RECOMMENDATION 127

There should be a simple, straightforward procedure for people who wish to apply for a waiver of court filing fees on the basis that they are indigent.

Small Claims Court

RECOMMENDATION 128

The monetary jurisdiction of the Small Claims Court should be raised to \$5,000 and should be reviewed regularly.

RECOMMENDATION 129

Provincial Courts, travelling on circuit, should be designated as branch registries for the purpose of receiving and processing Small Claims documents. Government agents in remote areas should be authorized to receive Small Claims documents for the purpose of transmission to the nearest registry.

RECOMMENDATION 130

The Chief Judge of the Provincial Court should consider evening and weekend sitting hours for the court and expanded registry hours, where the volume of business warrants it.

RECOMMENDATION 131

There should be a new *Small Claims Act* which would guide the judges in the application of summary justice, as well as a set of rules appropriate to the Court.

RECOMMENDATION 132

There should be a Master Registrar for Small Claims Courts throughout the Province with responsibility for staff training, ensuring standard practice, and public information.

RECOMMENDATION 133

Security deposit disputes should be handled by the Residential Tenancy Branch of the Ministry of Labour and Consumer Services and not by Small Claims Court.

RECOMMENDATION 134

Efforts should be made to simplify enforcement proceedings in Small Claims Court. A successful plaintiff should have the option of having a Judgment Summons hearing conducted immediately following judgment. Forms of release should be provided to accommodate a defendant who is willing to pay the judgment on the spot.

RECOMMENDATION 135

Garnishing Orders Before Judgment should be abolished in Small Claims Court.

RECOMMENDATION 136

Appeals from decisions of the Small Claims Court should be abolished.

Enforcement of Municipal Bylaws

RECOMMENDATION 137

Sitting Justices of the Peace should be appointed for Kelowna and for Prince George who would travel to the municipalities in their regions and hear municipal bylaw cases. If successful, the service should be expanded throughout the Province.

RECOMMENDATION 138

The *Municipal Act* and the *Vancouver Charter* should be amended to allow municipalities to designate those bylaws that could be enforced by means of a ticket and to set the maximum allowable fine. The municipalities would be responsible for collecting fines and, where there is no payment, issuing summonses and forwarding the file to Provincial Court.

Alternate Dispute Resolution

RECOMMENDATION 139

The new Nathan T. Nemetz Centre for Dispute Resolution at the University of British Columbia should conduct the kinds of studies of Canadian ADR projects that have been done in the United States to allow policy-makers to make decisions based on Canadian experience and Canadian values.

RECOMMENDATION 140

Judges should be encouraged to raise at pre-trial conferences the possibility of referring the issue of the amount of damages, if not liability, to mediation.

RECOMMENDATION 141

The Law Foundation should give careful consideration to funding any proposals for the communication of information about mediation of personal injury claims to the public. If more people are aware of that as an option, more people will insist that their lawyers at least explore the possibility of mediation with them before proceeding with litigation.

RECOMMENDATION 142

The Professional Legal Training Course and Continuing Legal Education should include in their programs information about mediation so that lawyers may become more aware of its availability, particularly in personal injury cases, and its features.

RECOMMENDATION 143

It is the responsibility of every lawyer to consider, at every stage of a lawsuit, those alternate dispute resolution techniques that offer the best prospect of settling the claim and to take advantage of them wherever appropriate. Law schools, Professional Legal Training Course and Continuing Legal Education should emphasize the importance of that responsibility in their courses.

RECOMMENDATION 144

Lawyers who draft contractual agreements should address their minds at that time to the most appropriate means of resolving disputes that may arise, keeping in mind the variety of alternate dispute resolution techniques available.

RECOMMENDATION 145

Every encouragement should be given to community-based projects which provide alternatives to the court system for claims involving small sums of money and appropriate issues.

RECOMMENDATION 146

The centre for alternate dispute resolution at the University of British Columbia should be encouraged to develop a set of standards for training of ADR professionals and to work towards a set of professional standards and a system of certification.

Justice Requirements of Particular Groups

RECOMMENDATION 147

Disadvantaged groups in society should have access to funding which will allow them to define and enforce their rights under the Charter of Rights and Freedoms in respect of provincial legislation, in the same way that is available in respect of federal legislation.

RECOMMENDATION 148

Courthouses and buildings that house courtrooms, registries, Legal Aid offices, police, Crown Counsel, courtworkers and counsellors, and law libraries should be upgraded to allow access by the physically disabled.

RECOMMENDATION 149

Educational programs aimed at producing qualified court interpreters for the hearing impaired should be supported.

RECOMMENDATION 150

Any new computer-assisted court-reporting technology that is adopted for recording purposes should be considered from the point of view of possible benefit for the hard of hearing in the courtroom.

RECOMMENDATION 151

Those who are involuntarily admitted to mental health facilities need to information about their rights with respect to their detention. This information must be communicated to them in a meaningful way.

RECOMMENDATION 152

The Ethics Committee appointed by the Ministry of Health should study the rights of patients under the Mental Health Act, and their families, to participate in decisions about their course of treatment.

RECOMMENDATION 153

Increased efforts should be made by all those engaged in the production of legal information materials to communicate with British Columbians who for any reason cannot take advantage of the materials now available. As new opportunities become available, they should be taken advantage of to tailor methods of communication to the particular needs of disadvantaged groups in society.

RECOMMENDATION 154

Government and other appropriate agencies should expand support to the Native Courtworker Program to make it more widely available to Native people in the Province, and in particular to provide for Native Courtworker services in Family Court to deal with child apprehensions.

RECOMMENDATION 155

Native communities should be encouraged to develop their own diversion programs and supported in this endeavour by those with the responsibility of leadership in the justice system.

RECOMMENDATION 156

Mediation and counselling services should be made available to Native people who encounter family problems and those people should be made fully aware of the services that do exist.

RECOMMENDATION 157

The Chief Judge of the Provincial Court should be encouraged to arrange for sittings of the Court on Indian Reserves whenever possible, particularly in remote areas, and wherever it could help foster greater understanding.

RECOMMENDATION 158

The Solicitor General should consider and adopt where appropriate, the recommendations respecting Native Offenders in the 1988 Report of the Standing Committee on Justice (The Daubney Report).

RECOMMENDATION 159

The recommendations of the 1984 British Columbia Task Force on Public Legal Services must be fully implemented.

Technology and the Courts

RECOMMENDATION 160

A carefully designed Management Information System is essential for monitoring the functioning of the court system and for measuring the success or failure of procedural reforms throughout the Province.

RECOMMENDATION 161

A properly designed Management Information System would permit the development of standards and models for the various types of cases handled by the Courts. These would provide a basis for forecasting future demand and management of resources to meet those demands.

RECOMMENDATION 162

The feasibility of a complete electronic filing system to replace the present paper filing system in the Court Registry should be studied. Such a system would store documents which are now filed in the courthouse, in a computerized electronic database so that each file could be searched by remote terminal.

RECOMMENDATION 163

There should be a detailed study of the documents now required to be filed in the course of litigation with a view to eliminating the filing of unnecessary forms, and improving present forms if possible.

RECOMMENDATION 164

Government should consider the types of information now contained in government databases which would be of interest and use to the public and the Bar with a view to allowing public access to that information through a user-pay dial-up system.

RECOMMENDATION 165

A Central Judgment Registry should be created as a means of facilitating the enforcement of judgments of the courts.

RECOMMENDATION 166

A decision database should be created in the court system, making use of the decisions of the courts that are typed by the judges' secretaries and filed in the court. Cases would be accessible to judges, the public and the Bar by remote terminal and would generate revenue for government.

RECOMMENDATION 167

The committee applauds the initiative of the Director of Land Titles in attempting to simplify conveyancing practice and recommends that the project be completed as quickly as possible.

RECOMMENDATION 168

A steering committee should be established with broad terms of reference to coordinate the application of computers, management information systems and other technology to the justice system. The committee should consist of representation from the Bench, the Bar the Ministry of the Attorney General, and the public.

RECOMMENDATION 169

A senior management person should be given responsibility for ensuring the appropriate level of service by Official Court Reporters and the terms of the contracts entered into should allow for proper management.

RECOMMENDATION 170

Court reporter contracts for attendance in the Supreme or County Courts on a daily basis should require the reporter to provide the court and counsel with a transcript in computer readable form.

RECOMMENDATION 171

The terms of the contracts that the government enters into with Official Court Reporters should be reviewed and renegotiated as those contracts expire, to address the problems that have been identified.

RECOMMENDATION 172

A computer integrated courtroom should be established in Vancouver as a pilot project. After experience is gained with a variety of cases the project should be assessed and extended if appropriate to other courtrooms in Vancouver and throughout the province.

RECOMMENDATION 173

The Supreme Court Rules should be amended to specifically provide for service of documents by facsimile transmission.

RECOMMENDATION 174

The Rules Committee should develop specific rules to deal with the widespread and expanding use of facsimile transmission equipment.

RECOMMENDATION 175

A facsimile machine should be located in the Court of Appeal Vancouver Registry and interim rules devised to allow for the filing of Notices of Appeal and other appropriate appellate documents from outside Vancouver by means of the machine. This should be viewed as a pilot project to test the use of facsimile transmission for court filings generally.

Statutory Amendments

RECOMMENDATION 176

The County Court Act should be amended to include the same provisions as s. 47 of the *Supreme Court Act*. This will make it clear that County Court Judges have the same authority as a Justice of the Supreme Court to order a reference to a Special Referee under Rule 32.

RECOMMENDATION 177

The Federal Government should be urged to promptly repeal the sections of the *Interest Act (Canada)* so that the *Court Order Interest Act 1982* may be proclaimed.

RECOMMENDATION 178

Rule-making provisions of all statutes other than the Court Rules Act should be repealed and replaced by reference to the Court Rules Act. This statute should then be the one authority for the making of rules governing practice and procedure, before all the courts of the province.

RECOMMENDATION 179

The *Crown Proceeding Act* should be amended to remove the prohibition against actions against the Crown in Small Claims Court.

RECOMMENDATION 180

The *Supreme Court Act*, s.42, should be amended to clearly give a judge the authority to order an award of damages to be satisfied by way of a structured settlement.

RECOMMENDATION 181

The committee recommends that the Provincial Government be involved in any initiatives toward uniformity of legislation across Canada. Particular priority ought to be given to legislation respecting commercial matters and family assets.

RECOMMENDATION 182

The following statutes should be referred to the Law Reform Commission of British Columbia for further study: The *Limitation Act*; *Negligence Act*; *Patients Property Act*; *Municipal Act* (60 day notice provision); *Workers Compensation Act*; and the *Insurance Act* (regarding claims for losses due to interruption of business).

SUBMISSIONS

Gerald Adamus, New Westminster
Jason Austin, Victoria
B.C. Arbitration and Mediation Institute (H.D.C. Hunter), Vancouver
B.C. Association for Family Rights, Kamloops B.C.
Association for Family Rights, Kelowna B.C.
Association for Family Rights, Vernon B.C.
Association of Chiefs of Police
B.C. Civil Liberties Association, Vancouver B.C.
Federation of Labour, Burnaby
B.C. International Commercial Arbitration Centre, Vancouver
B.C. Public Interest Advocacy Centre, Vancouver B.C./Yukon
Transition House Society, Vancouver Manfred Bader, Terrace
Dorothy Beck, Vancouver
Robert Bennett, Port Hardy
Joyce Bradley, Vancouver
David Brander-Smith, QC, Vancouver
David Brine, Surrey
British Columbians for Mentally Handicapped People (Jean Bennett), Vancouver
Nancy Buckman, Vancouver
Burns Lake Law Centre Society
Lee Burrows, Campbell River
Duncan Campbell, Prince Rupert
District of Campbell River
Campbell River Bar Association
Canadian Bar Association, B.C. Branch, Vancouver
Canadian Bar Association, Civil Litigation Subsection
Canadian Bar Association, Civil Litigation Subsection (R. Weddigen and others)
Canadian Bar Association, Criminal Justice Subsection Canadian Bar Association,
Family Subsection Canadian Dispute Resolution Corporation, Vancouver Canadian
Mental Health Association, Nelson J.S. Carfra, QC, Victoria
Central Okanagan Elizabeth Fry Society, Kelowna
Murray Charleson, Campbell River
Dugald E. Christie, Vancouver
Citizens United for Justice and Safety, Duncan
Community Diversion/Mediation Services, Victoria
Consumers' Association of Canada, B.C. Branch (Ada Brown), Vancouver
County Court of British Columbia
Courtenay Bar Association
Cowichan Bar Association, Duncan
Criminal Justice Branch, Ministry of the Attorney General

Ed de Walle, Terrace
Disabled Peoples' Advocacy Project (Peter Carver), Vancouver
Jeanne Eddington, Surrey
Emily Murphy Transition House, North Vancouver
Family Court and Youth Justice Committee, Comox Valley
Family Court Committee of Victoria
Family Court/Youth Justice Committee, Vancouver
La Federation des Franco-Colombiens, Vancouver
Fraser Institute (David Gill), Vancouver
Fraser Valley Bar Association, White Rock
Judith Fulford, Powell River
Barry D. Gaetz, Victoria
Diana J. Giesbrecht, Brentwood Bay
Gitksan Wet'Suwet'En Education Society, Hazelton
Town of Golden
Harold Goldfeder, Vancouver
Greater Vancouver Law Students Legal Advice Society
Marlene Hahn, Coquitlam
Linda Halliday, Comox
Paul Stephen Henry, Kelowna
Insurance Corporation of B.C., North Vancouver
International Specialized Risk Management (David Pym), Vancouver
Victor Jolliffe, Terrace
The Jenkins, Victoria
Kamloops and District Elizabeth Fry Society
Kamloops Family Law Sub-Section
City of Kelowna
Kelowna Bar Association
Bill Kennedy, Richmond
Kermode Friendship Society, Terrace
Kitimat Chamber of Commerce
Kootenay Bar Association, Fernie
Kootenay Society for the Handicapped, Castlegar
Agnes Krantz, Prince George Law
Centre Association, Victoria
Law Society of British Columbia, Vancouver
Legal Services Society of B.C., Vancouver
Ann Magnussen, Prince George Robert G.
Matheson, Vernon Corporation of the
District of Matsqui
Matsqui Police Board
Wilfred Mattenly, Vancouver
Gregory J. McDade, Kelowna
Neil McDiarmid, QC, Victoria
A. McEachern, CJBC
B. McLachlin, CJSC
Mediation/Arbitration Centre, Victoria
Mediation Development Association of B.C. (Peggy English), Vancouver
Mental Patients' Advocate Project, Vancouver
David Miller, Nelson
Ministry of Social Services & Housing (Family and Child Services), Prince George
M. Morgan, Terrace
Mothers Against Drinking Drivers (South Okanagan), Oliver
Mount Pleasant Watch (Court Watch Group), Vancouver

City of Nanaimo
Nanaimo County Bar Association
Native Courtworker and Counselling Association, Prince George
Forrest Nelson, Dawson Creek
Nelson Family Court Committee
N. Nemetz, CJBC (retired)
New Westminster Bar Association
Donald Niedermayer, Cranbrook Jan
A. Nordin, North Vancouver
North Shore Information and Volunteer Centre, North Vancouver
E. O'Donnell, PC J, Courtenay
Stephen Owen, Ombudsman for B.C., Vancouver
Owen, Bird, Vancouver
Penticton and District Bar Association
City of Prince George
Prince George Bar Association Prince
George Elizabeth Fry Society Prince
Rupert County Bar Association
Provincial Court of British Columbia, Civil Committee
Provincial Court of British Columbia, Criminal Committee
Provincial Court of British Columbia, Family Committee
Provincial Judges' Association of B.C.
Rental Housing Council of B.C., Vancouver
Society for Children's Rights to Adequate Parental Support (SCRAPS), Vancouver
Salvation Army, Correctional Services
Salvation Army, Family Services (W.J. Wiseman), Vancouver
Keith Seney, Surrey
Smithers Indian Friendship Centre
Bruce Stanley, Victoria
Sam Stevens, Vancouver
Corporation of the District of Summerland
Supreme Court of British Columbia
Norman Tabuteau, Victoria
Task Force on Downtown Victoria
John Tejani, Victoria
Tenants Rights Coalition, Vancouver
Art Timmers, Chilliwack
Trial Lawyers Association of B.C. (Kenneth Price), Vancouver
Tsang and Company, Vancouver
Leanne L. Turnbull, Vancouver
Gordon Turriff, Vancouver
Union of B.C. Municipalities
Vancouver Assaultive Husbands Project
Vancouver Bar Association
Vancouver Community Legal Assistance Society
City of Vernon (Klaus Tribes)
Victims of Crime, Kelowna
Victims of Law Dilemma (D.C. Stretch) Vancouver
Victoria Bar Association
Victoria Civil Litigation Sub-Section
Victoria Criminal Justice Sub-Section
Victoria Police Department
Victoria Young Lawyers Sub-Section
Humphrey Waldock, Vancouver

Keith Walker, Port Coquitlam
F. Kenneth Walton, Victoria
Cheryl Wehren, Abbotsford
West Kootenay Women's Association, Nelson
Western Society for Senior Citizen Services (Morvan Ewan), New Westminster
Bryan Williams, QC, Vancouver
Fraser Wilson, Prince Rupert
Women in Need Society, Trail
Women's Resources Society, Port Alberni
Douglas E. Woodall, Victoria
David Wynja Willingdon, Burnaby
Zlotnick, Lamb and Scarratt, Vancouver
Mr. Zuda, Terrace

LETTERS

R. Blake Allan, PCJ, Victoria James
T. Allard, Port Coquitlam Peter
Altridge, Vancouver
Alzheimer Society of B.C. (Andree Hayden), Vancouver
D.C. Andrews, Vancouver
K. Arkell, CCJ, Vernon
Les Armistead, Clearbrook
Association of Learning Disabled Adults (Grace Pointkovsky), Vancouver
B.C. Association of Social Workers (Stuart Alcock), Vancouver
B.C. Friends of Schizophrenics, Vancouver
B.C. Law Reform Commission, Vancouver
D. Bacon, Courtenay
Diane Bailey, Vancouver
Terri Ball, Prince George
Francis Barnett, Kamloops
B.W. Baumgartel, New Westminster
LaMar Baxter, Telkwa
Alec C. Beasley, Winfield
Susan D. Begley, New Westminster
Karen Bennett-O'Brien, Vancouver
Better Business Bureau of Vancouver Island (Sylvia G. Horvath), Victoria
Jobst R. Henry Bode, Vancouver
S.H. Boorinan, White Rock
David Borthwick, Victoria
J.C. Bouck, J, Vancouver
Harry Brett, Victoria
Lloyd Brinson, Nass Camp
Glen Buckley, North Delta
William Amos N. Butler, Victoria
Joy Calderwood, Vancouver
C.M. Caldwell, Victoria
Anthea Cammell, Summerland
D. Campbell, CJCC
John J. Campbell, Murrayville
Campbell River Association for the Mentally Handicapped
Canadian Mental Health Association (Helen Holyk), Kelowna Branch
Canadian Mental Health Association, Prince George Branch
Canadian Mental Health Association, Vancouver
Canadian Nationalist Alliance, Port Alberni
Karen Canuel, Surrey
Dale Carr-Harris, Vancouver
Regional District of Central Okanagan
Douglas R. Chalke, North Vancouver
William Charney, Enderby
Raymond Chouinard, Vancouver
Christian Volunteers in Corrections (M2/ W2 Association), Clearbrook
G.H. Christensen, Port Alberni
Jan Christiansen, Prince George

Citizens Commission on Human Rights (Bruce M. Clark), Vancouver
Citizens United for Safety and Justice (Herbert Cowan), North Vancouver
Clarkson Gordon (David Hooper), Vancouver
R. Collver, PCJ, Vancouver
City of Colwood
Comox Valley Bar Association
Confederation of Canadian Unions, B.C. Council (Cathy Walker), New Westminster
Consulting Engineers of B.C., Vancouver
Consumer and Corporate Affairs Canada, Pacific Region (Lois Smith MacGregor),
Vancouver
Courtenay Family Court and Youth Committee (D. Hillian)
Joe Crawshaw, Q Cove, Quadra Island
Lucy N. Croockewit, West Vancouver
John L. Crowley, Vancouver
G. Cumming, J, Vancouver
C. Jeremy Dalton, Vancouver
Audrey Dew, Vernon
Bernard Diedrich, Burnaby
Downtown Realty (David Jones), Vernon
Betty Eckgren, Victoria
Constance Edwards, Vancouver
M.G. Elston, Cobble Hill
Sunny Emms, Mission
John Fawcett, Victoria
Gordon Fawcus, Duncan
Ed Fitzgerald, Chilliwack
James L. Floyd, Penticton
Fort Nelson - Liard Regional District
Mel Foster, Duncan
Stanley Freestone, Nanaimo
Leonard Futter, Penticton
Alex and Linda Galawray, Burnaby
James Garrett-Rempel, Powell River
Judi Gedye, Vancouver
Myrna Gething, Hudson's Hope
E.A. Gill, Victoria
Lindsay L. Gill, Abbotsford
Gaston Godbout, Victoria
Dorothy Smith Gooden, Salmon Arm
Goodyear Canada (Ted Wilson), Vancouver
J.B. Graham, Corrections Branch
Peter L. Grant, Smithers
Rosamonde Green, Vancouver
Glenford Greene, Smithers
Jan Greenwood, Victoria
David L. Gustafson, Langley
Percy Hammerstrom, Brackendale
Susan Hare, Tofino
Lyle G. Harris, Vancouver
A.T. and Dolores Harrison, Kelowna
Robert H. Hawkins, Vancouver
Gerald Hempler, Vancouver
T. Hennigan, Vancouver
David A. Hobbs, Vancouver

John Hogg, Kamloops
Edward Holekamp, Courtenay
David Hough, North Vancouver
Insurance Bureau of Canada (Brian E. Stanhope), Vancouver
Institute of Chartered Accountants of B.C. (P.D. Homenuk)
Ivis Wood Industries (Walter Raupach), Yarrow
Keith Jobson, Victoria
John Howard Society of B.C. (Willie Blonde), Victoria
Justice Institute, Corrections Academy (Steve Howell), Vancouver
Justice Institute (Marjorie Burdine), Vancouver
Nurdin Kassam, Vancouver
E.A. Keate, West Vancouver
Kelowna and District Society for the Mentally Handicapped
Jack Kennedy, Victoria
Peter D. Kennedy, Hope
William Kennedy, Vancouver Hank
D. Keorts, Saanichton
Bryon E. Kernaghan, Cranbrook
D. Barry Kirkham, QC, Vancouver
Kenneth Kjellander, Victoria
Waldy Klassen, Clearbrook
Langley City Fire Department
Langley Legal Services
Victoria Law, Surrey
Law Centre (Laura Sorenson), Victoria
Law Courts Public Education Program, Vancouver
Ian B. Lawson, Prince Rupert
Ernie Lecours, Richmond
Marcelle Leibel, Kamloops
Kenneth and Kathey Linde, Williams Lake
Christopher Lindsell, Surrey
Rolf W. Loth, Penticton
Tim Louis, Vancouver
Lower Mainland Equipment Owners Association (D.L. Christie), Fort Langley
Bruce Lowther, Victoria
Hazel Lypps, Chase
Ronald F. MacIsaac, Victoria
Peter Magusin, Farmington
W. de M. Marler, Dar Es Salaam, Tanzania
Anne Martin, Mission
Mawhinney and Kellough, Vancouver
John McAlpine, QC, Vancouver
Gordon McKee, North Vancouver
Sarah McKenzie, Courtenay
Stanley P. McKinnon, Surrey
Tom McLachlan, Trail
Linda M. McLeod, Dawson Creek
Marjorie McLeod, North Vancouver
W. McMurchy, Celistia
Robert McNeney, Vancouver
McQuarrie Hunter, New Westminster
Wendy Meilleur, Garibaldi Highlands
K. Meredith, J, Vancouver
Mid-Island Sexual Assault Centre (Dana Becker), Nanaimo

Nancy K. Miles, Duncan
Ministry of the Attorney General, Court Services (A.K.B. Sheridan)
Ministry of Labour and Consumer Services (Lee Doney), Victoria
District of Mission
Donald S. Moir, Vancouver
Crispin Morris, Courtenay
Valerie Morrow, Vancouver
David Moss, Duncan
Mothers Against Drinking Drivers, Victoria
Legal Services Society, Native Programs (Barbara Murphy), Vancouver
Nanaimo Citizens Advocacy Association
Albert Nicoll, 100 Mile House
Venus Noel, Genelle
Northgate Counselling Services (John F. Klassen), Dawson Creek
North Island Crisis Center Society (Elva M. Hogan), Port Hardy
North Shore Crisis Services Society, North Vancouver
Corporation of the City of North Vancouver (Bruce Hawkshaw)
North Vancouver Family Court Committee
Fred Nuszdorfer, North Vancouver
David S. Nuttall, West Vancouver
Regional District of Okanagan-Similkameen
Okanagan-Similkameen Regional Hospital District
R.D. Ouellette, Port Alberni
P.W. Bickford and Company, Vancouver
Rosemary Pawliuk, Burnaby
Brian D. Perry-Whittingham, Sooke
Jake Peters, Parksville
W.J. Polglase, Vancouver
City of Port Alberni
Port Alberni Friendship Center (Alice Hunter)
Port Coquitlam Area Women's Centre
Powell River Legal Services Society
Lorne D. Priestley, West Vancouver
City of Prince Rupert
Prince Rupert Transition House Society
Professional Legal Training Course (David Cruickshank), Vancouver
Robert D. Punnett, Prince Rupert
F.W. Putysche, Fruitvale
Christina Rainey, Victoria
R.C.M.P., E Division (D.K. Wilson), Vancouver
R.C.M.P., E Division (B.A. Beaudreau), Vernon
P.J. Ranger, Powell River
Richmond Community Services Advisory Council
Richmond Family Court Committee
Patrick, Kristine, Neil and Jennifer Riley, Powell River
Robson and Associates Consultants, Maple Ridge
Alan Ross, Vancouver
Peter and Carol Ruoss, Princeton
Nicholas Sawchen, New Westminster
Joan Saxton, Vancouver
E. Shore, Clearbrook
Moe Sihota, Victoria
P.C. Simon, Vancouver
John R. Singleton, Vancouver

Vincent M. Siquera, Victoria
Ian Sissett, Vancouver
L. Skipp, CCJ, Vancouver
Society of Organized Services (Pat James), Parksville
South Peace Community Resources Society, Dawson Creek
D.S. Souther, Sparwood
F. Spear, Clearbrook
James Spears, Vancouver
George D. Spence, Victoria
Russell Stanton, Vancouver
B.D. St. George, Kelowna
L. Steel, Hope
Frank L. Stromotich, West Vancouver
Blair F. Suffredine, QC, Nelson
Bonnie Sullivan, Nelson
Surrey Chamber of Commerce (Harold J. Leyenhorst)
Surrey/ White Rock Mediation Services Society, White Rock
Sidney L. Swanton, Victoria
Village of Tahsis
R.M. Tanner, Victoria
Isabel Taylor, Vancouver
N. Tide, 100 Mile House
Rod Todd, Victoria
Trevor Todd, New Westminster
D. Trevorrow, Chilliwack
William M. Trotter, Courtenay
Carlie Trueman, Prince Rupert
David Turner, Victoria
Vancouver Mental Patients' Association
B. van Oldenborgh, New Westminster
Frits Verhoeven, Vancouver
F. David S. Vernon, QC, Maple Ridge
Jennifer Wade, Vancouver
Ralph Watts, North Vancouver
Joel A. Wener, Vancouver
West Coast Alternatives Society, North Vancouver
West Coast Environmental Law Association (William J. Andrews), Vancouver
West Coast L.E.A.F. Association (Susanne Frost), Vancouver
Westcoast Society for Legal Literacy (Rick Craig), Vancouver
Western Society for Senior Citizen Services (Morvan Ewan), New Westminster
Wetmore, CCJ, Vancouver
D. Whatley, Mission
Michael Wheatley, Victoria
M.P. Wilder, Fairmont Hot Springs
Barry W. Williamson, Coquitlam
David Wynja Willingdon, Burnaby
Kip Wilson, Victoria
John Winder, Kelowna
Woods Gordon (Jim Taylor), Vancouver
Megan F. Woodwark, Victoria
Barry Wray, Vancouver
R. Wren, Surrey
YWCA (Joyce Statton), Vancouver

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